



Presented to
the Legislature
on 28/6/04

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

FOR THE YEAR ENDED 31 MARCH 2003

**(REVENUE RECEIPTS)
GOVERNMENT OF KERALA**

<http://cagindia.org/states/kerala/2003>

CONTENTS

	Paragraph	Page
<i>Preface</i>		v
<i>Overview</i>		vii
CHAPTER – I		
GENERAL		
<i>Trend of revenue receipts</i>	1.1	1
<i>Initiatives for mobilisation of Additional Resources</i>	1.2	3
<i>Analysis of budget preparation</i>	1.3	4
<i>Variation between budget estimates and actuals</i>	1.4	5
<i>Cost of collection</i>	1.5	5
<i>Collection of sales tax per assessee</i>	1.6	6
<i>Analysis of arrears of revenue</i>	1.7	7
<i>Arrears in assessment</i>	1.8	7
<i>Write-off and waiver of revenue</i>	1.9	8
<i>Refunds</i>	1.10	8
<i>Results of audit</i>	1.11	8
<i>Failure of senior officials to enforce accountability and protect interest of Government</i>	1.12	9
<i>Departmental and Audit Committee meetings</i>	1.13	10
<i>Response of the departments to Draft Audit Paragraphs</i>	1.14	11
<i>Follow up action on Audit Reports - Summarised position</i>	1.15	11
CHAPTER – II		
SALES TAX		
<i>Results of audit</i>	2.1	13
<i>Incorrect grant of exemption</i>	2.2	13
<i>Non-realisation of tax due from Central Government Departments/Institutions</i>	2.3	18
<i>Underassessment of turnover</i>	2.4	19
<i>Non-demand of tax</i>	2.5	24
<i>Non-demand/short levy of interest</i>	2.6	26
<i>Short levy due to application of incorrect rate of tax</i>	2.7	27
<i>Non-levy of penalty</i>	2.8	29
<i>Non-realisation of sales tax on royalty for right to use water</i>	2.9	31
<i>Incorrect grant of concessional rate of tax</i>	2.10	32
<i>Incorrect accounting of remittance</i>	2.11	33
<i>Incorrect computation of tax</i>	2.12	34
<i>Non-forfeiture of surcharge collected</i>	2.13	35
<i>Non-forfeiture of excess tax collected</i>	2.14	36
<i>Internal audit system of Sales Tax Department</i>	2.15	36

CHAPTER – III TAXES ON AGRICULTURAL INCOME		
<i>Results of audit</i>	3.1	41
<i>Exclusion of income/deduction of inadmissible expenditure from income</i>	3.2	41
<i>Incorrect computation of income</i>	3.3	42
<i>Short levy of tax due to incorrect carry forward of loss</i>	3.4	42
<i>Underassessment of income</i>	3.5	43
<i>Short levy of tax due to allowance of inadmissible expense</i>	3.6	45
<i>Short/non-realisation of interest</i>	3.7	46
<i>Loss of revenue due to time-barred assessment</i>	3.8	48
<i>Short levy of surcharge</i>	3.9	48
<i>Omission to assess income</i>	3.10	49
<i>Short levy due to application of incorrect rate of tax/exemption</i>	3.11	49
<i>Short levy due to grant of inadmissible deduction</i>	3.12	50
CHAPTER – IV STATE EXCISE		
<i>Results of audit</i>	4.1	51
Review : Revenue pending collection in Excise Department	4.2	52
<i>Low production of spirit from molasses</i>	4.3	61
<i>Short realisation of excise duty</i>	4.4	61
<i>Short collection of cost of establishment</i>	4.5	62
CHAPTER – V LAND REVENUE, BUILDING TAX AND TAXES ON VEHICLES		
<i>Results of audit</i>	5.1	63
Land Revenue and Building Tax		
<i>Non-realisation of collection charges</i>	5.2	63
<i>Non-levy of luxury tax on residential buildings</i>	5.3	64
<i>Underassessment of building tax</i>	5.4	65
Taxes on Vehicles		
<i>Short collection of composite tax</i>	5.5	66
<i>Registration of vehicles without collection of entry tax</i>	5.6	66
<i>Non/Short levy of additional tax</i>	5.7	67
<i>Incorrect classification of private service vehicles</i>	5.8	68
<i>Short levy of vehicle tax</i>	5.9	68

CHAPTER – VI

OTHER TAX RECEIPTS

<i>Results of audit</i>	6.1	69
<i>Taxes and Duties on Electricity</i>		
<i>Review : Electricity duty, surcharge and fees</i>	6.2	69
<i>Stamps and Registration Fee</i>		
<i>Incorrect remission of stamp duty</i>	6.3	78

CHAPTER – VII

NON-TAX RECEIPTS

<i>Forest Receipts</i>		
<i>Results of audit</i>	7.1	81
<i>Non realisation of Forest Development Tax and additional price</i>	7.2	81
<i>Excess payment of subsidy</i>	7.3	82
<i>Short demand of interest</i>	7.4	83
<i>Other Non-Tax Receipts</i>		
<i>Review : Receipts from the Co-Operative Department</i>	7.5	83

PREFACE

This report for the year ended 31 March 2003 has been prepared for submission to Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, taxes on agricultural income, state excise, land revenue and building tax, taxes on vehicles, taxes and duties on electricity, stamps and registration fees, forest receipts and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2002-03 as well as those which came to notice in earlier years but could not be included in previous Reports.

1871

My dear Mr. [Name] I have the honor to acknowledge the receipt of your letter of the 10th inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

I am, Sir, very respectfully,
Your obedient servant,

[Signature]

I have the honor to acknowledge the receipt of your letter of the 10th inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
Your obedient servant,
[Signature]

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Your obedient servant,
[Signature]

Overview

Overview

This Report contains 43 paragraphs including three reviews relating to non-levy/short levy/loss of tax involving Rs 468.78 crore. Some of the major findings are mentioned below.

1. General

i) During the year 2002-03, Government of Kerala raised a total revenue of Rs 7980.30 crore comprising tax revenue of Rs 7302.54 crore and non-tax revenue of Rs 677.76 crore. The State Government received Rs 1715.22 crore by way of State's share of divisible Union Taxes and Duties and Rs 938.37 crore as grants-in-aid from the Government of India. Sales Tax (Rs 5343.15 crore) formed the major portion (73%) of the tax revenue of the State. Receipts from Forestry and Wild Life (Rs 149.58 crore) formed the major portion (22%) of the non-tax revenue. Compared to the previous years, the total revenue raised by the State Government registered increase of 23 per cent, the State's share of divisible Union Taxes and Duties registered increase of six per cent while grants-in-aid from Government of India recorded decrease of four per cent during 2002-03.

(Paragraph 1.1)

ii) Test check of the records of Agricultural Income Tax and Sales Tax, State Excise, Land Revenue, Motor Vehicles, Registration, Power, Forest, etc., Departments conducted during 2002-03, revealed underassessments/short levy of revenue aggregating Rs 518.74 crore in 1,997 cases. During the course of the year 2002-03, the departments concerned accepted underassessments, etc., of Rs 6.81 crore involved in 457 cases of which 175 cases involving Rs 2.57 crore were pointed out in audit during 2002-03 and the rest in earlier years.

(Paragraph 1.11)

iii) Out of inspection reports issued up to the end of December 2002, there were 3,614 outstanding reports containing 15,584 audit observations involving Rs 586.99 crore as at the end of June 2003 for want of final replies from the departments.

(Paragraph 1.12)

2. Sales Tax

i) Incorrect grant of exemption of turnover in 19 cases resulted in short levy of tax of Rs 4.24 crore.

(Paragraph 2.2)

ii) Tax of Rs 3.71 crore was neither collected nor paid to Government by Central Government departments/institutions on cement purchased from outside the State and supplied to contractors for departmental works.

(Paragraph 2.3)

iii) Underassessment of turnover in 21 cases resulted in short levy of tax of Rs 79.88 lakh.

(Paragraph 2.4)

iv) Tax of Rs 67.69 lakh was not demanded in 10 cases. (Paragraph 2.5)

v) Interest of Rs 64.86 lakh accrued as a result of delay/non-payment of tax was short/not demanded in 15 cases. (Paragraph 2.6)

vi) Application of incorrect rate of tax resulted in short levy of tax of Rs 60.81 lakh in 19 cases. (Paragraph 2.7)

vii) Penalty of Rs 35.63 lakh was not levied in seven cases. (Paragraph 2.8)

3. Taxes on Agricultural Income

i) Exclusion of income/deduction of inadmissible expenditure while computing agricultural income in a case resulted in short levy of tax of Rs 52.55 lakh. (Paragraph 3.2)

ii) Underassessment of income resulted in short levy of tax of Rs 32.36 lakh in five cases. (Paragraphs 3.3 and 3.5)

4. State Excise

i) A review, "Revenue pending collection in Excise Department" revealed the following.

- Arrears of Rs 42.57 crore due from distilleries and breweries were not included in the Demand Collection Balance (DCB) statement. (Paragraph 4.2.6)

- In a case of court stay of Rs 61.84 crore, counter-affidavit was filed by the department only after two years. (Paragraph 4.2.8)

- In two cases involving Rs 67.37 lakh, stay by courts continued even after seven years for want of prompt action by the department. (Paragraph 4.2.8)

- Overvalued solvency certificates issued by Revenue Authorities resulted in loss of Rs 1.95 crore. (Paragraph 4.2.9)

- Recovery of Rs 72.96 lakh was held up due to delay in action by Revenue Authorities. (Paragraph 4.2.11)

- ii) *Failure to achieve the norm fixed by the Central Board of Molasses resulted in non-levy of excise duty of Rs 1.51 crore.*

(Paragraph 4.3)

5. Land Revenue and Building Tax and Taxes on Vehicles

- i) *Collection charge of Rs 1.71 crore for recovery of arrears was not/short collected from the defaulters in 31 offices.*

(Paragraph 5.2)

- ii) *Luxury tax on residential buildings amounting to Rs 79.82 lakh was not collected in 33 Taluk Offices.*

(Paragraph 5.3)

- iii) *Composite tax of Rs 5.77 lakh was short collected in 432 cases.*

(Paragraph 5.5)

6. Other Tax Receipts

A review, "Electricity duty, surcharge and fees" revealed the following:

- *Arrears of electricity duty, surcharge and fees due to Government as at the end of 31 March 2002 aggregated Rs 1001.65 crore.*

(Paragraph 6.2.6)

- *Duty and surcharge collected from consumers and retained by KSEB as at the end of 31 March 2002 was understated by Rs 19.81 crore.*

(Paragraph 6.2.9)

- *Duty and surcharge collected from consumers and retained by KSEB without any authority as at the end of 31 March 2002 amounted to Rs 442.51 crore.*

(Paragraph 6.2.10)

- *Interest of Rs 198.47 crore due on duty was not worked out and demanded from KSEB.*

(Paragraph 6.2.11)

- *Duty and surcharge of Rs 77.21 crore due from various consumers payable to Government was not demanded and realised.*

(Paragraph 6.2.12)

- *Duty and interest of Rs 1.35 crore due from Thrissur Municipal Corporation was not demanded and realised.*

(Paragraph 6.2.13)

- *The short fall of statutory inspection of electrical equipments by the CEI resulted in loss of Rs 11.55 lakh.*

(Paragraph 6.2.17)

7. Non-Tax Receipts

Forest Receipts

Kerala Forest Development Corporation did not remit to Government forest development tax and additional price of Rs 29.50 lakh collected by it.

(Paragraph 7.2)

Other non-tax Receipts

A review, "Receipts from the Co-operative Department" revealed the following.

- *There was no follow up action to realise arrears of Rs 67.77 crore due from Co-operative institutions.*
(Paragraph 7.5.6)
- *The department failed to maintain proper accounts of disbursements of loan/assistance of Rs 164.30 crore to Co-operative institutions.*
(Paragraph 7.5.8)
- *There was no entry in the records of the Department for disbursement of financial assistance of Rs 21.88 crore given to five institutions.*
(Paragraph 7.5.8)
- *The department had foregone the audit fee/cost of Rs 30.55 crore as a result of failure to conduct audit in time.*
(Paragraph 7.5.10)
- *The department failed to raise demand of interest/penal interest of Rs 8.47 crore due on loans and share capital contribution.*
(Paragraphs 7.5.11 and 7.5.12)
- *The department failed to raise demand of guarantee commission of Rs 6.32 crore due from a Bank.*
(Paragraph 7.5.13)

Chapter I

General

CHAPTER I

GENERAL

1.1. Trend of revenue receipts

1.1.1. The tax and non-tax revenue raised by Government of Kerala during the year 2002-03, the State's share of net proceeds of the divisible Union Taxes and Duties assigned to States and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding four years are given below.

		1998-99	1999-2000	2000-01	2001-02	2002-03
		(In crore of rupees)				
1	Revenue raised by the State Government					
	a) Tax revenue	4649.56	5193.50	5870.26	5923.42	7302.54
	b) Non-tax revenue*	557.66 (509.52)	530.72 (487.21)	659.08 (610.12)	543.38 (477.73)	677.76 (618.05)
	Total *	5207.22 (5159.08)	5724.22 (5680.71)	6529.34 (6480.38)	6466.80 (6401.15)	7980.30 (7920.59)
2	Receipts from Government of India					
	a) Share of net proceeds of the divisible Union Taxes and Duties	1382.30	1535.22	1585.61	1614.26	1715.22
	b) Grants-in-aid	608.60	682.31	615.90	975.33	938.37
	Total	1990.90	2217.53	2201.51	2589.59	2653.59
3	Total revenue receipts of the State Government (1 and 2) *	7198.12* (7149.98)	7941.75* (7898.24)	8730.85* (8681.89)	9056.39* (8990.74)	10633.89* (10574.18)
4	Percentage of 1 to 3	72	72	75	71	75

* The figures shown in brackets are the figures net of expenditure on prize winning tickets of the lotteries conducted by the Government.

* For details please see statement No. 11 – Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Kerala for respective years. 'Share of net proceeds assigned to States' under the Major Heads 0020, 0021, 0028, 0032, 0037, 0038, 0044 and 0045 booked in the Finance Accounts under 'A-Tax Revenue' has been excluded from the revenue raised by the State and included in the State's share of divisible Union Taxes in this statement.

* For details please see statement No. 11 – Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Kerala for respective years. Figures under the Head "0021-Taxes on income other than Corporation tax-Share of net proceeds assigned to States" booked in the Finance accounts under 'A-Tax Revenue' has been excluded from the revenue raised by the State and included in the State's share of divisible Union Taxes in this statement.

1.1.2. Details of the tax revenue raised during the year 2002-03, along with the figures for the preceding four years are given below.

Sl. No.	Head of Revenue	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of Increase (+)/ decrease (-) in 2002-03 over 2001-02
		(In crore of rupees)					
1	Sales Tax	3366.62	3853.54	4344.33	4440.85	5343.15	(+) 20
2	State Excise	529.62	591.10	688.94	541.46	663.07	(+) 22
3	Stamps and Registration Fees						
	a) Stamps- Judicial	19.32	23.21	26.65	24.04	39.84	(+) 66
	b) Stamps - Non-Judicial	205.36	164.98	210.89	262.87	314.14	(+) 20
	c) Registration Fees	76.47	91.46	103.56	107.37	132.55	(+) 23
4	Taxes and Duties on Electricity	39.06	3.33	14.92	5.18	192.63	(+) 3619
5	Taxes on Vehicles	323.31	380.83	394.85	452.18	513.20	(+) 13
6	Taxes on Agricultural Income	27.02	14.19	3.83	1.87	6.40	(+) 242
7	Land Revenue	32.73	34.67	39.35	34.93	38.40	(+) 10
8	Others	30.05	36.19	42.94	52.67	59.16	(+) 12
Total		4649.56	5193.50	5870.26	5923.42	7302.54	

The departments attributed the increase in receipts during 2002-03 as compared to 2001-02 to the following.

Taxes and Duties on Electricity : Increase was due to Government sanction of loan of Rs 185 crore and adjustment thereof towards arrears of electricity duty from the Kerala State Electricity Board.

State Excise : Increase was due to increase in the number of foreign liquor shops and increase in the volume of sale of IMFL.

Stamps and Registration Fees : Increase was due to the increase in the number of documents registered.

Taxes on Vehicles : Increase was due to the increase in the number of vehicles registered during 2002-03.

The reasons for variation though called for in May 2003 from heads of other departments have not been received till October 2003.

1.1.3. Details of non-tax revenue realised during the year 2002-03 along with the figures for the preceding four years are given below.

Sl. No.	Head of Revenue	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of Increase(+) / decrease (-) in 2002-03 over 2001-02
		(In crore of rupees)					
1	State Lotteries	64.17	57.31	85.21	55.94	68.38▲	(+) 22
2	Forestry and Wild Life	121.03	109.88	141.24	113.70	149.58	(+) 32
3	Interest Receipts	70.96	37.31	36.81	31.08	35.86	(+) 15
4	Education, Sports, Art & Culture	35.34	39.18	44.98	53.56	63.41	(+) 18
5	Medical and Public Health	21.44	18.82	20.66	19.85	28.16	(+) 42
6	Crop Husbandry	15.81	5.25	40.53	7.58	12.76	(+) 68
7	Animal Husbandry	5.71	5.08	5.28	5.03	6.94	(+) 38
8	Public Works	1.80	1.82	2.17	1.56	2.15	(+) 38
9	Others	173.26	212.56	233.24	189.43	250.81	(+) 32
	Total	509.52	487.21	610.12	477.73	618.05	

The increase during 2002-03 was attributed by the Lotteries Department to the conducting of a special lottery to raise funds for the Chief Minister's Distress Relief Fund.

The reasons for variation though called for in May 2003 from the heads of other departments have not been received till October 2003.

1.2. Initiatives for mobilisation of Additional Resources

During the year 2002-03, Government of Kerala raised a total revenue of Rs 7980.30 crore comprising tax revenue of Rs 7302.54 crore and non-tax revenue of Rs 677.76 crore. The XI Finance Commission's projection of revenue of the State, budget estimates and the actual receipts were as under:

Nature of revenue	XI Finance Commission's Projection	Budget estimates	Actual receipts	(In crore of rupees) Per centage of variation	
				between Finance Commission's projection and actual receipts	between budget estimates and actual receipts
Own tax revenue	8676.44	7521.46	7302.54	(-) 16%	(-) 3%
Own non-tax revenue	984.24	904.53	677.76	(-) 31%	(-) 25%
Total	9660.68	8425.99	7980.30	(-) 17%	(-) 5%

Against the Finance Commission's projection of Rs 9660.68 crore, budget estimates aggregated only Rs 8425.99 crore and the actual receipt of Rs 7980.30 crore was 17 per cent short of the Commission's projection and five per cent short of the budget estimates.

[▲] From gross receipts of Rs 128.09 crore expenditure of Rs 59.71 crore on prize winning tickets has been deducted, but expenditure of Rs 51.21 crore on commission to agents and establishment expenses of Rs 2.31 crore have not been deducted.

As per the Medium Term Fiscal Reform Programme (MTFRP) of the State, the estimates were revised as Rs 8140.59 crore (tax revenue of Rs 7403.63 crore and non-tax revenue of Rs 736.96 crore). However, the actual receipts of Rs 7980.30 crore registered a decrease of two *per cent* despite mobilisation of additional resources of Rs 309.67 crore against the target of Rs 283.50 crore.

The State Government had not signed any Memorandum of Understanding with Government of India in accordance with the MTFRP. However, the Government exchanged in January 2002 with the Government of India, a document of shared fiscal goals and objectives of the MTFRP.

1.3. Analysis of budget preparation

Under the Kerala Budget Manual, the heads of departments shall forward proposals for budget estimates of receipts directly to the Finance Department with copy to the concerned Administrative Departments in the Government which in turn shall forward the same to the Finance Department with their remarks and the Finance Department shall finally make the budget estimates. The budget estimates of revenue shall be based on existing rates and no increase or decrease in the rates shall be proposed unless approved by the Government.

Scrutiny of the records in the Finance Department revealed that the estimates furnished by the heads of departments were changed without specifying reason thereof. The estimates of revenue for the year 2002-03 furnished by the heads of major revenue earning departments, the estimates made by the Finance Department and the actual receipts were as under:

(In crore of rupees)

Revenue head	Estimates furnished by department	Budget estimates made by Government		Actual receipts	Variation between departmental estimates and actual receipts	Variation between Government estimates and actual receipts
		Original	Revised			
Sales Tax	5100.00	5600.40	5400.00	5343.15	(+) 243.15	(-) 257.25
State Excise	663.96	748.41	655.00	663.07	(-) 0.89	(-) 85.34
Taxes on vehicles	528.91	540.81	520.00	513.20	(-) 15.71	(-) 27.61
Taxes and Duties on Electricity	185.81	16.81	221.27	192.63	(+) 6.82	(+) 175.82
Stamps & Registration fees						
Stamps Non-judicial	327.00	341.93	334.33	314.14	(-) 12.86	(-) 27.79

The actual receipts were nearer to the proposals of the concerned departments than to the budget estimates. This indicates that the budget estimates were not made in a scientific and realistic manner.

1.4. Variation between budget estimates and actuals

The variation between budget estimates of revenue for the year 2002-03 and the actual receipts under principal heads of revenue are given below.

Revenue Head	2002-03			Percentage of variation
	Budget estimates	Actual receipts	Variation Increase (+)/ Shortfall (-)	
	(In crore of rupees)			
Sales Tax	5600.40	5343.15	(-) 257.25	(-) 5
State Excise	748.41	663.07	(-) 85.34	(-) 11
Stamps and Registration Fees				
a) Stamps- Non-Judicial	341.93	314.14	(-) 27.79	(-) 8
b) Registration Fee	123.70	132.55	(+) 8.85	(+) 7
Taxes on Vehicles	540.81	513.20	(-) 27.61	(-) 5
Forestry and Wild Life	181.90	149.58	(-) 32.32	(-) 18
Taxes and Duties on Electricity	16.81	192.63	(+) 175.82	(+)1046
Taxes on Agricultural Income	10.60	6.40	(-) 4.20	(-) 40
Land Revenue	49.46	38.40	(-) 11.06	(-) 22

The reasons given by the departments for the variation between budget estimates and actuals for 2002-03 were as follows.

Taxes and Duties on Electricity : Increase was due to the Government sanctioning loan of Rs 185 crore to Kerala State Electricity Board in March 2003 and adjusting the same against arrears of duty due.

Land Revenue : Decrease was due to short fall in collection in the districts of Thiruvananthapuram, Kollam and Alappuzha.

State Excise : Decrease was due to non collection of duty on Indian Made Foreign Liquor, Beer, etc., and rentals from toddy shops as estimated in the budget.

The reasons for variation called for in May 2003 from the heads of other departments have not been received till October 2003.

1.5. Cost of collection

The gross collections under major revenue heads, expenditure incurred on collections and the percentage of expenditure to gross collections during the years

2000-01, 2001-02 and 2002-03 along with the relevant all India average percentage of expenditure on collection to gross collections for 2001-02 are given below.

Sl. No.	Head of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage for the year 2001-02
			(In crore of rupees)			
1.	Sales Tax	2000-01	4344.33	45.89	1.05	
		2001-02	4440.85	40.04	0.90	1.26
		2002-03	5343.15	44.55	0.83	
2.	Stamps [#] (Non- Judicial) and Registration Fees	2000-01	314.45	35.44	11.27	
		2001-02	370.24	32.57	8.80	3.51
		2002-03	446.69	38.13	8.54	
3.	State Excise [#]	2000-01	688.94	34.02	4.94	
		2001-02	541.46	30.77	5.68	3.21
		2002-03	663.07	35.29	5.32	
4.	Taxes on Vehicles [#]	2000-01	394.85	14.04	3.56	
		2001-02	452.18	12.69	2.81	2.99
		2002-03	513.20	14.08	2.74	

It can be seen from the above table that cost of collection in respect of Stamps & Registration Fees and State Excise was much higher than All India average.

1.6. Collection of sales tax per assessee

As per the data furnished by the Commissioner of Commercial Taxes, the sales tax revenue realised per assessee was Rs 3 lakh during 1998-99 to 2001-02 and Rs 4 lakh in 2002-03. The year-wise particulars of the number of assessees and sales tax revenue realised is given below.

(Rupees in crore)			
Year	No. of assessees	Sales tax revenue	Revenue per assessee
1998-99	1,27,180	3366.62	0.03
1999-2000	1,30,379	3853.54	0.03
2000-01	1,34,944	4344.33	0.03
2001-02	1,38,100	4440.85	0.03
2002-03	1,41,290	5343.15	0.04

[#] According to the Departments, the expenditure incurred cannot be considered as having been incurred solely for collecting revenue as the departments have several other administrative functions. The figures of expenditure on *pro rata* basis are not available.

1.7. Analysis of arrears of revenue

As on 31 March 2003, arrears of revenue under principal heads of revenue, as reported by the departments were as under.

(Rupees in crore)

Sl. No.	Department	Arrears	Arrears outstanding for more than 5 years	Reason
1.	Power	1373.31	91.71	Rs 1371.52 crore was due from the Kerala State Electricity Board. Arrears shown do not include duty due from the Kerala State Electricity Board up to 31.3.1989.
2.	Local Fund Audit	24.71	2.68	The department attributed arrears to non-remittance of audit fees by auditee institutions.
3.	Stationery	12.50	4.91	Failure of various departments to remit the dues
4.	Factories and Boilers	0.83	--	Dues from factories which had stopped functioning
5.	Mining and Geology	0.53	0.12	The arrears were due to dispute regarding claims

Details of arrears of revenue in respect of other departments though called for in May 2003 have not been received till October 2003.

1.8. Arrears in assessment

The details of sales tax and agricultural income tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 2001-02 and 2002-03 as furnished by the Department, are given below.

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
Sales Tax						
2001-02	1,24,186	1,29,519	2,53,705	1,11,496	1,42,209	44
2002-03	1,42,209	1,54,981	2,97,190	1,75,869	1,21,321	59
Agricultural Income Tax						
2001-02	7,564	9,654	17,218	8,401	8,817	49
2002-03	8,817	4,550	13,367	7,252	6,115	54

The above table shows that the Department was able to complete between 44 and 59 per cent of the assessments due for completion during 2001-02 and 2002-03. The delay in finalisation of assessments resulted in delay in realisation of the revenue involved in those cases.

1.9. Write-off and waiver of revenue

The table below indicates details of revenue exceeding Rs 10,000 (for each department) written-off or waived by some Departments during the year 2002-03.

Revenue Heads	Written-off		Waived	
	No. of cases	Amount	No. of cases	Amount
State Excise	6	3.16	-	-
Interest Receipts	-	-	4	0.99
Total	6	3.16	4	0.99

Arrears of instalments of rental of Rs 3.16 lakh due from contractors of toddy shops in six cases were written off as they were either insolvent or no more in existence. Waiver of Rs 0.99 lakh represented the interest on house building advances due from deceased Government employees.

1.10. Refunds

The number of refund cases pending at the beginning of the year 2002-03, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2002-03 were not available in the Commercial Taxes Department.

In the Excise Department one claim for refund of Rs 16,872 pending at the beginning of the year 2002-03 was not settled in the year.

1.11. Results of audit

Test check of the records of Sales Tax, Agricultural Income Tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 2002-03 revealed underassessments/short levy/loss of revenue aggregating Rs 518.74 crore in 1,997 cases. During the course of the year, the Departments concerned accepted underassessments, etc., of Rs 6.81 crore involved in 457 cases, of which 175 cases involving Rs 2.57 crore were pointed out in audit during 2002-03 and the rest in earlier years. At the instance of Audit, the Departments collected Rs 92.33 lakh in 229 cases during 2002-03.

This report contains 43 paragraphs including three reviews relating to short/non-levy of tax, duty and interest, penalty, etc., involving financial effect of Rs 468.78 crore. The Departments/Government have so far accepted the audit observations in 143 cases involving Rs 12.71 crore and recovered Rs 1.17 crore in

seven cases included in the Report. Final reply has not been received in the remaining cases till October 2003.

1.12. Failure of senior officials to enforce accountability and protect interest of Government

According to the instructions issued by Government in November 1965, first replies to inspection reports are required to be sent within four weeks from the date of its receipt. In order to apprise the Government of the position of pending audit observations from time to time, statements of outstanding audit observations are forwarded to Government and their replies watched in audit. Important irregularities and defects in assessments, demand and collection of State receipts, noticed during local audit but not settled on the spot, are communicated to the heads of the offices and to the next higher departmental authorities through inspection reports. The more important financial irregularities are brought to the notice of the Heads of Departments and the Government for taking prompt corrective measures.

As at the end of June 2003, there were 3,614 outstanding inspection reports containing 15,584 audit observations involving Rs 586.99 crore issued up to December 2002. The details of reports outstanding as at the end of June for the years 2001 to 2003 are given below.

(Rupees in crore)

Period	Number of inspection reports	Number of audit observations	Amount involved
As at the end of June 2001	4,534	20,111	1233.96
As at the end of June 2002	4,493	15,967	1118.82
As at the end of June 2003	3,614	15,584	586.99

Revenue head-wise details of the outstanding inspection reports as at the end of June 2003 are given below.

(Rupees in crore)

Sl. No.	Head of Revenue	Number of inspection reports	Number of audit observations	Amount
1	Sales Tax	1,385	7,884	440.32
2	Taxes on Agricultural Income	401	3,014	63.55
3	State Excise	394	797	7.39
4	Taxes on Vehicles	414	2,072	10.13
5	Land Revenue	90	238	2.31
6	Forestry and Wild Life	250	563	59.90
7	Stamps and Registration Fees	674	990	3.38
8	Electricity Duty	6	26	0.01
	Total	3614	15,584	586.99

First replies to 289 inspection reports issued up to December 2002 were not furnished by the departments till the end of June 2003. This was brought to the notice of the Chief Secretary to Government in July and August 2003, but reply was awaited (October 2003).

1.13. Departmental Audit Committee Meetings

Government set up Audit Committees (during various periods) to monitor and expedite the progress of settlement of Inspection Reports and paragraphs in Inspection Report relating to Sales Tax, Motor Vehicles, Stamp and Registration etc. departments. Details of Audit Committee meetings held during the year 2002-03 and the paragraphs settled are given below.

(Rupees in crore)

Revenue Head	No. of meetings held during 2002-03	No. of paragraphs outstanding as on 31 March 2002	Amount	Year-wise details of paragraphs settled		Amount
Sales Tax	6	12,165	1074.18	1985-86	32	1.40
				1986-87	78	
				1987-88	4	
				1989-90	2	
				1990-91	26	
				1991-92	23	
				1992-93	27	
				1994-95	1	
				Total	193	
Motor vehicles	1	2222	13.77	1993-94	11	0.47
				1994-95	22	
				1995-96	21	
				1996-97	8	
				1997-98	26	
				1998-99	12	
				1999-2000	39	
				2000-01	26	
				Total	165	
Forest	1	1127	169.08	1993-94	1	Nil
				1998-99	6	
				1999-2000	1	
				2000-01	9	
				2001-02	2	
				Total	19	
Stamps and Registration Fees	1	530	6.87	1995-96	35	1.68
				1996-97	22	
				1997-98	24	
				1998-99	27	
				1999-2000	14	
				2000-01	9	
				2001-02	3	
				Total	134	
Grand total	9	16,044	1263.90		511	3.55

1.14. Response of the departments to Draft Audit Paragraphs

According to the instructions issued in 1965 by Government of Kerala, the result of verification of the facts on the draft audit paragraphs are required to be communicated to the Accountant General within six weeks from the date of receipt of the same. Draft paragraphs are always forwarded to the Secretaries by name drawing their attention to the audit findings and requesting them to send their response within six weeks. In case the final reply can not be given within six weeks, an interim reply is to be given to the Accountant General and in any case, final reply should be sent within three months from the date of receipt of the draft paragraph. The fact of non-receipt of replies from Government are invariably indicated at the end of each paragraph included in the Audit Report.

The Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 (Revenue Receipts), Government of Kerala, includes 150 draft paragraphs which were forwarded to the Secretaries to Government.

However, replies/response to 125 draft paragraphs were awaited. These paragraphs have been included in this Report without the response of the Government.

1.15. Follow up action on Audit Reports - Summarised position

The instructions issued by Government from time to time for timely follow up action on the Audit Reports and matters pertaining to the Committee on Public Accounts stipulate that it is imperative to submit Action Taken Notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within three months from the date of presentation of Audit Report to the Legislature without waiting for any notice or call from the Committee on Public Accounts.

Review of outstanding ATNs on paragraphs included in eight Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1994 to 31 March 2001 disclosed that the departments had not submitted remedial ATNs on 60 paragraphs on which ATNs were due as on 31 October 2003 as indicated in Appendix.

Out of the total 361 audit paragraphs included in the above eight Audit Reports, the departments submitted remedial ATNs on 301 paragraphs only and none of these ATNs was furnished within the prescribed period of three months.

The Committee on Public Accounts had also expressed displeasure over the extraordinary delay on the part of the Government in furnishing statement of

remedial ATNs on audit paras to the Legislature. Government directed (April 1997) all Heads of departments/Secretaries to Government to give topmost priority to the work and to ensure that remedial measures on all audit paras were furnished to the Legislature within a period of three months of the presentation of the Report to the Legislature. In spite of this, delay continued in furnishing of ATNs.

Though the Audit Report for the year ended 31 March 2002 was laid on the table of the Legislature in June 2003 and the time limit of three months for furnishing remedial ATNs had elapsed in September 2003, the departments did not submit ATNs on any of the 43 paragraphs included in the above Audit Report.

Chapter II

Sales Tax

CHAPTER II

SALES TAX

2.1. Results of Audit

Test check of sales tax assessments and refunds and connected documents of Sales Tax Offices conducted in audit during the year 2002-03 revealed underassessments of tax, non-levy of penalty, etc., amounting to Rs 43.08 crore in 1287 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Incorrect grant of exemption	114	14.19
2.	Non-levy/short levy of interest	395	9.23
3.	Incorrect grant of concessional rate of tax	30	3.80
4.	Turnover escaping assessment	175	3.17
5.	Application of incorrect rate of tax	251	2.22
6.	Excess/ double accounting of remittance	21	0.51
7.	Other items not routed through local audit reports	2	3.96
8.	Other lapses	299	6.00
	Total	1287	43.08

During 2002-03, the Department accepted underassessments, etc., of Rs 3.44 crore involved in 118 cases, of which 72 cases involving Rs 1.69 crore were pointed out during 2002-03 and the rest in earlier years. At the instance of Audit, the Department recovered Rs 24.41 lakh involved in 45 cases during the year. Illustrative cases involving Rs 11.65 crore are given in the following paragraphs.

2.2. Incorrect grant of exemption

2.2.1. It has been held[□] by the High Court of Kerala that latex and centrifugal latex are different commodities. Under the Central Sales Tax Act, 1956, no tax is assessable on inter-State sale of rubber, provided tax under the Kerala General Sales Tax (KGST) Act, 1963, has been paid. Tax on rubber is assessable at the

[□] M/s. Supersonic Industrial Complex, Muvattupuzha Vs. Deputy Commissioner of Sales Tax (Law), Ernakulam (2002) 10 KTR 203 Kerala

point of last purchase in the State. Centrifugal latex manufactured out of other varieties of latex is exigible to Central Sales Tax (CST) on inter-State sale by the manufacturers.

- On inter-state sale of goods, CST is assessable at the rate applicable to sale of such goods in the State, i.e., KGST rate, in the absence of prescribed declaration.

In Sales Tax Circle, Kottayam and Agricultural Income Tax and Sales Tax Office, Peermade, in six cases, the Assessing Authorities, while finalising the CST assessment for the year 1997-98, 1998-99 and 1999-2000 between May 2001 and August 2001 incorrectly exempted inter-state turnover of centrifugal latex aggregating Rs 21.78 crore resulting in short levy of tax of Rs 2 crore.

On this being pointed out, the Assessing Authority of Kottayam stated in June 2002 that it had finalised the assessments as per instructions issued by the erstwhile Board of Revenue (Taxes). The reply was not tenable in view of the Kerala High Court decision that latex and centrifugal latex are different commodities. The Assessing Authority of Peermade stated in October 2002 that it would examine the case. Further report has not been received (October 2003).

- CST payable on any goods manufactured by Small Scale Industrial (SSI) Unit is only four *per cent*.

In Sales Tax Special Circle, Thrissur, while finalising the assessment of two SSI units for the year 1997-98 in July and August 2001, Assessing Authority incorrectly exempted inter-state sales turnover of Rs 8.02 crore of creamed/centrifugal latex even though latex did not suffer tax under the KGST Act. This resulted in short levy of tax of Rs 32.10 lakh.

On this being pointed out, the Department in one case stated in August 2002 that it had allowed the exemption based on a Circular of erstwhile Board of Revenue (Taxes). The reply was not tenable in view of Kerala High Court decision that latex and centrifugal latex are different commodities. In another case no reply was received (October 2003).

2.2.2. Under the KGST Act, 1963, on rubber, that is to say latex, ammoniated latex, centrifugal latex, etc., tax is assessable at the point of last purchase in the State. Latex/ammoniated latex and centrifugal latex, etc., are different commodities as upheld[∞] by the High Court of Kerala.

[∞] M/s. Supersonic Industrial Complex, Muvattupuzha Vs. Deputy Commissioner of Sales Tax (Law), Ernakulam (2002) 10 KTR 203 Kerala

Under the Kerala Surcharge on Taxes Act, 1957, as it stood up to 31 December 1999, the tax payable under the KGST Act, 1963, shall be increased by a surcharge of 10 *per cent*, provided the turnover exceeds Rs 10 lakh.

In three Sales Tax Special Circles, the Assessing Authorities incorrectly exempted purchase turnover of Rs 6.65 crore treating latex/ammoniated latex and centrifugal latex as one and the same commodity. This resulted in short levy of tax of Rs 73.85 lakh including surcharge as under:

(Rupees in lakh)

Sl. No.	Name of office	Assessment year and Month and Year of assessment	Name of Commodity and rate of tax	Nature of irregularity	Tax short levied	Remarks
1.	Sales Tax Special Circle, Alappuzha	<u>1997-98</u> November 2001	Ammoniated <u>latex</u> 10%	While finalising the assessment of a dealer, the Assessing Authority incorrectly exempted the purchase turnover of ammoniated latex for Rs 2.92 crore, used in the manufacture of centrifugal latex, from levy of tax.	32.17	On this being pointed out, Government stated in October 2003 that the Department had revised the assessment against which the assessee filed an original petition in the Hon'ble High Court of Kerala. Further developments are awaited (October 2003).
2.	Sales Tax Special Circle, Kottayam (2 dealers)	i) <u>1999-2000</u> August 2001	<u>Rubber latex</u> 10% up to 31 December 1999 and 12% thereafter	While finalising the assessment of a co-operative society, the Assessing Authority incorrectly exempted the purchase turnover of rubber latex for Rs 2.25 crore, used in the manufacture of centrifugal latex, from levy of tax.	25.33	On this being pointed out, the Department stated that it would examine the case. Further report has not been received (October 2003).
		ii) <u>1998-99</u> April 2001		While finalising the assessment of a manufacturer of centrifugal latex, the Assessing Authority incorrectly exempted the purchase turnover of rubber latex for Rs 85.30 lakh, from levy of tax.	9.38	On this being pointed out, the Department stated in July 2002 that it had completed the assessment as per instructions from the erstwhile Board of Revenue (Taxes) and before reporting the judgement [∞] . The reply was not tenable as the Assessing Authority failed to revise the assessment even after eight months of the judgement. Further report has not been received (October 2003).
3.	Sales Tax Special Circle, Palakkad	<u>1998-99</u> March 2002	<u>Rubber latex</u> 10%	While finalising the assessment of a dealer, the Assessing Authority incorrectly exempted the purchase turnover of rubber latex for Rs 63.31 lakh used in the	6.97	On this being pointed out, the Assessing Authority stated in July 2002 that latex and centrifugal latex were one and the same commodity. The reply was not tenable as latex and

[∞] M/s. Supersonic Industrial Complex, Muvattupuzha Vs. Deputy Commissioner of Sales Tax (Law), Ernakulam (2002) 10 KTR 203 Kerala

Audit Report (Revenue Receipts) for the year ended 31 March 2003

Sl. No.	Name of office	Assessment year and Month and Year of assessment	Name of Commodity and rate of tax	Nature of irregularity	Tax short levied	Remarks
				manufacture of centrifugal latex, from levy of tax.		centrifugal latex are different commodity as judicially held [∞] . Further report has not been received (October 2003).
	Total				73.85	

2.2.3. Under the KGST Act, 1963, tax on rubber is assessable at the point of last purchase in the state. In order to prove that a dealer is not the last purchaser in the state, he shall produce the prescribed declaration obtained from the purchaser.

In Sales Tax Special Circle, Mattancherry, while finalising in February 2001 the assessment for the year 1996-97 of a dealer, the Assessing Authority exempted the purchase turnover of rubber for Rs 38.97 lakh, from levy of tax, even though the dealer failed to produce the prescribed declaration to prove that he was not the last purchaser. This resulted in short levy of tax (including surcharge) of Rs 4.29 lakh.

On this being pointed out, the Department stated that it had revised the assessment in January 2002. Further report has not been received (October 2003).

2.2.4. Under the KGST Act, 1963, tax is assessable on 100 *per cent* Export Oriented Units (EOUs) on their purchases of purchase point taxable goods. Again, every dealer, who purchases without payment of tax any sale point taxable goods and consumes such goods in the manufacture of other goods, shall pay tax on the turnover relating to such purchases.

In the Office of the Inspecting Assistant Commissioner, Commercial Taxes, Pathanamthitta, the Assessing Authority incorrectly exempted the turnover aggregating Rs 12.54 crore relating to purchase point taxable goods and also sale point taxable goods purchased without payment of tax resulting in short levy of tax (including surcharge) of Rs 66.46 lakh as under:

(Rupees in lakh)					
Sl. No.	Assessment year and month and year of assessment	Name of Commodity and rate of tax	Nature of irregularity	Tax short levied	Remarks
1.	<u>1996-97 & 1997-98</u> August and November 1999	<u>Pepper</u> 5% and <u>Ginger</u> 4% at the point of last purchase in the state	While finalising the assessments of a 100 <i>per cent</i> EOU, the Assessing Authority incorrectly exempted the purchase turnover aggregating Rs 11.64 crore relating to pepper and ginger assessable at its hands,	62.36	On this being pointed out the Department stated that it had revised the assessment in January 2003 for the year 1997-98 and sent the assessment file for the year 1996-97 to the Deputy Commissioner for <i>suo-motu</i> revision. Further report has not been received (October 2003).

Sl. No.	Assessment year and month and year of assessment	Name of Commodity and rate of tax	Nature of irregularity	Tax short levied	Remarks
			from levy of tax.		
2.	1998-99 February 2001	<u>Turmeric</u> 4% at the point of first sale in the state	While finalising the assessment of a dealer, the Assessing Authority incorrectly exempted the purchase turnover of turmeric for Rs 57.88 lakh, effected without payment of tax, from levy of tax.	2.55	On this being pointed out, the Department revised the assessment in January 2003. Further report has not been received (October 2003).
3.	<u>1996-97, 1997-98 & 1998-99</u> (between August 1999 and February 2001)	<u>Cardamom</u> 4% and <u>Cloves, nutmeg and mace</u> 5% at the point of first purchase in the state	While finalising the assessment of a 100 <i>per cent</i> EOU, the Assessing Authority incorrectly exempted the purchase turnover of Rs 31.62 lakh assessable at its hands, from levy of tax.	1.55	On this being pointed out, the Department stated that it had revised the assessments in January 2003 for the years 1997-98 and 1998-99 and it had sent the assessment file for the year 1996-97 to Deputy Commissioner for <i>suo-motu</i> revision. Further report has not been received (October 2003).
	Total			66.46	

2.2.5. Under the KGST Act, 1963, tax is payable by industrial units in Cochin Export Processing Zone (CEPZ) on their purchases of purchase point taxable goods. Rubber, being exigible to tax at the point of last purchase in the State is assessable to tax at the hands of such units, the rate of tax being five *per cent* for rubber based industrial units.

In Sales Tax, Second Circle, Kalamassery, while finalising (between March 2001 and January 2002) the assessments for the years 1995-96 to 1997-98 of an industrial unit and for the year 1996-97 of another industrial unit in CEPZ engaged in the manufacture of latex gloves, the Assessing Authority incorrectly exempted the purchase turnover of rubber latex aggregating Rs 8.63 crore from levy of tax. This resulted in short levy of tax (including surcharge) of Rs 47.44 lakh.

On this being pointed out, the Department stated that units in CEPZ were eligible for exemption on their purchases and hence it allowed exemption of purchase turnover of raw materials used in the manufacture by such units. The reply was not tenable as no exemption was allowable to units in CEPZ on the purchase turnover of goods assessable at their hands. Further report has not been received (October 2003).

The above cases were reported to Government between March and June 2003. Final reply has not been received (October 2003).

2.3. Non-realisation of tax due from Central Government Departments/ Institutions

Under the KGST Act, 1963, every dealer shall pay tax at the rates specified therein on sale of goods unless specified otherwise. Under the Act, the Central Government shall be deemed to be a dealer and shall be entitled to collect tax on sale of goods. It has been held by the Supreme Court in *Rashtriya Ispat Nigam Ltd Vs State of Andhra Pradesh (and other appeals)** that transfer of property in goods by contractees to contractors for use in the execution of works contracts constitutes a sale provided value of such goods is deducted from bills or other dues of the contractor. Under the Act, the Assessing Authority may direct any dealer to produce any accounts and such dealer shall comply with such direction. Under the Agricultural Income Tax and Sales Tax Manual, the duties of Sales Tax Officers include, *inter alia*, enforcing of filing returns by dealers including Government institutions. On cement, tax is assessable at the point of first sale in the state.

2.3.1. It was noticed that in eight Works Contract Assessment Offices*, while finalising between 1 April 1999 and 31 March 2003 81 works-contract assessments of 41 contractors, cement for Rs 4.74 crore supplied to them between 1997-98 and 2001-2002 by five Divisions of Central Public Works Department (CPWD)* and five Civil Divisions of Telecom Department/BSNL* in the State was exempted from levy of tax on the ground that these contractors were not first sellers in the state. However, the Assessing Authorities failed to enquire this fact resulting in non-payment of tax of Rs 59.99 lakh due thereon.

2.3.2. Further, on cross-verification by audit with the records in these institutions, it was seen that between 1 April 1997 and 31 March 2002 they issued cement valued at Rs 28.12 crore procured from outside the state, to 337 contractors and recovered the value thereof from them. These institutions were liable to pay tax of Rs 3.71 crore on the value of such cement as first sellers in the state. However, the tax was neither collected nor paid to Government as under:

(Rupees in lakh)								
Sl. No.	Name of central Government Institution	Value of cement issued					Total value of cement	Amount of tax
		1997-98	1998-99	1999-2000	2000-01	2001-02		
1	CPWD Division Office							
	i) Kochi (Ernakulam)	117.70	70.21	98.16	88.88	32.01	406.96	54.39
	ii) Kottayam	38.01	53.73	28.39	78.47	28.28	226.88	31.67
	iii) Kozhikode	121.87	52.93	100.96	47.32	Nil	323.08	41.42
	iv) Thiruvananthapuram	72.31	85.27	43.73	29.97	Nil	231.28	29.66
	v) Thrissur	39.22	31.85	75.29	38.15	Nil	184.51	23.87

* (1998) 109 STC 425

* Offices of the Deputy Commissioners, Commercial Taxes : Alappuzha, Ernakulam, Kollam, Kottayam, Kozhikode, Mattancherry, Thiruvananthapuram and Thrissur

* See table ibid

Sl. No.	Name of central Government Institution	Value of cement issued					Total value of cement	Amount of tax
		1997-98	1998-99	1999-2000	2000-01	2001-02		
2	Telecom Department/ BSNL Civil Divisions							
	i) Ernakulam (Kochi)	62.44	52.43	63.85	23.46	Nil	202.18	25.86
	ii) Kottayam	Nil	77.58	82.02	16.15	Nil	175.75	22.36
	iii) Kozhikode	100.92	109.14	115.22	125.72	48.57	499.57	67.90
	iv) Thiruvananthapuram	79.13	85.02	128.68	94.72	34.02	421.57	56.23
	v) Thrissur	43.02	52.92	23.52	20.92	Nil	140.38	18.07
	Total	674.62	671.08	759.82	563.76	142.88	2812.16	371.43

This was brought to the notice of the Department and the Government in March 2003. The Commissioner of Commercial Taxes stated in September 2003 that he had communicated the audit observation to all the Assessing Authorities and that he would furnish a further reply. Reply from Government has not been received (October 2003).

2.4. Underassessment of turnover

2.4.1. Under the KGST Act, 1963, taxable turnover means the turnover on which a dealer shall be liable to pay tax, after making the prescribed deductions from the gross turnover.

In five offices*, turnover of Rs 6.29 crore involved in 9 cases was incorrectly excluded from levy of tax, resulting in short levy of tax and surcharge of Rs 45.95 lakh. A few examples by way of illustration are given as under:

(Rupees in lakh)

Sl No	Name of office	Assessment year and month and year of assessment	Name of Commodity and rate of tax	Turnover excluded	Nature of irregularity	Tax short levied	Remarks
1.	Sales Tax Special Circle, Kollam (2 cases)	1985-86 January 1998 1989-90 January 1998	Cashew nut with shell 5%	357.33	Purchase turnover of cashewnut with shell for producing kernel for Rs 7.69 crore was fixed at Rs 1.56 crore against Rs 5.13 crore normally required at two-third of the value of kernel.	23.47	On this being pointed out, the Department revised the assessments in August 2001 raising additional demand of Rs 23.47 lakh and advised the amount in October 2001 for revenue recovery. Further developments have not been reported (October 2003).
2.	Sales Tax Special Circle III, Ernakulam	1997-98 November 2001	Cement 12.5%	100	A dealer in cement conceded taxable turnover of Rs 13.28 crore. The Assessing Authority also	13.75	On this being pointed out, the Assessing Authority stated in September 2002 that the

* Office of the Deputy Commissioner, Commercial Taxes, Ernakulam
Sales Tax Special Circles: III Ernakulam, Kannur and Kollam
Sales Tax Office: Circle II Mattancherry

Audit Report (Revenue Receipts) for the year ended 31 March 2003

Sl No	Name of office	Assessment year and month and year of assessment	Name of Commodity and rate of tax	Turnover excluded	Nature of irregularity	Tax short levied	Remarks
					accepted this turnover. However, tax was levied only on Rs 12.28 crore.		case would be examined. Further report has not been received (October 2003).

2.4.2. Under the KGST Act, 1963, tax is leviable on turnover of property involved in execution of works contract. The taxable turnover shall be arrived at after deducting the amounts specified therefor. If the quantum of deduction towards labour charges and other service charges is not ascertainable from the returns/accounts, deduction of 30 *per cent* shall be allowed. Under the Act, on turnover of civil works of buildings, bridges, etc., tax was leviable at the rate of eight *per cent*. Cost of work-in-progress in a year constituted turnover for the purpose of assessment of that year.

In three offices, in the assessments of five contractors of civil works like construction of building, bridges etc., the Assessing Authorities excluded turnover aggregating Rs 1.23 crore from levy of tax resulting in short demand of tax of Rs 10.07 lakh as under.

(Rupees in lakh)

Sl. No.	Name of office	Assessment year and month and year of assessment	Name of Commodity/ Nature of sale	Turnover excluded	Nature of irregularity	Tax short levied	Remarks
1.	Deputy Commissioner, Commercial Taxes, Kozhikode	<u>1998-99 & 1999-2000</u> January 2001 (2 cases)	Turnover of works contract	35.70	While finalising the assessment of a contractor in civil works for the year 1998-99 and 1999-2000, no tax was levied on turnover of closing work-in-progress aggregating Rs 35.70 lakh.	3.11	On this being pointed out, the Department stated in January and October 2002 that it would examine the case. No further reply has been received (October 2003)
2.	Deputy Commissioner, Commercial Taxes, Ernakulam	<u>1998-99</u> March 2002	Turnover of works contract	34.31	While finalising the assessment of a building contractor, turnover of Rs 34.31 lakh escaped assessment due to wrong carry forward of work in progress in excess (Rs 17.41 lakh) from the previous year and excess deduction (Rs 16.90 lakh) of cost of labour and materials.	3.02	On this being pointed out, it was stated in June 2002 by the Department that the case would be examined. Further reply has not been received (October 2003).

Sl. No.	Name of office	Assessment year and month and year of assessment	Name of Commodity/ Nature of sale	Turnover excluded	Nature of irregularity	Tax short levied	Remarks
3.	Deputy Commissioner, Commercial Taxes, Kozhikode	<u>1996-97 & 1997-98</u> June 2000	Turnover of works contract	36.27	While finalising the assessments of a contractor in civil works, after making deduction towards labour and other charges at the prescribed rate for both the years, a further deduction of establishment expenses and value of consumables was allowed resulting in escapement of turnover aggregating Rs 36.27 lakh.	2.83	On this being pointed out, the Department stated in January 2002 that it would examine the case. Further report has not been received (October 2003).
4.	Sales Tax Special Circle, Kottayam	<u>1996-97</u> January 2001	Turnover of works contract	16.88	While finalising the assessment for the year 1996-97 of a dealer, the value of works contract of Rs 16.88 lakh awarded to unregistered contractors escaped assessment.	1.11	On this being pointed out, the Department stated in January 2002 that the assessee was a Central Government autonomous body and hence not a dealer. However, this autonomous body was a registered dealer on the rolls of the same Assessing Authority. Further report has not been received (October 2003).
Total				123.16		10.07	

2.4.3. Under the KGST Act, 1963, with effect from 1 April 1999, a dealer in jewellery may pay tax at the compounded rate of 120 *per cent* of the tax payable as conceded in the returns/accounts for the immediate preceding year. If the dealer has paid compounded tax during the preceding year, the compounded tax for the year shall be 120 *per cent* of the tax calculated as above or 120 *per cent* of the compounded tax of the preceding year paid or payable, whichever is higher.

In Sales Tax Special Circle, Thrissur, a dealer in jewellery conceded in his return/accounts for the year 1999-2000, tax of Rs.14.48 lakh including tax on old ornaments. Instead of fixing tax for the year 2000-01 at Rs 17.37 lakh calculated at 120 per cent of this amount, tax was assessed in December 2001 at Rs 16.04 lakh calculated at 120 per cent of the compounded tax of Rs 13.37 lakh for the year 1999-2000. This resulted in short levy of tax of Rs 1.33 lakh.

On this being pointed out, it was stated in July 2002 by the Assessing Authority that turnover of old ornaments was not to be included for arriving at the compounded tax. The reply is not tenable in view of the provision in the Act, for inclusion of turnover of old ornaments also, for arriving at the taxable turnover. Further reply has not been received (October 2003).

2.4.4. Under the KGST Act, 1963, turnover of sale of products manufactured by village industries recognised by the Kerala Khadi and Village Industries Board is exempted from levy of tax where total turnover does not exceed ten lakh rupees.

In Sales Tax Office, Kothamangalam, while finalising in January 2002, the assessment for the year 1999-2000 of an industrial unit, recognised by the Kerala Khadi and Village Industries Board, the Assessing Authority incorrectly excluded sales turnover of handmade soap for Rs 78.18 lakh for the period 1 January 2000 to 31 March 2000. This resulted in short levy of tax of Rs 3.13 lakh.

On this being pointed out, the Department stated in February 2003 that Government issued a notification exempting Khadi and Village Industries units from payment of tax on goods sold by them. The reply is not tenable as the exemption was effective from 1 April 2000 onwards. Further report has not been received (October 2003).

2.4.5. Under the KGST Act, 1963, "goods" means all kinds of movable property. It has been held[▼] by the High Court of Kerala that sale of SIM cards is exigible to tax under the Act.

In Sales Tax Special Circle I, Ernakulam, while finalising in July 2000 the assessment for the year 1996-97 of a dealer, the Assessing Authority incorrectly excluded sales turnover of SIM cards for Rs 17.33 lakh from levy of tax, on the contention that SIM cards did not fall under the definition of "goods". This resulted in short levy of tax of Rs 1.91 lakh including surcharge.

On this being pointed out, it was stated by the Assessing Authority in September 2002 that the assessment was being revised. Further report has not been received (October 2003).

2.4.6. Under the KGST Act, 1963, every dealer, who purchases without payment of tax, any taxable goods and consumes such goods in the manufacture of other goods, shall pay tax on the taxable turnover relating to such purchase. On iron and steel, tax was leviable at the rate of four *per cent* and on articles of iron or steel in

[▼] M/s. Escotel Mobile Communications Ltd. Vs. Union of India and others (2002) 10 KTR 318 (Ker)

combination with other metals at the rate of 10 *per cent*, at the point of first sale in the state.

In Sales Tax Second Circle, Thalasserry, while finalising in March 1998 the assessment for the year 1996-97 of a manufacturer of machinery, turnover of raw materials for Rs 14.56 lakh, purchased without payment of tax and used in the manufacture of machinery for Rs 20.80 lakh, was not assessed to tax. This resulted in short levy of tax and surcharge of Rs 1.26 lakh.

On this being pointed out, the Department revised in November 2001 the assessment and created additional demand of Rs 1.09 lakh. Further report has not been received (October 2003).

2.4.7. Under the KGST Act, 1963, tax on sand was assessable at the rate of eight *per cent* at the point of first sale in the state. It has been judicially held[▼] that royalty is consideration for sales tax assessment.

In Sales Tax Special Circle, Kollam, while finalising in February 2001 the assessment for the year 1996-97 of a manufacturer of minerals using mineral sand, the Assessing Authority did not levy tax on royalty of Rs 55.45 lakh paid in consideration for mineral sand on which the dealer paid no tax. This resulted in non-levy of tax and surcharge of Rs 4.89 lakh.

On this being pointed out, the Department revised the assessment in November 2001. Further report has not been received (October 2003).

2.4.8. Under the KGST Act, 1963, a transfer of right to use any goods for any purpose (whether or not for a specified period) for consideration shall be deemed to be a sale and taxed at prescribed rates at all points of such transfers. Lease rent received or receivable is turnover under the Act.

In Sales Tax First Circle, Ernakulam, while finalising in May 2001 and March 2002 the assessments for the years 1997-98 and 1998-99 of a leasing company, the Assessing Authority incorrectly excluded lease equalisation charges aggregating Rs 1.32 crore (transferred to profit and loss account from the gross rental of Rs 3.92 crore) from levy of tax resulting in short levy of tax and surcharge of Rs 8.72 lakh.

[▼] Cooch Bihar Contractors' Association & others Vs. State of West Bengal and others (1996) 4 KTR 397 SC

On this being pointed out, it was stated by the Department in June 2002 that the deduction was allowed following the accounting principles adopted by the dealer. The reply was not tenable as lease rent received or receivable in a year was liable to levy of tax and the method of accounting had no bearing on the provisions in the Act. Further report has not been received (October 2003).

2.4.9. Under the KGST Act, 1963, taxable turnover of works contract in civil works shall be arrived at after deducting the amounts specified therefor. Hire charges for vehicles for transportation of materials to the work site is not an admissible deduction.

In the Office of the Deputy Commissioner, Commercial Taxes, Kozhikode, while finalising the assessment in January 2001 for the year 1999-2000 of a civil works contractor, the Assessing Authority incorrectly exempted hire charges of Rs 30.52 lakh of vehicles used for transportation of materials from levy of tax resulting in short demand of tax of Rs 2.62 lakh including surcharge.

On this being pointed out, the Department stated in January 2002 that it would examine the case.

The above cases were reported to Government between February and June 2003. Government accepted in August 2003 the observations in one case. Replies in respect of the remaining cases have not been received (October 2003).

2.5. Non-demand of tax

2.5.1. Under the KGST Act, 1963, SSI Units and Medium/ Large Scale Industries are exempted from payment of tax to the extent quantified by the Industries Department. Tax payable on goods manufactured and sold within the State and on purchase of last purchase-point taxable goods used in the manufacture of other goods for sale within the State or inter-State sale are eligible for exemption. Tax on sale-point taxable goods purchased in circumstances in which no tax has been paid, has to be remitted to Government as per a judicial decision[#].

In six offices[♥], in nine cases, tax and surcharge of Rs 43.76 lakh determined in assessments was incorrectly set off against the quantified tax exemption, instead of demanding it. A few illustrative cases are given below.

[#] State of Kerala Vs. M/s. Vattukalam Chemicals Industries (2002) 10 KTR 69 (SC)

[♥] Sales Tax Special Circle, Kasaragod.

(Rupees in lakh)

Sl. No.	Name of office	Assessment year and month and year of assessment	Name of Commodity and Rate of tax	Nature of irregularity	Tax not demanded	Remarks
1.	Sales Tax Second Circle, Palakkad	<u>1996-97</u> March 2001	<u>Rubber latex</u> 5% for rubber based industrial units	While finalising the assessment of a medium/large scale industrial unit manufacturing rubber products, the Assessing Authority incorrectly set off the tax due on the purchase turnover of latex amounting to Rs 2.68 crore used in the manufacture of goods exported, against the quantified amount of tax exemption instead of demanding it.	14.72	On this being pointed out, no reply has been received (October 2003).
2.	Sales Tax First Circle, Thiruvananthapuram	<u>1995-96 to 1997-98</u> May 2000	<u>Firewood</u> 12% up to 31 March 1997 and 12.5% thereafter	An SSI unit purchased firewood for Rs 67.19 lakh without payment of tax. While finalising the assessment, the Assessing Authority levied tax at incorrect rates and set off the tax against the quantified amount of exemption instead of demanding it as it did not suffer tax at the purchase stage.	9.93	On this being pointed out, the Department did not furnish any reply (October 2003).
3.	Sales Tax Second Circle, Ernakulam	<u>1998-99 & 1999-2000</u> May 2000 and February 2001	<u>Iron scrap</u> 4%	While finalising the assessments of an SSI Unit, the Assessing Authority levied tax on iron scrap of Rs 1.47 crore purchased without payment of tax and adjusted the tax against the quantified amount of tax exemption, instead of demanding it.	5.90	On this being pointed out, the Department revised in May 2002 the assessment for the year 1998-99 and demanded tax of Rs 4.70 lakh. The details of revision of the assessment for the year 1999-2000 had not been reported (October 2003).
4.	Sales Tax Second Circle, Palakkad	<u>1995-96 to 1998-99</u> between September 2000 and January 2001	<u>Lime shell</u> 4%	While finalising the assessments of four SSI Units, which purchased lime shell aggregating Rs 79.69 lakh without payment of tax, the Assessing Authority levied tax thereon and set it off against the quantified amount of tax exemption, instead of demanding it.	3.51	On this being pointed out, the Assessing Authority revised in December 2001 the assessments creating additional demands. Further report has not been received (October 2003).
5.	Sales Tax Special Circle, Kasaragod	<u>1995-96</u> March 1998	<u>Timber</u> 12%	While finalising the assessment of a SSI Unit, Assessing Authority levied tax on firewood for Rs 23.29 lakh, purchased without payment of tax and set off the tax due thereon against the quantified amount of tax exemption, instead of demanding it.	3.07	On this being pointed out, the Assessing Authority stated in April 2002 that it would examine the case. Further report has not been received (October 2003).

Sales Tax Offices: Ernakulam II, Haripad, Muvattupuzha, Palakkad II, Thiruvananthapuram I

Out of the above nine cases, the Department accepted audit observations in five cases of Rs 14.32 lakh and revised assessments in three cases creating additional demand of Rs 5.98 lakh. Final report has not been received in remaining cases (October 2003).

The above cases were reported to Government between March and June 2003; their reply has not been received (October 2003).

2.5.2. Under the KGST Act, 1963, tax payable by any dealer on the sale of industrial raw materials to 100 *per cent* EOU is exempted from levy of tax. However, this exemption is not allowable to EOUs on the purchase of purchase-point taxable goods as clarified by Government in March 1994 that such units were not eligible for exemption from such tax.

In the Office of the Inspecting Assistant Commissioner, Commercial Taxes, Pathanamthitta, the Assessing Authority assessed in February 2001 tax of a 100 *per cent* EOU for the year 1998-99 on turnover of Rs 5.31 crore relating to pepper and ginger taxable at the point of last purchase and nutmeg and mace taxable at the point of first purchase. However, it did not demand tax and surcharge amounting to Rs 23.93 lakh on the plea that the dealer was a 100 *per cent* EOU.

On this being pointed out, the Department revised the assessment in January 2003 creating additional demand of Rs 23.93 lakh. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

2.6. Non-demand/short levy of interest

Under the KGST Act, 1963, if the tax due is not paid within the time prescribed, the dealer shall, pay interest. Where any dealer has failed to include any turnover in any return filed or any turnover has escaped assessment, interest shall accrue from such date, on which tax would have fallen due for payment.

In 11 offices*, the Assessing Authorities either failed to levy or short levied interest amounting to Rs 64.86 lakh in 15 cases.

* Sales Tax Special Circles : Ernakulam II, Ernakulam III, Mattancherry, Mattancherry (Hill Produce), Kozhikode I

Sales Tax Circle Offices : Ernakulam IV, Kalamassery I, Kozhikode II, Kozhikode V, Tripunithura II and Sales Tax Office, Vaikom

On this being pointed out, the Department accepted audit observations in nine cases involving Rs 25.61 lakh and raised demand of Rs 22.66 lakh in seven cases. Final reply has not been received in remaining cases (October 2003).

The above cases were reported to Government between March and June 2003; their reply has been received only in three cases. Replies in the remaining cases have not been received (October 2003).

2.7. Short levy due to application of incorrect rate of tax

Under the KGST Act, 1963, rate of tax depends on the nature of sale, point of sale and also on the kind of commodity.

In 17 Sales Tax Offices[#], tax was levied at incorrect rates in 19 cases resulting in short levy of tax of Rs 60.81 lakh including surcharge. A few illustrative cases are given under:

(Rupees in lakh)

Sl. No	Name of office	Assessment year and month and year of assessment	Name of commodity	Rate of tax		Turnover subjected to tax at the incorrect rate	Tax short levied	Remarks
				Applicable	Applied			
1.	Sales Tax Special Circle, Thiruvananthapuram	<u>1995-96</u> , <u>1996-97</u> & <u>1998-99</u> (between March 1997 and March 2000)	Stainless steel kitchen sinks	12.5%	10%	631.08	17.35	On this being pointed out, the Department revised in July 2002 the assessment for the year 1998-99 creating additional demand of Rs 5.19 lakh. Report on revision of assessment for the years 1995-96 and 1996-97 has not been furnished so far (October 2003).

[#] Offices of the Deputy Commissioner, Commercial Taxes : Kozhikode and Thiruvananthapuram
Office of the Inspecting Assistant Commissioner, Commercial Taxes : Pathanamthitta
Sales Tax Special Circles : Alappuzha, II Ernakulam, III Ernakulam, Kannur, I Kozhikode, Mattancherry, Palakkad, and Thiruvananthapuram
Sales Tax Offices : Mavelikkara, Circle I Kalamassery, Circle II Kalamassery, Circle II Kottayam, Kuthiathode and Circle II Palakkad

Audit Report (Revenue Receipts) for the year ended 31 March 2003

Sl. No	Name of office	Assessment year and month and year of assessment	Name of commodity	Rate of tax		Turnover subjected to tax at the incorrect rate	Tax short levied	Remarks
				Applicable	Applied			
2.	Sales Tax Special Circle, Mattancherry	1996-97 March 2001	Turnover of works contract (a) Supply and fitting/installation of electrical goods/ equipments and (b) 'Supporting steel for equipment platform etc., in the new factory building'	7%	5%	262.12	7.29	On this being pointed out, the Department revised the assessment in November 2001. Further reply has not been received (October 2003).
				5%	2%	46.04		
3.	i) Sales Tax Special Circle II, Ernakulam	1997-98 January 2001	Firewood	12.5%	6%	16.16	1.16	On this being pointed out, the Department revised in March 2002 the assessment and raised demand for Rs 1.16 lakh. Further report has not been received (October 2003).
	ii) Sales Tax Special Circle, Kannur	1998-99 January 2002	Timber	12.5%	4%	41.63	3.54	On this being pointed out, the Department stated in October 2002 that it would revise the assessment. Further report has not been received (October 2003).
4.	Sales Tax Second Circle, Kalamassery	1996-97 March 2001	Readymade garments	10 % up to 28 July 1996 and 5% there after.	6%	Tax at 6% was assessed on Rs 6.74 crore instead of levying tax at 10% on Rs 2.19 crore and at 5% on Rs 4.55 crore	4.64	On this being pointed out, the Department issued in September 2001 notice for revision of the assessment. Further report has not been received (October 2003).
5.	Sales Tax Special Circle III, Ernakulam	1997-98 September 2000 1998-99 March 2001	Kolinchi (wild ginger), Mango ginger and Kasturi turmeric	10%	4%	65.64	4.33	On this being pointed out, the Department revised the assessment in December 2001 and raised demand for Rs 4.33 lakh. Further report has not been received (October 2003).

Sl. No	Name of office	Assessment year and month and year of assessment	Name of commodity	Rate of tax		Turnover subjected to tax at the incorrect rate	Tax short levied	Remarks
				Applicable	Applied			
6.	Sales Tax Office Second Circle, Kottayam	<u>1996-97</u> October 2000	Tread Rubber	10%	3%	46.40	3.57	On this being pointed out, Government stated that the Department had revised the assessment in January 2002 and advised the amount due to Government for revenue recovery in January 2003. Collection particulars are awaited (October 2003).
7.	Sales Tax Special Circle I, Kozhikode	<u>1996-97, 1997-98 & 1998-99</u> February 2002	Soda and Cola	12.5% up to 28 July 1996 and 20% up to 31 March 1999	6%	21.95	3.25	On this being pointed out, the Department stated in September 2002 that the turnover of beverages like soda and soft drinks sold/served in bar attached hotels/restaurants, along with cooked food was taxable at six <i>per cent</i> . The reply is not tenable in view of the specific entry for soda and cola in the Schedule to the Act. Further report has not been received (October 2003).

On this being pointed out, the Department accepted audit observations in 15 cases of Rs 54.01 lakh and revised assessments in 11 cases creating additional demand of Rs 25.54 lakh. Final reply has not been received in remaining cases (October 2003).

The above cases were reported to Government between February and June 2003; their reply has been received in two cases in September 2003 and reply in other cases was pending (October 2003).

2.8. Non-levy of penalty

2.8.1. Under the KGST Act, 1963, the Assessing Authority shall finalise the assessment of certain specified category of dealers without detailed scrutiny. On

reopening such assessment, if the tax paid by the dealer is less than the amount of tax he is liable to pay, the Assessing Authority shall impose penalty at thrice the amount of such difference. Under the Act, if a dealer other than the above has submitted an untrue return, the Assessing Authority may impose penalty not exceeding twice the amount of tax evaded or sought to be evaded.

In an office[▲], penalty for filing of untrue return in a case and in four offices[♦], penalty on additional demand arising on reopening the assessments originally completed without detailed scrutiny of accounts in five cases, was not imposed resulting in non-levy of penalty of Rs 34.59 lakh. A few examples by way of illustration are given below.

(Rupees in lakh)

Sl. No.	Name of office	Assessment year/month and year of revision	Nature of irregularity	Amount of penalty	Remarks
1.	Office of the Inspecting Assistant Commissioner, Commercial Taxes, Wynad at Sultan Bathery	1998-99 November 2000 and August 2001	The Assessing Authority on reopening the original assessment completed in October 2000 without detailed scrutiny of accounts created additional demand of Rs 6.48 lakh on levying tax on concealed turnover. However, it did not levy penalty.	19.43	On this being pointed out, the Department stated in January 2002 that it was not mandatory to impose penalty. The contention was not correct as the Act provides for imposition of penalty on reopening an assessment which was finalised without detailed scrutiny. Further report has not been received (October 2003).
2.	Sales Tax First Circle, Kannur	2000-01 May 2002	The Assessing Authority on reopening the original assessment completed in December 2001 without detailed scrutiny of accounts created additional demand of Rs 2.38 lakh on levying tax on concealed turnover. However, it did not levy penalty.	7.13	On this being pointed out, the Department stated in November 2002 that it would take action to impose penalty. Further report has not been received (October 2003).
3.	Agricultural Income Tax and Sales Tax Office, Kuthiathode	1996-97 January 2001	The Assessing Authority disallowed the incorrect exemption of Rs 14.38 lakh claimed by the assessee and levied tax of Rs 1.80 lakh. However, it omitted to impose penalty.	3.60	On this being pointed out, Government stated in August 2003 that the Department had imposed penalty of Rs 3.60 lakh in October 2002 and had advised the amount for revenue recovery. Further report has not been received (October 2003).

On this being pointed out, the Department accepted audit observations in three cases involving Rs 12.37 lakh and imposed penalty of Rs 5.24 lakh in two cases. Final report has not been received in remaining cases (October 2003).

▲ Agricultural Income Tax and Sales Tax Office, Kuthiathode

♦ Office of the Inspecting Assistant Commissioner, Commercial Taxes, Wynad at Sultan Bathery
Sales Tax Offices: Circle II Alappuzha, Circle I Kannur and Kottarakkara

The cases were reported to Government between March and June 2003; their reply has been received in August 2003 in two cases and in other cases reply was pending (October 2003).

2.8.2. Under the Central Sales Tax Act, 1956, if a registered dealer purchases any goods not covered by his certificate of registration, the Assessing Authority may impose, by way of penalty, a sum not exceeding one and a half times of KGST as if the purchase had been made without the support of the prescribed declaration i.e., Form 'C'.

In Sales Tax Special Circle, Mattancherry, a dealer in rubber chemicals, purchased during the year 1996-97 stainless steel storage tank valued at Rs 5.52 lakh, an item which was not included in his certificate of registration, issuing the prescribed declaration in Form 'C'. The Assessing Authority while finalising the assessment in February 2001 did not impose any penalty which could extend up to Rs 1.04 lakh.

On this being pointed out, the Department imposed penalty of Rs 1.08 lakh in March 2002. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

2.9. Non-realisation of sales tax on royalty for right to use water

Under the KGST Act, 1963, a transfer of right to use any goods for any purpose (whether or not for a specified period) for consideration shall be deemed to be a sale, the rate of tax being six *per cent* up to 31 December 1999 and eight *per cent* thereafter at all points of such transfers. It has been held by the Supreme Court in Cooch Bihar Contractors' Association and others Vs State of West Bengal and others^{*} that royalty is consideration for sales tax assessment.

On direction issued in January 1991 from the Government, Kerala State Electricity Board (KSEB), a registered dealer on the rolls of Sales Tax Special Circle, Thiruvananthapuram, collected Rs 3.41 crore during the period March 1994 to March 2002 from M/s Carborandum Universal Ltd., (CUMI) towards royalty and cost for controlled release of water from the Maniyar Hydro Electric Project in Pathanamthitta District of KSEB for use in the production of electrical energy. Allowing one *per centum* towards cost of controlled release of water (adopting the rate for charges of collection of electricity duty) royalty on water

^{*} (1996) 4 KTR 397 (SC)

released to CUMI amounted to Rs 3.38 crore. However, tax of Rs 25.03 lakh on this amount including surcharge and/or additional sales tax was neither collected from CUMI nor paid to Government by KSEB.

The case was brought to the notice of the Department and the Government in July 2003; their reply has not been received (October 2003).

2.10. Incorrect grant of concessional rate of tax

2.10.1. Under the KGST Act, 1963, tax payable on the sale of industrial raw materials which are liable to tax at a rate higher than four *per cent* when sold to industrial units for use in the production of finished products inside the state for sale shall be three *per cent* subject to certain conditions. It has been specified that this concession is not admissible, if the finished products are exported out of the territory of India. Where any dealer fails to make use of the goods for the purpose for which such goods were purchased, he shall be liable to pay the differential tax.

In Sales Tax Second Circle, Mattancherry and Agricultural Income Tax and Sales Tax Office, Kuthiathode, five dealers exported between 1997-98 and 1999-2000, out of the territory of India, goods manufactured using raw materials purchased for Rs 1.28 crore paying tax at the concessional rate of three *per cent*. While finalising the assessments (between June 2000 and March 2002) for the years 1997-98, 1998-99 and 1999-2000 the assessing authorities failed to levy the differential tax which resulted in short levy of tax and surcharge of Rs 10.19 lakh.

On this being pointed out, the Assessing Authority of Kuthiathode stated in July 2002 that it would examine the cases. The Assessing Authority of Mattancherry issued notice in July 2002 to rectify the defect. Further report has not been received (October 2003).

2.10.2. SSI Units with turnover up to Rs 50 lakh, shall be eligible for the concessional rate of four *per cent* on the goods manufactured and sold by them. In cases where the turnover exceeds Rs 50 lakh, the concessional rate shall be available on Rs 50 lakh and tax on the turnover in excess thereof shall be levied at the appropriate rate and no concession shall be available in the subsequent years in which the total turnover exceeds Rs 50 lakh.

- In Sales Tax Office, Angamali, while finalising in May 2000 the assessment for the year 1998-99 of a dealer, the Assessing Authority levied tax at the rate of four *per cent* against 12.5 *per cent* on the turnover of Rs 40.52 lakh, though the turnover of the dealer had exceeded Rs 50 lakh during 1997-98. This resulted in short levy of tax and surcharge of Rs 3.79 lakh.

On this being pointed out, the Department stated in July 2002 that it had issued notice to rectify the defect. Further report has not been received (October 2003).

- In three offices[▼], while finalising between November 2000 and March 2001 the assessments for the year 1997-98 of three SSI Units, the Assessing Authorities levied tax at the rate of four *per cent* against the correct rate of eight/ten *per cent* on turnover of sale of manufactured goods valued at Rs 67.15 lakh, though the turnover exceeded Rs 50 lakh during 1996-97 as well as 1997-98 in all the cases. This resulted in short levy of tax of Rs 3.82 lakh.

On this being pointed out, the Assessing Authorities of two offices issued in February and July 2002 notices to revise the assessments. The Assessing Authority of the other office has not furnished any reply (October 2003).

The above cases were reported to Government during March and April 2003; their reply has not been received (October 2003).

2.11. Incorrect accounting of remittance

Under the KGST Rules, 1963 the Assessing Authority, while making a final assessment, shall examine what amount is due from the dealer on final assessment after deducting tax already paid and demand the amount from the dealer. Instructions issued in February 1992 by erstwhile Board of Revenue (Taxes), lay down Departmental procedure for verifying and checking of all calculations of turnover and tax and credits given in an assessment.

2.11.1. In Sales Tax, Special Circle (Hill Produce), Mattancherry, while finalising the reassessment in October 2001 of a dealer for the year 1990-91, tax of Rs 10.64 lakh remitted by the dealer in December 1990, was incorrectly reckoned as Rs 16.64 lakh. This resulted in affording of excess credit of Rs 6 lakh.

On this being pointed out, the Assessing Authority stated in April 2002 that it had allocated Rs 6 lakh to rectify the mistake from another remittance in March 1999 of Rs 15 lakh made by the dealer and hence there was no excess credit in the revised order. The reply was not tenable since Rs 15 lakh remitted by the dealer related to turnover tax. Further report has not been received (October 2003).

[▼] Sales Tax Special Circle, Mattancherry, Sales Tax Office Haripad and Sales Tax Office, Kodungallur

2.11.2. In Sales Tax Special Circle II, Ernakulam, while finalising in March 2001 the assessment of a dealer for the year 1995-96, the Assessing Authority excluded from assessment turnover of works contract involving tax of Rs 3.42 lakh. This amount of tax remitted by the dealer was incorrectly adjusted against the tax on sale of goods resulting in short demand of tax of Rs 3.42 lakh.

On this being pointed out, the Assessing Authority stated in October 2001 that it would withdraw the excess credit, but it had taken no action to rectify the same so far (October 2003).

2.11.3. In Sales Tax Special Circle (Hill Produce), Mattancherry, while finalising in December 2001 the assessments of a dealer for the year 1997-98, Rs 1.67 lakh remitted towards CST for January 1998 was given credit in both CST and KGST assessments resulting in short demand of KGST of Rs 1.67 lakh.

On this being point pointed out, the Assessing Authority stated in June 2002 that it would rectify the defect. Further report has not been received (October 2003).

The above cases were reported to Government during March and June 2003; their reply has not been received (October 2003).

2.12. Incorrect computation of tax

Under the KGST Act, 1963, a dealer in jewellery may pay compounded tax which shall be 150 *per cent* of the maximum amount of tax payable for a period of 12 months in a financial year as conceded by him in any of the three financial years immediately preceding the assessment year. With effect from April 1998, where a dealer has paid compounded tax during the preceding year, the compounded tax for the succeeding year shall be 125 *per cent* of such tax paid or the tax calculated as above whichever is higher.

2.12.1. In Sales Tax Office, Pala, while finalising in September 2000 the assessments for the years 1997-98 and 1998-99 of a jeweller, tax payable at compounded rate was computed as Rs 3.55 lakh against Rs 4.95 lakh due. This resulted in short levy of tax and surcharge of Rs 1.54 lakh.

On this being pointed out, Government stated in September 2003 that the Department had revised the assessments raising an additional demand of Rs 1.54 lakh. It was further stated that an amount of Rs 0.90 lakh was collected through revenue recovery and the balance amount was pending collection. Further report has not been received (October 2003).

2.12.2. The KGST Rules, 1963 and the instructions issued in February 1992 by the erstwhile Board of Revenue (Taxes), lay down departmental procedure for verifying and checking all calculations and credits given in an assessment order.

In Sales Tax Special Circle, Kasaragod, while finalising in November 2001 the assessment of a dealer for the year 1997-98, the Assessing Authority erroneously interchanged the turnovers of raw rubber taxable at the rate of 10 *per cent* and dry ginger taxable at the rate of four *per cent* as Rs 1.29 lakh and Rs 20.20 lakh respectively. This resulted in short levy of tax and surcharge of Rs 1.25 lakh.

On this being pointed out in June 2002, the Department has not furnished any reply (October 2003).

2.12.3. Under the Central Sales Tax Act, 1956, on inter-state sale of goods other than declared goods not supported by the prescribed declaration in Form 'C', tax is leviable at the rate of 10 *per cent* or at the rate applicable to sale within the state whichever is higher.

In Special Circle, Kollam, while finalising the CST assessment for the year 1996-97 of a dealer in March 2001, the Assessing Authority did not levy tax at the prescribed rates on turnover of goods worth Rs 34.43 lakh not supported by valid Form 'C'. This resulted in short levy of tax of Rs 1.16 lakh.

On this being pointed out, the Department issued notice in November 2001 to rectify the defect. Further report has not been received (October 2003).

The above cases were reported to Government between February and April 2003; their reply has not been received (October 2003).

2.13. Non-forfeiture of surcharge collected

Under the Kerala Surcharge on Taxes Act, 1957, the tax payable under the KGST Act, 1963, shall be increased by a surcharge of 10 *per cent* provided the turnover exceeds Rs 10 lakh and the same shall not be passed on to the purchaser. Under the Act, if any person collects any sum by way of surcharge, he shall be liable to pay penalty not exceeding five thousand rupees and any sum so collected shall be liable to be forfeited to Government.

In the Office of the Deputy Commissioner, Commercial Taxes, Kozhikode in finalisation in April 2001 of the assessment for the year 1999-2000 of a works contractor by the Assessing Authority, surcharge of Rs 1.51 lakh illegally

collected by the dealer was not forfeited to Government. Penalty up to Rs 5,000 for illegal collection was also leviable.

The matter was pointed out to the Department in October 2002; no reply has been received (October 2003).

The above case was reported to Government in March 2003; their reply has not been received (October 2003).

2.14. Non-forfeiture of excess tax collected

Under the KGST Act, 1963, a registered dealer may collect the tax payable by him. Under the Act, if any person collects, any tax, in contravention of the provision in the Act, the sum so collected shall be liable to be forfeited to Government and he shall be liable to pay penalty not exceeding Rs 5,000.

In Sales Tax Office, Kunnankulam, in finalisation of the assessments in March 2001 for the year 1996-97 of a SSI Unit, by the Assessing Authority, tax of Rs 1.22 lakh collected in excess by the unit was not forfeited to Government.

On this being pointed out, the Department stated (June 2002) that it had issued notice to rectify the mistake. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

2.15. Internal audit system of Sales Tax Department

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They also help in prevention of loss of revenue and in the creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of duties. Internal audit is expected to provide an assurance regarding the adequacy and effectiveness of internal controls.

According to Chapter IV of Agricultural Income Tax and Sales Tax Manual Vol.III, the object of internal audit in Sales Tax Department is to check the departmental receipts and refunds and to see that no loss of revenue by way of omission, short levy of tax, excess credit, wrong application of law and such other irregularities is caused to Government. The programme of audit is required to be chalked out in such a way that each Sales Tax Office is audited at least once in three years. The designated officer is expected to audit 20 assessment files per day.

Government created six posts of Inspecting Assistant Commissioners (Audit) [IAC (A)] in April 1994, 62 posts of Sales Tax Officers (Audit) [STOs (A)] in May 1994 and two posts of Deputy Commissioners (Audit and Inspection) in August 2001 for the conducting of internal audit of 16 Special Circles, five Inspecting Assistant Commissioners' (Assessment) Offices, 106 ordinary circles, 14 works contract assessment wings attached to Deputy Commissioner's Offices and for test audit of 17 Intelligence Offices and 46 Sales Tax Check Posts.

For the purpose of audit, the IAC (A) shall group two STOs (A) in one batch and shall audit all assessment files. The IAC (A) shall personally audit the assessment files in Special Circles, and Inspecting Assistant Commissioners' Offices with the assistance of STOs. In cases, where escapement of tax amounting to Rs 5,000 or above is noticed, special reports shall be sent to the Commissioner of Commercial Taxes. The IAC(A) may furnish a list of cases involving tax effect of less than Rs.5,000 as and when the audit note is finalised. The Department has refixed the periodicity of audit as annual (against triennial specified in the Manual). According to the Department, there was no pendency in internal audit and the internal audits were completed before the audit by the Accountant General.

Year-wise details of internal audit paragraphs pending as at the end of each year from 1999-2000 to 2002-03 were as under.

Sl. No.	Period	Details of Inspection Report paragraphs				Per cent of disposal
		Opening balance	Addition	Clearance	Closing balance	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	1999-2000	1,218	147	254	1,111	19
2.	2000-01	1,111	492	244	1,359	15
3.	2001-02	1,359	1,590	462	2,487	16
4.	2002-03	2,487	1,480	280	3,687	7

Increasing incidence of outstanding objections indicates the absence of a proper supportive and responsive environment for Internal Audit within the Sales Tax

Department. Reports of the Accountant General for the years 1999-2000 to 2002-03 revealed underassessment of tax etc., as under:

Sl No	Category	(Rupees in crore)							
		1999-2000		2000-01		2001-02		2002-03	
		No of cases	Amount	No of cases	Amount	No of cases	Amount	No of cases	Amount
1	Incorrect grant of exemption	168	5.45	211	37.08	136	4.69	114	14.19
2	Turnover escaping assessment	234	8.27	214	6.63	187	5.29	175	3.17
3	Application of incorrect rate of tax	448	2.71	326	2.05	268	2.19	251	2.22
4	Incorrect grant of concessional rate of tax	104	30.00	76	1.25	52	1.05	30	3.80
5	Non/short levy of interest	191	2.88	226	5.13	205	4.88	395	9.23
6	Excess/double accounting of remittance	21	0.08	33	0.27	17	0.09	21	0.51
7	Other lapses	447	13.40	538	13.60	343	20.50	299	6.00
8	Other items not routed through Local Audit Reports							2	3.96
	Total	1613	62.79	1624	66.01	1208	38.69	1287	43.08

An analysis of the results of test check by the Accountant General revealed the following:

- ◆ Under 'Incorrect grant of exemption,' short levy increased from Rs 4.69 crore (136 cases) in 2001-02 to Rs 14.19 crore (114 cases) in 2002-03.
- ◆ 'Non/Short levy of interest' increased from Rs 2.88 crore (191 cases) in 1999-2000 to Rs 9.23 crore (395 cases) in 2002-03.
- ◆ Under 'Excess/double accounting of remittance' the amounts of excess/double credits ranged from Rs 8 lakh to Rs 51 lakh between 1999-2000 and 2002-03.

In addition to the matters reported in the Audit Reports submitted to the Legislature, the following table indicates the pendency of outstanding inspection reports and observations made by Accountant General's audit parties

Sl. No.	Year	(Rupees in crore)		
		Number of Inspection Reports issued up to the end of December of the year	Number of audit observations outstanding as at the end of June of the subsequent year	Amount
1.	1999-2000	1414	7341	994.98
2.	2000-2001	1413	10798	1032.89
3.	2001-2002	1459	7789	855.79
4.	2002-2003	1385	7884	440.32

Observations made by the Accountant General's audit parties do not receive proper attention from the Sales Tax Department. These matters should also fall within the scope of functions of the Internal Audit Wing.

The above reveals the general inadequacy of internal audit to meet the requirements stipulated in Chapter IV of the Agricultural Income Tax and Sales Tax Manual Vol.III. The Manual has not been updated since 1968. Government may consider strengthening the Internal Audit Wing suitably so that assurances are available regarding the adequacy and effectiveness of internal controls.

Chapter III

Taxes on Agricultural Income

CHAPTER III

TAXES ON AGRICULTURAL INCOME

3.1. Results of Audit

Test check of the records of the Agricultural Income Tax Offices conducted in audit during the year 2002-03 revealed underassessment of tax amounting to Rs 9.44 crore in 209 cases which may broadly be categorised as under.

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Inadmissible expenses allowed	49	2.86
2.	Income escaping assessment	38	1.94
3.	Incorrect computation of tax	13	0.34
4.	Incorrect computation of income	5	0.20
5.	Failure to club income	3	0.07
6.	Assignment of incorrect status	3	0.06
7.	Other irregularities	98	3.97
	Total	209	9.44

During 2002-03, the Department accepted underassessments, etc., of Rs 1.35 crore involved in 64 cases which were pointed out during earlier years. At the instance of audit, the Department collected Rs 7.77 lakh in 9 cases during 2002-03. A few illustrative cases involving Rs 1.28 crore are given in the following paragraphs.

3.2. Exclusion of income/deduction of inadmissible expenditure from income

Under the Kerala Agricultural Income Tax (KAIT) Act, 1991, the total agricultural income comprises of all agricultural income received by an assessee from land situated within the State. Such income is computed after allowing deductions as prescribed in the Act. Expenditure incurred on immature plants and depreciation on plantation crops are not allowable deductions for computing the taxable income.

In Agricultural Income Tax and Sales Tax Office, Taliparamba, while finalising in August 2001 and January 2002 the assessments of a company for the assessment years 1998-99 and 1999-2000, the Assessing Officer allowed inadmissible depreciation of Rs 1.02 crore on plantation crops, inadmissible expense of Rs 44.43 lakh on immature plants and excess depreciation of

Rs 6.55 lakh claimed on fixed assets and omitted to include in income Rs 9.79 lakh relating to cost of seeds produced and consumed for own purpose. This resulted in fixing loss of Rs 75.18 lakh against the assessable income of Rs 87.59 lakh and consequent short levy of tax of Rs 52.55 lakh.

On this being pointed out, the Department stated in September 2002 that it had issued notice to revise the assessments incorporating the cost of seeds consumed and disallowing the excess depreciation. It was also stated that expenditure on immature plants was allowable as it was incurred for immature plants and crops damaged due to various reasons and that plantation crops could be classified under 'other assets' and hence depreciation thereof was allowable. The reply of the Department is not tenable as such expenditure is not allowable under the Act/Rules. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

3.3. Incorrect computation of income

Under the KAIT Act, 1991 the agricultural income of a person shall be computed in accordance with the provisions of the Act.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in October 2001 the assessment of a firm for the assessment year 1999-2000, the Assessing Officer reckoned the net income of Rs 18.79 lakh as net loss and allowed the same to be carried forward. This resulted in agricultural income tax not levied on the profit during 1999-2000 with a tax effect of Rs 16.53 lakh.

On this being pointed out, the Department revised the assessment in November 2002. Further report has not been received (October 2003).

The case was reported to Government in April 2003; their reply has not been received (October 2003).

3.4. Short levy of tax due to incorrect carry forward of loss

Under the KAIT Act, 1991, loss sustained by an assessee as a result of computation of agricultural income of any year, shall be carried forward up to eight years. Under the KAIT Rules, 1991, carry forward of loss is admissible in any year when the return is filed for all the years on the due dates or within such time as may be allowed by the Agricultural Income Tax Officer.

- In the Office of the Inspecting Assistant Commissioner (Special), Ernakulam, a company had neither filed the returns for the assessment years 1992-93 and 1993-94 by the due dates nor applied for extension of time for filing the returns. While finalising in March 2001 the assessment for the assessment year 1998-99, the Assessing Officer carried forward loss of Rs 23.31 lakh pertaining to the above years and set it off against the income for 1998-99. This resulted in short levy of tax and surcharge of Rs 13.99 lakh.

On this being pointed out, the Department revised in June 2002 the assessment raising additional demand for Rs 13.99 lakh. Further report has not been received (October 2003).

On bringing this in March 2003 to notice, the Government stated in August 2003 that the revised assessment was annulled in appeal against which second appeal was filed by the Department. Further report has not been received (October 2003).

- In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising the assessment in January 2001 for the assessment year 2000-01 of a firm, although the assessee had not filed the return for the assessment year 2000-01 on the due date or applied for extension of time for filing the return, the Assessing Officer carried forward earlier years' loss of Rs 4.18 lakh and set it off against the income for 2000-01. This resulted in exclusion of income of Rs 4.18 lakh and consequent short levy of tax and surcharge of Rs 1.84 lakh.

On this being pointed, the Department revised the assessment in January 2002. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

3.5. Underassessment of income

3.5.1. As per the KAIT Act, 1991, if any person fails to comply with the notice issued under the Act, the Assessing Officer shall make the assessment to the best of his judgement after taking into account all relevant information he has gathered. As per the guidelines issued by the Department in 1985, the yield from rubber trees during 5th year to 13th year of tapping could be estimated at 3 kilogram per tree.

In Agricultural Income Tax and Sales Tax Office, Kozhikode, while finalising in April 2001 the assessments for the assessment years 1996-97 and 1997-98 of an individual who had failed to comply with the notice issued to produce the accounts, the Assessing Officer reckoned the yield of latex from 5,950 rubber trees at one kilogram per tree instead of three kilogram per tree. This

resulted in underassessment of income by Rs 10.03 lakh and consequent short levy of tax and surcharge of Rs 5.51 lakh.

On this being pointed out, the Department stated in August 2002 that it would examine the case. Further report has not been received (October 2003).

The case was reported to Government in February 2003; their reply has not been received (October 2003).

3.5.2. Under the KAIT Act, 1991, agricultural income shall be computed in accordance with the method of accounting adopted by the assessee. In respect of an assessee adopting mercantile system of accounting, the entire amount receivable shall be considered for assessment on accrual basis irrespective of the year of receipt.

In Agricultural Income Tax and Sales Tax Office, Nedumkandam, while finalising the assessment for the assessment year 1999-2000 in February 2000 of a firm following mercantile system of accounting, the Assessing Officer omitted to include closing stock value of cardamom of Rs 10.34 lakh. This resulted in short assessment of tax of Rs 4.55 lakh.

On this being pointed out, the Department stated in September 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

3.5.3. Under the KAIT Act, 1991, the total agricultural income of the previous year of any person shall comprise of all agricultural income derived from land situated within the state.

- In Agricultural Income Tax and Sales Tax Office, Kottarakkara, while finalising in February 2000 the assessments of an individual for the assessment years 1997-98 and 1998-99, the Assessing Officer computed income received from slaughter tapping as Rs 9.18 lakh instead of Rs 15.60 lakh. This resulted in underassessment of income of Rs 6.42 lakh and short levy of tax and surcharge of Rs 3.53 lakh.

On this being pointed, by the Department stated in April 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

- In Agricultural Income Tax and Sales Tax Office, Chittur, while finalising in November 2000 the assessment of a firm for the assessment year 1996-97, the Assessing Officer did not reckon the opening stock of Rs 6.03 lakh although he did not consider the closing stock in the assessment for the preceding assessment year. This resulted in underassessment of income of Rs 6.03 lakh and consequent short levy of tax and surcharge of Rs 2.24 lakh.

On this being pointed out, the Department stated in May 2002 that it had revised in May 2002 the assessment raising additional demand of Rs 2.24 lakh.

The case was reported to Government in February 2003. Government confirming the Department's reply stated in August 2003 that the Department had advised the amount for revenue recovery.

3.6. Short levy of tax due to allowance of inadmissible expense

3.6.1. Under the KAIT Rules, 1991, with effect from 1 April 1993 expenditure called 'infilling expenses' incurred for planting seedlings in the vacant areas of yielding perennial crops, is not an admissible deduction in computing income.

In the Offices of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam and Kozhikode, while finalising in December 2001 and January 2002 the assessments for the assessment year 1999-2000 of two companies, infilling expenses aggregating Rs 14.66 lakh were incorrectly deducted resulting in short levy of tax of Rs 8.80 lakh.

On these being pointed out, the Assessing Officer of Ernakulam stated in January 2003 that it had issued notice for revising the assessment. The Assessing Officer of Kozhikode stated in November 2002 that the expenditure was an admissible deduction. This reply is not tenable as the Rules do not provide for allowing such expenses with effect from 1 April 1993. Further report has not been received (October 2003).

The cases were reported to Government in April 2003. Government stated in September 2003 that the Assessing Officer of Kozhikode had since revised the assessment and served the demand notice in June 2003. Reply in respect of the case in Ernakulam and report regarding collection of the demand in Kozhikode have not been received (October 2003).

3.6.2. Under the KAIT Act, 1991, any expenditure, not incurred wholly and exclusively for the purpose of deriving the agricultural income is an inadmissible deduction in computing income.

In the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, while finalising in November 2001 the assessment of a company for the assessment year 1999-2000, the Assessing Officer allowed expenditure of Rs 1.75 lakh incurred on a World Bank Project which was not for the purpose of deriving agricultural income. This resulted in short levy of tax of Rs 1.05 lakh.

On this being pointed out, the Assessing Officer stated in January 2003 that the assessee was a company owned by Government and implementation of World Bank Projects was one of the functions of the company. The reply is not tenable as the above expenditure was not incurred for deriving agricultural income. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their final reply has not been received (October 2003).

3.7. Short/non-realisation of interest

3.7.1. The KAIT Act, 1991, requires every assessee to pay advance tax, on the estimated total agricultural income, which shall not be less than eighty *per cent* of the total agricultural income as per return, before the end of February of the previous year. Every assessee shall pay before furnishing the return, the tax due on the total agricultural income after deducting the advance tax paid by him. The assessee shall pay simple interest at the prescribed rate, on the unpaid balance.

In the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, while finalising in November 2001 the assessments for the assessment years 1998-99 and 1999-2000 of an individual and for the assessment year 1999-2000 of a company where they did not make full payments of advance tax and tax on the total income by the due dates, the Assessing Officer did not levy interest of Rs 6.55 lakh.

On these being pointed out, the Department stated in January 2003 that it had issued notices to the assesseees.

The cases were reported to Government in March and June 2003. Government stated in August 2003 that the Department levied interest of Rs 2.24 lakh in

one case and adjusted the amount against excess tax paid by the company. Report in respect of the other case has not been received (October 2003).

3.7.2. Under the KAIT Act, 1991, in the case of any person who fails to pay the tax demanded within the prescribed time, the Assessing Authority may forward to the Collector a certificate specifying the arrears due from the assessee for realisation as arrears of land revenue. In this certificate, the Assessing Authority shall indicate the amount of interest to be realised on the defaulted amount up to the date of reporting and the rate at which interest should be realised up to the month in which the amount is recovered.

In Agricultural Income Tax and Sales Tax Office, Vythiri, in a case reported in January 2000 for revenue recovery, interest due till the date of reporting was incorrectly shown as Rs 1.25 lakh instead of Rs 2.15 lakh resulting in short demand of interest of Rs 0.90 lakh. As per the certificate, interest was to be recovered up to the date of realisation. On realisation of the arrears reported, which included the interest of Rs 1.25 lakh, the case was closed in February 2001. Interest of Rs 0.71 lakh due from the date of reporting till the date of realisation was also not recovered. These omissions resulted in short realisation of interest aggregating Rs 1.61 lakh.

On this being pointed out, the Department stated in December 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in April 2003; their reply has not been received (October 2003).

3.7.3. Under the KAIT Act, 1991, every person opting for composition of agricultural income tax shall pay tax, for the previous year calculated at the rates specified in the Act, on the extent of landed properties held by him, before the end of February of the previous year. For delay in payment, simple interest shall be payable at the prescribed rates.

In the Agricultural Income Tax and Sales Tax Office, Kottarakkara, a firm which opted to pay compounded tax for the assessment years 1996-97 to 1998-99 failed to pay the tax in full by the due dates. However, the Assessing Officer omitted to levy interest of Rs 1.48 lakh for the period of delay.

On this being pointed out, the Assessing Officer demanded in June 2002 interest of Rs 1.34 lakh after adjusting excess tax remitted for assessment year 1997-98.

The case was reported to Government in June 2003; their reply has not been received (October 2003).

3.8. Loss of revenue due to time-barred assessment

Under the KAIT Act, 1991, all assessments shall be completed within a period of two years from the date of filing of return of income.

In Agricultural Income Tax and Sales Tax Office, Kottarakkara, a religious and charitable institution filed its return of income for the assessment year 1996-97 on 31 October 1996. However, the assessment was finalised in October 2001 after the expiry of prescribed period for completion. The assessment was later revised in January 2002 creating final demand of tax of Rs 1.73 lakh. In both these assessments, the Assessing Officer did not include income of Rs 2.21 lakh derived from slaughter tapping of rubber trees resulting in short demand of tax and surcharge of Rs 1.22 lakh. The assessment was set aside (January 2002) in appeal as it was time barred. Thus, non-finalisation of the assessment within the time limit prescribed resulted in loss of revenue aggregating Rs 2.95 lakh.

On this being pointed out, the Assessing Officer stated in April 2002 that he would examine the case. Further report has not been received (October 2003).

The case was reported to Government in June 2003; their reply has not been received (October 2003).

3.9. Short levy of surcharge

Under the Kerala Surcharge on Taxes Act, 1957, the agricultural income tax assessed as payable by any person (other than a company) under the KAIT Act, 1991, shall be increased by a surcharge at the rate of ten *per cent*.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in December 2001 the assessment of a trust, the Assessing Officer computed surcharge on tax of Rs 15.78 lakh as Rs 0.16 lakh against the correct amount of Rs 1.58 lakh calculated at ten *per cent*. This resulted in short levy of surcharge of Rs 1.42 lakh.

On this being pointed out, the Department stated in November 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in March 2003; their reply has not been received (October 2003).

3.10. Omission to assess income

Under the KAIT Act, 1991, the total agricultural income of any charitable trust does not include any agricultural income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied or set apart for application to such purposes in the state.

In Agricultural Income Tax and Sales Tax Office, Sulthan Bathery, while finalising in February 2000 the assessment for the assessment year 1997-98 of a charitable trust, the Assessing Officer omitted to levy tax on income of Rs 2.86 lakh not applied or set apart for charitable purposes. This resulted in short levy of tax and surcharge of Rs 1.25 lakh.

The case was reported to Government in August 2001; they stated in September 2002 that the Department had revised the assessment raising additional demand of Rs 1.25 lakh. Further report has not been received (October 2003).

3.11. Short levy due to application of incorrect rate of tax/exemption

Under the KAIT Act, 1991, any person holding not more than 500 hectares of land and deriving agricultural income may compound the tax and pay in a lumpsum at the rates specified in the Act. For cardamom, the State is divided into zones 'A', 'B' & 'C' and the rates of tax for each zone are different. Government exempted in March 2000 income from rubber and coffee from levy of tax for the assessment year 2001-02 provided the total extent of landed property did not exceed 20 hectares.

In Agricultural Income Tax and Sales Tax Office, Kottayam, while finalising in January 2002 the assessments for the assessment years 2000-01 and 2001-02 of a firm holding 20 hectares of cardamom plantations in zone 'A' and 16 hectares of coffee plantations, the Assessing Officer assessed the tax on cardamom at the rates applicable to zone 'C' and also exempted income from coffee for the year 2001-02 though the total extent of plantations exceeded 20 hectares. This resulted in short levy of tax and surcharge of Rs 1.16 lakh.

On this being pointed out, the Assessing Officer stated in September 2002 that the case would be examined. Further report has not been received (October 2003).

The case was reported to Government in February 2003; their reply has not been received (October 2003).

3.12. Short levy due to grant of inadmissible deduction

Under the KAIT Act, 1991, the agricultural income of an assessee shall be computed after allowing deduction of any sum paid to employees as bonus and such deduction shall be allowed in the year in which actual payment is made irrespective of the method of accounting employed. Bonus paid before the due date for the submission of return will be allowed as deduction in the previous year to which the return relates.

In Agricultural Income Tax and Sales Tax Office, Vythiri, while finalising in January 2001 the assessment of a firm for the assessment year 2000-01, the Assessing Authority allowed deduction of Rs 2.55 lakh claimed by the assessee towards provision for bonus though the assessee had not produced any document to establish that the same was paid before the due date for filing of return. This resulted in excess allowance of deduction of Rs 2.55 lakh and consequent short levy of tax of Rs 1.12 lakh.

On this being pointed out, the Department stated that it had revised in January 2002 the assessment raising additional demand of Rs 1.12 lakh. Further report has not been received (October 2003).

The case was reported to Government in February 2003; their reply has not been received (October 2003).

Chapter IV

State Excise

CHAPTER IV

STATE EXCISE

4.1. Results of Audit

Test check of the records of the offices of the State Excise Department conducted in audit during the year 2002-03 revealed underassessments/non-levy of duty amounting to Rs 115.71 crore in 36 cases which may be categorised as under.

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Short collection of duty on Indian made foreign liquor/spirit	2	0.23
2.	Non-levy of duty on inadmissible wastage	3	0.16
3.	Short/non-levy of duty due to other lapses	30	6.82
4.	Review : Revenue pending collection in Excise Department	1	108.50
	Total	36	115.71

During the year 2002-03 the Department accepted under-assessments, etc., of Rs 22.63 lakh involved in 25 cases of which 16 cases involving Rs 13.25 lakh were pointed out during 2002-03 and the rest in earlier years. At the instance of Audit, the Department collected Rs 14.09 lakh in 12 cases of which three cases involving Rs 4.71 lakh were pointed out during 2002-03 and the rest in earlier years.

A few illustrative cases involving Rs 1.85 crore and the results of a review, '**Revenue pending collection in Excise Department**' involving Rs 108.50 crore are given in the following paragraphs.

4.2. Review : Revenue pending collection in Excise Department

Highlights

- Abkari arrears pending collection as at the end of March 2002 according to Government, aggregated Rs 220.50 crore.

(Paragraph 4.2.6)

- **Arrears of Rs 42.57 crore due from distilleries and breweries were not included in the Demand Collection Balance (DCB) statement.**
(Paragraph 4.2.6)
- **In a case of stay of Rs 61.84 crore, the counter-affidavit was filed by the Department only after two years.**
(Paragraph 4.2.8)
- **In two cases involving Rs 67.37 lakh, the stay by courts continued even after seven years for want of prompt action from the Department.**
(Paragraph 4.2.8)
- **Overvalued solvency certificates issued by Revenue Authorities resulted in loss of Rs 1.95 crore.**
(Paragraph 4.2.9)
- **Recovery of Rs 72.96 lakh was held up due to delay in action by Revenue Authorities.**
(Paragraph 4.2.11)

Introduction

4.2.1. The Abkari Revenue includes revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of Abkari Act or any other laws relating to liquor or intoxicating drugs. In case of default, the dues are recoverable as arrears of land revenue from the persons concerned or from their sureties. Although Deputy Excise Commissioners (DECs) and Assistant Excise Commissioners (AECs) are empowered to function as Collectors under the Kerala Revenue Recovery Act, 1968 (KRR Act), for collection of arrears, revenue recovery action was continued to be taken through the District Collectors. The Department stated in August 2003 that the powers conferred on Excise Officers could not be carried out due to non-availability of ministerial wing conversant with land revenue rules.

Organisational set up

4.2.2. The Commissioner of Excise is the head of the Department and is assisted by a Joint Excise Commissioner. There are three zones (Thiruvananthapuram, Ernakulam and Kozhikode) each under the charge of a DEC. In each district, there is an Excise Division Office headed by an AEC. The divisions are divided into Circles and Circles into Ranges.

Scope of Audit

4.2.3. Mention was made in Paragraph 4.3. of the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Kerala, for the year ended 31 March 1993, of the deficiencies and the procedural lapses in the collection of abkari arrears. The Committee on Public Accounts, in their twenty first report presented to the Legislature on 13 June 2002 recommended

maintenance of an exhaustive list of abkari arrears, updating of the Demand Collection Balance (DCB) Register, and the submission of the consolidated arrear statements to Government. The Committee also recommended enunciation of a time bound action plan to recover the arrears held up due to Court stays and prescription of time limit for revenue recovery (RR) action by revenue authority. A further review was conducted with reference to the records in the office of the Commissioner of Excise, two of the three Zonal offices (Thiruvananthapuram and Ernakulam) and 7[^] of the 14 Divisions between October 2002 and March 2003.

Audit objectives

4.2.4. A detailed analysis was made to see whether

- the statement of arrears prepared was correct and complete
- proper and timely action was taken by the Department for realising the arrears
- effective follow up action was taken to vacate stay by courts and
- effective internal control system existed for monitoring the progress of collection of arrears.

Budget estimates and actuals

4.2.5. The budget estimates and actual receipts under the Receipt Head '0039 State Excise' for the year 1997-98 to 2001-02 were as shown below.

(Rupees in crore)

Year	Budget estimate	Actuals	Variation	Percentage of variation
1997-98	418.55	543.41	(+) 124.86	(+) 30
1998-99	614.25	529.62	(-) 84.63	(-) 14
1999-00	675.07	591.10	(-) 83.97	(-)12
2000-01	802.96	688.94	(-) 114.02	(-)14
2001-02	744.22	541.46	(-) 202.76	(-)27

The actual receipts were much lower than those estimated during all these years except for the year 1997-98. The Department attributed in August 2003 the shortfall in the year 1998-99 to decrease in the rental of toddy shops and non-remittance of advance rental of FL 1 shops (ie. whole saler) by Kerala State Beverages Corporation and in the year 2001-02 to adoption of fixed rental system for toddy shops. Reasons for variations in other years were not furnished.

Abkari arrears

4.2.6. • According to the Commissioner of Excise, the abkari arrears pending collection as at the end of March 2002 aggregated Rs 220.50 crore. The various stages of action were as under.

[^] Ernakulam, Idukki, Kollam, Kottayam, Palakkad, Thiruvananthapuram and Thrissur

(Rupees in crore)		
Sl. No.	Stage of action	Amount of arrears
1.	Under recovery in RRC	80.98
2.	Recoveries stayed by Courts	138.45
3.	Recovery held up due to RRC return	1.07
	Total	220.50

Year-wise and age-wise details of arrears were not prepared by AECs and as a result, special attention to the collection of old arrear was lacking. For want of information from the AECs, year-wise and age-wise details of arrears were not available with the Commissioner.

- The DEC's (Thiruvananthapuram, Ernakulam and Kozhikode) who were the authorised officers for the realisation of arrears due from distilleries and breweries had not reported to the Excise Commissioner arrears due from 24 distilleries and breweries. Thus, there was understatement of arrears of Rs 42.57 crore due up to 31 March 2002.

Quarterly statement of arrears

4.2.7. As per provisions in the Kerala Excise Manual Vol. II, the AECs and the DEC's are required to send to the Commissioner of Excise a quarterly statement showing the demand, collection and balance of the abkari arrears. The Commissioner of Excise is required to consolidate the statements and send the same to Government every quarter.

Quarterly statements of abkari arrears were not being regularly received from the AECs and the DEC's. As a result, the quarterly statements due from the Commissioner of Excise were not being sent regularly to Government.

Inaction in the disposal of Court cases

4.2.8. As per the DCB statement for the quarter ending March 2002, revenue recovery of Rs 138.45 crore was under stay by various courts. Government has not fixed any time frame for filing counter affidavits/appeals in court cases. Adequate steps were not taken either for early disposal of the cases or for getting the stay vacated. Some illustrative cases are mentioned below.

- In Thrissur Excise Division, on initiating revenue recovery action between February 1998 and January 1999 for recovery of rental arrears of abkari shops (Toddy shops) for the years 1997-98 to 1999-2000 due from contractors of 12 groups, the High Court of Kerala stayed (between April 1998 and April 1999) recovery of arrears of Rs 61.84 crore. The Department filed counter affidavits in November and December 2001 after delay ranging from 29 months to 40 months which eventually resulted in blockage of revenue. Out

of these, seven cases of Rs 31.79 crore were disposed of between January 2002 and September 2002 in favour of Government. However, only Rs 62.36 lakh was collected and RR action was under way for realising the balance amount of Rs 31.17 crore. Delay in filing counter affidavits resulted in delay in getting the stay vacated. The Department stated in February 2003 that delay in the preparation of counter affidavits in the office of the Advocate General and lack of follow-up action by the Department resulted in delay in contesting the cases.

- In the following two cases, stay granted by Courts on collection of Rs 67.37 lakh, had not been got vacated as of date (October 2003).

(Rupees in lakh)				
Sl. No.	Name of division	Name of defaulter	Amount of arrears/ date of RRC	Details of Court cases and its present stage
1.	Thiruvananthapuram	Sri. Kuruvila Ulahannan and Sri. K.L. Saju,	24.22 <u>as on 1 April 94</u> 9 June 94	Stay on RR granted by Sub-Court Thiruvananthapuram on 8 April 94 in OS No. 423/94 was not vacated till now (October 2003).
2.	Ernakulam	Smt. Padmini Amma and Sri. Sekharan Nair	43.15 <u>as on 1 April 94</u> 24 August 94	Defaulter filed OP No. 2180/95 on 13.2.95 before High Court Kerala. Stay of recovery still continues.
		Total	67.37	

The Department stated in August 2003 that the counter affidavits in the second case was filed in March 2003. Reply for the first case has not so far been received (October 2003).

Loss due to acceptance of high value solvency certificates

4.2.9. Under the Abkari Shops (Disposal in Auction) Rules, 1974, auction purchaser should make a minimum deposit of 30 *per cent* of the bid amount in cash or by bank draft. In addition, he shall also make additional security of not less than 30 *per cent* of the bid amount, by way of solvency certificates or cash security or bank guarantee.

It was seen in audit that in three cases, revenue authorities* issued solvency certificates for Rs 3.89 crore against the actual value of Rs 31.77 lakh of the properties involved and on accepting the same as additional security, Government sustained loss of Rs 1.95 crore as explained below.

- A contractor bid in March 2000, for the contract year 2000-01, toddy shops in Chadayamangalam Range of Kollam Division for Rs 3.42 crore. He produced as additional security, solvency certificates for Rs 1.10 crore issued by the Tahsildar, Neyyattinkara and by the Tahsildar, Kollam. The Excise Department accepted the same. The contractor defaulted in payment of Rs 1.84 crore as at the end of March 2001. As the solvency properties were

* Tahsildars of Chirayinkeezhu, Kollam, Nedumangad and Neyyattinkara

purchased by the bidder for Rs 2.11 lakh, one month prior to the issuance of the certificates, there is potential loss of Rs 1.08 crore (Rs 1.10 crore - Rs 0.02 crore) to the Government.

As at the end of March 2001, the default amounted to Rs 1.84 crore and the entire amount is doubtful of recovery.

- A bidder of Toddy Shops of Amaravila Range of Thiruvananthapuram Division for the year 1999-00 produced in March 1999 as additional security, solvency certificate of Rs 53.88 lakh issued by Tahsildar, Nedumangad in respect of 2.06 acres of dry land in Nedumangad village. The contractor defaulted in payment of Rs 64.52 lakh as at the end of March 2000. The Tahsildar, Nedumangad after attaching the properties in July 2000 assessed the market value through the Village Officer as Rs 6.18 lakh. The Government was thus put to a potential loss of Rs 47.70 lakh (Rs 53.88 lakh - Rs 6.18 lakh) due to acceptance of solvency certificates at the inflated value.

The property was put to auction and bid in favour of Government for the nominal value of Re 1.

- One of the bidders of toddy shops of Chirayinkeezh and Varkala Ranges of Thiruvananthapuram Division for the year 1999-2000, produced in March 1999, as additional security, a solvency certificate of Rs 2.25 crore issued by Tahsildar, Chirayinkeezh in respect of 2.348 hectares of dry land in Mudakkal village. Arrears of Rs 62.33 lakh was payable by him as at the end of March 2000. The Tahsildar, Chirayinkeezh attached the properties and the Village Officer, Mudakkal assessed the market value as Rs 23.48 lakh, which resulted in a potential loss of Rs 38.85 lakh (Rs 62.33 lakh - Rs 23.48 lakh).

The entire property was bid to Government for Re 1.

Revenue Recovery Certificates returned by Revenue Department

4.2.10. When abkari arrears are not paid on demand, AEC issues requisition under Kerala Revenue Recovery Act, 1968, to the Collector of the District for recovery of the same, who in turn issues Revenue Recovery Certificate (RRC) to the Tahsildar of concerned Taluk. In four cases involving arrears of Rs 33.05 lakh such requisitions were returned by the Revenue authorities citing Court directions, death of the contractor and other reasons as under.

(Rupees in lakh)					
Sl. No	Name of defaulter/division	Collector to whom RR requisition was sent	Date of requisition	Amount	Remarks
1.	<u>Sri. Krishnankutty</u> , Palakkad	Palakkad	20 May 2000	7.63	RRC was returned by the Tahsildar, Talappilly on 30 December 2000 to District Collector, Thrissur without proper enquiry about the solvency properties.

Sl. No	Name of defaulter/division	Collector to whom RR requisition was sent	Date of requisition	Amount	Remarks
2.	<u>Sri. K.M.Raghavan</u> , Ernakulam	Ernakulam	11 June 1983	2.41	RRC was returned by the Tahsildar, Muvattupuzha on 12 January 1996 to District Collector Ernakulam because of a Court stay against attachment treating a bank loan as first charge against the property.
3.	<u>Sri. B. Prabhakaran</u> , Thiruvananthapuram	Thiruvananthapuram	13 April 1982	18.72	RRC was returned by Tahsildar, Nedumangad on 6 February 1999 to District Collector, Thiruvananthapuram stating that the defaulter had died in 1992. Revised RRC has not been issued in the name of legal heirs and the solvency properties were covered by several attachment orders.
4.	<u>Smt. K.R.Anitha</u> , Thiruvananthapuram	Thiruvananthapuram	1 August 1994	4.29	The defaulter was a resident of Thiruvananthapuram and the solvency property was in Ernakulam district. The property was sold (May and July 1993) by the defaulter before issue of RRC. RRC sent to District Collector, Ernakulam was returned to District Collector, Thiruvananthapuram on 28 November 1995. The RRC is still pending with the District Collector, Thiruvananthapuram.
Total				33.05	

The Commissioner of Excise stated in August 2003 that in the first three cases the concerned revenue authorities had been addressed to expedite the RR action and Collectors of other districts had been addressed to ascertain the solvency position of the fourth defaulter.

Recovery held up due to delay in action by Revenue Authorities

4.2.11. Recovery of Rs 72.96 lakh was held up due to delay in taking action by the Revenue Authorities as under.

- A contractor of toddy shop in Kottarakkara Range in Kollam Division defaulted in payment of abkari arrears of Rs 14.53 lakh as of 31 March 2001. The AEC Kollam issued RRC in May 2001 to the District Collector, Kollam under whose jurisdiction the solvency property situated. The District Collector, Kollam sent the RRC to the District Collector, Thiruvananthapuram in September 2001 under whose jurisdiction the defaulter was a permanent resident. The District Collector, Thiruvananthapuram returned the RRC in May 2002 stating that the defaulter had no properties in the district. The case was pending with the District Collector, Kollam as of date (October 2003).

- Under the Kerala Abkari Shops (Disposal in Auction) Rules, 1974, auction purchasers of abkari shops, shall not transfer or encumber any of their assets to the detriment of the amount that may become due under the contract

of purchase and such transaction shall be deemed to be void to the extent of the sum due under such contract.

A bidder of arrack shop in Kazhakuttam range in Thiruvananthapuram Excise Division, defaulted on payment of Rs 15.54 lakh during the year 1981-82. The defaulter had sold the solvency properties to her daughter in August and September 1981. As the solvency properties were in Kollam district, the District Collector, Thiruvananthapuram sent the RRC to District Collector, Kollam in April 1982. On action against the solvency properties, the purchaser filed a suit before the Munsiff Court, Kollam against the attachment. The case was disposed off in October 1991 by the Court *ex-parte* in favour of the plaintiff for want of response from the District Collector, Kollam in spite of several adjournments. Revenue authorities neither filed appeal against the above order nor informed the Excise Department of the decision of the Court. Failure of the Revenue Department in pursuing the case properly and filing appeal resulted in non-recovery of arrears even after 21 years (March 2003).

The bidders of three groups of toddy shops of Adimali Range in Idukki Division defaulted Rs 27.21 lakh during the year 1996-97. On revenue recovery certificate in May 1997 from AEC Idukki, the District Collector, Idukki forwarded the RRC in September 1998 to the Tahsildar, Peermade for attaching solvency properties.

The Tahsildar, Peermade returned the RRC in November 2001 stating that the solvency certificates were issued on the basis of bogus patta (title deed). On cross verification of the copy of title deeds available in the Excise Division Office with records in Taluk Office, Peermade, it was seen that the bidders were the actual title deed holders of the properties and the solvency certificates were issued on the basis of genuine title deeds. Failure of the revenue Department in taking action against the solvency properties resulted in non-recovery of arrears as of date (August 2003).

On this being pointed out, the Department has not furnished a reply so far (October 2003).

- A bidder of arrack shops in Chittur Range of Palakkad Division defaulted in payment of abkari revenue of Rs 15.68 lakh during the year 1993-94. On RR requisition in August 1994 from the AEC Palakkad, the District Collector Palakkad issued RRC in October 1994 to the District Collector, Ernakulam under whose jurisdiction the bidder was residing. The District Collector, Ernakulam forwarded the RRC to the Tahsildar, Kanayannur in November 1994 for recovery. On enquiry about the progress of recovery, the Tahsildar informed the AEC, Palakkad in May 1995 that the RRC was not received in his office.

On bringing this to notice by the AEC, Palakkad, the District Collector, Ernakulam issued a fresh RRC in September 1996. In the mean time the

defaulter sold the solvency properties in August 1995 and January 1996 to a firm. On attachment of the properties in January 1997 by the Tahsildar, Kanayannur, the firm obtained in February 1997 stay from the High Court of Kerala against RR action. The case is still pending in the Court. Failure of Revenue Department in taking timely action resulted in the non-recovery of the arrears.

Loss of revenue in the abkari cases where the solvency properties were bid in favour of Government for nominal value

4.2.12. Under the Abkari Act all duties, taxes, fines and fees payable to Government, on default, are recoverable as arrears of land revenue. The Revenue Authorities attach solvency properties as well as other properties owned by the defaulter for realising the arrears. When the attached properties on auction do not fetch the amount equal to the dues outstanding, the properties are bid to Government for a nominal value of Re.1 under the KRR Act and value of such properties are not set off against the arrears.

In two Divisions (Kottayam and Palakkad), recovery of arrears of Rs 2.05 crore in respect of five abkari bidders for the years 1989-90, 1993-94 and 1995-96 was held up due to the bidding of the properties in favour of Government for Re 1 in each case as under. In two cases, the market values of solvency properties was only Rs 24.07 lakh against the arrears of Rs 64.92 lakh resulting in loss of Rs 40.85 lakh. In the remaining cases involving Rs 1.40 crore the market value has not yet been fixed.

(Rupees in lakh)			
Name of defaulter Division	Amount of arrears/date of requisition	Market value fixed	Remarks
<u>Sri. George Jacob</u> <u>and Sri. Lenin</u> <u>Varghese,</u> Kottayam	<u>29.47</u> 27 May 1994	8.45	10.56 acres of solvency property of Sri. George Jacob valued at Rs 19 lakh was attached and bid to Government for Re 1 on 2 March 1995 as there was no bidder.
<u>Sri. K.K.Koshy,</u> Kottayam	<u>35.45</u> 1 October 1990	15.62	5.21 hectares of land was bid to Government for Re 1 on 30 March 1991 for want of bidders.
<u>Smt. T.S.Beena,</u> Kottayam	<u>24.46</u> 16 November 1996	Not fixed	3.20 hectares of land in Nattakom Village was bid to Government for Re 1 on 26 August 2000.
<u>Sri. P.J.Churian</u> <u>and Sri. John</u> <u>Kurien,</u> Kottayam	<u>88.66</u> 9 September 1996	-do-	12.66 acres of land of Sri. John Kurien, in Kodyathoor Village was bid to Government for Re 1 on 19 August 1998, as there was no bidder. The properties of Sri. P.J.Churian could not be bid due to court case.
<u>Sri. A.G.Unni,</u> Palakkad	<u>26.51</u> 16 August 1994	-do-	2.46 acres of solvency property was bid to Government for Re 1 on 29 September 2000, as there was no bidder.
Total	204.53	24.07	

Internal control

4.2.13. Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, safeguarding resources against irregularities, adhering to laws, regulations and management directives and developing and maintaining reliable financial and management data. Internal audit is expected to provide an assurance regarding the adequacy and effectiveness of internal controls. An Internal Audit Wing (IAW) under the charge of a DEC is functioning in the Excise Commissionerate and its work is confined to the inspection and scrutiny of old arrear files. The IAW conducted no internal audit during the years 1997-98 to 2000-01. However, it conducted inspection in four out of 14 Divisions and three out of 63 Circles during the year 2001-02. The Commissioner of Excise stated that there was no sufficient infrastructure for IAW and that the present IAW was diverted to the work relating to Local Audit Reports, Reports of the Comptroller and Auditor General of India and Report of Public Accounts Committee in addition to work relating to modernisation of Excise Department. The IAW is, therefore, not being utilised systematically to provide assurance on the adequacy and effectiveness of internal controls.

In the Excise Department, the internal control mechanism should normally ensure that abkari revenue is sufficiently guaranteed with auctionable properties valued at not less than the revenue due, that effective and efficient action is taken for the timely realisation of abkari revenue so as to prevent it from becoming arrears, that arrears are correctly worked out and included in the DCB statements, and that time-bound action is taken to realise arrears of revenue and to get stay of courts vacated. However, it is seen from the review that internal control was not in place to achieve the desired results/objectives.

Recommendations

4.2.14. Government may consider the following action in public interest:

- Government may take suitable measures for enforcing accountability for over-valuation of solvency certificates by revenue authorities, as there is inherent risk of fraud on account of collusion of interested parties with revenue officials.
- Strict instructions may be issued by the Government for timely submission of the DCB statements by a stipulated date.
- Government may consider fixing a suitable time limit for filing counter-affidavits with the courts for stay cases.
- Government may consider the desirability of issuing necessary instructions to the Excise Department for taking RR action directly instead of through Revenue Authority.
- The IAW may be made functional and accountable for providing assurance on the adequacy and effectiveness of internal controls.

The above points were brought to the notice of the Government and the Excise Commissioner in March 2003. Replies were received in August 2003 which were examined and incorporated. Further replies are awaited (October 2003).

4.3. Low production of spirit from molasses

As per the Kerala Excise Manual, Volume II, a yield of about 475 proof litres of spirit per tonne of molasses may be taken as a fair average out-turn, whereas the norm fixed by the Central Board of Molasses was 373.5 proof litres. Government on 24 October 2001 amended the Kerala Distillery and Warehouse Rules, 1968, incorporating the provision for adopting continuous fermentation system for manufacture of spirit in addition to batch fermentation system being followed.

- Scrutiny of the records of a distillery at Thiruvalla in Alappuzha District for the year 2000-01 and another distillery at Menonpara in Palakkad District for the year 2001-02 revealed that, while producing spirit from 6,587.67 MT of molasses, the yield of spirit calculated on the basis of norms fixed by Central Board of Molasses was short by 4.62 lakh proof litres involving excise duty of Rs 71.57 lakh.
- Scrutiny of the records of a distillery at Cherthala revealed that during 2001-02, prior to adoption of continuous fermentation system in January 2002, the distillery produced 37.34 lakh proof litres of spirit from 11,367.195 MT of molasses with an average yield of 328.46 proof litres per MT against average yield of 440 proof litres per MT attained after adoption of continuous fermentation system. There was a short production of 5.12 lakh proof litres up to January 2002, even at the norms fixed by Central Board of Molasses with the resultant short levy of Rs 79.35 lakh.

These cases were brought to the notice of the Department between March and September 2002; their reply has not been received (October 2003).

The cases were reported to Government in January and May 2003; their reply has not been received (October 2003).

4.4. Short realisation of excise duty

Under the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, all homeopathic preparations containing alcohol shall be classified as capable of being consumed as ordinary alcoholic beverage. The erstwhile Board of Revenue (Excise) clarified in July 1990 that excise duty on rectified spirit supplied to the licensees of homeopathic preparations shall be collected at the rate of Rs 80 per proof litre.

A distillery in Palakkad issued 33400 proof litres of extra neutral alcohol/rectified spirit to a manufacturer of homeopathic preparations in Ernakulam between April 2001 and January 2002 on payment of excise duty at the rate of Rs 20 per litre against the correct rate of Rs 80 per proof litre. This resulted in short realisation of excise duty of Rs 22.90 lakh.

This was brought to the notice of the Department in July 2002 and reported to Government in January 2003. Their replies have not been received (October 2003).

4.5. Short collection of cost of establishment

The average cost of pay and allowances, contributions towards leave salary, pension and death cum retirement gratuity of excise supervisory staff deputed for supervision of distilleries, blending units, breweries, pharmaceutical unit and Kerala State Beverages Corporations were recoverable at the rates revised with effect from 1 March 1997 based on the scale of pay of the incumbents working in the institutions.

In eight institutions⁸, the cost of establishment was recovered on the basis of scale of pay of the sanctioned posts instead of the scale of pay of the incumbents working in the institutions. This resulted in short collection of cost of establishment amounting to Rs 10.86 lakh relating to the period from January 1999 to April 2002.

This matter was pointed out to the Department and reported to Government in January and February 2003. Government stated in October 2003 that balance establishment cost of Rs 7.94 lakh had been collected in six cases. Final report on the remaining cases has not been received (October 2003).

⁸ Cassanova Distillery Natakam, Kerala Alcoholic Products Meenakshipuram, Mc Dowell Distillery Cherthala, Polson Distillery Chalakudy, Premier Breweries Kanjikode, South Travancore Distilleries and Allied Products Neyyattinkara, Super Star Distillery Pambady and United Breweries Cherthala

Chapter V
Land Revenue,
Building Tax
And
Taxes on Vehicles

CHAPTER V

LAND REVENUE, BUILDING TAX AND TAXES ON VEHICLES

5.1. Results of Audit

Test check of the records of the Offices of the Land Revenue and Motor Vehicles Departments conducted in audit during 2002-03 revealed short/non-levy of tax, etc., amounting to Rs 5.47 crore in 313 cases which may broadly be categorised as under.

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Short levy under building tax	85	1.12
2.	Short levy under other items	38	2.00
3.	Short/non-levy of tax	159	1.12
4.	Incorrect classification of vehicles	12	0.08
5.	Other lapses	19	1.15
	Total	313	5.47

During 2002-03, the Departments accepted underassessments, etc., of Rs 1.32 crore involved in 185 cases of which 51 cases involving Rs 44.76 lakh were pointed out in audit during 2002-03 and the rest in earlier years. During the year, the Department recovered Rs 30.61 lakh in 139 cases of which 5 cases involving Rs 1.96 lakh were pointed out during 2002-03 and the rest in earlier years. A few illustrative cases involving Rs 2.73 crore are given in the following paragraphs.

LAND REVENUE AND BUILDING TAX

5.2. Non-realisation of collection charges

Under the Kerala Revenue Recovery Act, 1968 and Rules framed thereunder, collection charges at the rate of five *per cent* of the arrears collected by the Government on behalf of any institution notified under the Act had to be realised from such institution up to June 1997. Thereafter, the charges were recoverable direct from all the defaulters when arrears were recovered under any of the provisions of the Act.

In 31 Offices* collection charges, were either not realised or realised short from the defaulters, for recovery of arrears on behalf of various Government Departments/notified institutions during the period from November 1998 to March 2002. This resulted in short/non-realisation of collection charges of Rs 1.71 crore.

On this being pointed out, the Department stated that action would be taken to realise the collection charges. Further report has not been received (October 2003).

The matter was reported to Government in April 2003; their reply has not been received (October 2003).

5.3. Non-levy of luxury tax on residential buildings

Under the Kerala Building Tax Act (KBT), 1975, luxury tax at Rs 2,000 per annum is leviable on every residential buildings having a plinth area of 278.7 m² or more and completed on or after 1 April 1999. It is payable in advance on or before the 31st day of March every year. Taluk Tahsildars entrusted with the assessment of building tax is the Assessing Authority for luxury tax also.

In 33 Taluk offices* though the Taluk Tahsildars assessed building tax, they failed to assess simultaneously luxury tax on 1485 residential buildings of plinth area exceeding 278.7 m², completed between April 1999 and June 2002. This resulted in non-realisation of luxury tax of Rs 79.82 lakh. Moreover registers for watching assessment and collection of tax had not been prescribed so far (October 2003).

On this being pointed out, the Commissioner of Land Revenue stated in August 2003 that the rules were being amended to include provision for maintenance of a register by the Assessing Authorities and the Village Officers and that Collectors would be directed to give instructions to the Taluk

* Taluk Offices : Adoor, Alathur, Chengannur, Cherthala, Chirayinkeezhu, Devikulam, Hosdurg, Kannur, Kodunagallur, Kothamangalam, Kottarakkara, Kuttanad, Mannarkkad, Muvattupuzha, Nilambur, Thalappilly, Thaliparamba, Thodupuzha, Tirur and Vythiri

Offices of Tahsildar (RR) : Ernad, Kasargod, Kottayam, Kozhikode, Nedumangad, Neyyattinkara, Palakkad, Thrissur, Udumbanchola, Vadakara and Waynad.

* Adoor, Alathur, Aluva, Chengannur, Cherthala, Chirayinkeezhu, Ernad, Hosdurg, Kanayannur, Kasargod, Kodungallur, Kollam, Kothamangalam, Kottarakkara, Kottayam, Kozhencherry, Kozhikode, Kuttanad, Mallappally, Mannarkkad, Muvattupuzha, Nedumangad, Nilambur, Palakkad, Taliparamba, Thalappilly, Thalassery, Thrissur, Thiruvalla, Thodupuzha, Tirur, Tirurangadi, and Vythiri

Tahsildars to assess and watch collection of luxury tax simultaneously with building tax.

The matter was reported to Government in April 2003; their reply has not been received (October 2003).

5.4. Under assessment of building tax

5.4.1. Under the KBT Act, 1975, building tax at the rate specified in the Schedule to the Act is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeds 100 m² in the case of residential buildings and 50 m² in the case of other buildings. Different rates have been prescribed for buildings in Grama Panchayats, Municipal/Special Grade Panchayats and Corporation areas.

In Kollam Taluk, seven new buildings constructed in Kollam Municipal Corporation area, were assessed between November 2000 and February 2001 to building tax at the rate applicable to buildings in Municipal/Special grade Panchayat areas, instead of at the rate applicable to Municipal Corporation. This resulted in under assessment of building tax of Rs 4.19 lakh.

On this being pointed out, the Assessing Officer stated in December 2002 that it would revise the assessments after verification of the documents. Further report has not been received (October 2003).

5.4.2. Under the KBT Act, 1975, plinth area of out-houses, garages or other structures appurtenant to the building for more convenient enjoyment of it is required to be added to the plinth area of the main building for assessment of tax.

In Taluk offices Chirayinkeezh, Taliparamba and Kozhikode, while finalising between April 1999 and March 2001 the building tax assessments of 6 non-residential buildings, the plinth area of structures appurtenant to the building for more convenient enjoyment of it was not added to the plinth area of the main buildings. This resulted in short levy of tax of Rs 1.94 lakh.

On this being pointed out, the Department stated between April and November 2002 that it would revise the assessment. Further report has not been received (October 2003).

The cases were reported to Government in April 2003; their reply has not been received (October 2003).

TAXES ON VEHICLES

5.5. Short collection of composite tax

5.5.1. Under the Kerala Motor Vehicles Taxation (KMVT) Act, 1976, on goods carriage vehicles registered and usually kept in any other State or Union Territory in India and authorised to ply in the State of Kerala under a National Permit, composite tax at Rs 3,000 per annum or at the rate at which similar vehicle from Kerala is taxed in their home State, whichever is higher, shall be payable.

The rate of composite tax per vehicle was Rs 5,000 for goods carriages registered in the States of Haryana, Maharashtra and Rajasthan and Union Territory of Delhi. Test check of the records of the Transport Commissioner's Office, Thiruvananthapuram revealed that 196 such vehicles registered in these states were authorised to ply in Kerala under National Permit during the year 2000-01 on payment of composite tax of Rs 3,000 per annum instead of at Rs 5,000. The tax was remitted half yearly in some cases instead of yearly. No action was taken by the Department to demand and collect differential tax at appropriate higher rate through the concerned State/Regional Transport Authorities. This resulted in short levy of composite tax of Rs 3.53 lakh.

5.5.2. Composite tax on multi-axled vehicle shall be 25 *per cent* less than the rate applicable to two axled vehicle. But this concession is not allowed in respect of such vehicles of those States which do not allow concession on multi-axled vehicles of other States or Union Territories.

In the Office of the Transport Commissioner, Thiruvananthapuram it was also observed in March 2002 that during the year 2000-2001 composite tax at 75 *per cent* the normal rate was remitted on 236 multi-axled National Permit vehicles of States of Haryana and Rajasthan which do not allow similar concession on multi-axled vehicles of other States or Union Territories. No action was taken by the Department to demand and collect the differential tax through the concerned State/Regional Transport Authorities. This resulted in short realisation of composite tax of Rs 2.24 lakh.

The cases were pointed out to the Department in March 2002 and reported to Government in January 2003 and May 2003; their replies have not been received (October 2003).

5.6. Registration of vehicles without collection of entry tax

The Kerala Tax on Entry of Goods into Local Areas Act, 1994, provides for the levy of a tax on entry into any local area of the State, for use or sale therein

of any motor vehicle which is liable for registration in the State under the Motor Vehicles Act, 1988. Vehicles registered in other States 15 months prior to their registration in Kerala, vehicles of Central Government, vehicles used exclusively for defence purposes and vehicles gifted to Departments of Government of Kerala are exempted from the tax. The registration authority shall not register such vehicles, unless proof of payment of tax is produced.

In 4 Registering Offices[^], 5 vehicles which did not fulfill the above conditions for exemption were granted between April and December 2001 registration without payment of entry tax. This resulted in non-levy of entry tax of Rs 3.10 lakh.

This was pointed out to the Department between May and July 2002; their reply has not been received (October 2003).

The case was reported to Government in December 2002; their reply has not been received (October 2003).

5.7. Non/Short levy of additional tax

Under the KMVT Act, 1976, failure to pay tax within the prescribed period attracts additional tax ranging from 10 to 50 *per cent* of the tax due depending upon the period of delay. From May 1998 onwards the counter clerk was entrusted with the work to assess additional tax accept vehicles tax, make entry in registration certificate and issue tax licence, without any counter check by Taxation Officer.

In four Regional Transport Offices[#], on 48 vehicles, no additional tax for delay in payment of tax was levied and on 501 vehicles it was levied at an incorrect rate during the year 2001-02. This resulted in non/short levy of additional tax of Rs 2.76 lakh.

The cases were pointed out to the Department between April and November 2002; final reply has not been received (October 2003).

This was reported to Government in January and May 2003; their reply has not been received (October 2003).

[^] Regional Transport Offices, Ernakulam, Pathanamthitta and Thiruvananthapuram and Sub Regional Transport Office, Perumbavoor

[#] Regional Transport Offices : Idukki, Kannur, Kottayam and Malappuram

5.8. Incorrect classification of private service vehicles

Under the Motor Vehicles Act, 1988 omnibus is defined as a motor vehicle constructed or adapted to carry more than six persons excluding the driver. Under the Act, omni-buses used for private use are 'non-transport vehicles' and those used for carrying persons for or in connection with trade or business, are 'transport vehicles' which require permit and certificate of fitness.

In 6 transport offices*, 55 omnibuses with passenger capacity up to 12, owned by companies and other institutions were classified as omnibuses for private use (non-transport) vehicles instead of as private service vehicles (transport). This resulted in short levy of tax and non-levy of fee for permit and certificate of fitness amounting to Rs 2.59 lakh during 2001-02.

This was pointed out to the Department between April and November 2002 and reported to Government in January 2003. The Department stated between January and March 2003 that Rs 0.27 lakh had been realised in four cases of Thodupuzha and Wayanad. Further reply has not been received (October 2003).

5.9. Short levy of vehicle tax

Under the KMVT Act, 1976, on contract carriages of passenger capacity of 13 and above and operating inter-state, tax at the rate of Rs 1,400 per quarter for every passenger is payable from 1 April 1997 onwards.

In Regional Transport Office, Thiruvananthapuram, on two contract carriages each with passenger capacity of 35 and operating inter-state, tax per passenger per quarter was levied at the rate of Rs 680 instead of at Rs 1,400 for the period from April 2000 to June 2001. This resulted in short levy of vehicle tax of Rs 2.23 lakh.

On this being pointed out, the Department stated in May 2003 that it had raised demand of tax aggregating Rs 8.89 lakh realisable on one vehicle from April 1997 to June 2001 and on the other from October 1997 to June 2001. Further reply has not been received (October 2003).

The case was reported to Government in December 2002; their reply has not been received (October 2003).

* Regional Transport Offices : Idukki, Kannur and Wayanad
Sub Regional Transport Offices : Koduvally, Thodupuzha and Vandiperiyar

Chapter VI

Other Tax Receipts

CHAPTER VI

OTHER TAX RECEIPTS

6.1. Results of Audit

Test check of the records of the Offices of the Power and Registration Departments conducted in audit during the year 2002-03 revealed underassessments, incorrect exemption, etc., amounting to Rs 297.20 crore in 108 cases which may broadly be categorised as under.

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
TAXES AND DUTIES ON ELECTRICITY			
1	Review : Electricity duty, surcharge and fees	1	296.91
STAMPS AND REGISTRATION FEES			
1	Incorrect exemption	61	0.13
2	Undervaluation of documents	17	0.11
3	Other lapses	29	0.05
	Total	108	297.20

During 2002-03, the Departments accepted underassessments, etc., of Rs 5.38 lakh involved in 52 cases of which 27 cases involving Rs 4.21 lakh were pointed out during 2002-03 and rest in earlier years. During the year the Departments recovered Rs 0.94 lakh in 20 cases pointed out during earlier years. One case involving Rs 4.15 lakh and the results of a review, '**Electricity duty, surcharge and fees**' involving Rs 296.91 crore are given in the following paragraphs.

TAXES AND DUTIES ON ELECTRICITY

6.2. Review : Electricity duty, surcharge and fees

Highlights

- Arrears of electricity duty, surcharge and fees due to Government as at the end of 31 March 2002 aggregated Rs 1001.65 crore.
(Paragraph 6.2.6)
- Duty and surcharge collected from consumers and retained by KSEB as at the end of 31 March 2002 was understated by Rs 19.81 crore.
(Paragraph 6.2.9)

- Duty and surcharge collected from consumers and retained by KSEB without any authority as at the end of 31 March 2002 amounted to Rs 442.51 crore.

(Paragraph 6.2.10)

- Interest of Rs 198.47 crore, due from KSEB on duty was not worked out and demanded.

(Paragraph 6.2.11)

- Duty and surcharge of Rs 77.21 crore due from various consumers payable to Government was not demanded.

(Paragraph 6.2.12)

- Duty and interest of Rs 1.35 crore due from Thrissur Municipal Corporation was not demanded and realised.

(Paragraph 6.2.13)

- The short fall by 46 per cent of statutory inspection of electrical equipments by the CEI resulted in loss of Rs 11.55 lakh.

(Paragraph 6.2.17)

Introduction

6.2.1. Levy of duty on the sale and consumption of electrical energy is governed by the Kerala Electricity Duty Act, 1963, and the Rules made thereunder. Every licensee shall pay electricity duty at the rate of six paise per unit of energy sold at a price of more than twelve paise per unit which shall not be passed on to the consumers. Duty is also chargeable on consumers, rate being 10 paise per unit for those taking supply of energy of 11KV and above, 1.2 paise per unit for those generating energy for their own consumption and at the rate of 10 *per cent* of the price indicated in the invoice for others. When electricity is supplied to High Tension (HT)/Extra High Tension (EHT) consumers, surcharge at the rate of 2.5 paise per unit is chargeable under the Kerala Electricity Surcharge (Levy and Collection) Act, 1989 and Rules made thereunder. The licensees shall collect duty and surcharge chargeable on consumers and remit it to Government. The Act provides for levy of interest in case the licensee fails to remit in time the duty and surcharge. Fee is also realised at prescribed rates by the Chief Electrical Inspector (CEI) for inspection and testing of installations connected to supply systems as specified in the Indian Electricity Rules, 1956.

Under the Act, a licensee means Kerala State Electricity Board (KSEB) or any person licensed under the Indian Electricity Act, 1910 to supply energy. In addition to KSEB, there were five[^] other licensees in the State.

Scope of Audit

6.2.2. Mention was made in the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Kerala, for the year

[^] Thrissur Municipal Corporation, Tata Tea Ltd.- Munnar, Cochin Shipyard, Cochin Port Trust and Techno Park – Thiruvananthapuram.

ended 31 March 1997, of issues regarding levy and collection of electricity duty and surcharge. The Committee on Public Accounts (2001) in its 121st Report presented in the Kerala Legislative Assembly on 2 March 2001 recommended that instructions be issued to KSEB and the CEI to maintain correct and complete accounts of arrears and that Government consider providing enough budgetary support to KSEB against conversion of dues as loans.

Organisational set up

6.2.3. CEI is the head of office for the implementation of the provisions of the Act/Rules. He is assisted by an Additional Chief Electrical Inspector, a Deputy Chief Electrical Inspector, two Electrical Inspectors, five Deputy Electrical Inspectors and six Assistant Electrical Inspectors on technical matters in headquarters office. There are 15 Electrical Inspectors out of which 14 are in charge of District Offices and one in charge of the Meter Testing and Standards Laboratory. Four Regional Testing Laboratories also function in four District Offices¹.

Audit objectives

6.2.4. Detailed analysis of the records in the Office of the CEI Thiruvananthapuram and seven[^] out of 14 District Offices and the Meter Testing and Standards Laboratory, Thiruvananthapuram for the period from 1997-98 to 2001-02 was conducted during October 2002 to February 2003 to:

- ♦ ascertain the extent of compliance to the provision of relevant Act/Rules
- ♦ seek assurance that internal control system was sufficient to ensure compliance with the provisions in the Act/Rules.

Trend of Revenue

6.2.5. The budget estimates and the actual receipts under the head of account "0043 Taxes and Duties on Electricity" during the period 1997-98 to 2001-2002 were as under.

(Rupees in crore)				
Year	Budget estimates	Actual receipts	Variation (+) increase (-) decrease	Percentage of increase/ decrease
1997-98	108.34	168.56	(+) 60.22	(+) 56
1998-99	114.84	39.06	(-) 75.78	(-) 66
1999-00	146.72	3.33	(-) 143.39	(-) 98
2000-01	80.21	14.92	(-) 65.29	(-) 81
2001-02	2.00	5.18	(+) 3.18	(+) 159

¹ Ernakulam, Kozhikode, Thiruvananthapuram and Thrissur.

[^] Alappuzha, Ernakulam, Kannur, Kollam, Kottayam, Kozhikode and Thiruvananthapuram

The CEI stated that the increase in the year 1997-98 was due to remittance of arrears of duty and surcharge of Rs 132.88 crore by KSEB and the decreases in the years 1998-99 to 2000-01 were due to non-remittance of duty and surcharge by KSEB.

Regarding low budget estimates for the years 2000-01 and 2001-02, the CEI stated that he proposed Rs 128.26 crore and Rs 145.97 crore for the years 2000-01 and 2001-02 and the Government reduced the estimates to Rs 80.21 crore and Rs 2 crore respectively without specifying reason for the curtailment. On bringing this to notice, Government stated in June 2003 that the receipts of duty from KSEB corresponded to the loan assistance to KSEB and hence the lower estimates.

The reply is not convincing for the following reasons:

Providing a nominal amount in the budget estimate for the reason that a lesser amount had been fixed for loan assistance to KSEB is against the budgeting principles. Electricity duty assessable each year is to be reflected in the budget estimate and amount, if any, adjusted through loans should be properly accounted for. Government failed to assess the duty payable by KSEB as a licensee and the duty and surcharge payable to Government by KSEB on realisation from consumers and failed to make the estimates after proper analysis with reference to figures of the previous year.

Arrears of Electricity Duty, Surcharge and Fees

6.2.6. As per the information furnished by the CEI, arrears of duty, surcharge and fees pending remittance to Government by licensees and other parties at the end of the year from 1997-98 to 2001-02 were as under:

(Rupees in crore)

Sl No	Year	Opening balance	Addition	Total	Clearance	Closing Balance
1.	Up to 1997-98	233.27	211.36	444.63	168.56	276.07
2.	1998-99	276.07	130.50	406.57	39.06	367.51
3.	1999-00	367.51	188.77	556.28	3.33	552.95
4.	2000-01	552.95	230.22	783.17	14.92	768.25
5.	2001-02	768.25	238.58	1006.83	5.18	1001.65

6.2.7. Following were the licensees and parties from whom the arrears were due:

(Rupees in crore)			
Sl. No.	Name of licensee/ parties	Nature of arrears	Amount
1	Kerala State Electricity Board	i) Duty payable on sale of energy by KSEB	357.25
		ii) Duty and surcharge collected from consumers and payable by KSEB	422.70
		iii) Interest for the non-payment of duty and surcharge collected from consumers	216.54
		iv) Inspection fee	4.16
		Total	1000.65
2	Trichur Municipal Corporation	Duty	0.13
3	Ex Licensees	Duty	0.09
4	Private Parties/Firms/PSUs	Inspection fees	0.78
Grand Total			1001.65

Major portion of the arrears was due from KSEB and the same related to the period from 1990-91 onwards.

6.2.8. The age-wise pendency of arrears was as under:

(Rupees in crore)		
Sl. No.	Period of pendency	Amount
1.	More than 10 years	17.53
2.	Between 5 and 10 years	215.74
3.	Between 2 and 5 years	534.98
4.	Between 1 and 2 years	233.40
	Total	1001.65

Understatement of arrears

6.2.9. As per the statement maintained by the CEI, the arrears on account of duty and surcharge collected from consumers by KSEB as at the end of March 2002 amounted to Rs 422.70 crore (Sl. No. 1 (ii)). However, it was seen in audit that the same correctly worked out to Rs 442.51 crore resulting in understatement of arrears of Rs 19.81 crore.

6.2.10. Further, out of duty and surcharge collected from consumers KSEB retained Rs 442.51 crore as at the end of March 2002 without authority/sanction from Government.

Failure of the Department to assess and demand duty/surcharge and interest from licensees

KSEB

Non-levy of interest

6.2.11. Under the Act/Rules, every licensee shall pay electricity duty in respect of every month before the expiry of the following month. In case of default interest at the rate of 18 per cent per annum is chargeable for delay.

Test check of the records of the CEI revealed that as of 31 March 2002, KSEB defaulted on payment of duty amounting to Rs 357.25 crore, out of which Rs 268.46 crore pertained to the period 1997-98 to 2001-02, on sale of energy payable by it as a licensee. The CEI failed to assess and demand interest of Rs 198.47 crore due up to 31 March 2002.

Non-recovery of duty and surcharge

6.2.12. As per rules, the Inspecting Officer may require a licensee to produce books and records in the licensee's possession and control, for assessing the amount of duty payable by it under the Act. Amount payable with interest shall be recoverable through a Civil Court or as arrears of land revenue.

- Test check of the DCB Register of the CEI revealed that KSEB failed to realise duty of Rs 68.92 crore from consumers taking supply of energy of 11KV and above, Rs 11.75 lakh from consumers generating electricity for their own consumption and surcharge of Rs 8.14 crore from high tension /extra high tension consumers as of 31 March 2002. No action was taken by the CEI to raise the demand or to recover the amount.

- Indsil Electros melt Ltd., Coimbatore, generating electricity in Kuthungal Hydel Scheme in Idukki District consumed 455.46 lakh units of energy generated by it. However, duty at the rate of 1.2 paise per unit amounting to Rs 3.12 lakh was not demanded from the company either by the CEI or by KSEB.

On bringing this to the notice of KSEB and the CEI, KSEB stated in July 2003 that the duty would be charged in the invoice for July 2003.

Other Licensees

The provisions in the Act/Rules for levy and collection of duty and interest are applicable to Thrissur Municipal Corporation (TMC), Cochin Port Trust (CPT) and Tata Tea Ltd., as licensees under the Act. Test check of the DCB Register of the CEI revealed non/short demand of duty and interest as under:

6.2.13. Thrissur Municipal Corporation (TMC)

- As per the Inspection Report of the CEI, the licensee did not remit duty of Rs.1.19 crore on energy consumed by it from 1985-86 to 1998-99, out of which Rs 34.59 lakh related to the years 1997-98 and 1998-99. Interest of Rs 97.95 lakh due from 1 April 1997 to 31 March 2002 was not worked out and demanded by the CEI.
- TMC failed to remit Rs 24 lakh collected from consumers during the period from 1995-96 to 1998-99 out of which Rs 19.88 lakh related to the years 1997-98 and 1998-99. The CEI failed to demand the same from the licensee. Besides, interest due on this amount from 1 April 1997 to 31 March 2002 amounted to Rs 17.63 lakh.
- TMC paid Rs 3.84 crore, on ad hoc basis, towards duty payable for the years 1999-2000 to 2001-2002. The CEI did not assess the duty realisable

during the period from TMC and demand the balance, if any, due from it as TMC had not been submitting the return.

6.2.14. Cochin Port Trust (CPT)

- CPT short remitted duty of Rs.1.10 lakh payable on energy consumed by consumers under it during the years 1999-2000 and 2000-2001. The amount of Rs 1.34 lakh including interest as at the end of March 2002 has not been demanded.
- CPT did not remit duty payable on energy consumed by itself during the period December 2001 to March 2002. This resulted in short demand of Rs 1.87 lakh including interest.
- There was delay ranging from two months to two years in remitting duty by CPT on self-consumed energy during the years 1997-98 to 2001-02. The CEI did not levy the interest of Rs 5.83 lakh for belated payment.

6.2.15. M/s Tata Tea Ltd.

Mention was made in Paragraph 8.1. of the Report of the Comptroller and Auditor General of India for the period ended 31 March 1997, (Revenue Receipts), Government of Kerala, regarding the irregular concession availed of by M/s Tata Tea Ltd. (a licensee) under the Act, by not remitting duty payable on energy consumed in its packing unit located at Mattupatty from August 1992 onwards and cutting, turning and curing unit from April 1993 onwards. The Committee on Public Accounts (2001) in its 121st Report opined that the Department was bound to collect Rs 4.53 lakh towards the duty and interest. However, the licensee has not remitted the amount (October 2003).

The licensee continued to avail of the irregular concession during the years 1996-97 and 1997-98 also and the duty and interest of Rs 4.27 lakh due up to 31 March 2002 was not worked out and demanded by the CEI.

Short demand of surcharge from Southern Railway

6.2.16. Southern Railway is a HT/EHT consumer of energy in the State of Kerala. As per the information collected from KSEB by Audit, surcharge realisable from Southern Railway during the period 1997-98 to 2001-2002 worked out to Rs 36.71 lakh against Rs 34.56 lakh demanded and realised (between April 1997 and March 2002) by KSEB. This resulted in short demand of Rs 2.15 lakh.

- Divisional Offices in Southern Railway in Kerala are in possession of residential complexes and staff quarters and have let out railway premises for commercial purposes. As per the information gathered by Audit, electricity charges were being collected by railways from the occupants in railway

residential complexes and staff quarters, etc. However, no demand of duty was raised against railways on account of this as of March 2002.

Failure to conduct statutory inspections

6.2.17. Under the Indian Electricity Rules, 1956, where an installation is connected to the supply system of the supplier, every such installation shall be periodically inspected and tested by the CEI at intervals not exceeding five years. The Government had fixed in December 1984 the periodicity of inspections of all medium volt equipments as once in two years charging fees of Rs 10, Rs 20 and Rs 50 per equipments up to 5 Kilo Volt Ampere (KVA), between 5 and 50 KVA and above 50 KVA respectively.

As per the information collected by Audit from seven* out of 14 District Offices, out of 1,90,906 inspections due during the years 1997-98 to 2001-02, 87,650 inspections were not conducted by the Department resulting in loss of revenue of Rs 11.55 lakh as per details given below:

Year	Category of installation	Number of inspections due	Number of inspection conducted	Shortfall of inspection (Number)	Rate for inspection (Rs/inspection)	Amount (Rs in lakh)
1997-98	Upto and inclusive of 5 KVA	49,839	27,212	22,627	10	2.26
	6 KVA to 50 KVA	23,010	12,308	10,702	20	2.14
	Above 50 KVA	251	192	59	50	0.03
1998-99	Upto and inclusive of 5 KVA	51,549	23,444	28,105	10	2.81
	6 KVA to 50 KVA	22,884	10,041	12,843	20	2.57
	Above 50 KVA	294	218	76	50	0.04
1999-2000	Upto and inclusive of 5 KVA	3,122	2,424	698	10	0.07
	6 KVA to 50 KVA	777	610	167	20	0.03
	Above 50 KVA	--	--	--	50	--
2000-01	Upto and inclusive of 5 KVA	11,696	9,981	1,715	10	0.17
	6 KVA to 50 KVA	4,605	4,039	566	20	0.11
	Above 50 KVA	282	268	14	50	0.01
2001-02	Upto and inclusive of 5 KVA	15,638	8,364	7,274	10	0.73
	6 KVA to 50 KVA	6,612	3,867	2,745	20	0.55
	Above 50 KVA	347	288	59	50	0.03
		1,90,906	1,03,256	87,650		11.55

Short fall in conducting inspections of the accounts of the licensees

6.2.18. Under the Act/Rules, the CEI may inspect the accounts of all the licensees including KSEB to verify and ensure that electricity duty and surcharge levied, collected and remitted to Government are in accordance with the provisions of the Act/Rules. Pendency in such inspections as at the end of 31 March 2002 was as under.

* Alappuzha, Ernakulam, Kannur, Kollam, Kottayam, Kozhikode and Thiruvananthapuram

Sl No	Name of licensee	Inspection pending
1.	Tata Tea Limited, Munnar	1998-99 to 2001-02
2.	Cochin Port Trust	
3.	Thrissur, Municipality	1999-2000 to 2001-02
4.	Cochin Shipyard	2000-01 & 2001-02
5.	Technopark, Thiruvananthapuram	
6	KSEB i) 6 Billing Supervision units ii) HT Billing unit	1994-95 to 2001-02 1995-96 to 2001-02

Short fall in inspection of accounts showed that the correctness of duty and surcharge assessed and remitted by the licensees, was not ensured by the CEI.

Non-reconciliation of receipts with treasury accounts

6.2.19. As per the provisions in the Kerala Financial Code Volume 1, every controlling officer is required to conduct reconciliation of departmental remittances with treasury accounts to ensure that the amounts remitted in treasury have been accounted for under the proper head of accounts.

Reconciliation of receipts in the Office of the CEI was not conducted by the CEI with the treasury figures during the period covered by the review. However, reconciliation certificates up to 31 March 2001 had been forwarded in December 2002 to the Government.

Non-filing of returns by licensees

6.2.20. The Act provides for filing of returns by the licensees in the office of the CEI monthly/annually on the dates prescribed in the Rules. It was, however, noticed that KSEB had not been submitting the prescribed returns despite specific directions in June 2000 from Government; instead, it had been furnishing the DCB statement every month and the CEI calculated the duty payable by KSEB on the basis of such DCB statements.

Thrissur Municipal Corporation was also not filing the returns and the duty was being paid by it on *ad hoc* basis.

Internal control

6.2.21. Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. They also help in prevention of loss of revenue and in the creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of duties. Internal audit is expected to provide an assurance regarding the adequacy and effectiveness of internal controls.

In the Electrical Inspectorate, the internal control mechanism should normally ensure that monthly returns are filed by the licensees regularly and within the

time, duty and surcharge on electrical energy is correctly worked out, demanded and realised from the licensees together with interest if any due and statutory inspection of electrical installations is carried out regularly and timely. The Department had not constituted an Internal Audit Wing (IAW). Hence, there existed no arrangement to systematically provide assurance on the adequacy and effectiveness of internal controls. However, the CEI stated that he conducted (between April and November 2002) inspection of six District Offices covering the periods from 1999-2000 to 2001- 2002.

Recommendations

6.2.22. Government may consider the following actions in public interest:

- May examine adoption of a scientific approach in preparing the budget estimates.
- Reiterate the necessity of filing of monthly returns by KSEB and other licensees in general on a regular basis to enable the CEI to prepare DCB statements on the basis of such returns.
- The CEI may be directed to ensure the correctness of the sums due from the licensees.
- CEI should be instructed to conduct statutory inspection of electrical installations periodically
- Introduce internal audit to provide assurance on the adequacy and effectiveness of internal controls.

The above points were communicated to the Department and the Government in February 2003. Reply from them has not been received (October 2003).

STAMPS AND REGISTRATION FEE

6.3. Incorrect remission of stamp duty

Under the Kerala Stamp Act, 1959, Government by a notification issued in July 1965 exempted mortgage deeds executed (solely or jointly with spouse/family members) by officers of Government of Kerala or Central Government as security for repayment of house construction advance, from payment of stamp duty.

In 19 Sub Registry Offices*, no stamp duty was levied on 8 lease deeds executed (between November 2000 and March 2001) on behalf of Bharath Sanchar Nigam Limited (BSNL) and 29 mortgage deeds executed (between December 2000 and July 2001) by officers of BSNL as security for repayment of house construction advance, though BSNL constituted with effect from 1 October 2000 was an autonomous body and not a Central Government Department. These omissions resulted in non-levy of stamp duty of Rs 4.15 lakh.

This was pointed out to the Department between May 2001 and January 2003 and reported to Government in February 2003. The Department and Government stated that the exemption granted was in order as the documents were executed by or on behalf of or in favour of the President of India. The reply is not tenable as the deeds were executed by BSNL/their employees and the exemption was not allowable as BSNL is a statutory Corporation. Further report has not been received (October 2003).

* Sub Registry offices : Amaravila, Balaramapuram, Chittoor, Feroke, Kannur, Karakulam, Kattapana, Kazhakkuttam, Keerikkad, Kodencherry, Kuttiadi, Manjeri, Neeleswar, Nilambur, Olavakode, Peermade, Poonjar, Thenhipalam and Thrissur

Chapter VII

Non-Tax Receipts

CHAPTER VII

NON-TAX RECEIPTS

7.1. Results of Audit

Test check of the records of Offices of the Forest and Co-operative Departments conducted in audit during 2002-03 revealed non-levy/short realisation of revenue amounting to Rs 47.84 crore in 44 cases which may broadly be categorised as under.

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
FOREST RECEIPTS			
1.	Non/short realisation of Sales Tax/Income Tax	12	1.44
2.	Short/non-realisation of value of forest produces	10	0.56
3.	Short/non-demand of lease rent on forest lands	10	0.32
4.	Loss in auction/re-auction, disposal of forest produce, short/non-realisation of penalty and other charges	5	0.09
5.	Other lapses	6	0.09
CO-OPERATION			
1.	Review : Receipts from the Co-operative Department	1	45.34
	Total	44	47.84

During 2002-03, the Departments accepted underassessments of Rs 40.62 lakh involved in 13 cases of which 9 cases involving Rs 26.11 lakh were pointed out in audit during 2002-03 and the rest in earlier years.

During the year the Departments recovered Rs 14.51 lakh in 4 cases pointed out prior to 2002-03. A few illustrative cases involving Rs 47.98 lakh and the results of a review, '**Receipts from the Co-operative Department**' involving Rs 45.34 crore are given in the following paragraphs.

FOREST RECEIPTS

7.2. Non realisation of Forest Development Tax and additional price

Agreements executed between the Government of Kerala and two industrial undertakings [Hindustan Newsprint Ltd. (HNL) and Grassim Industries] provided for the supply of specified quantities of eucalyptus, every year at the value (i.e, royalty) agreed upon from time to time and taxes thereon. Under the Kerala Forest Produce (Fixation of Selling Price) Act, 1978, any industrial establishment which purchases eucalyptus from the Government as raw

materials, in pursuance of a contract, shall pay an additional price at the rate of Rs 25 per metric tonne. Under the Kerala Forest Act, 1961, forest development tax at the rate of five *per cent* of the amount of consideration paid therefor is leviable on specified forest produce disposed of by the Government. Government order issued in July 1997 stated that in case the Forest Department failed to supply the agreed quantity of eucalyptus to these industries, it may direct the Kerala Forest Development Corporation (KFDC) to supply specified quantity of eucalyptus at the rate agreed upon.

In the Office of the Chief Conservator of Forests, Thiruvananthapuram it was noticed that KFDC supplied 58935.798 metric tonnes of eucalyptus between 1997-98 and 2000-01 to the two industrial undertakings, at Government rates and collected from them the additional price and the tax amounting to Rs 29.50 lakh payable to Government. No action was, however, taken by the Forest Department for the realisation of the amounts irregularly collected and retained by the KFDC.

On this being pointed out, the Department stated that they had proposed to the Government for withholding Rs 29.50 lakh, from the subsidy due to KFDC.

The matter was reported to Government in March 2003; their reply has not been received (October 2003).

7.3. Excess payment of subsidy

Agreement executed in October 1974 between the Government of Kerala and the Hindustan Paper Corporation Ltd. (HPCL) provides for the supply of specified quantity of raw materials like eucalyptus, bamboo and reeds every year to HPCL's factory viz. Hindustan Newsprint Ltd. (HNL) at the value (i.e. royalty) agreed upon from time to time and taxes thereon. When the Government fails to supply the specified quantity of eucalyptus to HNL, it may direct the Kerala Forest Development Corporation (KFDC) to supply specified quantity of eucalyptus at the rate agreed upon, and shall pay by way of subsidy to KFDC the difference between the rate agreed upon with HPCL and the price fixed by KFDC on no profit no loss basis. Government raised in December 2000 the rate of royalty on eucalyptus from Rs 438 to Rs 518 per metric tonne for the period from 1 September 1999 to 31 March 2000.

The KFDC fixed the rate of eucalyptus at Rs 1,120 per metric tonne for 1999-2000 and supplied 21038.72 metric tonnes to HNL as per the orders issued by Government in September and December 1999 and collected royalty at Rs 438 per metric tonne instead of Rs 518 per metric tonne and realised (August 2000) from Government subsidy of Rs 1.44 crore at the differential rate of Rs 682 per metric tonne. On enhancement of royalty payable by HNL, the Forest Department had to realize from KFDC subsidy of Rs.16.83 lakh paid in excess at the differential rate of Rs 80 per metric tonne. However, no action was taken by the Department for realising the excess subsidy paid over to KFDC (August 2003).

This was pointed out to the Department in August 2002 and reported to Government in February 2003. The Department stated in September 2003 that

they had directed KFDC to remit the excess claim back to the Forest Department and if it was not paid, the same would be recovered from the subsidy due to it. Further report has not been received (October 2003).

7.4. Short demand of interest

Government leased out forest land to Kerala Forest Development Corporation for raising plantation and other purposes. Lease rent at the rate prescribed by Government from time to time is payable by the lessees. If lease rent for each financial year is not paid before the last day of that year, compound interest at the rate of 2.5 *per cent per annum* is recoverable for the period of default. Government fixed (January 2002) the rate of lease rent for lands cultivated with trees and that cultivated with cash crops at Rs 25 and Rs 100 per hectare *per annum* respectively from the date of lease till 31 March 2002 and at the rate of Rs 50 per hectare and at Rs 200 per hectare respectively thereafter.

In Divisional Forest Office, Achencovil, on 791.01 hectares of forest land leased out to the Corporation, lease rent for the period from 15 September 1977 to 31 March 2002 and interest due thereon was correctly worked out to Rs 6.75 lakh by the Department. However, only Rs 5.10 lakh was actually demanded. This resulted in short demand of interest of Rs 1.65 lakh.

The matter was pointed out, to the Department in June 2002, no reply has been received (October 2003).

The matter was reported to Government in March 2003. They stated in October 2003 that direction had been given to the Corporation to remit Rs 1.65 lakh. Further report has not been received (October 2003).

OTHER NON-TAX RECEIPTS

7.5. Review : Receipts from the Co-Operative Department

Highlights

- There was no follow up action to realise the arrears of Rs 67.77 crore.
(Paragraph 7.5.6)
- The Department failed to maintain proper accounts of disbursements of Rs 164.30 crore.
(Paragraph 7.5.8)
- There was no entry in any records of the Department for disbursement of Rs 21.88 crore.
(Paragraph 7.5.8)
- The Department had to forego audit fee/cost of Rs 30.55 crore due to not conducting audit.
(Paragraph 7.5.10.)

- The Department failed to raise demand of interest/penal interest of Rs 8.47 crore due on loans and share capital contribution.
(Paragraphs 7.5.11. and 7.5.12.)
- The Department failed to raise demand of guarantee commission of Rs 6.32 crore due from a Bank.
(Paragraph 7.5.13.)

Introduction

7.5.1. The Kerala Co-operative Societies Act, 1969, and the rules made thereunder provide for promotion, registration, development, supervision, inspection and annual audit of co-operative societies. Major receipts from the Co-operative Department are audit fee, arbitration fee, liquidation charges, fee for appeal or revision, interest/penal interest on loan, penal interest for delay on retirement of share capital, dividend on share capital and guarantee fee, etc. As on 31 March 2002, there was one State Co-operative Bank, one State Co-operative Agricultural and Rural Development Bank, 14 District Co-operative Banks and eight apex societies in the State. There were 11,927 registered societies out of which 2181 were defunct as on 31 March 2001.

Organisational set up

7.5.2. The Department is headed by the Registrar of Co-operative Societies who is assisted by five Additional Registrars and three Joint Registrars at Headquarters. There are separate wings for the administration and the audit of Co-operative institutions under him. The Department is to recover audit fee, dividend, loans with interest thereon and retirement of share capital with penal interest, etc. At the District level, there are two Joint Registrars, one to look after the administration of co-operative societies and the other to oversee the audit of accounts of the societies, while at the Taluk level there are two Assistant Registrars, one for administration and the other for audit. Under them there are Inspectors and Auditors for inspection, audit and other field duties.

Audit Objectives

7.5.3. A review of the accounts of the Department for the years 1997-98 to 2001-2002 was conducted during the period from October 2002 to February 2003 in the offices of the Registrar of Co-operative Societies, six* out of 14 District Offices of the Joint Registrars (General) and the Joint Registrars (Audit) and the Assistant Registrar (General) and the Assistant Registrar (Audit), Thiruvananthapuram to ascertain whether

- audit fees/audit cost, dividend, interest/penal interest on loan/ penal interest on share capital contribution etc., was demanded in accordance

* Alappuzha, Ernakulam, Kozhikode, Pathanamthitta, Thiruvananthapuram and Thrissur

with the provisions in the Act/Rules and timely action was taken for their realisation;

- the accounts/registers were maintained properly;
- audit of the institutions/societies was being conducted regularly; and
- proper internal control mechanism existed for the implementation of the provisions in the Act/Rules.

Trend of revenue

7.5.4. Audit fee, grant from National Co-operative Development Corporation (NCDC), arbitration fee, cost of audit and interest from co-operative societies constituted the major source of income of the Department. The revenue receipts for five years from 1997-98 to 2001-02 were as under.

(Rupees in crore)

Sl. No.	Category of receipts	Years				
		1997-98	1998-99	1999-00	2000-01	2001-02
1	Audit fees	1.06	1.20	1.46	2.27	2.12
2	Cost of Audit	7.92	9.69	14.47	13.10	10.86
3	Arbitration fees	3.34	4.20	5.20	5.53	5.24
4	Interest from Co-operative Societies	7.22	3.91	3.97	2.46	2.42
5	Liquidation charges appeal fees and other receipts	0.88	0.67	1.05	1.43	1.33
6	Grants from NCDC	1.02	3.31	1.31	1.13	1.57
TOTAL		21.44	22.98	27.46	25.92	23.54

The total revenue declined by Rs 2.38 crore in the year 2001-02 when compared with the receipt for the previous year.

Reasons for the reduction though called for (July 2003) from the Department have not been received as of date (October 2003).

Budget estimates and actuals

7.5.5. The budget estimates and the actuals during the period 1997-98 to 2001-02 were as under.

(Rupees in crore)

Year	Receipt head of account in the State budget								
	0425 Co-operation			0049 Interest – Receipts 195- Interest from Co-operative Societies			0050 Dividend and Profits 200 Dividends from other Investments (02) Other Co-operatives		
	Budget estimates	Actuals	Variation	Budget estimates	Actuals	Variation	Budget estimates	Actuals	Variation
1997-98	15.58	14.22	(-)1.36	3.16	7.22	(+) 4.06	0.65	0.72	(+) 0.07
1998-99	19.84	19.08	(-) 0.76	4.03	3.91	(-) 0.12	0.65	0.90	(+)0.25
1999-00	26.31	23.49	(-)2.82	4.58	3.97	(-) 0.61	0.65	0.96	(+) 0.31
2000-01	25.48	24.36	(-)1.12	5.83	2.46	(-) 3.37	1.25	1.57	(+) 0.32
2001-02	35.67	21.12	(-)14.55	4.08	2.42	(-) 1.66	1.15	0.63	(-) 0.52

There was a short fall of Rs 14.55 crore (41 *per cent*) in actual receipt under Co-operative Receipts in the year 2001-02. Reason for variation though called for in February 2003 has not been furnished (October 2003).

Arrears of revenue

7.5.6. Arrears of revenue pending collection as per the Demand Collection and Balance (DCB) statements of Registrar of Co-operative Societies under various categories as on the dates specified against them were as under.

(Rupees in crore)

Category of arrears	Period up to which DCB is prepared	Outstanding balance
a. Interest and penal interest on loan due from		
(i) apex societies	31 March 2002	54.75
(ii) other societies	31 December 2001	2.99
b. Penal interest on share capital over due from		
(i) apex societies	31 March 2002	1.05
(ii) other societies	31 December 2001	0.51
c. Audit Fee	31 March 2002	1.65
d. Audit cost	31 March 2002	1.26
e. Dividend	31 December 2001	0.13
f. Guarantee Commission	31 March 2001	5.43
TOTAL		67.77

• Arrears of Rs 52.27 crore which constituted 77 *per cent* of total arrears were due from Kerala State Co-operative Marketing Federation (Rs 26.78 crore), Kera Karshaka Federation (Rs 20.35 crore) and Kerala State Co-operative Consumer Federation (Rs 5.14 crore).

• The year-wise details of arrears of revenue on account of interest and penal interest on loans, penal interest on overdue share capital, audit fee/cost etc., pending collection were not available with the Registrar of Co-operative Societies.

• Audit cost recoverable in advance for conducting concurrent audit is based on the average cost of officials deputed for the purpose at the rates fixed by Government from time to time. The Government had also reiterated in February 1987 that the cost of concurrent audit be realised in advance.

It was, however, observed that audit cost was not being realised in advance in accordance as it was clear from the above table that a sum of Rs 1.26 crore was in arrears as on 31 March 2002.

Failure of special drives for collection of arrears

7.5.7. The Registrar of Co-operative Societies launched a special drive on 1 March 2001 for 20 days to collect 100 *per cent* arrears of Rs 14.07 crore due to Government from co-operative institutions towards audit fee and interest including penal interest as on 28 February 2001. It was, however, noticed that the Department could realise Rs 1.47 crore, which was only 10 *per cent* of the total arrears.

Again in December 2001, another special drive was launched to recover within one month at least 80 *per cent* of the arrears. However, the Department could collect only Rs 1.41 crore out of total arrears of Rs 27.64 crore as on 30 November 2001 which was five *per cent* of the total arrears.

The special drives launched by the Department to recover the arrears could not achieve the desired results.

Non-maintenance of basic records by the Registrar

7.5.8. The responsibility for watching recoveries of loans and other repayable financial assistance with interest thereon rests with the disbursing officer. The disbursing officer has, therefore, to maintain loanee-wise/beneficiary-wise accounts of disbursements and recoveries.

- The outstanding balance of loan and share capital contribution disbursed by the Registrar to the State Co-operative Bank, the apex societies and the District Co-operative Banks, amounted to Rs 66.34 crore and Rs 67.67 crore respectively as at the end of March 2001. However, loanee-wise/beneficiary-wise accounts of disbursements and repayments were not maintained by him. The Registrar, instead of preparing the DCB statement by himself, consolidated the DCB statements of the loanee/beneficiary institutions prepared by the concurrent auditors attached to such institutions.

- Share capital contribution and loan assistance to District Co-operative Banks were envisaged under the Integrated Co-operative Development Project (ICDP) implemented in the State from 1988-89 onwards. As of 31 March 2001, the Registrar disbursed share capital contribution and loan assistance aggregating Rs 30.29 crore to four* District Co-operative Banks for which proper accounts were not maintained; beneficiary-wise DCB statements were not prepared and recoveries thereof not watched.

* Kottayam, Palakkad, Pathanamthitta and Thrissur

- As per the information collected by audit, the following disbursements on account of share capital/loans were not accounted for by the Registrar though the recipients accounted for the receipts in their books.

(Rupees in crore)

Sl. No.	Name of recipients of financial assistance	Nature of receipt	Period/date of disbursement	Amount
1.	Kerala State Co-operative Agricultural and Rural Development Bank, Thiruvananthapuram	Share capital contribution	31 March 1996	1.00
			31 March 1997	1.00
			31 March 1998	2.00
			31 March 2000	2.00
2.	Federation of SC/ST Development Co-operative Society, Thiruvananthapuram.	Share capital contribution	1982-83 to 1997-98	1.23
3.	Kerala State Co-operative Bank, Thiruvananthapuram	Share capital contribution	24 August 1988	1.20
			31 March 1998	2.00
4.	District Co-operative Bank, Kottayam	Share capital contribution	Up to 1992-93	4.27
		Loan	Up to 1992-93	2.78
5.	District Co-operative Bank, Palakkad	Share capital contribution	Up to 1992-93	2.66
		Loan	Up to 1992-93	1.07
6.	Federation of SC/ST Development Co-operative Society, Thiruvananthapuram	Loan	1985-86 to 1997-98	0.67
TOTAL				21.88

The reasons for omissions though called for have not been furnished (July 2003) by the Department.

7.5.9. According to the Registrar, he disbursed the following amounts to the Federation of SC/ST Development Corporation Ltd. towards share capital contribution.

(Rupees in lakh)

Sl. No.	Date of disbursement	Amount
1.	31 March 1998	33.95
2.	23 December 1998	20.00
3.	January 1999	5.80
4.	25 March 2000	30.00
5.	31 March 2000	15.00
Total		104.75

However, these amounts were not accounted for in the books of accounts of the recipient resulting in non-repayment of instalments thereof with interest due to Government.

From the above it was evident that there existed no internal control mechanism to ensure that all disbursements made by the Registrar were properly accounted for in his accounts and the recoveries thereof watched.

Pendency in audit

7.5.10. The Act provides for the audit of every society at least once every year by the auditors appointed specially and exclusively for the purpose. The audit is either unit audit which is conducted after the expiry of the accounting year and audit fee charged at the rate fixed by Government, or concurrent audit of society by charging audit cost of the staff deployed.

Number of audits fallen due for completion was 38,791 as on 31 March 2002. The age-wise break-up of arrears was as under.

Period for which audit was pending	Number of audit pending		Total
	unit audit	concurrent audit	
5 years	285	39	324
4 years	950	51	1,001
3 years	2,543	177	2,720
2 years	5,026	450	5,476
1 year	10,816	1,047	11,863
Current	15,784	1,623	17,407
	35,404	3,387	38,791

During the year 2001-02 the Department completed 11,236 unit audits and 1,528 concurrent audits, and realised audit fee worth Rs 2.12 crore and audit cost worth Rs 10.86 crore. The average fee/cost worked out to Rs 1,890 per unit audit and Rs 70,449 per concurrent audit. At this average rate the Department had forgone Rs 30.55 crore during last five years due to not conducting of 38,791 unit/concurrent audits.

Non-demand/short demand of interest/penal interest on loans

7.5.11. According to the Rules for financial assistance to primary societies for various NCDC sponsored schemes, the assistance by way of share capital contribution and loan shall be released through the district co-operative bank which is the implementing agency. Responsibility for recovery of loan with interest according to the formula and time schedule fixed by NCDC vested with the bank. The bank should repay the amount to the Government as per the terms and conditions.

- It was noticed that three district co-operative banks[▼], short remitted interest of Rs 3.30 crore on loan aggregating Rs 8.37 crore disbursed to primary societies during the period from 1988-89 to 2001-02. The Registrar neither worked out the interest payable to Government by the banks nor ensured the correctness of the interest remitted by the banks.

[▼] Kottayam, Palakkad and Pathanamthitta,

On this being pointed out by audit, the Registrar stated in March 2003 that the District Co-operative Bank, Pathanamthitta remitted Rs 1.10 crore in March 2003.

- Government in March 1997 released loan of Rs 0.97 crore at the interest rate of 16.75 *per cent* and penal (overdue) rate of interest of 19.25 *per cent* to the Kerala State Co-operative Rubber Marketing Federation for undertaking marketing and distribution activities. The loan was repayable in 10 annual equal installments after a moratorium period of one year. The federation had not remitted any amount towards principal. The interest of Rs 0.85 crore due up to 31 March 2002 on the principal repayable was neither remitted by the federation nor demanded by the Registrar.

- Under the Rules framed in January 1979 for loans by Government to Co-operative Marketing Societies for establishing processing units, the loan shall bear interest at the rate fixed by Government from time to time on the basis of the rates Government has to pay to NCDC.

As per the information collected by audit, the Kerala State Rubber Marketing Federation received (between 1986-87 and 1996-97) from Government loan aggregating Rs 7.17 crore with moratorium period ranging from one to five years for repayment, for establishing processing units. Interest due on the loan for the moratorium period up to 31 March 2002 worked out to Rs 3.21 crore against Rs 0.35 crore reckoned by the Registrar resulting in short demand of interest of Rs 2.86 crore.

The Department accepted in January 2003 the omission. However, no demand has been raised so far (October 2003).

- Loan of Rs 1.80 lakh bearing interest at the rate of 10 *per cent* and repayable in 12 annual instalments after a moratorium of three years was released to the North Malabar District Co-operative Supply and Marketing Society, Kozhikode in June 1983 and March 1984. The Society repaid the loan in lump in August 2000. Interest of Rs 3.02 lakh due up to the date of repayment was neither remitted by the Society nor demanded by the Department.

On this being pointed out by Audit, the Department issued in November 2002 demand notice. Further report has not been received (October 2003).

- Loan of Rs 12.29 lakh, with interest of 9.5 *per cent* and penal interest of 2.75 *per cent* for delay in payment, was outstanding out of earlier loans against Alappuzha District Co-operative Consumer Store as at the end of March 1988. Government while sanctioning re-vitalisation in September 1990 with moratorium of ten years, waived interest due up to the end of March 1988

As per the revised schedule, repayment of principal along with interest was to be made in 10 equal annual instalments commencing from 31 March 1999. Interest and penal interest amounting to Rs 16.55 lakh as of 31 March 2002 was neither demanded by the Department nor remitted by the Society.

The Department accepting the audit observation stated in January 2003 that action would be taken to collect the dues.

Short-demand of penal interest on share capital retirement

7.5.12. According to the Rules for the grant of share capital contribution to Apex and district marketing societies for implementing the scheme to provide margin money to co-operative societies for marketing fertilisers, agricultural inputs and other agricultural products, the share capital shall be retired completely in 10 equal annual instalments, the first instalment being payable on the sixth anniversary of the date on which the share contribution was made. Penal interest of 2.5 *per cent* shall be charged on belated repayments of share capital.

As per the DCB register of the Registrar for the year ended 31 March 2002, penal interest due from the apex societies on share capital investments of Government, aggregated Rs 1.05 crore which included Rs 0.04 crore due from Kera Karshaka Federation.

As per the information collected by audit, repayment of instalments of share capital contribution of Rs 4.13 crore disbursed to Kera Karshaka Federation from Government during the period April 1990 to March 1995, was to commence from April 1996 onwards. The Federation failed to retire the instalments of share capital contribution payable up to March 2002. Penal interest due from April 1996 to March 2002 on the defaulted instalments correctly worked out to Rs 1.30 crore against Rs 0.04 crore worked out and demanded by the Department. This resulted in short demand of penal interest of Rs 1.26 crore.

Non-demand of guarantee commission

7.5.13. Government gives guarantee to loans, cash credit accommodation, over drafts and other working capital requirement of Public Sector Undertakings and realises guarantee commission at the rate of 0.75 *per cent* on the outstanding balance of principal as at the end of each financial year and the interest due thereon, unless specifically exempted.

On Government guarantee, the Kerala State Co-operative Agricultural and Rural Development Bank received Rs 190 crore from NABARD between

March 1994 and March 1997. The rate of interest fixed by NABARD ranged from 6.50 *per cent* to 9.50 *per cent*. Department neither calculated nor demanded the guarantee commission. However, the bank on its own made payment of guarantee commission of Rs 1.51 crore during 1998-99. On reckoning interest at the lowest rate of 6.50 *per cent*, guarantee commission due as on 31 March 1998 worked out to Rs 3.28 crore resulting in short-remittance of Rs 1.77 crore. Guarantee commission due from 1 April 1998 to 31 March 2002 worked out to Rs 4.55 crore. The Department neither calculated nor demanded the guarantee commission of Rs 6.32 crore due up to the end of March 2002.

Internal control

7.5.14. Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. They also help in prevention of loss of revenue and in the creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of duties. Internal audit is expected to provide an assurance regarding the adequacy and effectiveness of internal controls.

In the Co-operative Department, the internal control mechanism should normally ensure that the unit audit/concurrent audit of the Co-operative institutions is regularly conducted and interest/penal interest of loans and penal interest of share capital contribution overdue for retirement is demanded and realised regularly.

The Department had not constituted an Internal Audit Wing (IAW). Hence there existed no institutional arrangement to systematically provide assurance on the adequacy and effectiveness of internal controls.

Recommendations

7.5.15. Government may consider the following measures in public interest.

- Registrar of Co-operative Society should take effective steps to clear the arrears in audit within a time frame and conduct unit/concurrent audit regularly.
- Government may take effective steps to recover the arrears, if necessary by denying fresh loans/guarantee to the defaulters.

- A system may be put in place for the maintenance of proper accounts of loan and share capital contribution for preparation of its own DCB registers.
- A system may be evolved to raise demand of interest and penal interest on loans/ retirable share capital contribution promptly from the beneficiaries. The Government may call for periodical returns from the department in this regard for effective monitoring.
- Direction may be issued for conduct of internal audit to ensure the compliance with various provisions in the Act/Rules for effective internal control.

The above defects were brought to the notice of Government in April 2003. Their reply has not so far been received (October 2003).



Thiruvananthapuram,
The

(ARVIND K. AWASTHI)
Principal Accountant General (Audit), Kerala

22 MAR 2004

Countersigned



New Delhi,
The

(VIJAYENDRA N. KAUL)
Comptroller and Auditor General of India

25 APR 2004

Appendix

(Reference: Paragraph 1.15)

Year wise analysis

Year of Audit Report	Date of presentation to the Legislature	Due date for ATN	Delay in terms of month up to October 2003	Number of paragraph for which ATN not furnished
1993-94	25.4.1995	24.8.1995	98	2
1994-95	4.3.1996	3.6.1996	88	2
1995-96	11.3.1997	10.6.1997	76	6
1996-97	23.4.1998	22.7.1998	63	3
1997-98	19.2.1999	18.5.1999	53	7
1998-99	21.2.2000	21.5.2000	41	2
1999-2000	1.3.2001	1.6.2001	29	7
2000-01	11.3.2002	11.6.2002	16	31
Total				60

Department wise and age wise analysis

Period of delay	Commercial Tax		Excise	Motor Vehicles	Registration	Land Revenue	Forest	Others	Total
	Sales Tax	Agricultural Income Tax							
Between 12 months and 23 months	10	6		7		3		5	31
Between 24 months and 59 months	1					6		9	16
Between 60 months and 119 months		1				9	1	2	13
Total	11	7		7		18	1	16	60

