



REPORT
OF THE
COMPTROLLER AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED

31 MARCH 1997

NO. 1

(REVENUE RECEIPTS)

GOVERNMENT OF HARYANA



REPORT
OF THE
COMPTROLLER AND
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FOR THE YEAR ENDED

31-MARCH 1957

NO. 1

(REVENUE RECEIPTS)

GOVERNMENT OF MYSORE

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Prefatory Remarks

This Report for the year ended 31 March 1997 has been prepared for submission to the 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 taxes on sales, trade etc., stamp duty and registration fees, electricity duty, passengers and goods tax, state excise duty, taxes on motor vehicles, entertainments duty and show tax and 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 1996-97 as well as those noticed in earlier years but could not be included in previous Reports.

Preliminary Remarks

This Report for the year ended 31 March 1997 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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OVERVIEW

This Report includes 41 Paragraphs including 3 Reviews, relating to non/short levy of taxes, duties, interest, penalties etc. involving Rs.50.52 crores. Some of the major findings are mentioned below:

(Paragraph 1.7)

1. General

- ⊙ *During the year 1996-97, revenue raised by the State Government, both Tax (Rs.2,143 crores) and Non-Tax (Rs.3,133 crores), amounted to Rs.5,276 crores as against Rs.4,356 crores during the previous year. Receipts under Taxes on Sales, Trade etc. (Rs.1380 crores), Stamp Duty and Registration Fees (Rs.273 crores) and Taxes on Goods and Passengers (Rs.260 crores) accounted for a major portion of receipts of tax revenue. Under Non-Tax revenue, main receipts were from Miscellaneous General Services (Rs.2,360 crores), Road Transport (Rs.307 crores) and Interest Receipts (Rs.238 crores).*
- ⊙ *Receipts from Government of India during the year, including grants-in-aid of Rs.341 crores, aggregated to Rs.773 crores.*

(Paragraph 1.1)

- ⊙ *Arrears of revenue at the end of 1996-97 under principal heads of revenue amounted to Rs.217.95 crores, out of which Rs.76.86 crores were outstanding for more than 5 years.*

(Paragraph 1.4)

Overview

- 3,61,082 assessment cases were pending finalisation under Taxes on Sales, Trade etc. (3,60,325), and Passengers and Goods Tax (757) at the end of March 1997 as against 3,01,688 cases (T.S.T.: 3,01,453, P.G.T.: 235) pending on 31 March 1996.

(Paragraph 1.5)

- Test check of records of taxes on sales, trade etc., stamp duty and registration fees, electricity duty, passengers and goods tax, state excise, taxes on motor vehicles, entertainments duty and show tax, co-operation, state lotteries, agriculture, irrigation, mines and geology and public health departments conducted during 1996-97 revealed under assessment of taxes and duties/loss of revenue etc. amounting to Rs.4,958 lakhs in 28022 cases. The concerned departments accepted under assessments etc. of Rs.811.20 lakhs of which Rs.687.93 lakhs pertain to the year 1996-97 and the rest to earlier years. An amount of Rs.384.81 lakhs in 2094 cases had already been recovered.

(Paragraph 1.7)

- Inspection reports (issued upto December 1996) containing 5775 audit observations with money value of Rs.226.08 crores were not settled upto June 1997. Of these 883 inspection reports containing 1432 objections with money value of Rs.5.64 crores were outstanding for more than 5 years.

(Paragraph 1.8)

2

Taxes on Sales, Trade etc.

- Irregular computation of fixed capital investment resulted in excess sales tax incentives of Rs.294.85 lakhs in 19 cases.

(Paragraph 2.2.6(i))

- Irregular exemption/deferment of sales tax amounting to Rs.345.06 lakhs allowed to the exempted industrial units which did not achieve the required production.

(Paragraph 2.2.6(ii))

- Sales tax incentives of Rs.504.81 lakhs granted irregularly by entertaining applications beyond the prescribed time limit, by incorrect determination of Zone and by allowing exemptions to ineligible units.

(Paragraph 2.2.6(iii) to (v))

- Foregone revenue of Rs.241.35 lakhs not recovered in respect of 19 exempted units which either discontinued manufacturing activities during currency of exemption period or their eligibility certificates cancelled by the appropriate authorities.

(Paragraph 2.2.8)

- Under assessment due to calculating the notional tax liability on taxable turnover instead of on gross turnover resulted in loss of tax amounting to Rs.276.96 lakhs.

(Paragraph 2.2.9(i))

- Suppression of purchases resulted in non-levy of tax and penalty amounting to Rs.38.86 lakhs.

(Paragraph 2.3)

Overview

- *Incorrect deduction allowed against invalid declaration forms resulted in short realisation of Rs. 25.38 lakhs.*

(Paragraph 2.4)

- *Incorrect application of concessional rate of tax resulted in short levy of tax and interest of Rs. 25.09 lakhs.*

(Paragraph 2.5)

- *Inadmissible deduction from turnover resulted in short levy of tax and interest amounting to Rs. 29.58 lakhs.*

(Paragraph 2.6(a))

- *Non-levy of purchase tax resulted in under assessment of tax, interest and penalty amounting to Rs. 32.76 lakhs.*

(Paragraph 2.8)

- *Excess refund due to incorrect exemption from payment of tax resulted in excess refund of Rs. 9.21 lakhs.*

(Paragraph 2.13)

- *Under assessment of tax due to calculation mistake resulted in short levy of tax of Rs. 6.99 lakhs.*

(Paragraph 2.16)

3. Stamp Duty and Registration Fees

- *Short levy of stamp duty due to misclassification of instruments resulted in loss of revenue amounting to Rs. 196.18 lakhs.*

(Paragraph 3.2)

- *Under valuation of immovable properties resulted in evasion of stamp duty amounting to Rs. 9.42 lakhs.*

(Paragraph 3.3)

4. *Other Tax Receipts*

(A) *Electricity Duty*

A review on "Levy and collection of electricity duty" revealed the following:

- *Electricity Duty collected by Haryana State Electricity Board not deposited in treasury resulted in loss of revenue by way of interest amounting to Rs.20.47 crores.*

(Paragraph 4.2.6)

- *Failure of Haryana State Electricity Board to realise the deferred amount of electricity duty and interest from two sick industrial units resulted in non-realisation of revenue amounting to Rs.1.33 crores.*

(Paragraph 4.2.7)

- *Irregular grant of exemption of duty to industrial units resulted in non-realisation of revenue amounting to Rs.50.82 lakhs.*

(Paragraph 4.2.8)

- *Electricity duty on extended load from 59 industrial units not realised to the extent of Rs.48.44 lakhs.*

(Paragraph 4.2.9)

- *Electricity duty amounting to Rs.6.88 crores realised from the consumers by the Haryana State Electricity Board and shown as its own revenue and not paid to the Government.*

(Paragraph 4.2.14)

(B) Passengers and Goods Tax

- *Passengers and goods tax from 52 transport co-operative societies in 3 districts was not/short realised resulting in loss of revenue amounting to Rs.29.09 lakhs.*

(Paragraph 4.3)

5. Non-Tax Receipts

(A) Co-operation

A review on "Revenue receipts (other than interest) from Co-operative Societies" revealed the following:

- *A shortfall of Rs.220.48 lakhs in revenue realisation than expenditure incurred on audit staff of Co-operation Department in 5 years.*

(Paragraph 5.2.6)

- *Non-assessment of audit fee on the basis of audited profit resulted in short recovery of Rs.123.98 lakhs.*

(Paragraph 5.2.8)

- *Non-deposit of dividend on share capital of State Government resulted in loss of revenue amounting to Rs.54.04 lakhs.*

(Paragraph 5.2.11)

(B) Finance Department (State Lotteries)

- *Non/short deposit of sale proceeds of lottery tickets resulted in misappropriation/embezzlement of Rs.178 lakhs.*

(Paragraph 5.3)

(C) Agriculture

- *Purchase tax of Rs.95.51 lakhs on sugarcane short deposited by two sugar mills.*

(Paragraph 5.5)

(D) Irrigation

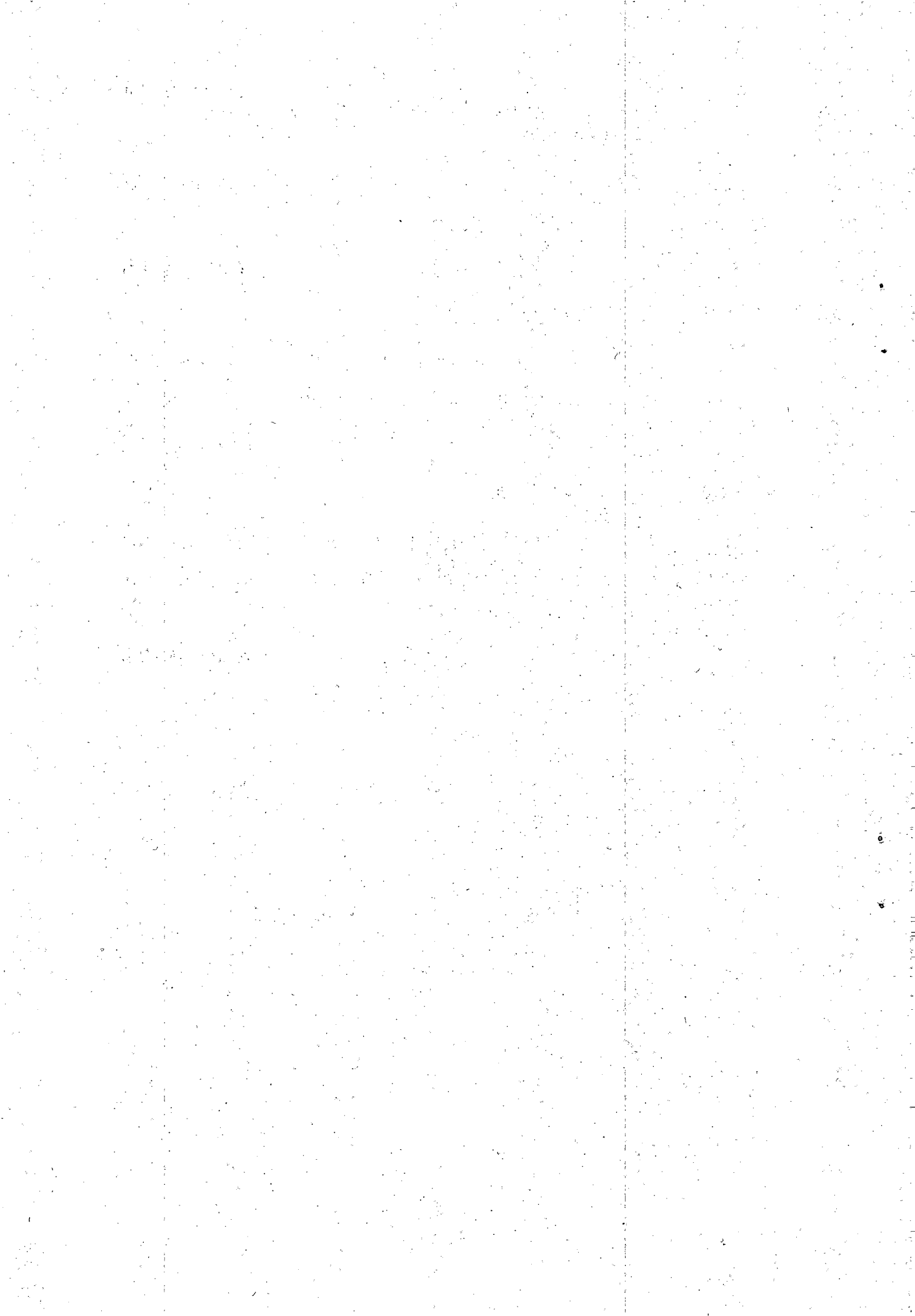
- *water charges amounting to Rs. 14.35 lakhs short recovered due to application of pre-revised rates.*

(Paragraph 5.6)

(E) Public Health

- *Penalty charges amounting to Rs.16.80 lakhs for illegal installation of electric pumps on water supply lines were not recovered.*

(Paragraph 5.10)



Chapter-I

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CHAPTER 1

GENERAL

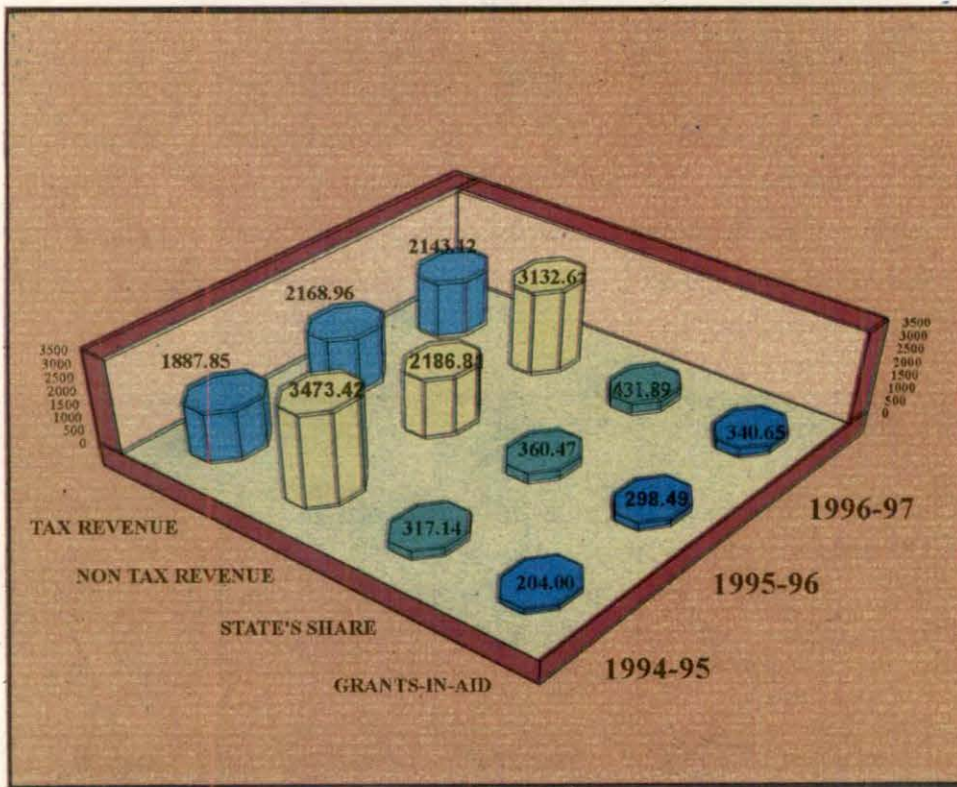
1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Haryana during the year 1996-97, State's share of net proceeds of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below and also exhibited in Chart 1:

Sl.No	Particulars	1994-95	1995-96	1996-97*
		(Rupees in crores)		
I.	Revenue raised by the State Government			
(a)	Tax revenue	1887.85	2168.96	2143.12
(b)	Non-tax revenue	3473.42	2186.81	3132.67
	Total (I)	5361.27	4355.77	5275.79
II	Receipts from Government of India			
(a)	State's share of net proceeds of divisible Union taxes	317.14	360.47	431.89
(b)	Grants-in-aid	204.00	298.49	340.65
	Total (II)	521.14	658.96	772.54
III	Total receipts of the State (I + II)	5882.41	5014.73	6048.33
IV	Percentage of I to III	91	87	87

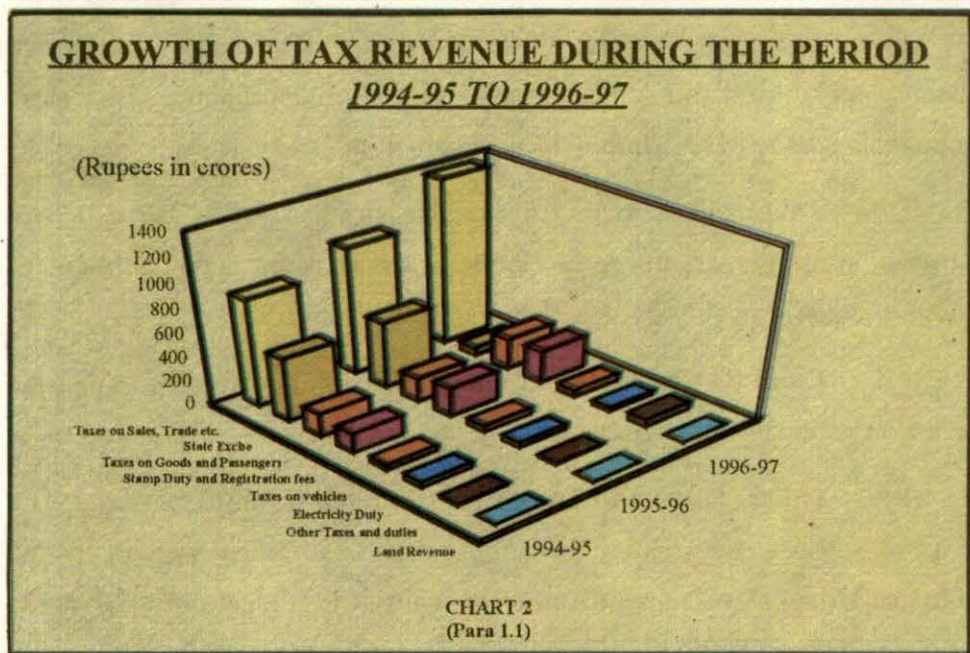
* For details please see "Statement No. II-Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of Government of Haryana for the year 1996-97. Figures under the head "0021-Taxes on Income other than Corporation Tax-share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's-share of divisible Union taxes in this Statement.

**TREND OF REVENUE RECEIPTS DURING
THE PERIOD 1994-95 TO 1996-97**



(i) The details of the tax revenue raised during the year 1996-97, along with figures for the preceding two years, are shown below and also exhibited in Chart 2:

Sl. No	Particulars	1994-95	1995-96	1996-97	Percentage of increase(+) or decrease (-) in 1996-97 over 1995-96
(Rupees in crores)					
1.	Taxes on Sales, Trade etc.	890.08	1055.41	1380.07	(+31)
2.	State Excise	529.34	552.96	64.14	(-88)
3.	Taxes on Goods and Passengers	194.80	201.16	259.64	(+29)
4.	Stamp Duty and Registration Fees	163.81	244.63	273.10	(+12)
5.	Taxes on Vehicles	45.58	52.82	61.59	(+17)
6.	Taxes and Duties on Electricity	48.00	46.46	35.48	(-24)
7.	Land Revenue	01.34	1.31	2.42	(+85)
8.	Other Taxes and Duties on Commodities and Services	14.90	14.21	66.68	(+369)
	TOTAL	1887.85	2168.96	2143.12	



Reasons for variations in receipts during 1996-97 compared to those of 1995-96, as intimated by the respective departments are as follows:

(a) **Taxes on Sales, Trade etc.**- The increase of **31 per cent** was due to increase in business activities, check of evasion of sales tax, road side checking by the enforcement staff and levy of sales tax on lotteries.

(b) **State Excise**:-The decrease of **88 per cent** was due to introduction of prohibition in the State w.e.f. 1 July 1996. All the excise licenses from which the major revenue was to come were withdrawn.

(c) **Taxes on Goods and Passengers**:- The increase of **29 per cent** was due to road side checking by the enforcement staff and imposition of tax on over loading of vehicles.

(d) **Stamp Duty and Registration Fees**:- The increase of **12 per cent** was due to the fact that the registration of sale deeds in respect of properties situated in Haryana in the presidency towns of Delhi, Bombay, Calcutta and Chennai has been banned. The entire income from those conveyance deeds comes to State exchequer. Besides this, pre-audit system has been introduced in Haryana, the recovery of deficient amount pointed out by internal audit as well as by Accountant General (Audit) was also paced up.

General

(e) **Taxes on Vehicles** - The increase of 17 per cent was due to extensive checking on routes and impounding of private vehicles and more revenue realised due to registration of new vehicles.

(f) **Taxes on electricity duty:-** The decrease of 24 per cent was due to cut in supply of power in Haryana, Court cases and deferment of payment of electricity duty in case of sick industrial units.

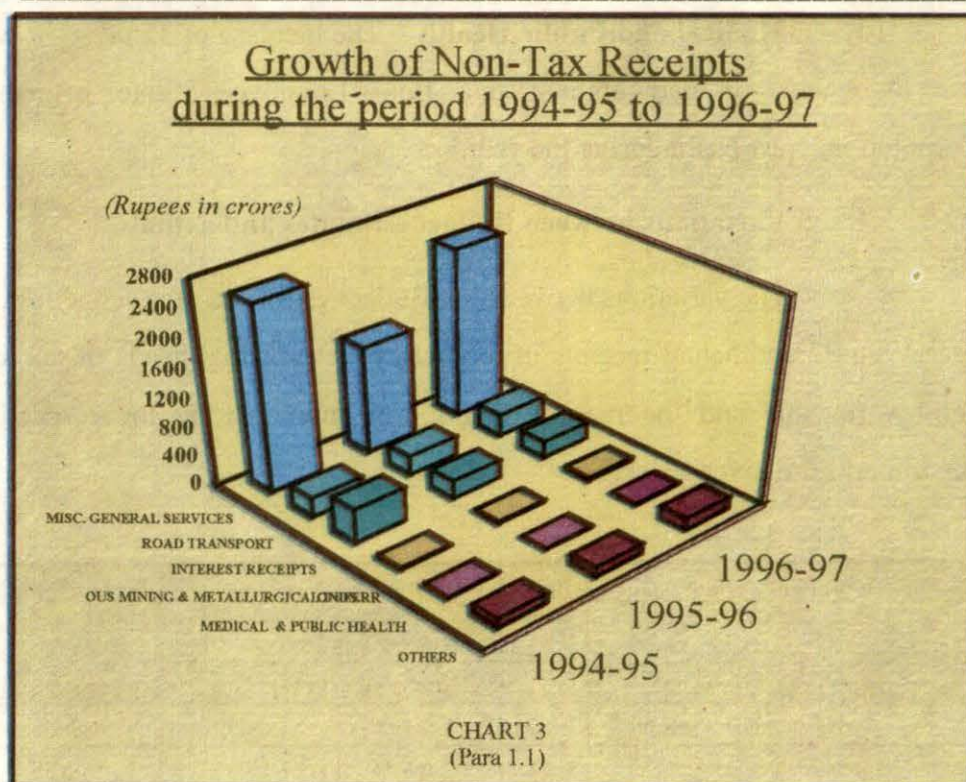
(g) **Land Revenue:-** The increase of 85 per cent was due to revision of rates of mutation/copying fee and revenue *talbana* during the year.

(h) **Other Taxes and Duties on commodities and services:-** The increase of 369 per cent was due to the fact that Rs.50 crores were deposited by Haryana Urban Development Authority against the Budget provision made under the Sub head "800- Other Receipts".

(ii) The details of major non-tax revenue received during the year 1996-97, along with the figures for the preceding two years are given below and also exhibited in Chart 3

Sl. No.	Particulars	1994-95	1995-96	1996-97	Percentage of increase (+) or decrease(-) in 1996-97 over 1995-96
(Rupees in crores)					
1.	Miscellaneous General Services	2565.43	1489.38	2359.73	(+)58
2.	Road Transport	271.97	272.62	307.36	(+)13
3.	Interest Receipts	476.09	256.93	237.56	(-) 8
4.	Non-ferrous Mining and Metallurgical Industries	22.65	23.13	43.10	(+)86
5.	Medical and Public Health	8.62	10.24	13.79	(+)35
6.	Others	128.66	134.51	171.13	(+)27
	TOTAL	3473.42	2186.81	3132.67	

The details against "Others" have been shown in the Appendix -I.



Reasons for variations in receipts during 1996-97 as compared to those of 1995-96 as intimated by the respective departments are as follows:

(a) **Miscellaneous General Services** -The increase of **58 per cent** was due to increase in sale of State lottery tickets as a result of revision of sales tax structure by Uttar Pradesh and Haryana Governments and also due to introduction of six new lottery schemes.

(b) **Road Transport**- The increase of **13 per cent** was due to revision of fare structure w.e.f 10 July 1996 as well as extensive checking of routes by the Transport Department.

(c) **Non-ferrous mining and metallurgical industries**-The increase of **86 per cent** was due to revision of rates of royalty w.e.f. 1 July 1996.

(d) **Medical and Public Health** - The increase of **35 per cent** was due to receipt of part amount due from Employees State Insurance Corporation, New Delhi during the year.

1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates of revenue for the year 1996-97 and actual receipts in respect of the principal heads of tax and non-tax revenue and the reasons therefor as intimated by the respective departments are given below :

Sl.No.	Heads of Revenue	Budget estimates	Actual receipts	Variations Increase (+) / Decrease (-)	Percentage of variation
		(Rupees in crores)			
1.	Taxes on Sales, Trade etc.	1375.37	1380.07	(+)4.70	Negligible
2.	State Excise	68.11	64.14	(-) 3.97	(-) 6
3.	Taxes on Goods and Passengers	262.25	259.64	(-)2.61	(-) 1
4.	Stamp duty and Registration fees	290.00	273.10	(-)16.90	(-) 6
5.	Taxes on vehicles	65.00	61.59	(-) 3.41	(-) 5
6.	Taxes and Duties on Electricity	35.00	35.48	(+) 0.48	(+) 1
7.	Land Revenue	2.48	2.42	(-) 0.06	(-) 2
8.	Other taxes and duties on commodities	68.20	66.68	(-)1.52	(-) 2
9.	Miscellaneous General Services	2347.01	2359.73	(+) 12.72	(+) 1
10.	Road Transport	312.00	307.36	(-) 4.64	(-) 1
11.	Interest Receipts	234.77	237.56	(+)2.79	(+) 1
12.	Non-ferrous mining and metallurgical industries	49.50	43.10	(-) 6.40	(-) 13
13.	Medical and Public Health	13.95	13.79	(-) 0.16	(-) 1

Non-ferrous mining and metallurgical industries - The decrease of **13 per cent** in 1996-97 over the budget estimates was due to closure of leases from time to time and pulverisers in Faridabad district also remained closed for 2 months at the instance of Haryana State Pollution Control Board.

Grant of short term permits in leased areas of Gurgaon and Faridabad remained suspended from June 1996 to December 1996. Contract for lease in Sonipat district remained inoperative since August 1996 on account of litigation.

1.3 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1994-95, 1995-96 and 1996-97 along with the relevant all India average percentage of expenditure on collection to gross collections for 1995-96 are given below:

Sl. No.	Heads of Revenue	Year	Gross collection	Expenditure	Percentage of expenditure to gross collection	All India percentage of cost of collection for the year 1995-96
			(Rupees in crores)			
1.	Taxes on Sales, Trade etc.	1994-95	890.08	16.22	1.82	
		1995-96	1055.41	17.90	1.70	1.29
		1996-97	1380.07	20.69	1.50	
2.	State Excise	1994-95	529.34	1.58	0.30	
		1995-96	552.96	1.74	0.31	3.20
		1996-97	64.14	3.84	5.99	
3	Stamp Duty and Registration Fees	1994-95	163.81	0.76	0.46	
		1995-96	244.63	0.81	0.33	3.46
		1996-97	273.10	0.91	0.33	
4.	Taxes on Vehicles	1994-95	45.58	1.72	3.77	
		1995-96	52.82	1.57	2.97	2.57
		1996-97	61.59	1.49	2.42	

1.4

Arrears in revenue

As on 31 March 1997, arrears of revenue under the principal heads of revenue, as reported by the departments, were as under:

Sl. No.	Heads of Revenue	Total arrears	Arrears more than 5 years old	Remarks
(Rupees in lakhs)				
1.	Taxes on Sales, Trade etc.	15614.47	4317.56	Out of Rs. 15614.47 lakhs, demand for Rs.2587.86 lakhs had been certified for recovery as arrears of land revenue. Rs.8506.42 lakhs had been stayed by the Courts and other Appellate Authorities. Rs.687.68 lakhs were held up due to dealers becoming insolvent and demands for Rs.754.68 lakhs were proposed to be written off. Specific action taken to recover the remaining amount of Rs.3077.83 lakhs though called for has not been intimated (September 1997).
2.	Taxes and Duties on Electricity	2542.43	2433.71	Out of arrears of Rs.2542.43 lakhs, duty of Rs.100 lakhs due from Haryana Concast Limited was deferred by the Government due to weak financial position of the company. Duty of Rs.30 lakhs due from Dadri Cement Factory, Dadri is likely to be written off being a closed unit (now taken over by a Corporation of Central Government). Cases of duty amounting to Rs.70.34 lakhs are pending in the Civil/Arbitration Courts. Detailed break up of the remaining amount of Rs.2342.09 lakhs was not available with the department.
3.	Taxes on Goods and Passengers	1293.22	261.71	Out of arrears of Rs.1293.22 lakhs, demands for Rs.10.53 lakhs had been certified for recovery, Rs.25.20 lakhs had been stayed by the Courts, Rs.0.24 lakh were proposed to be written off. Specific action taken to recover the remaining amount of Rs.1257.25 lakhs though called for has not been intimated (September 1997).

Sl. No.	Heads of Revenue	Total arrears	Arrears more than 5 years old	Remarks
(Rupees in lakhs)				
4.	State Excise	1211.22	396.81	Out of Rs.1211.22 lakhs demand of Rs.181.42 lakhs was covered under recovery certificate, recovery of Rs.654.45 lakhs was stayed by High Court and other Judicial Authorities, Rs.46.12 lakhs was proposed to be written off. Action regarding remaining amount of Rs.329.23 lakhs was not intimated by the department (September 1997).
5.	Other Taxes and Duties on Commodities and Services			
(i)	Receipts under the Sugarcane (Regulation of Purchase and Supply) Act	518.64	97.49	The arrears of Rs.518.64 lakhs was due to non-deposit of purchase tax by four Sugar Mills of Karnal (41.43 lakhs), Rohtak (147.76 lakhs), Panipat (201.06 lakhs) and Yamunanagar (128.39 lakhs). The department stated in July 1997 that the sugarcane mill owners had been asked to deposit the arrears.
(ii)	Receipts under the Punjab Entertainments (Cinematograph Shows) Act	20.48	-	Out of Rs.20.48 lakhs, recovery of Rs.1.80 lakhs had been stayed by the Courts and Rs1.14 lakhs were proposed to be written off. Action taken to recover the remaining amount of Rs.17.54 lakhs has not been intimated by the department (September 1997).
6.	Non-ferrous mining and Metallurgical Industries	342.39	105.85	Out of Rs.342.39 lakhs, Rs.52.63 lakhs were covered under recovery certificate process and recovery of Rs.17.70 lakhs had been stayed by Courts, dealers for recovery of Rs. 14.28 lakhs have become insolvent. Action taken to recover the remaining amount of Rs.257.78 lakhs has not been intimated by the department (September 1997).
7.	Co-operation	210.10	42.97	The amount of Rs.210.10 lakhs was outstanding on account of audit fees against various Co-operative societies.

Sl. No.	Heads of Revenue	Total arrears	Arrears more than 5 years old	Remarks
(Rupees in lakhs)				
8.	Land Revenue	4.61	-	Out of Rs.4.61 lakhs, recovery of Rs.0.97 lakh was proposed to be written off, Rs.0.21 lakh was stayed by High Court and other Judicial Authorities, demand of Rs.0.17 lakh was covered under recovery certificate. Action regarding remaining amount of Rs.3.26 lakhs was not intimated by the department (September 1997).
9.	Animal Husbandry	37.21	30.19	Out of Rs 37.21 lakhs, a sum of Rs.29.57 lakhs was due from Milk Unions Jind and Hisar. An amount of Rs.0.65 lakh had been stayed by Court. Rs. 0.41 lakh was due from Modern Dairy Hisar, National Seed Corporation Delhi, Seed farm Hisar and Milk Plant Jind. Rs.0.88 lakh was recoverable from various institutions for supply of vaccines to them. Action regarding remaining amount of Rs.5.70 lakhs was not intimated by the department (September 1997)..
	Total	21794.77	7686.29	

The arrears outstanding for more than five years constituted 35 *per cent* of the total arrears.

1.5 Arrears in assessment

The details of assessment cases of taxes on sales, trade etc. and passengers and goods tax pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and the number of cases pending finalisation at the end of each year

during 1992-93 to 1996-97 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 Col.5 to Col.4
(1)		(2)	(3)	(4)	(5)	(6)	(7)
1992-93	ST	110170	129510	239680	158640	81040	66
	PGT	379	322	701	501	200	71
1993-94	ST	81040	136358	217398	126973	90425	58
	PGT	200	135	335	262	73	78
1994-95	ST	90425	261613	352038	161998	190113	46
	PGT	73	191	264	74	117	28
1995-96	ST	190113	269783	459896	158443	301453	34
	PGT	117	509	626	391	235	62
1996-97	ST	301453	228407	529860	169535	360325	32
	PGT	235	1213	1448	691	757	48

The above table shows that the number of pending cases in respect of Taxes on Sales, trade etc. at the beginning of 1992-93 was 110170 which went up to 360325 at the end of 1996-97, registering an increase of **227 per cent** while the percentage of finalisation of assessment cases which had gone up to **34 per cent** during 1995-96, declined to **32 per cent** in 1996-97. The department had, however, taken no effective steps to check the increasing trend in arrears in assessment cases.

1.6 Frauds and evasions of taxes/duties

The details of cases of frauds and evasions of taxes and duties pending at the beginning of the year, number of cases detected by the departmental authorities, number of cases in which assessments/investigations were completed and additional demand (including penalties etc.) of taxes/duties raised against the dealers during the year and the number of cases pending finalisation at the end of March 1997, as supplied (July 1997) by the

respective departments, are given as under:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 1996	Cases detected during the year 1996-97	Number of cases in which assessments/ investigations completed and additional demand including penalty raised	Amount of Demand (Rupees in lakhs)	Number of cases pending finalisation as on 31 March 1997
1.	Taxes on Sales, Trade etc.	201	4108	4135	586.23	174
2.	Passengers and Goods Tax	65	905	921	25.69	49
3.	Entertainments Duty and Show tax	-	13	-	0.25	13
4.	Animal Husbandry	1	-	-	0.65	1

1.7 Results of Audit

Test check of the records of the departmental offices relating to revenues of Taxes on Sales, Trade etc, Stamp Duty and Registration Fees, State Excise, Electricity Duty, Entertainments Duty and Show tax, Taxes on Motor Vehicles, Passengers and Goods Tax, Mines and Geology, Co-operation, Public Health, State Lotteries, Agriculture and Irrigation conducted during the year 1996-97 revealed under assessment/non/short levy of taxes and duties and losses of revenue amounting to Rs.4958.18 lakhs in 28022 cases. During the course of the year 1996-97, the concerned departments accepted under-assessment etc. of Rs.811.20 lakhs involved in 16686 cases of which 16586 cases involving Rs.687.93 lakhs had been pointed out in audit during 1996-97 and the rest in earlier years. An amount of Rs.176.55 lakhs was recovered in 409 cases pointed out during 1996-97 and Rs.208.26 lakhs recovered in 1685 cases pointed out in earlier years.

The Report contains 41 paragraphs including 3 reviews relating to "Exemption/Deferment of Sales Tax to Industrial Units", "Levy and

Collection of Electricity Duty" and " Revenue Receipts (other than interest) from Co-operative Societies" involving Rs. 50.52 crores. The departments accepted audit observations involving Rs. 1771.34 lakhs out of which Rs. 131.95 lakhs had been recovered up to July 1997. No replies have been received in other cases.

1.8 Outstanding inspection reports and audit observations

(i) Audit observations on incorrect assessments, short levy of taxes, duties, fees etc. as also defects in initial records noticed during audit and not settled on the spot are communicated to the Heads of Offices and other departmental authorities through inspection reports. Serious financial irregularities are reported to the Heads of Departments and Government. The Heads of Offices are required to furnish replies to the inspection reports through the respective Heads of Departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1996 and which were pending settlement by the departments as on 30 June 1995, 1996 and 1997 are given below:

Particulars	At the end of June		
	1995	1996	1997
Number of inspection reports pending settlement	1918	2165	2447
Number of outstanding audit observations	4305	4982	5775
Amount of revenue involved (Rupees in crores)	74.34	106.23	226.08

(iii) Year-wise break-up of the outstanding inspection reports and audit observations as on 30 June 1997 is given below :

Year	Number of outstanding		Amount of receipts involved (Rupees in crores)
	Inspection reports	Audit observations	
Upto 1991-92	741	1043	1.06
1992-93	142	389	4.58
1993-94	428	773	29.04
1994-95	372	820	20.51
1995-96	436	1510	53.12
1996-97	328	1240	117.77
TOTAL	2447	5775	226.08

(iv) Department-wise break-up of the inspection reports and audit observations relating to the years 1988-89 to 1996-97 (upto December 1996) and outstanding as on 30 June 1997 is as follows:

Department	Number of outstanding		Amount of receipts involved (Rupees in crores)	Number of inspection reports to which even first replies had not been received
	Inspection reports	Audit observations		
Revenue* Department	573	943	5.51	15
Excise and Taxation**	571	2268	112.41	27
Transport	291	423	1.25	30
Forest	176	539	57.06	6
Others***	836	1602	49.85	104
Total	2447	5775	226.08	182

* This includes "Stamp Duty and Registration Fees" and "Land Revenue".

** This includes Sales Tax, Passengers and Goods Tax, Entertainments Duty and Show Tax and Prohibition and Excise.

*** The details against "others" have been shown in the Appendix-II.

The matter was brought to the notice of Government in June 1997; replies regarding steps taken to settle the outstanding inspection reports and Audit observations have not been received (September 1997).

General

The matter was brought to the notice of Government in 1917. Various enquiries were made to ascertain the outstanding arrears and audit objections have not been received (December 1917).

Chapter-II

Taxes on Sales, Trade etc.		
<i>Paragraph</i>	<i>Particulars</i>	<i>Page(s)</i>
2.1	Results of Audit	21-22
2.2	Exemption/deferment from payment of tax to new industries	22-46
2.3	Evasion of tax due to suppression of purchases	46-49
2.4	Under assessment due to incorrect deduction allowed against invalid declaration forms.	49-53
2.5	Incorrect levy of concessional rate of tax	53-56
2.6	Inadmissible deduction from turnover	56-59
2.7	Under assessment due to misclassification of goods	60
2.8	Non-levy of purchase tax	61-63
2.9	Irregular stay of tax	63-64
2.10	Application of incorrect rate of tax	65-67
2.11	Non-levy of tax	67-71
2.12	Under assessment due to excess rebate	71-72
2.13	Excess refund due to incorrect exemption from payment of tax	73-74
2.14	Evasion of tax due to low yield	74-75
2.15	Non-levy of penalty	76-77
2.16	Under assessment due to calculation mistake	77
2.17	Under assessment due to irregular computation of turnover	77-78
2.18	Non-reconciliation of revenue deposits into treasury	78-79

Sales Tax

1. The first part of the book is devoted to a general introduction to the subject of the history of the English language.	1
2. The second part of the book is devoted to a detailed study of the history of the English language from the beginning of the 15th century to the present day.	15
3. The third part of the book is devoted to a study of the history of the English language from the beginning of the 16th century to the present day.	35
4. The fourth part of the book is devoted to a study of the history of the English language from the beginning of the 17th century to the present day.	55
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10. The tenth part of the book is devoted to a study of the history of the English language from the beginning of the 23rd century to the present day.	175

CHAPTER 2

Taxes on Sales, Trade etc.

2.1 Results of Audit

Test check of sales tax assessments, refund cases and other connected records of 28 units conducted during the year 1996-97, revealed under assessments of sales tax amounting to Rs.1564.60 lakhs in 1365 cases, which broadly fall under the following categories:

Sl.No.	Particulars	Number of cases	Amount
			(In lakhs of rupees)
1.	Application of incorrect rate of tax	170	204.93
2.	Non/short levy of penalty	84	269.21
3.	Under assessment under the Central Sales Tax Act	63	196.69
4.	Incorrect computation of turnover	346	192.95
5.	Interest not charged on non-payment/delayed payment of tax	104	66.47
6.	Other irregularities	598	634.35
	Total	1365	1564.60

During the course of the year 1996-97, the department accepted under assessment of tax of Rs.208.06 lakhs involved in 188 cases of which 88 cases involving Rs.84.79 lakhs pointed out in audit during 1996-97 and the rest in earlier years. Of these, an amount of Rs.53.81 lakhs has been recovered in 131 cases.

A few illustrative cases involving Rs.300.24 lakhs and a review on "Exemption/deferment of sales tax to new industrial units" involving Rs.654.84 lakhs are mentioned in the following paragraphs:

2.2 Exemption/deferment from payment of tax to new industries

2.2.1 Introductory

In order to encourage the development of industries in the State, the Government of Haryana introduced (May 1989) a scheme for exemption/deferment of payment of sales tax in respect of new industrial units established and the units undertaking expansion/diversification during the operative period from 1 April 1988 to 31 March 1997 as under:

(i) New industrial units

Name of the Zone and area comprised therein	Small scale	Medium/Large scale	Time limit
Zone 'A' comprising centrally and state notified backward areas	150 % of fixed capital investment	125 % of fixed capital investment	9 years
Zone 'B' comprising areas other than zone 'A' and 'C'	125 % of fixed capital investment	100 % of fixed capital investment	7 years
Zone 'C' comprising Faridabad and Ballabgarh complex administration areas	100% of fixed capital investment	90 % of fixed capital investment	5 years

(ii) Units undertaking expansion/diversification

Name of the Zone and area comprised therein	Small scale	Medium/Large scale	Time limit
Zone 'A'	100 % of additional fixed capital investment	90 % of additional fixed capital investment	9 years
Zone 'B'	100 % of additional fixed capital investment	90 % of additional fixed capital investment	7 years
Zone 'C'	100 % of additional fixed capital investment	90 % of additional fixed capital investment	5 years

(iii) In the case of electronic industry, the benefit of the tax exemption or deferment shall be given equivalent to five times of the capital investment (with effect from 24 January 1991 and prior to this without limit) in such industry for a period of seven years irrespective of location of the unit.

In the case of exemption, the eligible unit is exempted from levy of tax on its products for the prescribed period. In the case of deferment, the eligible unit collects the tax levied on its products and is allowed to retain the tax for the prescribed period. The eligible unit which has availed of the benefit of sales tax deferment shall make payment of the deferred amount after the expiry of the period of five years to the extent of the amount deferred, every quarter or month, as the case may be, within the period specified in the rules.

2.2.2 Organisational set up

Eligibility certificate in respect of small scale industry is issued at district level by the General Manager, District Industries Centre after approval by the Lower Level Screening Committee comprising Additional Deputy Commissioner, General Manager, District Industries Centre of the concerned district and Deputy Excise and Taxation Commissioner incharge of the district. Eligibility certificate in respect of medium and large scale industry is issued at directorate level by the Additional Director of Industries after approval of the proposal by the Higher Level Screening Committee comprising Director of Industries, Excise and Taxation Commissioner (now Commercial Taxation Commissioner), Managing Director Haryana Financial Corporation, Managing Director Haryana State Industrial Development Corporation, representative of the Finance Department not below the rank of Deputy Secretary and Additional Director of Industries. Exemption/entitlement

certificate is issued thereafter by the Deputy Excise and Taxation Commissioner incharge of the district.

2.2.3 Scope of Audit

Out of 19 Sales Tax districts in the state, records in respect of 9* districts together with records of General Manager, District Industries Centres of these districts and Directorate of Industries for the period 1988-89 to 1995-96 were test checked (September 1996 to March 1997) with a view to ascertaining the irregular grant of exemption/deferment and to determine the possible loss of revenue and to check proper assessments of tax of the eligible industrial units which were granted exemption/deferment from payment of tax.

2.2.4 Highlights

- **Due to incorrect computation of fixed capital investment, sales tax incentives of Rs.294.85 lakhs in 19 cases were granted in excess by the Industries Department.**

(Paragraph 2.2.6 (i))

- **Five units in four districts were allowed sales tax exemptions/deferment of Rs.345.06 lakhs irregularly even though the units did not fulfil the conditions of expansion of fixed capital investment.**

(Paragraph 2.2.6 (ii))

- **In the case of 13 units, sales tax incentives of Rs.504.81 lakhs were granted irregularly by entertaining applications beyond the prescribed time limit, by incorrect determination of Zones and by allowing exemptions to units which were ineligible.**

(Paragraph 2.2.6 (iii) to (v))

* Ambala, Faridabad (East), Faridabad (West), Gurgaon (East), Gurgaon (West), Hisar, Rohtak, Sonipat, and Yamunanagar.

- 19 exempted units after availing benefit of Rs.241.35 lakhs either discontinued manufacturing activities or their eligibility certificates were cancelled by the appropriate screening committee; but no speedy action to recover the foregone revenue was taken.

(Paragraph 2.2.8)

- In 62 cases irregular deductions on account of sales to registered dealers amounting to Rs.4412.49 lakhs were allowed by calculating the notional tax liability on taxable turnover instead of on gross turnover which resulted in under assessment of tax of Rs.276.96 lakhs.

(Paragraph 2.2.9 (i))

- In 25 cases concessional rates of tax instead of maximum rate of tax prescribed under the rules were applied to calculate notional tax liability which resulted in under assessment of tax of Rs.60.34 lakhs.

(Paragraph 2.2.9 (ii)(a))

- Under assessment of tax of Rs.33.80 lakhs involved in 12 cases due to application of incorrect rate of tax.

(Paragraph 2.2.9 (iv))

2.2.5 Growth of industrial units under exemption/ deferment scheme

Prior to the introduction of the scheme of exemption/ deferment from payment of sales tax to new industries in the State there were 80100 industrial units in the small scale sector and 364 industrial units in medium and large scale sector as on 31 March 1988.

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Position of industrial units set up under this scheme during the operative period from 1.4.1988 to 31.3.1997 was as under:

Year	New Industrial units		Total	Expanded/Diversified Industrial units		Total
	Small scale	Medium and Large scale		Small scale	Medium and Large scale	
1988-89 to 1991-92	365	55	420	15	9	24
1992-93	297	17	314	5	9	14
1993-94	268	46	314	19	11	30
1994-95	338	34	372	32	6	38
1995-96	278	18	296	27	22	49
Total	1546	170	1716	98	57	155

Out of these, the number of industrial units discontinued during the period from 1988-89 to 1995-96 was as under and also shown in Chart 1.

Year	New Industrial units discontinued		Total
	Small scale	Medium and large scale	
Up to 1991-92	34	5	39
1992-93	13	2	15
1993-94	10	3	13
1994-95	14	2	16
1995-96	13	1	14
Total	84	13	97

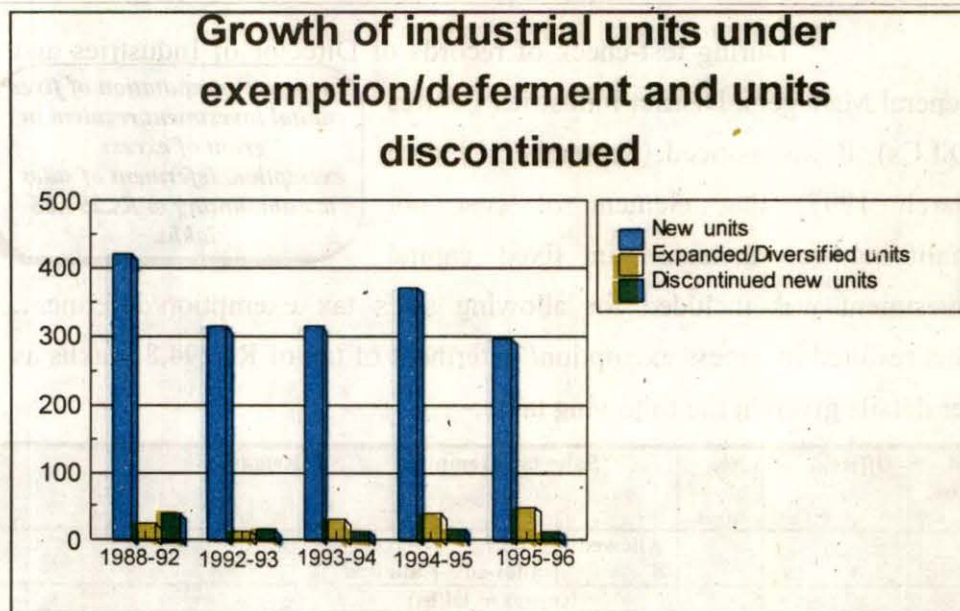


Chart 1

2.2.6 Irregularities in the grant of eligibility certificates

The eligibility certificates issued by the Industries Department form the basis of concessions of sales tax. Elaborate internal control mechanism comprising receipt of applications in the prescribed proforma, its scrutiny at various levels and a decision by competent officers regarding grant of eligibility or otherwise has been prescribed. It was found in audit that this mechanism did not ensure accurate decision making while granting eligibility certificates. A few illustrations of the failure of this mechanism are narrated below:

(i) Incorrect computation of fixed capital investment

As per Rule 28 A(2)(g) and explanation thereunder, fixed capital investment means investment in land under use, new building, new machinery (including generating set) tools and equipments, assets of the unit as erected at site and paid for as on any day falling within 60 days after the date of commencement of commercial production etc.

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During test-check of records of Director of Industries and General Managers, District Industries Centres (D.I.Cs), it was noticed (September 1996 to March 1997) that element of cost not qualifying for inclusion in fixed capital investment was included for allowing sales tax exemption/deferment. This resulted in excess exemption/ deferment of tax of Rs.294.85 lakhs as per details given in the following table:-

Incorrect computation of fixed capital investment resulted in grant of excess exemption/deferment of sales tax amounting to Rs.294.85 lakhs.

Sl. No.	Office	No. of cases	Sales tax exemption			Remarks
			Allowed	To be allowed	Excess allowed	
(Rupees in lakhs)						
1	Director of Industries	7	4128.11	3986.44	141.67	In these cases, cost of old machinery, payment made after the prescribed period of 60 days, cost of repair to old building, cost of transformers etc. and calculation mistake were included in the fixed capital investment for the purpose of calculating excess amount of exemption/deferment of Rs.141.67 lakh.s
2	D.I.C. Ambala	1	17.95	16.70	1.25	Exemption of Rs.1.25 lakhs was allowed in excess due to calculation mistake.
3	D.I.C. Yamuna-nagar	1	40.49	34.76	5.73	Machinery valuing Rs.4.58 lakhs not procured within 60 days was included to arrive at the amount of sales tax incentive.
4	D.I.C. Rohtak	1	37.92	30.23	7.69	Excess cost of building amounting to Rs.7.12 lakhs was included in fixed capital investment.
5	D.I.C. Faridabad	4	262.77	143.51	119.26	In these cases, either excess cost of land, cost of old machinery, calculation mistake or cost of assets relating to other party and allowing benefit by treating the expanded unit as new unit, was taken into account to arrive at fixed capital investment resulting in excess sales tax incentives.
6	D.I.C. Gurgaon	5	167.23	147.98	19.25	In these cases, either, excess cost of land, payment of assets made after 60 days, or calculation mistake was taken into account to arrive at fixed capital investment resulting into excess sales tax incentives.
Total		19	4654.47	4359.62	294.85	

The department intimated that revised eligibility certificates reducing the quantum of exemption by Rs.5.42 lakhs have been issued in two cases (Karnal: 4.17 lakhs, Ambala: 1.25 lakhs), admitted the observation in three cases and started action and enquiry in three other cases. Reply in remaining cases has not been received (September 1997).

(ii) Irregular expansion of industrial units

As per Rule 28A(2)(d) expansion of industrial unit means a unit set up or installed during the operative period, which creates additional production/manufacturing facilities for manufacture of the same product/products as of the existing unit and

(a) in which the additional fixed capital investment made during the operative period exceeds 25% of the fixed capital investment of the existing unit and

(b) which results into increase in annual production by 25% of the installed capacity of the existing unit in case of expansion.

Under the provisions of the Haryana General Sales Tax Rules, 1975, eligibility certificate granted to an industrial unit shall be liable to be withdrawn, with all consequential effects at any time during its currency by the appropriate screening committee, if it is discovered that it has been obtained by fraud, deceit, misrepresentation, mis-statement or concealment of material facts.

During test-check of records, it was noticed that out of five, three industrial units (one each of Rohtak, Hisar and Sonipat) did not achieve production up to the installed capacity of the existing unit; one unit of Yamunanagar could not

*Irregular exemption/
deferment of sales tax
of Rs.345.06 lakhs
allowed to the
expanded industrial
units which did not
achieve the required
production.*

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increase annual production by 25% of the installed capacity of the existing unit and in case of the unit at Hisar, there was no original unit. These units were allowed irregular sales tax exemption/deferment of Rs.345.06 lakhs as per details given in the following table.

Sl. No.	Office	No. of cases	Exemption/deferment allowed (Rupees in lakhs)	Remarks
1	Director of Industries	2	317.83	In one case of Rohtak, the benefit of exemption was granted by the Director of Industries by reducing the original installed capacity from 550 M.T. to 250 M.T. and revised eligibility certificate was granted by showing original installed capacity as 250 M.T. and expanded capacity as 500 M.T. which was irregular. In another case of Hisar, the actual production of the unit was 3338.631 M.T. and the benefit of exemption was granted by the Director of Industries by reducing the original installed capacity from 7500 M.T. to 2638 M.T. by way of amending the original eligibility certificate issued earlier, which was irregular.
2	D.I.C. Yamunanagar	1	2.28	The original installed capacity of the unit was 150 M.T. as per application. After expansion, during 1/93 to 12/93 the production was 172.2 M.T. Thus the unit did not increase production by 25%.
3	D.I.C. Sonipat	1	19.05	The benefit of exemption was granted by reducing the original installed capacity from 8.40 lakh units to 3 lakh units, thereby increasing the production capacity to 7.2 lakh units after expansion.
4	D.I.C. Hisar	1	5.90	As per D.E.T.C. report, the old unit (Biscuit manufacturing unit) was not in existence as all the chambers of electric oven had been removed and as such the exemption given to expanded unit was irregular.
	Total	5	345.06	

The provisions regarding withdrawal of eligibility certificates should have been invoked in all the cases, which has not been done.

(iii) Irregular acceptance of applications after prescribed time limit.

As per Rule 28 A (5) (a) of H.G.S.T. Rules, 1975, every eligible industrial unit shall make an application to the General Manager, District Industries Centre within 60 days (90 days with effect from 15.11.1991) of the date of its going into commercial production or the date of coming into force of this Rule whichever is later. No application shall be entertained if not preferred within time.

During test-check of records, it was noticed that five industrial units applied for tax benefits late by 91 days to 1012 days but tax exemption/deferment of Rs.36.12 lakhs was allowed as per details given in the following table.

Acceptance of applications for incentives after prescribed limit of time led to irregular exemption/deferment of Rs.36.12 lakhs.

Sl. No.	Office	No. of cases	Exemption/ deferment allowed (Rupees in lakhs)
1	D.I.C. Hisar	1	12.01
2	D.I.C. Ambala	1	6.64
3	D.I.C. Faridabad	1	2.44
4	D.I.C. Gurgaon	2	15.03
	Total	5	36.12

The department admitted the audit observation in one case of Gurgaon and intimated (March 1997) that eligibility certificate will be withdrawn. In two cases, one each of Faridabad and Gurgaon, exemption was allowed on the basis of condonation of delay by Higher Level Screening Committee (H.L.S.C.) in contravention of the Rules. In one case of Ambala the department intimated that the unit applied in time from date of permanent registration whereas it should have been from the date of commercial production. In one case of Hisar, exemption was allowed

by taking wrong date of commercial production as 30.9.1992 whereas the unit was already in existence and commercial production in 1990-91 as per the report of Deputy Excise and Taxation Commissioner. Thus, the replies furnished by the department in these cases are not tenable as tax exemptions were allowed by ignoring the facts and in contravention of provisions of Rule.

(iv) Incorrect determination of Zones

As per Rule 28A (4) (a) (I) of Haryana General Sales Tax Rules, 1975, quantum and period of sales tax exemption/deferment in respect of small scale units in Zone 'A'/Zone 'B' is 150/125% of fixed capital investment for 9/7 years from the date of commercial production or from the date of issue of entitlement/exemption as may be opted.

During test-check of records of General Manager, District Industries Centre, Sonipat, it was noticed (December 1996) that five units located in Zone 'B' were shown in Zone 'A' allowing excess exemption of Rs.6.62 lakhs from 125% to 150% and for two years in excess.

(v) Erroneous exemption/deferment

As per Rule 28 A (2) (a) and (f) (IV) of Haryana General Sales Tax Rules, 1975, "operative period" means the period starting from 1st day of April 1988 and ending on the 31st day of March 1997. Eligible industrial units are other than those shown in schedule III to these Rules i.e. in negative list.

(a) During test-check of records in the office of Director of Industries, it was noticed that in one case at Rewari, the unit was engaged in the manufacturing activities since

Irregular exemption/deferment of sales tax of Rs.288.07 lakhs allowed to an ineligible industrial unit and also engaged in manufacturing activities prior to operative period.

6.2.1985, prior to the operative period. The product manufactured by the unit was also covered under schedule III (not eligible for deferment). The department granted exemption for deferment of sales tax by treating the unit as new industrial unit and taking the date of its commercial production as 31.7.1990 which was not correct. This resulted in irregular deferment of Rs.288.07 lakhs.

(b) Similarly, another unit (mini paper mill) at Sirsa covered under schedule III (negative list) was not eligible for exemption. The unit was granted exemption from payment of sales tax by treating it a medium and large scale industry with increased production capacity of 10,000 M.T. per annum by taking 345 working days in a year instead of 300 days allowable for this purpose. Further, as the production of the unit is less than 30 M.T. per day the unit still falls in the category of mini paper mill. This resulted in irregular exemption of Rs.174 lakhs.

The department allowed irregular exemption of sales tax of Rs.174 lakhs to the unit not eligible for exemption.

2.2.7 Revenue foregone in exemption/deferment of tax

To ascertain the amount of sales tax deferred/ exempted, the Deputy Excise and Taxation Commissioner of each district is required to review the performance of each eligible industrial unit with the appropriate assessing authority every quarter and to send a special report to the Commercial Taxation Commissioner in the following month. This report was neither sent by the Deputy Excise and Taxation Commissioners nor called for by the Commercial Taxation Commissioner. A detailed exercise in audit to ascertain this impact by obtaining information from each of the Deputy Excise and Taxation Commissioners revealed the

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position of tax exempted/ deferred to that of total collection during the preceding 8 years as given in the following table:

Year	Total collection (under sales tax)	Tax			Total Col. 2 & 5	Percentage of Col. 5 to Col. 6
		Exempted	Deferred	Total		
(In crores of rupees)						
1988-89 to 1990-91	1280.44	13.34	2.51	15.85	1296.29	1.2
1991-92	620.30	16.36	2.42	18.78	639.08	2.9
1992-93	676.41	24.52	3.66	28.18	704.59	4.0
1993-94	768.51	45.99	5.93	51.92	820.43	6.3
1994-95	890.08	87.01	14.80	101.81	991.89	10.3
1995-96	1055.41	130.83	13.67	144.50	1199.91	12.0

It was further noticed that individual assessing authorities in each district were required to maintain ledger accounts in prescribed forms to facilitate furnishing of information regarding exemption/deferment of tax to the Deputy Excise and Taxation Commissioner. It was noticed in audit that in 3 Sales Tax Districts (Faridabad (East), Gurgaon and Yamunanagar,) these registers were not maintained properly. Consequently, the correctness or otherwise of the figures in the above table pertaining to these districts could not be verified in audit.

On this being pointed out in audit, the department intimated that instructions were issued to field offices to send the requisite information from April 1997 onwards. On cross checking in July 1997, it was found that information has been received from only two out of nineteen sales tax districts.

2.2.8 Non-recovery of tax

(i) Under the provisions of Haryana General Sales Tax Rules, 1975, the exemption/entitlement certificate granted to an eligible industrial unit shall be liable to be cancelled by the Deputy Excise and Taxation Commissioner concerned either in case of discontinuance of its business by the unit at any time for a period exceeding six months or its closing down during the period of exemption/deferment. Further under the rules *ibid*, on cancellation of eligibility certificate or exemption/entitlement certificate before it is due for expiry, the entire amount of tax exempted/deferred shall become payable immediately, in lump sum and the provision relating to recovery of tax, interest and imposition of penalty shall be applicable in such cases.

During test-check of records (September 1996 to March 1997) in the offices of 9 sales tax districts, it was noticed that eleven units after availing exemption of Rs.56.17 lakhs as per details given in the following table, discontinued (1991-92 to 1995-96) the manufacturing process. The concerned Deputy Excise and Taxation Commissioners cancelled (between December 1993 and May 1996) exemption certificates of only six units (Faridabad (East)-1, Gurgaon (East)-1, Hisar-2 and Sonipat-2). Deputy Excise and Taxation Commissioner, Faridabad (East) created demand amounting to Rs.18.73 lakhs, but no recovery has yet been made (September 1997). In remaining ten cases, no action to recover the amount of Rs.37.44 lakhs representing exemption already availed by these units was taken (September 1997).

Non-recovery of tax of Rs.241.35 lakhs from industrial units which discontinued manufacturing process.

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Sl. No.	Name of the D.E.T.C.	No. of units	Amount of exemption availed (Rupees in lakhs)
1	Sonipat	3	0.72
2	Hisar	6	33.85
3	Faridabad (East)	1	18.73
4	Gurgaon (East)	1	2.87
	Total	11	56.17

The Deputy Excise and Taxation Commissioner, Faridabad (East) intimated that legal steps for recovery are being taken in the case. Deputy Excise and Taxation Commissioner, Hisar intimated that no recovery could be effected as the dealer had closed down his business and in another case specific reply was not given. No reply was received in the remaining 8 cases.

(ii) As per Sub-Rule 11 (a) (i) and (b) of Rule 28A, the benefit of tax exemption/deferment shall be subject to the condition that the beneficiary unit after having availed of the benefit, shall continue its production at least for the next five years not below the level of average production for the preceding five years. In case the unit violates any of the conditions laid down in clause (a) of the Sub Rule *ibid* it shall be liable to refund in addition to the full amount of the tax benefit availed of by it during the period of exemption/deferment, payment of interest chargeable under the Act as if no tax exemption/deferment was ever available to it.

During test-check of records in the offices of 9* sales tax districts, it was noticed that in four cases the dealers availed of the full sales tax exemption of Rs.38.36 lakhs during 1990-91 to 1994-95 and

* Ambala, Faridabad (East), Faridabad (West), Gurgaon (East), Gurgaon (West), Hisar, Rohtak, Sonipat, and Yamunanagar.

thereafter discontinued manufacturing process/submission of the sales tax returns as per details given below:

Sl. No.	Name of the D.E.T.C.	No. of Units	Amount of exemption availed (in lakhs of rupees)
1	Faridabad (East)	2	9.89
2	Jagadhri	1	4.51
3	Gurgaon	1	23.96
	Total	4	38.36

In one case, Deputy Excise and Taxation Commissioner, Gurgaon (East) created demand of tax Rs.23.96 lakhs and interest of Rs.21.71 lakhs but no recovery has yet been made (September 1997). In remaining 3 cases, no action to recover the amount of Rs.14.40 lakhs representing exemption already availed of by the units was taken. The assessing authorities (Faridabad and Jagadhri) intimated that the matter is under process in two cases whereas the reply in respect of second case of Faridabad (East) was not furnished by the assessing authority.

(iii) As per Sub-Rule 8(a) of Rule 28A of Haryana General Sales Tax Rules, 1975, the eligibility certificate granted to an industrial unit shall be liable to be withdrawn at any time during its currency by appropriate screening committee, if it is discovered that it has been obtained by fraud, deceit, misrepresentation, mis-statement or concealment of material facts, discontinuance of its business or closing down its business for a continuous period of six months, disposal of assets affecting its manufacturing or production capacity. Further under Sub-Rule 8(b) of Rule 28A of the Rules *ibid*, when the eligibility certificate is withdrawn, the exemption/entitlement certificate shall be deemed to have been withdrawn from 1st day of its validity and the unit shall be liable to make

payment of tax, interest or penalty under the Act as if no entitlement certificate had ever been granted to it.

Appropriate screening committee cancelled (between February 1994 and April 1996) the eligibility certificates of four units as per details given in the following table:

Sl. No.	Name of the D.E.T.C.	No. of Units	Amount of exemption availed (Rupees in lakhs)
1	Faridabad (West)	3	145.87
2	Gurgaon (West)	1	0.95
	Total	4	146.82

Deputy Excise and Taxation Commissioner, Faridabad (West) created additional demand of Rs.145.87 lakhs in three cases but no recovery has yet been effected. In the remaining one case department had neither shown notional tax liability of exemption availed of nor any action to recover the same was taken.

2.2.9 Irregularities in assessments of exempted/deferred units

(i) Under assessment of notional tax liability

As per provisions given under Sub-Rule 4 (a) of Rule 28-A of Haryana General Sales Tax Rules, 1975, amended from time to time, in the case of exemption the benefit shall extend to tax on gross turnover and in case of deferment, it shall extend to tax on the taxable turnover of goods manufactured by the unit.

During the test-check of records, it was noticed that the assessing authorities allowed deductions of Rs.4412.49 lakhs as sales to registered dealers against declarations in ST-15 in 62 cases of 30 exempted industrial units and calculated notional tax liability on taxable turnover instead of on gross turnover. This resulted in under assessment of Rs.276.96 lakhs as per details given in following table:

Calculation of notional tax liability on taxable turnover instead of on gross turnover resulted in under assessment of sales tax of Rs.276.96 lakhs.

Sl. No.	Name of the D.E.T.C.	No. of units	No. of cases	Amount of deduction	Amount of tax involved
				(Rupees in lakhs)	
1	Ambala	2	2	14.84	1.31
2	Yamunanagar	1	1	26.53	2.33
3	Sonipat	2	3	207.60	18.27
4	Hisar	11	28	2383.21	120.76
5	Faridabad (East)	3	8	343.05	31.33
6	Faridabad (West)	2	5	43.17	3.81
7	Gurgaon (East)	6	10	85.68	7.54
8	Gurgaon (West)	1	2	808.85	71.18
9	Jind	1	2	490.27	19.61
10	Rohtak	1	1	9.29	0.82
	Total	30	62	4412.49	276.96

(ii) Under assessment due to application of concessional rate of tax

As per Sub-Rule 2(n)(i) of Rule 28A of Haryana General Sales Tax Rules, 1975, amended from time to time, notional sales tax

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liability means the amount of tax payable on the sales of finished products of the eligible industrial unit under the local sales tax law but for an exemption, computed at the maximum rates specified under the local sales tax law as applicable from time to time.

(a) During the test-check of records, it was noticed that the assessing authorities calculated notional tax at concessional rates on sales of finished products valued at Rs.1289.95 lakhs in 25 cases of 16 units instead of at maximum rates. This resulted in short levy of notional tax amounting to Rs.60.34 lakhs as detailed in the following table.

Calculation of notional tax at concessional rates instead of on maximum rates resulted in Under assessment of Rs.60.34 lakhs.

Sr. No.	Name of the DETC	No. of units	No. of cases	Tax assessed	Tax assessable	Under assessment	Remarks
1	Ambala	4	8	4.56	22.39	17.83	-
2	Rohtak	2	3	1.82	4.24	2.42	-
3	Sonipat	2	3	9.50	19.00	9.50	-
4	Hisar	4	7	27.11	54.22	27.11	-
5	Faridabad (East)	2	2	3.03	6.06	3.03	In one case entire demand of Rs.0.55 lakh created (June 1996).
6	Gurgaon (West)	1	1	0.10	0.21	0.11	-
7	Sirsa	1	1	0.22	0.56	0.34	Entire demand of Rs.0.34 lakh created (January 1996)
	Total	16	25	46.34	106.68	60.34	

The department, however, intimated that the instructions have been issued to all the Deputy Excise and Taxation Commissioners in the State to calculate the notional tax liability on gross turnover and at

maximum rates as per provisions of the Haryana General Sales Tax Rules, 1975.

(b) Under assessment due to irregular exemption.

Under the Haryana General Sales Tax Rules, 1975, in the case of exempted/deferred units, notional sales tax liability is to be worked out on the sale of finished products only and not on the sale of scrap.

In 13 cases of 7 units tax on the sale of waste and scrap amounting to Rs.316.53 lakhs was allowed towards exemption as per details shown below:-

Sl. No.	Name of the D.E.T.C.	No. of units	No. of cases	Value of scrap	Excess amount of tax exempted
				(Rupees in lakhs)	
1	Sonipat	1	1	8.58	0.13
2	Hisar	3	4	11.98	0.47
3	Faridabad (East)	1	4	155.31	6.21
4	Faridabad (West)	1	2	61.18	2.45
5	Rohtak	1	2	79.48	3.18
	Total	7	13	316.53	12.44

This resulted in non-recovery of Rs.12.44 lakhs. For non-deposit of tax due along with the returns, the dealers were also liable for interest and penalty as provided in Haryana General Sales Tax Act. The assessing authority Hisar, however, admitted the observation in two cases and stated that recovery proceedings are in process. In other cases, no reply was furnished by the department (September 1997).

(c) Under assessment due to non-levy of tax on branch transfers/consignment sale.

Explanation given under Sub-Rule 2(n)(ii) of Rule 28-A of Haryana General Sales Tax Rules, 1975, the branch transfers or consignment sales inside or outside the State of Haryana shall be deemed to be the sale within the state and in the course of inter-State trade or commerce. Further, as per condition No.(ii) of Rule 11(a), the beneficiary unit after having availed of the benefit shall not make sales outside the State for next five years by way of transfer or consignment of goods manufactured by it.

In four cases, branch transfers amounting to Rs.666.21 lakhs out of the State were allowed to the dealers and notional tax amounting to Rs.17.21 lakhs was not accounted for towards exemption as detailed in the following table:

Sl. No.	Name of the DETC	No. of units	Amount of stock transfer/ consignment (Outside the State)	Under assessment of tax/notional tax
(Rupees in lakhs)				
1	Rohtak	1	471.62	9.43
2	Gurgaon (East)	2	189.13	7.56
3	Faridabad (East)	1	5.46	0.22
	Total	4	666.21	17.21

The assessing authority Rohtak stated that matter is being examined. No reply was received in remaining 3 cases.

In another case of Faridabad (West), branch transfer within the State was allowed amounting to Rs.2.28 lakhs to a dealer of Faridabad

(West) and notional tax amounting to Rs.0.20 lakh was not accounted for towards exemption.

In another case, branch transfer amounting to Rs.79.69 lakhs out of State was allowed to a dealer of Faridabad (West) within five years after availing of the benefit of exemption which resulted in under assessment of tax of Rs.3.19 lakhs.

(d) Under assessment due to non-submission of declaration forms.

As per Sub-Rule 2(n)(ii) of Rule 28-A of Haryana General Sales Tax Rules, 1975, notional sales tax liability means that amount of tax payable under Central Sales Tax Act, 1956 on the sale of finished products of the eligible industrial unit made in the course of inter-State trade or commerce computed at the rate of tax applicable to such sales as if these were made against certificate in form 'C'.

In one case of Gurgaon (East), the turnover under Central Sales Tax Act, 1956 during 1988-89 was Rs.219.07 lakhs which was assessed to tax at the rate of 4 *per cent* as per Sub Rule 2 (n)(ii) of Rule 28-A of Haryana General Sales Tax Rules, 1975. Later on, the exemption certificate of the dealer was cancelled by the sales tax authorities but enhanced tax on the taxable turnover of Rs.91.25 lakhs (sales without 'C' forms) was not levied. The omission resulted in under assessment of tax of Rs.6.39 lakhs,

(iii) Irregular refund

Under provision (iii) of Sub-Rule 4(a) of Rule 28-A, the industrial unit availing exemption under this rule shall not be entitled to claim refund, reduction or adjustment of any tax paid on goods purchased

by it for use in the manufacture of goods. However, this provision was omitted by Haryana Government's notification issued in June 1991.

(1) In one case of Faridabad (East) the assessing authority at the time of framing assessment (June 1992) for the year 1990-91 allowed inadmissible rebate amounting to Rs.0.69 lakh. On this being pointed out in audit (February 1997), the department intimated (February 1997) that the case was being referred for taking *suo motu* action. No further reply has been received (September 1997).

(2) In one case of Rohtak, an exempted unit purchased goods valued at Rs.21.61 lakhs from another unit enjoying deferment and paid tax of Rs.0.85 lakh which was refunded to the dealer under Rule 24-A of Haryana General Sales Tax Rules, 1975, in advance inspite of the fact that no tax was deposited by the deferred unit as the same was payable after 5 years in Government treasury. The omission resulted in irregular refund to the dealer.

The department admitted (May 1997) the observation but simultaneously stated that since the dealer was entitled for refund after the period of 5 years and, thus, there was only a technical error and there was no direct loss. The reply of the department was not tenable since the refund was allowed without actual deposit of the tax in Government treasury by the unit availing deferment.

(iv) **Under assessment due to application of incorrect rates of tax**

The rates of tax leviable on different commodities have been prescribed and notified by the Government from time to time under Haryana General Sales Tax Act, 1973 and Central Sales Tax Act, 1956.

During the test-check of the records relating to exempted/deferred units of Deputy Excise and Taxation Commissioners, Hisar, Sonipat, Ambala, Rohtak, Karnal and Faridabad (West), it was noticed (between June 1996 and February 1997) that the various assessing authorities calculated (between October 1991 and December 1996) notional tax liabilities at lower rates instead of at the correct rates applicable to corrugated boxes, woolen yarn, finished casting, oil, surgical cotton, acrylic yarn and blank video cassettes resulting in short levy of tax by Rs.33.80 lakhs and interest of Rs.4.81 lakhs.

Application of incorrect rates of tax resulted in under assessment of sales tax of Rs.33.80 lakhs.

On this being pointed out in audit (between June 1996 and February 1997), the department created demand of Rs.7.39 lakhs in three cases (two of Ambala and one of Rohtak). The case of dealer of Karnal was sent (August 1996) to revisional authority for taking *suo motu* action. Replies in other cases have not been received (September 1997).

2.2.10 Arrears in assessments

Under the provisions of Haryana General Sales Tax Rules, 1975, the assessment of an eligible industrial unit holding exemption/entitlement certificate shall be framed in accordance with the provisions of the Act and Rules framed thereunder as early as possible and shall be completed by 31 December in respect of the assessment year immediately preceding thereto and the additional demand, if any, shall be paid as per the provisions of the Act and the Rules.

During test-check of records, it was noticed (between October 1996 and March 1997) that in nine sales tax districts, 602 assessment cases involving tax exemption of Rs.2789.97 lakhs and 97 assessment cases involving tax deferment of Rs.1351.21 lakhs respectively

were pending for assessment as on 31 March 1997 as detailed below. The assessments of these cases were required to be taken up on priority basis.

District	Exemption		Deferment	
	Number of assessments	Amount (Rupees in lakhs)	Number of assessments	Amount (Rupees in lakhs)
Ambala	63	127.53	2	3.44
Yamunanagar	178	392.76	12	81.04
Rohtak	10	74.75	3	349.37
Sonipat	73	167.58	-	-
Hisar	38	531.84	-	-
Faridabad (East)	44	236.28	22	190.52
Faridabad (West)	31	316.32	11	32.91
Gurgaon (East)	118	853.05	31	299.48
Gurgaon (West)	47	89.86	16	394.45
Total	602	2789.97	97	1351.21

The inordinate delay in assessment of these cases indicates that due priority was not accorded for timely finalisation of the assessment cases.

The above cases were reported (May 1997) to Government; their replies have not been received (September 1997).

2.3 Evasion of tax due to suppression of purchases

Under the Haryana General Sales Tax Act, 1973, if a dealer has maintained false or incorrect accounts or documents with a view to suppress his sales or purchases or stocks of goods or has concealed any particulars of his sales or purchases or has furnished to or produced before any authority under the Act, any account, return or information which is false or incorrect in any material particular, he is liable to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be

Tax and penalty of Rs.38.86 lakhs not levied on suppression of purchases.

assessed, an amount which shall not be less than twice and not more than three times the amount of tax which would have been avoided, if the turnover as returned by such dealer had been accepted as correct.

(i) During the audit of the records of Deputy Excise and Taxation Commissioner, Jind, it was noticed (July 1994) that two dealers of Jind suppressed purchases worth Rs.454.92 lakhs during the years 1977-78 to 1979-80 and 1981-82. The assessing authority while finalising assessments (January, February and November 1993) levied tax of Rs.18.20 lakhs on the suppressed turnovers. Penal action for suppression of sales was proposed to be taken up separately but no such action was taken even after a lapse of more than one year.

On the omission being pointed out (July 1994) in audit, the assessing authority created (June 1996) demand of Rs.36.39 lakhs on account of penalty equal to twice the amount of tax levied on the suppressed turnovers of both the dealers. The department further intimated (June 1997) that there was no progress in the recovery of amounts outstanding against both the dealers. From one of the two dealers, no recovery is possible as the department has no definite information regarding the possession of any property by the dealer. As regards recovery from the other dealer is concerned, the department intimated that the dealer had left the State of Haryana to settle down in Karnataka and, therefore, the recovery certificate has been issued to Collector, Chitra Durg Taluk (Karnataka). Progress in recovery has not been intimated by him so far.

(ii) During the audit of records of Deputy Excise and Taxation Commissioner, Faridabad (East), it was noticed (September 1996) that a dealer purchased goods valued at Rs.3.93 lakhs on the strength of his

registration certificate by using declaration forms (ST-15) during the year 1992-93 from a dealer of Karnal. The purchases so made were not accounted for in his books and escaped assessment. Failure to detect suppression by assessing authority resulted in short assessment of tax of Rs.45,494 by taking approximate sale value at Rs.4.14 lakhs. Besides, minimum penalty of Rs.90,988 was also leviable.

On this being pointed out (September 1996) in audit, the department sent (November 1996) the case to the revisional authority for taking *suo motu* action who has raised (February 1997) additional demand of Rs. 1.44 lakhs. The department further intimated (July 1997) that the dealer has closed down his business and thus recovery proceedings as arrears of land revenue are in progress. Further report has not been received (September 1997).

(iii) During the audit of records of Deputy Excise and Taxation Commissioner, Kurukshetra, it was noticed (November/December 1993) that three dealers of Kurukshetra sold electric goods valued at Rs.2.29 lakhs to a dealer of Karnal against declaration forms (ST-15) during the year 1990-91 and were allowed deduction as sales to registered dealer. On cross verification made in audit, it was noticed that purchases were not accounted for by the purchasing dealer of Karnal whose assessment for the year 1990-91 was finalised (January 1993). This resulted in under assessment of tax amounting to at least Rs.66,633 (including minimum penalty).

On this being pointed out (November/December 1993) in audit, the assessing authority Kurukshetra referred the matter to assessing authority Karnal who re-opened the case and created (March 1996)

additional demand of tax amounting to Rs.83,082 (including penalty). The report on recovery has not been received (September 1997).

(iv) During the audit of records of Deputy Excise and Taxation Commissioner, Jind, it was noticed (June 1992) that a dealer of Jind purchased paddy valued at Rs.13.66 lakhs during the year 1987-88 on the strength of his registration certificate against ST-15 declarations forms but accounted for the purchases valued at Rs.9.91 lakhs only in his trading account. The dealer was assessed (March 1992) to tax on the purchases of paddy valued at Rs.9.91 lakhs instead of at Rs.13.66 lakhs. Suppression of purchases of Rs.3.75 lakhs resulted in under assessment of tax of Rs.15,031 besides a minimum penalty of Rs.30,062.

On this being pointed out (June 1992) in audit, the assessing authority re-opened the case and created (January 1996) demand of Rs.48,000 including tax and penalty by taking sale value of paddy so suppressed at Rs.4 lakhs. Report on recovery has not been received (September 1997).

The above cases were reported to Government between October 1996 and January 1997; their replies have not been received (September 1997).

2.4 Under assessment due to incorrect deduction allowed against invalid declaration forms

Under the Haryana General Sales Tax Act, 1973, a registered dealer may deduct from his gross turnover, sale value of goods sold to registered dealers after furnishing the prescribed declaration forms (ST-15). Further, under the provisions of the Act, the assessing authority is required to examine the genuineness or

Incorrect deduction of sales allowed against invalid declaration forms resulted in short levy of tax/penalty of Rs.25.38 lakhs.

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otherwise of any such sale or declaration before allowing deduction. Lost or stolen declaration forms are declared invalid by the concerned district office and the fact circulated to all the assessing authorities in the State to prevent deductions against such invalid declaration forms being allowed. The department had also issued (December 1991) instructions for checking of invalid declaration forms while framing assessments. Penalty not less than twice and not more than three times the amount of tax involved is also leviable for the offence of producing, before the assessing authority, any account, return or information which is false or incorrect.

(i) During the audit of the records of Deputy Excise and Taxation Commissioners, Sonipat, Jind and Hisar, it was noticed (between June 1994 and September 1995) that seven dealers (two of Sonipat, four of Jind and one of Hisar) were allowed (between February 1994 and March 1995) deductions of Rs.271.23 lakhs on account of sales to registered dealers against declaration forms (ST-15) between the years 1989-90 and 1993-94. Out of these, declaration forms involving sales valued at Rs.79.07 lakhs were those, which had been stolen/lost from the office stores of Deputy Excise and Taxation Commissioners, Sirsa, Faridabad and Bhiwani and had been declared (July 1990, January 1991 and November 1993) invalid by district offices and declarations involving sales valued at Rs.37.21 lakhs (in five cases out of seven dealers) were those where the purchasing dealers were non-existent and not registered under the Act. Thus, out of the total deductions of Rs.271.23 lakhs, deductions of Rs.116.28 lakhs were allowed incorrectly against invalid forms. This resulted in under assessment of tax of Rs.6.93 lakhs. Besides, minimum penalty of Rs.13.86 lakhs was also leviable.

On this being pointed out (between June 1994 and September 1995) in audit, the Deputy Excise and Taxation

Commissioners, Sonipat, Jind and Hisar, referred (between October 1994 and February 1996) the cases to revisional authorities for taking *suo motu* action. In one case of Jind, the revisional authority created (June 1995) additional demand of Rs.50,505 against which the dealer went in appeal before the Haryana Sales Tax Tribunal and the case was pending (December 1996). In the case of a dealer of Hisar, Deputy Excise and Taxation Commissioner further stated (April 1997) that there was no definite information available on record at the time of finalisation of the assessment case of the dealer and the claim of sales made to registered dealers had rightly been allowed by the assessing authority. He further stated that in another case, the Hon'ble Sales Tax Tribunal, Haryana held (March 1993) that it was not mandatory for the selling dealer to enquire whether ST-15 forms had correctly been issued by the purchasing dealer. Reply of the department was not tenable. As per third proviso to Section 27(1)(a)(ii) the genuineness of the sale or declaration is required to be examined by the assessing authority for the purpose of allowing deduction. Further Hon'ble Punjab and Haryana High Court in another case held* that asking proof of declaration is not unconstitutional. The department has again been apprised of these facts. The remaining five cases were pending (December 1996) with revisional authorities for *suo motu* action. Further replies have not been received (September 1997).

(ii) During the audit of records of Deputy Excise and Taxation Commissioners, Karnal, Rohtak, Ambala and Jind, it was noticed (between June 1994 and September 1996) that five dealers (two of Karnal and one each of Rohtak, Ambala and Jind) were allowed (between June 1993 and February 1996) deductions of Rs.77.96 lakhs on account of sales to registered dealers against declaration forms (ST-15) between the years

* In the case of M/s S.K. Traders, Faridabad as reported (1997)PH(P&H) CWP No. 12448 of 1996.

1990-91 and 1994-95. Out of these, declaration forms involving sales valued at Rs.14.31 lakhs were those which had been stolen/lost from the office stores of Deputy Excise and Taxation Commissioners, Faridabad (East) and Bhiwani and had been declared (January 1991 and February 1993) invalid by district offices and declarations involving sales valued at Rs.9.73 lakhs were those where the purchasing dealers were non-existent and not registered under the Act. Thus, out of the total deduction of Rs.77.96 lakhs, deductions of Rs.24.04 lakhs were allowed incorrectly against invalid forms. The dealer of Jind had also purchased "*Khal*" valued at Rs.3.89 lakhs during the years 1990-91 and 1991-92 from a bogus firm (not in existence) of Sirsa on which he was liable to pay tax of Rs.8563. The omission resulted in under assessment of tax of Rs.1.59 lakhs. Besides, minimum penalty of Rs.3.00 lakhs was also leviable for producing false/incorrect returns or information by the dealers.

On this being pointed out (between June 1994 and September 1996) in audit, the department raised (June 1995; October 1996 and November 1996) additional demand for tax of Rs.1.59 lakhs. Interest of Rs.16980 was also levied (November 1996) in the cases of two dealers of Karnal. In the case of dealer of Rohtak the department intimated (May 1997) that penalty of Rs.11,869 was levied in February 1997. The amount of tax of Rs.20,134 and penalty of Rs.11,869 has been deposited by the dealer in October 1996 and February 1997 respectively. In the case of dealer of Ambala, the department intimated (June 1997) that the dealer went in appeal before the Joint Excise and Taxation Commissioner (Appeal), Ambala against the orders of the revisional authority who had created (November 1996) additional demand of tax of Rs.26,417. The dealer had deposited Rs.10,000 and furnished (May 1997) surety bond for the balance amount under the directions of the Appellate Authority. The

department further intimated (August 1997) that amount of Rs.95,584 has been recovered (between November 1996 and August 1997) from both the dealers of Karnal. Report on recovery of balance additional demand of tax, interest and on levy of penalties has not been received (September 1997).

The cases were reported to Government between September 1994 and November 1996; their replies have not been received (September 1997).

2.5 Incorrect levy of concessional rate of tax

(a) As per Government notification issued in January 1972, under the Central Sales Tax Act, 1956, tax on inter-State sale of oils produced from sarson, til and taramira but not in hydrogenated form is leviable at the concessional rate of **one per cent** when these sales are supported by valid declaration in Form C. However, concessional rate of **one per cent** is not admissible in respect of inter-State sales of oil produced from oil cakes (i.e. cakes of sarson, toria, til and taramira) and these are taxable at the rate of **four per cent** against form 'C'. It has also been held (April 1993) by the Hon'ble High Court of Punjab and Haryana in a different case that oil cake is a raw material used for producing a different kind of oil which is used for different purposes than the oil straightway produced from sarson, Oil produced from oil cakes as such is not included in the aforesaid notification. Besides penalty, for non/short payment of tax due along with the returns, the dealer is liable to pay interest at the rate of **one per cent** per month for the first month and at **one and a half per cent** per month thereafter so long as the default continues.

Incorrect application of concessional rates of tax resulted in short levy of tax/ interest of Rs.25.09 lakhs.

(i) During the audit of the records of Deputy Excise and Taxation Commissioner, Panipat, it was noticed (March 1997) that one dealer of Panipat extracted oil from mustard oil cakes and made inter-State sale of this oil valued at Rs.292.60 lakhs during the year 1992-93. While finalising (July 1995) assessment for the year 1992-93, the assessing authority erroneously levied tax at the rate of **one per cent** instead of at the correct rate of **four per cent**. This resulted in short assessment of tax of Rs.8.78 lakhs besides interest of Rs.6.28 lakhs.

On this being pointed out (March 1997) in audit, the department intimated (March 1997) that the case was being examined and reply would be given in due course but no further reply has been received (September 1997).

(ii) During the audit of the records of Deputy Excise and Taxation Commissioner, Hisar, it was noticed (October 1996) that a dealer of Tohana (Hisar) extracted oils from mustard and sunflower oil cakes and made inter-State sales of those oils valued at Rs.144.02 lakhs during the year 1992-93. While finalising assessment (April 1995), the assessing authority levied tax at the rate of **one per cent** instead of at the correct rate of **four per cent**. This resulted in short levy of tax of Rs.4.32 lakhs, besides interest and penalty.

On this being pointed out (October 1996) in audit, the assessing authority created (October 1996) additional demand of Rs.7.54 lakhs (tax: Rs.4.32 lakhs, interest: Rs.3.22 lakhs). Report on recovery has not been received (September 1997).

(iii) During the audit of the records of Deputy Excise and Taxation Commissioner, Faridabad (West), it was noticed (May 1995) that

one dealer of Faridabad extracted oil from mustard oil cakes and made inter-State sale of this oil valued at Rs.10.94 lakhs during the year 1992-93. While finalising (April 1994) assessment for the year 1992-93, the assessing authority erroneously levied tax at the rate of **one per cent** instead of at the correct rate of **four per cent**. This resulted in short assessment of tax of Rs.32,813 besides interest of Rs.10,168.

On this being pointed out (May 1995) in audit, the department stated (February 1996) that the case was sent to revisional authority for *suo motu* action, who held (January 1996) that tax was rightly levied by assessing authority. The decision of revisional authority is in contradiction of Hon'ble High Court of Punjab and Haryana's Judgement (April 1993) in a different case*. A reference has again been made (December 1996) to Commercial Taxation Commissioner to review the decision of the revisional authority in the light of the Judgement of the Hon'ble High Court. Further report is awaited (September 1997).

The above cases were reported to Government between March 1996 and May 1997; their replies have not been received (September 1997).

(b) Under the Central Sales Tax Act, 1956, tax on inter-State sales of cotton yarn is leviable at the concessional rate of **two per cent** when these sales are supported by valid declarations in Form 'C' and at twice the rate applicable if these are not supported by valid declaration forms.

During the audit of the records of Deputy Excise and Taxation Commissioner, Panipat, it was noticed (December 1994 and March 1996) that 5 cases of three dealers of Panipat were assessed to tax

* Chattar Chemicals Limited V/s State of Haryana-STC-1994 Vol. 93.

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(August 1993, November 1993, August 1994 and October 1994) at the concessional rate of **two per cent** against inter-State sale without 'C' Forms instead of leviable rate of **four per cent**. This resulted in short assessment of tax of Rs. 2.06 lakhs .

On this being pointed out (December 1994 and March 1996) in audit, the assessing authority sent the cases to the revisional authority for taking *suo motu* action. The revisional authority decided (May 1996) three assessment cases for 1992-93 and levied tax of Rs.1.39 lakhs besides interest of Rs.21,879. The department further intimated (October 1996) that recovery in these cases is yet to be made. The decision in respect of remaining two cases for the assessment year 1993-94 has not been received (September 1997).

The cases were reported to Government in June 1995 and May 1996; their replies have not been received (September 1997).

2.6 Inadmissible deduction from turnover

(a) Under the Haryana General Sales Tax Act, 1973, tax on instant food (including health drinks), pharmaceutical preparations (Madhu), petroleum products and varnishes, electric bulbs, electrical appliances, all types of colours and pigments, consumer plastic goods, hession cloth and sutli etc. is leviable at the point of first sale in Haryana as per Government notifications issued from time to time. The deduction from turnover on account of sale of such goods to registered dealers against declarations in form ST-15 is not admissible. Besides penalty, for non/short payment of tax due along with the returns, the dealer is liable to pay interest at the rate of **one per cent** per

*Tax of Rs. 21.30 lakhs
short levied due to
incorrect computation of
turnover.*

month for the first month and at **one and a half per cent** per month thereafter so long as the default continues.

During the audit of the records of Deputy Excise and Taxation Commissioners, Ambala Cantt., Bhiwani, Faridabad (East and West), Gurgaon, Jagadhri, Karnal, Panchkula and Rohtak, it was noticed (between February 1995 and January 1997) that various assessing authorities allowed deductions amounting to Rs.230.31 lakhs from the gross turnovers of 24 dealers* on account of sale of various commodities (taxable at the point of first sale in Haryana) to the registered dealers against declarations in Form ST-15. The inadmissible deductions resulted in short assessment of tax by Rs.21.30 lakhs and interest of Rs.8.28 lakhs besides penalties. Specific cases involving short assessment of Rs.One lakh and above are given in the following table:

Sl. No.	Name of Office	Period/month of assessment	Name of commodity	Tax short levied	Interest leviable	Remarks
(Rupees in lakhs)						
1.	D.E.T.C. Faridabad (E)	1992-93/ January 1995	Rooh Afza and Madhu	2.88	1.88	The case has been sent to revisional authority for taking <i>suo motu</i> action in January 1996. Further report is awaited (September 1997)
		1993-94/ March 1995	Rooh Afza	0.91	0.43	The case has been sent to revisional authority for taking <i>suo motu</i> action in November 1996. Further report is awaited (September 1997)
		1993-94/ November 1995	Thinner	1.55	0.76	The case has been sent to revisional authority for taking <i>suo motu</i> action in November 1996. Further report is awaited (September 1997)
		1993-94/ April 1995	Thinner/ Varnish	1.75	-	The department contested (May 1997) that thinner sold was not a petroleum product but its reply was refuted (May 1997) as the raw material used in the manufacture of thinner was purchased from petroleum product dealers. Further reply is awaited (September 1997).

* Ambala and Bhiwani: 1 each, Faridabad (East): 8, Faridabad (West): 2, Gurgaon: 4, Jagadhri: 2, Karnal: 4, Rohtak and Panchkula: 1 each.

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Sl. No.	Name of Office	Period/ month of assessment	Name of commodity	Tax short levied	Interest leviable	Remarks
(Rupees in lakhs)						
2.	D.E.T.C. Faridabad (West)	1992-93/ June 1995	Cooler Pumps	0.81	0.54	The department created (November 1996) additional demand of Rs.64,739 (@ 8% against 10% plus surcharge) and stated that interest was not leviable. For short levy of tax of Rs.16,183 and non-levy of interest of Rs.54,203, reference has been made to the department in July 1997. Reply is awaited (September 1997).
		1993-94/ May 1995	PVC Tapes	2.13	1.01	The cases have been sent to revisional authority for taking <i>suo motu</i> action in October 1996.
		1994-95/ March 1996	PVC Tapes	0.98	0.29	Further report is awaited. (September 1997).
3.	D.E.T.C Gurgaon	1991-92/ February 1994	Rooh Afza	1.31	1.10	The department contested (May 1997) the point stating that Rooh Afza is taxable at last stage of sale. The reply was refuted (June 1997) in view of Commercial Taxation Commissioner's clarification given in July 1996 that Rooh Afza is first stage item. Further report is awaited (September 1997).
4.	D.E.T.C. Karnal	1993-94/ October 1995	Thinner/ Varnish	2.71	-	The case has been sent to revisional authority in October 1996 for taking <i>suo motu</i> action. Further report is awaited (September 1997)
5.	D.E.T.C. Rohtak	1994-95/ January 1996	Rooh Afza	0.89	0.26	The case has been sent to revisional authority in October 1996 for taking <i>suo motu</i> action. Further report is awaited (September 1997).

The above cases were reported to Government between March 1996 and February 1997; their replies have not been received (September 1997).

(b) Under the Haryana General Sales Tax Act, 1973, tax on iron and steel (declared goods) is leviable at the point of first sale in Haryana and no deduction on account of their sales to registered dealers against declaration in Forms ST-15 is admissible. Further for non/short payment of tax due along with the returns, the dealer is liable to pay

interest on the amount of tax due at **one per cent** per month for the first month and at **one and a half per cent** per month thereafter over the period of default. Besides, for failure to pay tax due as per returns, the prescribed authority may, after affording to the dealer a reasonable opportunity of being heard, impose a penalty not exceeding **one and a half** times the amount of tax to which he is assessed or is liable to be assessed.

During the audit of records of Deputy Excise and Taxation Commissioner, Rewari, it was noticed (August 1995) that a dealer of Rewari sold stainless steel sheets and wires valued at Rs.6.78 lakhs to other registered dealers during the year 1992-93. While finalising (May 1994) assessment, the assessing authority allowed deduction against declarations instead of levying tax. The mistake resulted in under assessment of tax of Rs.27,102 and interest of Rs.18,563.

On this being pointed out (August 1995) in audit, the department referred (December 1995) the case to the revisional authority for taking *suo motu* action. The department further intimated (May 1997) that the revisional authority held (July 1996) that stainless steel sheets and coils are not declared goods as enumerated in Section 14 of Central Sales Tax Act, 1956. The reply of the department was not tenable as the stainless steel sheets and wire fall under the category of declared goods under Section 14 of Central Sales Tax Act, 1956. Further reference has been made (June 1997) to the Commercial Taxation Commissioner Haryana for taking up the matter with the Deputy Excise and Taxation Commissioner, Rewari for further clarification. Reply is awaited (September 1997).

The case was reported to Government in November 1995; their reply has not been received (September 1997).

2.7 Under assessment due to misclassification of goods

Under Haryana General Sales Tax Act, 1973, manhole covers being unclassified item, are taxable at the general rate of **eight per cent** plus surcharge at the rate of **ten per cent** on the amount of tax. For non/short payment of tax along with the returns, interest is chargeable on the amount of tax due at **one per cent** per month for the first month and at **one and a half per cent** per month thereafter so long as the default continues. It has also been judicially held* that manhole covers should neither be regarded as cast iron nor should it be treated as declared goods.

During the audit of the records of Deputy Excise and Taxation Commissioner, Faridabad (East), it was noticed (February 1996) that a dealer of Faridabad had sold manhole covers valued at Rs.5.56 lakhs during 1992-93. The assessing authority while finalising (October 1994) the assessment for the year 1992-93, erroneously levied tax at the rate of **four per cent** treating the goods as cast iron instead of general goods. This resulted in short assessment of tax of Rs. 26,668 and non-levy of interest of Rs.17,889 for non-payment of tax along with the returns.

On this being pointed out (February 1996) in audit, the department referred (April 1996) the case to revisional authority for taking *suo motu* action who created (June 1996) additional demand of Rs. 26,669. The report on recovery of tax and interest has not been received (September 1997).

The case was reported to Government in May 1996; their reply has not been received (September 1997).

* Vasantham Foundry V/s Union of India and others (S.C.)-August 9, 1995.

2.8 Non-levy of purchase tax

Under the Haryana General Sales Tax Act, 1973, a dealer is liable to pay tax on the purchase of goods (other than those specified in Schedule B) which are purchased from within the State without payment of tax and used in the manufacture of tax free goods or in other goods which are disposed of otherwise than by way of sale. Sales Tax Tribunal, Haryana also clarified* (July 1995) that purchase tax is leviable on machinery and other consumable stores purchased for manufacture of goods specified in schedule 'B'. Further, for non-payment of tax along with the returns, interest is also chargeable on the amount of tax due at **one per cent** per month for the first month and at **one and a half per cent** per month thereafter so long as the default continues. Besides, for failure to pay tax due according to returns, the prescribed authority may, after affording the dealer a reasonable opportunity of being heard, impose a penalty not exceeding **one and a half times** the amount of tax to which he is assessed or is liable to be assessed.

Non-levy of purchase tax resulted in under assessment of tax, interest and penalty amounting to Rs.32.76 lakhs.

(i) During the audit of the records of Deputy Excise and Taxation Commissioner, Bhiwani, it was noticed (June 1995) that a dealer (manufacturer of Vanaspati Ghee) purchased empty tins (taxable at last stage of sale) valued at Rs. 60.24 lakhs and Rs. 104.13 lakhs during the years 1991-92 and 1992-93 respectively and used in the manufacture of goods transferred or sent on consignment basis outside the State. While finalising assessments (March 1994 and November 1994) the assessing authority did not levy purchase tax of Rs. 2.04 lakhs and Rs.3.69 lakhs

* M/s Shahbad Co-operative Sugar Mills Ltd. Shahbad V/s The State of Haryana STA No. 917 of 1994-95 decided on 14.7.95 1995(2) P& H Taxes 566- (STT-HR).

respectively for the years 1991-92 and 1992-93. Besides, interest and penalty were also not levied for non-payment of tax along with the returns.

On this being pointed out (June 1995) in audit, the department sent the case for revision. Revisional Authority, revised both the assessment orders and created (March 1996 and February 1996) additional tax demand of Rs.9.97 lakhs (Rs.4.22 lakhs and Rs.5.75 lakhs for 1991-92 and 1992-93 respectively) and stated in both the cases that action to levy interest and penalty will be taken up separately. However, maximum penalty of Rs.14.95 lakhs and interest of Rs.5.71 lakhs work out for both the years. Report on further action taken has not been received (September 1997).

(ii) During the audit of records of Deputy Excise and Taxation Commissioner Karnal, it was noticed (July 1996) that a dealer purchased machinery parts and consumable stores valued at Rs.8.98 lakhs from within the State without payment of tax during the year 1990-91 and used the same in manufacture of sugar, a tax free item. While finalising (March 1996) assessment for the year 1990-91, the assessing authority did not levy purchase tax on the purchases of Rs.8.98 lakhs. The mistake resulted in short levy of purchase tax of Rs.39,531.

On this being pointed out (July 1996) in audit, the department sent (October 1996) the case to revisional authority for taking *suo motu* action. The Deputy Excise and Taxation Commissioner, Karnal further intimated (May 1997) that the case was still pending with the revisional authority. Report on further action taken has not been received (September 1997).

(iii) During the audit of the records of Deputy Excise and Taxation Commissioner, Karnal, it was noticed (June 1996) that a dealer

of Karnal who was granted exemption from payment of tax on the sale of manufactured goods, made purchases of goods valued at Rs.27.10 lakhs during 1992-93 and 1993-94 and used the same in the manufacture of tax free goods. While finalising (February 1995 and January 1996) assessments of the dealer for the years 1992-93 and 1993-94 respectively, the assessing authority did not levy purchase tax at all on the purchases of Rs.11.03 lakhs and levied tax on the purchases of Rs.16.07 lakhs at the lower rate. The omission resulted in non/short levy of tax of Rs.1.73 lakhs.

On this being pointed out (June 1996) in audit, the department referred (October 1996) the case to the revisional authority for taking *suo motu* action. Further report on action taken has not been received (September 1997).

The above cases were reported to Government between September 1996 and May 1997; their replies have not been received (September 1997).

2.9 Irregular stay of tax

Under the Haryana General Sales Tax Act, 1973, the amount of any tax or interest due and the penalty imposed shall be paid by the dealer in the

Grant of irregular stay of tax resulted in loss of revenue of Rs.4.14 lakhs.

manner prescribed by such date as may be specified in the notice issued by the assessing authority for the purpose and the date to be specified shall not be less than fifteen days but not exceeding thirty days from the date of service of such notice. The assessing authority may, with the prior approval of district incharge in respect of any dealer and for reasons to be recorded in writing , extend the date of such payment or allow such dealer to pay the amount due in instalments against an adequate security.

Hon'ble High Court of Punjab and Haryana in a particular case, had granted stay* (November 1988) for collection of tax on the turnovers relating to purchase of agricultural produce by the dealers directly from the farmers.

During the audit of records of Deputy Excise and Taxation Commissioner, Karnal, it was noticed (August 1995) that a dealer of Karnal had purchased wheat in auction from outside the State during the year 1989-90 through commission agents and not directly from the farmers. The case was not covered under the aforesaid stay orders issued by the Hon'ble High Court. The assessing authority, while finalising assessment case of the dealer for the year 1989-90, created (February 1995) demand of Rs.4.14 lakhs under Central Sales Tax Act, 1956 but instead of issuing tax demand notice for recovery, stayed the demand so created under the wrong impression that levy of tax has been stayed by the Hon'ble High Court, which was not in order.

On this being pointed out (August 1995) in audit, the department admitted the objection and intimated (October 1996 and March 1997) that total demand of tax and interest of Rs.4.14 lakhs was being recovered from the assessee who was allowed to pay the amount in monthly instalments of Rs.10,000 each. Amount of Rs.1,14,199 has been recovered up to February 1997. Particulars of recovery of the balance amount are awaited (September 1997).

The case was reported to Government in October 1996; their reply has not been received (September 1997).

* Civil writ petition No.9694 of 1988

2.10 Application of incorrect rate of tax

(a) As per Government notification issued in July 1993 under the Haryana General Sales Tax Act, 1973, tax on sale of old used glass containers (bottles) when sold to a registered dealer

Tax of Rs.3.47 lakhs short levied due to application of incorrect rates of tax.

for use in packing or processing of goods for sale is leviable at the rate of **ten per cent** in Haryana with effect from 26 July 1993 and concessional rate of **four per cent** against Form STD-5 is not admissible on such sales after 25 July 1993. Further, for non/short payment of tax due along with the returns, the dealer is liable to pay interest on the amount of tax due at **one per cent** per month for the first month and at **one and a half per cent** per month thereafter so long as the default continues. Besides, for failure to pay tax due according to the returns, the prescribed authority may after affording the dealer a reasonable opportunity of being heard, impose a penalty not exceeding **one and a half** times the amount of tax to which he is assessed or is liable to be assessed.

During the audit of the records of Deputy Excise and Taxation Commissioner, Faridabad (West), it was noticed (August 1995) that the assessing authority while finalising (March 1995) the assessment of a dealer of Faridabad for the year 1993-94, assessed tax on sales of old used glass bottles amounting to Rs.25.48 lakhs at the concessional rate of **four per cent** against Form STD-5. Out of total sales of Rs.25.48 lakhs, sales valued at Rs.7.74 lakhs related to period after 25 July 1993 which did not qualify for concessional rate of **four per cent**. This resulted in under assessment of Rs.1.40 lakhs (tax: Rs.51,091, interest: Rs.12,009, maximum penalty: Rs.76,636).

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On this being pointed out (August 1995) in audit, the department sent (December 1995) the case to the revisional authority for taking *suo motu* action, who held (January 1996) that tax was correctly levied by the assessing authority. On reference made in September 1996, the Commercial Taxation Commissioner, Haryana, admitted the point and issued (October 1996) directions to Deputy Excise and Taxation Commissioner, Faridabad (West), to file an appeal before the Member, Sales Tax Tribunal, Haryana against the orders of the revisional authority.

The case was reported to Government in December 1995; their reply has not been received (September 1997).

(b) As per Government notification issued in December 1987 under the Haryana General Sales Tax Act, 1973, Staple Yarn is liable to sales tax at the rate of **two per cent** plus **ten per cent** surcharge on the amount of tax payable. Further, for non-payment of tax due along with returns, the dealer is liable to pay interest on the amount of tax due at **one per cent** per month for the first month and at **one and a half per cent** per month thereafter so long as the default continues. In addition, penalty not exceeding **one and a half** times the amount of tax is also leviable.

During the audit of records of the Deputy Excise and Taxation Commissioner, Ambala, it was noticed (February 1996) that a dealer of Ambala sold staple yarn valued at Rs.342.09 lakhs during the years 1990-91 and 1991-92. The assessing authority while finalising assessments (June 1994) for both the years, levied tax on these sales at the lower rate of **2 per cent** instead of at the correct rate of **2.2 per cent** by ignoring the element of surcharge which constitutes part of tax. This resulted in under assessment of Rs.2.07 lakhs (tax: Rs.68,418; interest: Rs.35,693 and penalty: Rs.1.03 lakhs).

On this being pointed out (February 1996) in audit, the department referred (December 1996) the cases to the revisional authority for taking *suo motu* action. Report on action taken has not been received (September 1997).

The case was reported to Government in May 1996; their reply has not been received (September 1997).

2.11 Non-levy of tax

(a) Under the provisions of Haryana General Sales Tax Act, 1973, 'Sale' means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. Punjab and Haryana High Court also clarified* in February 1992 that transfer of right to use goods *inter alia* includes hiring of buses as effective possession and control of the buses passes to customers (transferee) and loss of it by the transferor though he provides a driver and a conductor and has to carry out the necessary repairs. Hire charges of buses come under the purview of sale and are exigible to sales tax at the rate of **eight per cent** plus **ten per cent** surcharge.

Non-levy of tax resulted in loss of revenue of Rs. 5.62 lakhs.

(i) During the audit of records of Deputy Excise and Taxation Commissioner, Kaithal, it was noticed (June 1995) that a dealer (Haryana Roadways) of Kaithal received a sum of Rs.15.28 lakhs as hire charges of buses through special bookings during the years 1989-90 and 1990-91. The assessing authority, while finalising assessments (December 1994) did not treat these charges as sale and consequently no sales tax was levied.

* Harbans Lal and another V/s State of Haryana-C.W.P. No. 13401 of 1989.

The omission resulted in under assessment of tax amounting to Rs.1.34 lakhs.

On this being pointed out (June 1995) in audit, the department created (July 1995) additional demand of Rs.1.34 lakhs. The Deputy Excise and Taxation Commissioner, Kaithal, further intimated (June 1997) that where the hirer hires a bus from Roadways department, the effective control of the bus is not with the hirer. Hence, such transactions are not covered under the definition of sale and thus, no sale tax is exigible on the receipt of hire charges of bus through special bookings. The reply of the Deputy Excise and Taxation Commissioner, Kaithal, is not tenable in the light of Hon'ble High Court of Punjab and Haryana's decision of February 1992. In this context the department has again been approached (July 1997) to re-examine the case keeping in view the Hon'ble High Court's decision. Further reply has not been received (September 1997).

(ii) During the audit of records of the Deputy Excise and Taxation Commissioner, Gurgaon, it was noticed (March 1997) that a dealer of Gurgaon sold designs valued at Rs.30.92 lakhs during the years 1993-94 and 1994-95. As decided (August 1994) by the Appellate Authority in a different case* that sale of designs is taxable at the general rate of **8 per cent** plus surcharge at the rate of **10 per cent** on the amount of tax. The assessing authority while finalising (March 1996) the assessments for both the years 1993-94 and 1994-95 and did not levy tax on such sales. The omission resulted in non-levy of tax of Rs.2.72 lakhs.

On this being pointed out (March 1997) in audit, the department did not furnish any reply (September 1997).

* In the case of M/s Nipa International Private Limited, Gurgaon for 1992-93 decided on 18.8.94.

The above cases were reported to Government between October 1995 and May 1997; their replies have not been received (September 1997).

(b) Under the provisions of Haryana General Sales Tax Act, 1973, processed food packed in containers is taxable at the general rate of **eight per cent** plus surcharge at the rate of **ten per cent** on the amount of tax. As per Government notification issued in June 1990, processed food items packed in containers were also brought to tax at the point of first sale in Haryana with effect from 1 July 1990. Packed Namkeen sold in containers falls under the category of processed food and is liable to tax at the point of first sale. Further for non-payment of tax along with the returns, the dealer is liable to pay interest on the amount of tax due at **one per cent** per month for the first month and at **one and a half per cent** per month thereafter so long as the default continues.

During the audit of the records of Deputy Excise and Taxation Commissioner, Kurukshetra, it was noticed (September 1995) that in the case of a dealer of Pehowa, the assessing authority while finalising (February 1995) the assessment for the year 1993-94 erroneously allowed deduction of Rs.6.36 lakhs from gross turnover on account of sale of 'Namkeen' packed in containers by treating the sale as tax free. The irregular deduction resulted in under assessment of tax of Rs.56,009. Besides, interest of Rs.19,880 was also leviable for non-payment of tax along with the returns.

On this being pointed out (September 1995) in audit, the department referred the case to the revisional authority for taking *suo motu* action, who created (April 1996) additional demand of Rs.75,889 including interest. The department further intimated (June 1997) that

amount of Rs.5,889 has been recovered from the dealer in March 1997. Further recovery could not be effected as the dealer filed stay application before the Sales Tax Tribunal Haryana against the orders of revisional authority with whom the case was still pending. Further report in the matter has not been received (September 1997).

The case was reported to Government in July 1996; their reply has not been received (September 1997).

(c) Under the Haryana General Sales Tax Act, 1973, if a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stocks of goods or has concealed any particulars of his sales or purchases or has furnished to or produced before any authority under the Act, any account, return or information which is false or incorrect in any material particular, he is liable to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, an amount which shall not be less than twice and not more than three times the amount of tax which would have been avoided, if the turnover as returned by such dealer, had been accepted as correct.

During the audit of records of Deputy Excise and Taxation Commissioner, Hisar, it was noticed (November 1995) that in the case of a dealer of Hisar, dealing in auto parts, the assessing authority while finalising (January 1995) the assessment for the year 1992-93 disallowed sales worth Rs.2.90 lakhs out of total sales of Rs.10.07 lakhs shown as made to registered dealers. The disallowed sales were found by the assessing authority as sales made to bogus (non-existent) dealers and, thus, assessed to tax of Rs.31,962 and penal action was kept pending but no such action was taken till the date of audit. Audit scrutiny further revealed (November 1995) that a sale of Rs.49,880 shown as made to a dealer of

Bhiwani against declaration form (ST-15) was not disallowed by the assessing authority as the declaration form used in the transaction was one of the stolen/missing forms intimated (February 1993) by the district office Bhiwani. The dealer was, thus, short assessed to tax of Rs.5,487 besides minimum penalty of Rs.10,974. The omission in both the cases resulted in non-levy of minimum penalty of Rs.74,898 besides tax of Rs.5,487.

On this being pointed out (November 1995) in audit, the assessing authority levied (March 1996) penalty of Rs.74,000 and tax of Rs.5,486. The department further intimated (May 1997) that the assessee was allowed (June 1996) to pay the amount of additional demand in monthly instalments at the rate of Rs.5000 per month. The assessee, however, preferred appeal against the remand orders and Joint Excise and Taxation Commissioner (Appeals), Hisar, stayed the balance payment of Rs.65,000. The regular appeal case is yet to be fixed (June 1997) by the Appellate Authority.

The case was reported to Commercial Taxation Commissioner in February 1996 and to Government in April 1997; their replies have not been received (September 1997).

2.12 Under assessment due to excess rebate

Under the Haryana General Sales Tax Act, 1973, tax on sale of rice is leviable at the point of first sale in the State and on purchase of paddy at the point of last purchase in the State. The sales tax levied on rice is, however, reduced by the amount of purchase tax paid in the State on paddy out of which such rice has been husked. Further, for non/short payment of tax due along with the returns the dealer is liable to pay

Sales Tax

interest at the rate of **one per cent** per month for the first month and at **one and a half per cent** per month thereafter over the period of default.

During the audit of records of Deputy Excise and Taxation Commissioner, Jagadhri, it was noticed (June 1992) that a dealer of Jagadhri husked 40486 quintals of paddy which was assessed to tax on its purchase value of Rs.79.93 lakhs during the year 1988-89. The average purchase price of paddy, thus, works out to Rs.197.43 per quintal. While finalising assessment (April 1991), the assessing authority allowed rebate from the tax assessed on the sale of rice by taking average purchase price of paddy at the rate of Rs.212.54 per quintal instead of at Rs.197.43 per quintal. The mistake resulted in under assessment of tax amounting to Rs.24,509. Besides, interest of Rs.23,765 was also leviable. Further, there was suppression of purchase of paddy valued at Rs.2.63 lakhs on which tax of Rs.10,535 and interest of Rs.10,185 were also leviable. Mistakes on both the counts resulted in under assessment of Rs.68,994 (tax: Rs.35,044, interest: Rs.33,950).

On the omission being pointed out (June 1992) in audit, the department referred (February 1994) the case to the revisional authority for taking *suo motu* action, who created (June 1994) additional demand of Rs.66,257 against which the dealer had gone (August 1994) in appeal before Haryana Sales Tax Tribunal whose decision is awaited (September 1997).

The case was reported to Government in February 1997; their reply has not been received (September 1997).

2.13 Excess refund due to incorrect exemption from payment of tax

Under the Haryana General Sales Tax Act, 1973, and the Rules framed thereunder, an industrial unit (registered dealer)

Incorrect exemption from payment of tax resulted in excess refund of Rs.9.21 lakhs.

holding exemption certificate under the provisions of Rule 28-A is exempt from payment of tax on the sale of finished products of the unit. Tax levied on the sale of atta, maida and suji by a dealer, manufactured by him, shall be reduced by the amount of tax paid in the State on the purchase of wheat at first point and used in their manufacture and when no tax is payable on atta, maida and suji, full amount of tax already paid on wheat used in manufacture of these goods is refundable. Excess refund allowed, if any, tantamounts to irregular retention of Government money which attracts provisions of levy of interest.

During the audit of the records of Deputy Excise and Taxation Commissioners, Ambala Cantt., Jagadhri, Kaithal and Hisar it was noticed (between February 1996 and January 1997) that five dealers (one each of Jagadhri, Hisar and Ambala Cantt. and two of Kaithal) who were granted exemption from payment of tax on the sale of manufactured goods (atta, maida and suji), made purchases of tax paid wheat valued at Rs.2391.23 lakhs during the years 1991-92 to 1994-95 and used in the manufacture of taxable goods (atta, maida, suji). Out of the wheat so purchased, 6,18,253.33 quintals of wheat valued at Rs.2045.87 lakhs was purchased from the Government agency (Food Corporation of India) and the remaining wheat valued at Rs.66.54 lakhs was purchased from other dealers in the State. While finalising (between September 1992 and July 1995) the assessments, the assessing authorities, for the purpose of allowing refund on account of tax paid on wheat, determined the first purchase value of Rs.2391.23 lakhs instead of the correct value of

Rs.2112.41 lakhs. The mistake resulted in excess refund of Rs.9.21 lakhs. As the dealers had been issued refund vouchers, interest from the dates of issue of refund vouchers was also chargeable from the dealer due to illegal retention of Government money by them.

On this being pointed out (between February 1996 and January 1997) in audit, the assessing authority Ambala Cantt. referred (December 1996) the case to revisional authority for taking *suo motu* action. The case was still pending with the revisional authority as intimated (June 1997) by the Deputy Excise and Taxation Commissioner, Ambala. In the cases of two dealers of Kaithal, the assessing authority created (June 1996) additional demand by enhancing notional tax of Rs.0.47 lakh. Out of this, amount of Rs.0.32 lakh has been recovered from one of the two dealers in November 1996 as intimated by the department in August 1997. Replies in the remaining cases of Jagadhri and Hisar have not been received (September 1997). Further report on action taken has not been received (September 1997).

The cases were reported to Government in May 1996 and May 1997; their replies have not been received (September 1997).

2.14 Evasion of tax due to low yield

As per Excise and Taxation Commissioner, Haryana's instructions issued in October 1967, norms for yield of oil extracted from cotton seeds were fixed at **15 per cent** to **17 per cent** of the quantity of cotton seeds with **83** to **85 per cent** oil cakes and **1** to **2 per cent** of wastage. Failure to observe prescribed norms, the dealers were liable for levy of tax on low yield besides interest and penalty.

During the audit of records of Deputy Excise and Taxation Commissioner, Kaithal, it was noticed (July 1995) that a dealer of Kalayat (Kaithal) crushed 10599.72 quintals of cotton seeds during 1989-90 and showed in his books of account 1241.75 quintals of oil against the prescribed yield of 1589.95 quintals. The assessing authority while framing (April 1993) the assessment did not examine the point of low yield. Showing less extraction of 348.20 quintals oil resulted in short determination of taxable turnover at Rs.5.94 lakhs involving tax effect of Rs.52,245 besides levy of interest and penalty.

On this being pointed out (July 1995) in audit, the department raised (July 1995) demand of Rs.94,219 (tax: Rs.52,245; interest: Rs.34,974 and penalty: Rs.7,000). The department further intimated (May 1997) that additional demand of Rs.94,219 created by the assessing authority was quashed by the Joint Excise and Taxation Commissioner (Appeals), Ambala in January 1997 on the plea that orders of assessing authority based on audit objection is not sustainable. The Appellate Authority further stated that the department would be at liberty to take action against the appellant under the relevant provisions of law. On this, a reference was made (June 1997) to the department intimating that the audit objection was raised on the basis of departmental instructions issued in October 1967 wherein certain norms for oil extraction from oil seeds were fixed. The department was asked to re-examine the case and action be taken accordingly. Further reply has not been received (September 1997).

The case was reported to Government in January 1997; their reply has not been received (September 1997).

2.15 Non-levy of penalty

Under the Haryana General Sales Tax Act, 1973, if upon information which has come into his possession, the assessing authority is satisfied that any dealer has been liable to pay tax under this Act, in respect of any period but has failed to apply for registration, the assessing authority shall within five years after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax, if any, due from the dealer in respect of such period and all subsequent periods and in case where such dealer has wilfully failed to apply for registration, the assessing authority may direct that the dealer shall pay by way of penalty, in addition to the amount of tax so assessed, a sum equal to twice the amount of tax so assessed.

Penalty of Rs. 5.68 lakhs not levied for wilful failure to apply for registration.

During the audit of records of Deputy Excise and Taxation Commissioner, Sonipat, it was noticed (January 1995) that a dealer (Range Forest Officer) of Gohana made sales of dry/dead trees valued at Rs.32.27 lakhs during the years 1988-89 to 1991-92 without getting himself registered with sales tax department. The assessing authority, on getting information, levied (December 1993 and January 1994) tax of Rs.2.84 lakhs for these four years and action to levy penalty in each of these cases was kept pending but no such action was taken till January 1995 when the audit pointed out that penalty of Rs.5.68 lakhs was leviable.

On this being pointed out (January 1995) in audit, the department created (May 1995) demand of Rs.5.68 lakhs. Report on recovery of additional demand on account of penalty has not been received (September 1997).

The case was reported to Commercial Taxation Commissioner in May 1995 and to Government in April 1997; their replies have not been received (September 1997).

2.16 Under assessment due to calculation mistake

During the audit of records of Deputy Excise and Taxation Commissioner, Karnal, it was noticed (July 1996) that a dealer of Karnal had shown inter-State sales of goods valued at Rs.476.67 lakhs during the year 1993-94. The assessing authority while finalising (June 1995) the assessment under Central Sales Tax Act, for the year 1993-94, erroneously levied tax on the sales of Rs.301.90 lakhs instead of on Rs.476.67 lakhs. The calculation mistake resulted in under assessment of tax of Rs.6.99 lakhs.

Tax of Rs. 6.99 lakhs short levied due to calculation mistake.

On this being pointed out (July 1996) in audit, the department created additional demand of Rs.6.99 lakhs by increasing notional tax liability against the exemption limit of the dealer.

2.17 Under assessment due to irregular computation of turnover

Under the Haryana General Sales Tax Act, 1973, tax on sale of computers is leviable at the general rate of **8 per cent** plus surcharge and at the rate of **4 per cent** under Central Sales Tax Act, 1956.

During the audit of records of Deputy Excise and Taxation Commissioner, Hisar, it was noticed (August 1996 and January 1997) that a dealer of Hisar sold computers valued at Rs.16.87 lakhs during the years 1991-92, 1992-93, 1994-95 and 1995-96 within the State but showed the entire sale as inter-State sale in all the four years. The assessing authority while finalising (between January 1995 and October 1996) the

assessments of all the four years did not detect the misclassification of sales done by the dealer under Central Sales Tax Act and levied tax at the rate of **4 per cent** instead of leviabale rate of **8 per cent** plus surcharge. The omission resulted in under assessment of tax of Rs.0.81 lakh.

On this being pointed out (August 1996 and January 1997) in audit, the department referred (August 1996) the case for the year 1994-95 to the revisional authority for taking *suo motu* action. Reply on the action taken in respect of other cases for the years 1991-92 to 1992-93 and for 1995-96 has not been received (September 1997). Report on the action taken by the revisional authority has also not been received (September 1997).

The case was reported to Government in May 1997; their reply has not been received (September 1997).

2.18 Non-reconciliation of revenue deposits into treasury

Under the provisions of Haryana General Sales Tax Act, 1973, and the Rules framed thereunder, the officer incharge of each district shall maintain a daily collection register in a prescribed form wherein particulars of every challan received in proof of payments made under the Act or the Rules shall be recorded. In addition, the officer incharge shall also maintain a demand and collection register in prescribed form in respect of dealers registered under the Act showing the payments made with the treasury records of the district.

Non-reconciliation of revenue deposits into treasury resulted in possible loss of Rs.110.11 lakhs.

During verification of figures of revenue deposits made as per records of office of Deputy Excise and Taxation Commissioner

Faridabad (West) with treasury for the period 1 January 1988 to 31 March 1995, it was noticed (August-September 1995 and March-May 1996) that in 174 cases, amounts shown as deposited in disposal registers of Nehru Ground Circle were either not traceable in treasury records or payments recorded therein were found more than those appearing in the treasury records by Rs.3.24 lakhs. In 230 cases, amount of Rs.40.09 lakhs pertaining to Haryana General Sales Tax/ Central Sales Tax Acts found recorded in daily collection register (DCR) was not appearing in the treasury records. In 334 cases, amounts recorded in the DCRs were found more than those appearing in treasury records by Rs.66.78 lakhs for the period from February 1988 to March 1995. No reconciliation of payments made was ever conducted with the treasury records. This resulted in a possible loss of Government revenue of Rs.110.11 lakhs.

On this being reported (November 1995 and June 1996) to the Excise and Taxation Commissioner (now Commercial Taxation Commissioner), Haryana, the department recovered a sum of Rs.45,479 in 15 cases up to June 1997. The department further reconciled (August 1997) 96 cases (out of 334 cases) involving Rs.22.99 lakhs. Further report on reconciliation is awaited (September 1997).

The case has been reported to Government in August 1997: their reply has not been received (September 1997).

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Chapter-III

Stamp Duty and Registration Fees		
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Stamp Duty and Registration Fees

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CHAPTER 3

STAMP DUTY AND REGISTRATION FEES

3.1 Results of Audit

Test-check of the records of the District Registrars and Sub-Registrars conducted in audit during the year 1996-97 revealed short levy and non-levy of stamp duty and registration fees amounting to Rs.388.24 lakhs in 831 cases, which broadly fall under the following categories :

Sl. No.	Nature of irregularities	Number of cases	Amount (In lakhs of rupees)
1.	Loss of stamp duty due to misclassification of deeds	5	182.50
2.	Irregular exemption of stamp duty and registration fees	186	93.79
3.	Loss of stamp duty due to under valuation of properties	318	64.79
4.	Evasion of stamp duty and registration fees	110	23.89
5.	Non/short levy of stamp duty and registration fees	174	13.53
6.	Other irregularities	38	9.74
	Total	831	388.24

The department accepted under assessments of Rs.17.66 lakhs in 52 cases which were pointed out in audit during 1996-97. Out of which the department recovered an amount of Rs.0.57 lakh in 2 cases. Besides, an amount of Rs.14.44 lakhs in 237 cases had also been recovered during 1996-97 relating to earlier years.

Stamp Duty and Registration Fees

A few illustrative cases involving Rs.212.97 lakhs highlighting important observations are given in the following paragraphs:

3.2 Short levy of stamp duty due to misclassification of instruments

Under the Indian Stamp Act, 1899, as applicable to Haryana, 'mortgage deed' includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or

Instruments of mortgage deed wrongly classified as security bonds resulted in short levy of Rs. 196.18 lakhs.

future debt, or the performance of an engagement, one person transfers or creates, to, or in favour of another, a right over or in respect of specified property. Subject to the exemptions contained in view to avoid loss of stamp duty etc. In case where possession of property is not given, stamp duty is chargeable at **one and a half per cent** of the amount of loan secured by such instrument. Further, under the Act *ibid*, a collateral or auxiliary or additional or substituted security or by way of further assurance for the above mentioned purposes where the principal or primary security is duly stamped, is also chargeable at the rate of **one rupee fifteen paise per thousand rupees** for every sum secured.

During the audit of the records of Sub-Registrar, Panchkula, it was noticed (December 1996) that an industrial concern having its places of business at Chandigarh and Delhi secured loan/cash credit facilities of Rs.9132.50 lakhs from two scheduled banks by mortgaging immovable property (situated in village Billa, Tehsil Panchkula, District Panchkula) of the relations of the proprietor (borrower) of the concern. Subsequently, the loanee secured an enhanced limit of loan/cash credit facilities of Rs.3015 lakhs aggregating to total loan of Rs.12,147.50 lakhs from the same scheduled banks by further mortgaging

Stamp Duty and Registration Fees

landed property (situated in Village Billa, District Panchkula) of some other relation of the loanee. Simultaneously, another blood relation of the borrower stood surety by binding himself for the payment to the bank the sum of Rs.12,147.50 lakhs being the aggregate of the above said loan/cash credit facilities, besides interest, other costs and charges and created a collateral security thereon by mortgaging his agricultural land by way of deposit of title deed of the land situated in Village Jaswant Garh, Tehsil Panchkula District Panchkula. All the three deeds were got registered (between March 1995 and January 1996) as security bonds in favour of the banks on non-judicial stamped papers of Rs.15 each instead of as mortgage deeds (two Principal securities) and a deed of collateral (additional) security respectively. Stamp duty levied short as a result of this misclassification on both the counts amounted to Rs.196.18 lakhs.

On this being pointed out (December 1996) in audit, the Sub-Registrar, Panchkula stated that as the deed of a similar nature has been held as surety bond by Hon'ble High Court of Punjab and Haryana, the present deeds have been exempted from the levy of stamp duty treating the deeds as 'Surety Bonds'. The reply of the Sub-Registrar is not tenable as the document was registered only to discharge income tax liability without an actual transaction of money. The document, therefore, assumed the nature of surety bond but in the instant case the owner of the industrial concern has availed loan/cash credit facilities by mortgaging the property and depositing its title deeds which renders the document to be charged with stamp duty as mortgage deeds. The department has, however, issued (February 1997) notice for recovery to the concerned party. Further reply has not been received from the department (September 1997).

Stamp Duty and Registration Fees

The case was reported to Deputy Commissioner (Registrar), Panchkula and to Government in January 1997; their replies have not been received (September 1997).

3.3 Evasion of stamp duty due to under valuation of immovable property

The Indian Stamp Act, 1899, as applicable to Haryana, provides that the consideration, if any, and all other facts and circumstances affecting

Under valuation of properties resulted in evasion of stamp duty of Rs. 9.42 lakhs.

the chargeability of an instrument with duty, or the amount of duty with which it is chargeable, should be fully and truly set forth therein. Under Section 47-A of the Act, *ibid*, if the registering officer has reasons to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument refer the same to the Collector for determination of the value or the consideration and the proper duty payable, which will thereafter be decided by the Collector after giving an opportunity to the registering party. The Act, further provides that any person who, with intent to defraud the Government, executes any instrument in which all the facts and circumstances required to be set forth are not fully and truly set forth, is punishable with a fine which may extend to five thousand rupees.

During the audit of the records of 11* registering offices, it was noticed (between May 1994 and December 1996) that twenty four conveyance deeds were registered (between May 1994 and July 1996) on account of sale of immovable properties. The total value of the properties set forth in all the conveyance deeds was Rs.51.60 lakhs whereas as per agreements executed between the affected parties during the period from November 1993 to March 1996 and found recorded with the various

* Panipat, Naraingarh, Pundri, Chhachhroli, Faridabad, Gurgaon, Kaithal, Fatehabad, Narnaul, Palwal and Ratia.

Stamp Duty and Registration Fees

document writers, the total sale value in all those cases worked out to Rs.125.29 lakhs on the basis of rates agreed upon in the agreements for sale of properties. The conveyance deeds were, thus, got executed and registered at a consideration less than that agreed upon between the parties. Under valuation of properties in conveyance deeds resulted in evasion of stamp duty of Rs.9.42 lakhs. Besides, penalty not exceeding Rs.1.20 lakhs for under valuation done with intent to defraud the Government was also leviable in all the 24 cases.

On this being pointed out (between May 1994 and December 1996) in audit, the department accepted the objections and agreed to issue notices for recoveries in 16 cases, in eight cases the reply is still awaited. Report on recovery has not been received (September 1997).

The cases were reported to Government between July 1995 and February 1997; their replies have not been received (September 1997).

3.4 Evasion of stamp duty and registration fees through power of attorney.

The Indian Stamp Act, 1899, and the Indian Registration Act, 1908, as applicable to Haryana, require that where power of attorney is given for consideration and it authorises the attorney to sell

Stamp duty of Rs. 1.33 lakhs not levied on Power of Attorney given for consideration.

any immovable property, the deed is liable to stamp duty and registration fees as if it is an instrument of conveyance for the amount of consideration set forth therein. Government instructed (October 1976) that where a person purchasing an immovable property for further sale did not get the conveyance deed executed in his favour and instead on payment of sale consideration, obtained a power of attorney from the vendor authorising him/her to sell the property further to any party at his/her discretion on behalf of the vendor, the power of attorney shall be subjected to stamp

Stamp Duty and Registration Fees

duty and registration fees for the sale consideration in terms of Article 48(f) read with Article 23 of Schedule 1-A of the Indian Stamp Act, 1899. In another similar case, the Government in Revenue Department after seeking (August 1993) opinion of the Law Department, further clarified (February 1995) that such cases of powers of attorney shall be chargeable to same duty as a conveyance deed for the amount of consideration.

During the audit of records of Sub-Registrar, Tohana (Hisar), it was noticed (April 1995) that an agreement to sell agricultural land was registered in February 1995 after receiving full consideration of Rs.10.63 lakhs by the seller and handing over the possession to the purchaser. Simultaneously, power of attorney authorising the son of the purchaser to dispose of the property in any manner and to sign the sale deed was also given (February 1995) by the seller. Stamp duty and registration fees amounting to Rs.1.33 lakhs was leviable on the consideration as applicable to sale deed but was not levied.

On the omission being pointed out (April 1995) in audit, the department issued (June 1996) notice to the party concerned and stated that efforts are being made to recover the amount. Further report on recovery has not been received (September 1997).

The case was reported to Government in July 1995; who have further directed (February 1997) the Deputy Commissioner (Registrar), Hisar to recover the amount from the concerned party. The Government in Revenue Department further intimated (August 1997) that the Punjab and Haryana High Court has granted stay against recovery of the amount and thus the action in the matter would be taken up after the decision of the Hon'ble High Court. Further report on recovery has not been received (September 1997).

3.5 Irregular refund of stamp duty

As per Haryana Government notification issued in August 1995 under the Indian Stamp Act, 1899, as applicable to Haryana, stamp duty is remitted on the deeds of conveyance to be got executed by the farmers, whose land is acquired by the Government in public interest and who purchase agricultural land in the Haryana State within one year of the amount of compensation received by them for the acquired land. Further, as per the provisions of the Act, *ibid*, the Collector may, on application made within the period prescribed in the Act, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases namely, the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person, or the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto. The application for relief shall be made within six months after stamp has been spoiled. Further, in any case where allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof, at his discretion, the same value in money deducting ten paise for each rupee or fraction of a rupee.

(i) During the audit of records of Sub Divisional Officer (Civil), Ambala, it was noticed (August 1996) that four farmers (vendees) purchased agricultural land in Barara tehsil in May 1995 from the amount of compensation received by them in April 1995. The vendees had purchased non-judicial stamp papers of the value of Rs.72,190 and Rs.28,875 respectively from Barara Sub-treasury in May 1995 in the names of the vendors for getting the conveyance deeds executed in respect of the land so purchased. The conveyance deeds were got registered in May 1995. On the basis of the notification issued in August 1995 for

Stamp Duty and Registration Fees

remission of stamp duty, the vendors applied in December 1995 to the Collector, Ambala for refund of value of stamps to the vendees who were authorised by them through powers of attorney to receive the money on their behalf. The Collector allowed the refund of Rs.64,971 and Rs.25,987 after deducting **ten per cent** of the value of the stamps purchased. As the vendees purchased (May 1995) the land prior to the orders of remission, the remission of stamp duty was not in order. Secondly, the refund was applied for (December 1995) after the expiry of the prescribed period of six months. Allowance of irregular refund in both the cases resulted in loss of revenue of Rs.90,958.

On the omission being pointed out (August 1996) in audit, the department intimated (August 1996) that notices for recovery have been issued to the parties concerned. Further report on recovery has not been received (September 1997).

The case was reported to Government in October 1996; their reply has not been received (September 1997).

(ii) During the audit of the records of the Sub Divisional Officer (Civil), Pehowa (Kurukshetra), it was noticed (October 1996) that a mortgagor purchased non-judicial stamp papers of the value of Rs.25,000 on 4 January 1996 from Pehowa Sub treasury for executing a mortgage deed in respect of his agricultural land. The mortgagor after receiving the entire money of his property intended to be mortgaged, handed over the possession to the mortgagee but the deed was not registered and accordingly, the mortgagor applied on 12 March 1996 to the Collector, Pehowa, for refund of stamps valued at Rs.25,000. The Collector allowed the refund of Rs.22,500 after deducting **ten per cent** of the value of the stamps. As the mortgagor applied for refund of stamps

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after the expiry of the prescribed period, action of the Collector in allowing the refund was not in order.

On the omission being pointed out (October 1996) in audit, the department accepted the omission and issued notice for recovery in March 1997. Report on recovery has not been received (September 1997).

The cases were reported to Government between October and November 1996; their replies have not been received (September 1997).

3.6 Non/Short recovery of stamp duty and registration fees on mortgage deeds.

Under the Indian Stamp Act, 1899, as applicable to Haryana, mortgage deed includes every instrument whereby, for the purpose of securing money advanced, or to be advanced by way of loan, or an existing or future debt, or the performance of an agreement, one person transfers or creates, to, or in favour of another, a right over or in respect of specified property. Subject to the exemptions contained in Schedule 1-A of the Act *ibid*, every instrument is chargeable with duty at the rates prescribed therein. In cases where possession of property is not given, stamp duty is chargeable at **one and a half per cent** of the amount of loan secured by such instrument. Government vide notification issued in August 1981 remitted the levy of stamp duty chargeable under the Act *ibid*, in respect of instruments of mortgage deeds without possession executed by Small Scale Industrial concerns in favour of Haryana Financial Corporation for securing loans. Government further vide notifications issued in October 1983 under the Act *ibid* remitted levy of stamp duty and registration fees on the deeds of mortgage without possession which are executed by agriculturists in favour of commercial

Stamp Duty and Registration Fees

banks for securing loans up to the amount of rupees one lakh for specified purposes and up to Rs.60,000 for other allied purposes.

(i) During the audit of the records of Sub-Registrar, Ambala, it was noticed (August 1996) that a company having its place of business at Dehradun, secured a cash credit limit of Rs.25 lakhs from a scheduled commercial bank by mortgaging the urban property of one of its partners to the tune of Rs.10 lakhs and guarantee limit of Rs.15 lakhs by a guarantor who stood surety for repayment of principal, interest and other charges due under the cash credit facilities of Rs.25 lakhs availed of by the company. The mortgage deed was got registered (June 1995) in favour of the bank without levy of stamp duty and registration fees treating the deed as covered under the above notifications. The omission resulted in non-levy of stamp duty and registration fees amounting to Rs.38,000.

On this being pointed out (August 1996) in audit, the department issued (August 1996) notice for recovery to the party concerned. Further report on recovery has not been received (September 1997).

(ii) Similarly, in the office of Sub-Registrar Naraingarh (Ambala), a mortgage deed was got executed in February 1996 by the owner of a poultry farm after mortgaging an urban property situated in Naraingarh in favour of a scheduled commercial bank of Panjokhra (Ambala) which granted cash credit facilities of Rs.29.70 lakhs to the poultry farm. Stamp duty amounting to Rs.5 was charged instead of chargeable amount of Rs.44,545.

On the omissions being pointed out (July 1996) in audit, the department intimated (July 1996) that notice for recovery is being

Stamp Duty and Registration Fees

issued to the party concerned. Further report on recovery has not been received (September 1997).

Both the cases were reported to Government in October 1996; their replies have not been received (September 1997).

(iii)- During the course of audit of the records of Sub-Registrar, Gurgaon, it was noticed (July 1996) that an instrument of mortgage deed (without possession of property) was executed (June 1995) by an industrial concern of Gurgaon, in favour of Haryana Financial Corporation for securing a loan of Rs.19.34 lakhs for the purchase of land, machinery and construction of nursing home building. The unit was not registered as small scale industry with the Industries Department, Haryana, as intimated (July 1996) by them but the mortgage deed was executed on non-judicial stamp paper of Rs.20 instead of execution of the same with stamp duty of Rs.29,010 **at one and a half per cent** of the amount of loan secured. This resulted in short levy of stamp duty amounting to Rs.28,990.

On the omission being pointed out (July 1996) in audit, the Sub-Registrar intimated (July 1996) that requisite certificate concerning small scale industry will be obtained from the party concerned. The reply of the Sub-Registrar was not tenable as the unit was neither registered as small scale industrial unit at the time of execution of mortgage deed (June 1995) nor it was got registered till July 1996. The department further intimated (June 1997) that the entire amount of Rs.28,990 has been recovered from the party in March 1997.

Stamp Duty and Registration Fees

3.7 Irregular exemption of stamp duty

The Haryana Government vide notification issued in August 1995, remitted the stamp duty leviable on the deeds of conveyance to be got executed by the farmers whose land is acquired by the Government in public interest and who purchase agricultural land in the Haryana State within one year of the amount of compensation received by them for the acquired land. It was further provided that such remission would be limited to the compensation amount only and the additional amount involved for the purchase of agricultural land would be liable to stamp duty leviable under the rules.

(i) During the audit of the records of Joint Sub-Registrar, Raipur Rani (Ambala), it was noticed that three land owners of Panchkula, whose land was acquired by Government in June 1992, purchased agricultural land between September 1995 and December 1995 within the same district against the amount of compensation received (between June 1992 and September 1992). Seven conveyance deeds were got executed (between September 1995 and December 1995) on non-judicial stamp papers of Rs.10 each after three years of the amount of compensation received by them. The conveyance deeds were irregularly exempted from levy of stamp duty on the plea that the instruments of sale deeds were covered under the Government notification issued in August 1995. As per notification, agricultural land purchased within one year of the amount of compensation received for acquired land is exempted from levy of stamp duty. Irregular exemption has resulted in short levy of stamp duty amounting to Rs.69,878.

On this being pointed out (July 1996) in audit, the department admitted (July 1996) the objection and stated to initiate action for recovery from the concerned parties. Further reply has not been received (September 1997).

Stamp Duty and Registration Fees

The case was reported to Government in October 1996 who have directed (March 1997) the department to recover the amount under objection from the concerned parties. Further reply has not been received (September 1997).

(ii) During the audit of the records of the Sub-Registrar, Hisar, it was noticed (June 1996) that a House Building Co-operative Society of Hisar, whose land was acquired by Government in May 1995, purchased (November 1995) agricultural land within the same district against the amount of compensation received by them in September 1995. Two conveyance deeds were got executed by the society in November 1995 without the levy of stamp duty under the impression that purchase of agricultural land by the House Building Co-operative Societies is also exempt from stamp duty under the notification of August 1995. As per notification, agricultural land purchased by the farmers against the compensation received by them for their acquired land is exempted from levy of stamp duty. The incorrect exemption granted to the society resulted in non-levy of stamp duty of Rs.62,375.

This was pointed out to the department in June 1996 and was reported to the Government in August 1996; their replies have not been received (September 1997).

(iii) During the audit of records of Sub-Registrar, Thanesar (Kurukshetra), it was noticed (October 1996) that a farmer had purchased a built up house for a consideration of Rs.3.50 lakhs from the amount of compensation received by him for his acquired land. However, no stamp duty was levied under the impression that purchase of house was also covered under the notification issued in August 1995 for remission of stamp duty. The irregular exemption resulted in loss of stamp duty amounting to Rs.54,250.

Stamp Duty and Registration Fees

On this being pointed out (October 1996) in audit, the department stated (October 1996) that notice to the party concerned will be issued for effecting recovery. Further report on action taken has not been received (September 1997).

(iv) During the audit of the records of Sub-Registrar, Thanesar (Kurukshetra), it was noticed (October 1996) that three farmers of a family, whose land was acquired (April 1995) by the Government, had received (April 1995) a total compensation of Rs.3.10 lakhs with equal shares. They purchased (February 1996) 27 Kanals (540 marlas) of agricultural land within the State from a farmer of tehsil Thanesar for a total consideration of Rs.4.95 lakhs. A single conveyance deed was got executed (February 1996) jointly by all the three farmers. The areas of the land so purchased by each of them were 200 marlas, 300 marlas and 40 marlas for the consideration of Rs.1.83 lakhs; Rs.2.75 lakhs and Rs.0.37 lakh respectively. The stamp duty was to be exempted on the consideration limited to the amount of compensation received by them or the value of the land so purchased by each individual farmer whichever is less. The amount of consideration on which the stamp duty was to be exempted worked out to Rs.2.43 lakhs. However, stamp duty was exempted on the total consideration of Rs.4.95 lakhs of the conveyance deed. The irregular exemption on the excess amount of Rs.2.52 lakhs resulted in short levy of stamp duty of Rs.31,438.

On this being pointed out (October 1996) in audit, the department intimated (October 1996) that notice will be issued to the party concerned for recovery of the amount. Further report on action taken has not been received (September 1997).

The cases were reported to Government in January 1997; their replies have not been received (September 1997).

3.8 Short levy of stamp duty on lease deed

Under the Indian Stamp Act, 1899, as applicable to Haryana, on an instrument of lease, stamp duty is chargeable on the basis of periods of lease and the amount of the average annual rent reserved. Where the lease purports to be in perpetuity, stamp duty shall be levied on a consideration equal in the case a lease granted solely for agricultural purposes to 1/10th and in any other case to 1/6th of the whole amount of rents which would be paid or delivered in respect of the first fifty years of lease. The Act further provides that where the lease is granted for a fine or premium or for money advanced in addition to rent reserved, the duty is charged on the value of such fine or premium set forth in the lease deed.

During the audit of records of Sub-Registrar, Faridabad, it was noticed (June 1995) that an instrument of lease was registered (May 1994) for execution of a lease deed in respect of a piece of land measuring 1244.3 square yards which was leased out, for a period of 99 years on perpetual lease basis, to a partnership concern for running of a petrol pump-cum-service station and retail outlet at Faridabad. The lessee paid in advance a sum of rupees ten lakhs as premium of the land and he shall also pay ground rent at the rates of Rs.20,000, Rs.40,000 and Rs.60,000 *per annum* for each of the three consecutive spans of 33 years respectively. While registering the instrument of lease, stamp duty of Rs.72,500 was charged instead of chargeable amount of Rs.1,13,174 on lease in perpetuity. The omission resulted in short levy of stamp duty amounting to Rs.40,674.

On this being pointed out (June 1995) in audit, the department directed (December 1995) the concerned party to deposit the deficient amount. Report on recovery has not been received (September 1997).

Stamp Duty and Registration Fees

The case was reported to Government in September 1995; their reply has not been received (September 1997).

Chapter-IV

Other Tax Receipts		
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No.	Description	Amount
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CHAPTER 4

OTHER TAX RECEIPTS

4.1 Results of Audit

Test check of records in departmental offices, relating to revenues of Electricity Duty, Passengers and Goods Tax, State Excise Duty, Taxes on Motor Vehicles and Entertainments Duty and Show Tax revealed under assessment of taxes and duties and loss of revenue amounting to Rs.1176.12 lakhs in 17537 cases as depicted below:

	Heads of revenue	Number of cases	Amount (In lakhs of rupees)
A.	Electricity Duty	15585	487.83
B.	Passengers and Goods Tax	625	253.82
C.	State Excise Duty	206	392.92
D.	Taxes on Motor Vehicles	1109	37.23
E.	Entertainments Duty and Show Tax	12	4.32
	Total	17537	1176.12

(a) In the case of Electricity Duty, the department accepted under assessments of Rs.58.76 lakhs in 15397 cases which were pointed out in audit during 1996-97, out of which the department recovered an amount of Rs. 6.74 lakhs in 4 cases.

(b) In the case of Passengers and Goods Tax, the department accepted under assessments etc. of Rs.96.85 lakhs in 146 cases which were pointed out in audit during the year 1996-97. Besides, an amount of Rs.35.61 lakhs has also been recovered during 1996-97 in 365 cases pointed out in earlier years.

(c) In the case of State Excise Duty, the department recovered an amount of Rs.0.80 lakh in one case which was pointed out in 1996-97.

Other Tax Receipts

Besides, an amount of Rs.2.61 lakhs has also been recovered during 1996-97 in 43 cases pointed out in earlier years.

(d) In the case of Taxes on Motor Vehicles, the department accepted under assessments etc. of Rs.0.70 lakh in 239 cases which were pointed out in audit during the year 1996-97, out of which the department recovered Rs.0.14 lakh in 28 cases. Besides, an amount of Rs.0.60 lakh has also been recovered during 1996-97 in 34 cases pointed out in earlier years.

(e) In the case of Entertainments Duty and Show tax, the department accepted under assessments etc. of Rs.1.95 lakhs in 6 cases which were pointed out in audit during the year 1996-97. Besides, an amount of Rs.0.46 lakh has also been recovered during 1996-97 in 35 cases pointed out in earlier years.

A few illustrative cases involving Rs.36.45 lakhs and a review on "Levy and collection of Electricity Duty" involving Rs.3090.94 lakhs highlighting important observations are mentioned in the following paragraphs:

A-ELECTRICITY DUTY

4.2 Levy and Collection of Electricity Duty

4.2.1 Introductory

Electricity Duty is levied under the Punjab Electricity (Duty) Act, 1958, as applicable to Haryana, on the energy supplied to consumers or licensees by the Haryana State Electricity Board at the rates as the State Government may from time to time, specify and is collected and paid to the Government by the Board. Further, the State Government, under the provisions of Section 12 of the Act *ibid* may in public interest, by notification, exempt any licensee, consumer or person from the

payment of the whole or part of the duty for such period and subject to such terms and conditions as may be prescribed.

4.2.2 Scope of Audit

The records in the offices of the Chief Electrical Inspector (C.E.I.) to the Government of Haryana, Chandigarh and 41 (out of 224) operation sub-divisions of the Board for the period 1991-92 to 1995-96 were test checked (between October 1996 and March 1997) with a view to ascertain that the duty had correctly been levied and promptly paid and credited to Government Account.

4.2.3 Organisational set up

The Chief Electrical Inspector (C.E.I.) assisted by the Assistant Engineers attached to the field offices as well as Inspectorate Staff under the administrative control of the Irrigation and Power Department, administers the Punjab Electricity (Duty) Act, 1958 and the rules made thereunder. He is responsible for checking the assessment and collection of duty, recovery of duty from the defaulters as arrears of land revenue, to watch the timely submission of the prescribed returns due to him. He is further required to submit to the State Government a monthly statement in the prescribed form along with his comments, if any, in respect of the assessment and realisation of duty. He is also responsible for conducting periodical inspections and testing of consumers installations except low voltage and agricultural installations and to issue licenses under the Indian Electricity Act, 1910 and the Indian Electricity Rules 1956.

4.2.4 Highlights

- Electricity Duty amounting to Rs.219.58 crores though collected by Haryana State Electricity Board was not deposited in treasury in violation of the provisions of Punjab Electricity (Duty) Act resulted in loss of revenue by way of interest to Government amounting to Rs.20.47 crores.

(Paragraph 4.2.6)

- Failure of Haryana State Electricity Board to realise the deferred amount of electricity duty and interest from two sick units in Bhiwani and Rohtak resulted in non realisation of revenue amounting to Rs.1.33 crores.

(Paragraph 4.2.7)

- Irregular grant of exemption of duty to 9 units in 7 Sub-divisions resulted in non-realisation of duty amounting to Rs.50.82 lakhs.

(Paragraph 4.2.8)

- There was no system of reporting of extension of initial load to exempted units by Haryana State Electricity Board to the Chief Electrical Inspector. As a result electricity duty on extended load from 59 units was not realised to the extent of Rs.48.44 lakhs.

(Paragraph 4.2.9)

- In four Sub-divisions electricity duty amounting to Rs.52.87 lakhs was not charged from Haryana State Minor Irrigation and Tubewells Corporation as a result of wrong classification as agricultural consumer.

(Paragraph 4.2.10)

- Electricity duty on light load was not charged Rs.13.72 lakhs.

(Paragraph 4.2.11)

- Electricity duty amounting to Rs.5.30 lakhs was short charged due to application of incorrect rates.

(Paragraph 4.2.12)

- Electricity duty after expiry of exemption period was not realised to the extent of Rs.5.13 lakhs.

(Paragraph 4.2.13)

Other Tax Receipts

- Duty amounting to Rs.6.88 crores realised from the consumers was shown by the Haryana State Electricity Board as its own revenue and not paid to the Government.

(Paragraph 4.2.14)

- Arrears on account of uncollected duty (ending March 1996) amounted to Rs.25.42 crores of which Rs.23.03 crores related to period prior to April 1991.

(Paragraph 4.2.15)

- Short fall in statutory inspection of installations resulted in revenue loss of inspection fees amounting to Rs.47.13 lakhs.

(Paragraph 4.2.16)

4.2.5 Trend of Revenue

The estimated collection of duty (including inspection fees and other receipts) and the actual receipts for the five years ending 1995-96 are given below:

Year	Budget estimates	Actuals	Variations Increase (+) Decrease (-)	Percentage of variation Increase (+) Decrease (-)
(In crores of rupees)				
1991-92	38.00	38.49	(+) 0.49	Negligible
1992-93	43.00	43.43	(+) 0.43	Negligible
1993-94	46.00	39.06	(-) 6.94	(-) 15
1994-95	47.00	48.00	(+) 1.00	Negligible
1995-96	47.00	46.46	(-) 0.54	Negligible

The decrease of 15 per cent in 1993-94 over the budget estimate was attributed by the department to non-deposit of the full amount of electricity duty by the Haryana State Electricity Board.

4.2.6 Electricity duty not deposited in treasury

Under the Punjab Electricity (Duty) Act, 1958, and the rules made thereunder, the electricity duty leviable on the energy supplied by the Board every month shall be collected by the Board along with the bills for energy supplied to the consumers and shall be deposited into the Government Account in treasury as early as possible and in no case later than 20th of the following month. Further, the Board shall submit to the Chief Electrical Inspector, by the 20th of every month, a statement in the prescribed form showing duty assessed, realised, deposited and balance retained/unrecovered.

The Electricity Board collected duty from the consumers but did not deposit in treasury which led to loss of interest of Rs.20.47 crores.

(a) It was noticed (December 1996) in audit that the Board collected duty during the years 1991-92 to 1995-96 from the consumers along with the bills for energy supplied every month and retained the whole of the duty so collected without any orders of the competent authority. Though the prescribed monthly return was regularly submitted by the Board to Chief Electrical Inspector, no action was taken by him to recover this duty. At the end of each financial year, the State Government adjusted the payment of duty towards loan to the Board by contra credit of the amount to the State exchequer as electricity duty under the relevant heads of account as tabulated below:

Year	Duty collected	Deposited during the year	Amount of loan sanctioned	Balance
(In crores of rupees)				
1991-92	40.56	Nil	38.00	2.56
1992-93	47.79	Nil	43.00	4.79
1993-94	44.67	Nil	38.64	6.03
1994-95	51.58	Nil	41.85	9.73
1995-96	34.98	Nil	46.00	(-)11.02
Total	219.58	Nil	207.49	12.09

It can thus be seen that the electricity duty collected but not deposited in treasury at the end of 1995-96 was Rs.207.49 crores. Had this amount been deposited by the prescribed date the Government could have saved an amount of Rs.20.47 crores on account of interest (based on the minimum borrowing rate).

4.2.7 Non-realisation of deferred amount of electricity duty and interest.

Under the Punjab Electricity (Duty) Act, 1958, as applicable to Haryana, the State Government may in public interest, by notification exempt any licensee, consumer or person from the payment of whole or part of the electricity duty for such period and subject to such terms and conditions as may be prescribed.

Failure of Electricity Board to realise the deferred amount of duty and interest resulted in non-realisation of Rs.1.33 crores.

Under the rehabilitation scheme, two sick industrial units in two sub-divisions of Bhiwani and Rohtak were allowed deferment from payment of electricity duty with the specific condition that the Industries Department will obtain an appropriate guarantee to ensure recovery of deferred amount of electricity duty and interest thereon in consultation with Finance Department and legal remembrancer and the amount for the deferred period with interest will be recovered in five annual equal instalments immediately after the expiry of the deferment period. The rate of interest payable on deferred amount of electricity duty was determined by the department more than 5 years after the first instalment was due. It was noticed that Rs.132.92 lakhs* (electricity duty: Rs.76.03 lakhs; interest: Rs.56.89 lakhs) as tabulated below were not realised (September 1997).

* This includes excess deferment of Rs. 5.92 lakhs and interest thereon Rs.5.88 lakhs.

Other Tax Receipts

Sl.No.	Name of Sub-division	Period of deferment	Amount of duty deferred	Amount of interest	Total amount
(In lakhs of rupees)					
1	Suburban No.2 Bhiwani	January 1987 to June 1991	30.99	30.00	60.99
2	No. 4 Rohtak	April 1990 to March 1995	39.12	21.01	60.13
Total			70.11	51.01	121.12

The unit at Bhiwani was allowed deferment of electricity duty even after the expiry of deferment period i.e. from 1.7.1991 to 31.1.1992 resulting in excess deferment of electricity duty amounting to Rs.5.92 lakhs and interest of Rs.5.88 lakhs.

The unit at Bhiwani has since been wound up and as per the report of Sub-Committee of the Industries Department, the performance of unit at Rohtak was going from bad to worse, making the chances of recovery bleak.

4.2.8 Irregular grant of exemption

Under the Punjab Electricity (Duty) Act, 1958, as applicable to Haryana, the State Government may in public interest, by notification exempt any licensee, consumer, or person from the payment of the whole or part of the electricity duty for such period and subject to such terms and conditions as may be prescribed.

Irregular exemption from payment of duty in contravention of rules resulted in non-recovery of duty of Rs.50.82 lakhs.

(a) It was noticed that 9 sick industrial units in 7 Sub-divisions¹ were granted exemption from payment of electricity duty under the rehabilitation scheme subject to the condition that the performance of the unit shall be reviewed every half year and if observed that the performance of the unit has improved, the reliefs/concessions by the State Government would be reviewed and the Government would be free to withdraw its reliefs/concessions where it feels that units were not achieving their production/ financial targets. It was noticed that after the review of performance of the industrial units by the High Power Committee appointed for the purpose, decision of withdrawal of electricity duty in respect of 3 units in two operation sub-divisions was taken. Despite this, the amount of exempted electricity duty amounting to Rs.36.74 lakhs already availed of by these units was not recovered.

(b) Under the Punjab Electricity (Duty) Act, 1958, no electricity duty is leviable on the sale or consumption of energy which is sold to the Government of India for consumption by the Government or consumed in the construction, maintenance or operation of any Railway by the Government of India or a Railway Company operating that Railway or sold to that Government or any such Railway Company for consumption in the construction, maintenance or operation of any Railway. Electricity duty is, however, leviable on the energy used for staff quarters, departmental colonies, street lights, canteens etc.

Audit scrutiny of Faridabad Sub-division No. 2 revealed incorrect allowance of exemption from levy of duty to a street lighting connection to Government of India Press Colony Faridabad from April 1990 to March 1996 resulting in non-realisation of electricity duty to

¹ Operation Sub-divisions: Sub-urban Faridabad, Industrial Area Ballabgarh, No. 4 Faridabad, Mathura Road Faridabad, Kundli, Satrod Hisar and Dharuhera.

Other Tax Receipts

the extent of Rs.2.35 lakhs. On this being pointed out (November 1995) in audit, the department stated (March 1997) that the connection was in the name of Sub-divisional Officer, Central Public Works Department and no electricity duty was chargeable. The reply of the department is not tenable as street light connections are not exempted from electricity duty.

(c) The State Government by notifications issued in June 1989 and December 1991 exempted, in public interest, new industrial units engaged in manufacturing, processing and preservations of goods, coming into commercial production in the State, from the payment of whole of the Electricity Duty for a period of five years from the date of release of electric connections to such units. The exemption certificates were to be issued by the industries department.

(i) Audit scrutiny of a Faridabad Sub-division revealed that exemption from payment of Electricity duty was granted to an Industrial unit to the extent of Rs.2.50 lakhs whereas the exemption was allowed to the tune of Rs.3.20 lakhs resulting in excess allowance of Rs.70,466. On this being pointed out (March 1997) in audit, the department stated that the amount was charged to consumer's account (March 1997).

(ii) The State Government wide notification issued in December 1991 included the "Roller Flour Mills" in the negative list which were not eligible for grant of exemption from levy of electricity duty. In Yamunanagar, Babyal (Ambala Cantt.) and Karnal Sub-divisions three Roller Flour Mills were granted exemption from payment of electricity duty in contravention of notification *ibid*. Irregular grant of exemption, resulted in loss of revenue to the extent of Rs.7.54 lakhs.

(iii) Similarly, the "Oil Expellers" were also in the negative list and were not eligible for grant of exemption from levy of electricity duty.

In three operation sub-divisions at Ambala and Karnal, three oil manufacturing units were granted exemption from payment of electricity duty in contravention of notification issued in June 1989. This resulted in loss of revenue to the extent of Rs.3.49 lakhs.

4.2.9 Non-charging of electricity duty on extended load

Under the provisions of the Punjab Electricity (Duty) Act, 1958, the Haryana Government by a notification issued in June 1989 allowed exemptions from the payment of whole of the electricity duty to the new Industrial units for a period of 5 years from the date of release of electric connections to such units. Further, the Chief Electrical Inspector vide letter issued in September 1994 and subsequent clarifications issued in May 1995, clarified that exemption from payment of electricity duty was admissible only on initial connected power load i.e. the load sanctioned at the time of release of electric connection and not on the load subsequently got extended by the Industrial unit. However, in March 1996, the Chief Electrical Inspector again clarified that if the Industrial unit has extended load for completion of the project and which could not be anticipated initially and/or which has become essential as a requisite of the smooth running of Industry, provided that the production installed capacity of the Industry remains the same, the benefit of exemption shall also be admissible for such extended load for which approval of the department shall be obtained by the Board before allowing the benefit to the consumers.

Failure of the Electricity Board to charge duty on extended load by Industrial Units resulted in loss of revenue of Rs.48.44 lakhs.

It was noticed that 59 Industrial units, in 18 Sub-divisions, got their load extended but no electricity duty was charged from these units on the extended load. There was nothing on the record to establish

Other Tax Receipts

the conditions mentioned in clarification (issued in March 1996) nor these cases were forwarded to the Chief Electrical Inspector for grant of exemption on extended load. However, there was no system of reporting the extension of load by Haryana State Electricity Board to the Chief Electrical Inspector. This resulted in non-realisation of duty to the extent of Rs.48.44 lakhs. On this being pointed out (between October 1996 and March 1997) in audit, the department stated that an amount of Rs.9.84 lakhs has been charged to consumer's account, out of which Rs.57,811 were recovered (March 1997). Reply in respect of the balance amount of Rs.38.60 lakhs has not been received (September 1997).

4.2.10 Erroneous exemption from payment of duty

Under the Punjab Electricity (Duty) Rules, 1958, as applicable to Haryana, the classification of consumers for levy of electricity duty, unless specifically decided by the Government to the contrary shall be the same as is followed for the purpose of schedule of tariff of the Board. According to this schedule, agricultural connections with load exceeding 20 KW are not treated as agricultural connections and are therefore, not exempt from the levy of electricity duty.

**Electricity duty
irregularly exempted
by the Board resulted
in loss of revenue of
Rs.52.87 lakhs.**

In four operation sub-divisions² it was noticed (between October 1996 and March 1997) that pumping supply connections exceeding 20 KW load issued to Haryana State Minor Irrigation and Tubewells Corporation were erroneously treated as agricultural pumping supply and exempted from levy of electricity duty. This resulted in erroneous exemption from duty to the extent of Rs.52.87 lakhs during the

² Operation Sub-divisions: Sub-urban Panipat, Model Town Karnal. Naval (Karnal) and Safidon (Jind).

years 1991-92 to 1995-96. The similar irregularity was also pointed out in Audit Report for 1986-87 (Paragraph 5.8.04).

4.2.11 Electricity Duty not charged on light load

The State Government by notification issued in June 1989, allowed exemption from payment of duty to the new Industrial units. This exemption was allowed on Power load consumption only and electricity duty was chargeable on light load consumption as stipulated in the exemption certificates issued by the Industries Department/Electrical Inspectorate. Further, the Punjab Electricity (Duty) Rules, 1958, as applicable to Haryana, provide that

Light load consumption of industrial units liable to duty was either short charged or not charged at all resulting in short/non realisation of duty of Rs 13.72 lakhs.

where part of supply of energy is dutiable and part is exempt, the consumer shall install an additional, suitable and correct meter or sub meter to record the quantities of the two kinds of consumption separately.

It was noticed in audit that in 22 Sub-divisions, the District Industries Centres/Government allowed exemption to 75 units from the payment of electricity duty on power load consumption for various periods. Out of these, the electricity duty on light load was charged short in 31 units and in remaining 44 units the electricity duty on light was not at all charged. The omission resulted in short/non-realisation of duty amounting to Rs.13.72 lakhs on light load consumption for the various exempted periods. On this being pointed out (between October 1996 and March 1997) in audit, the department charged Rs.5.86 lakhs in consumer's account, out of which Rs.3.72 lakhs were recovered (March 1997). Reply in respect of the balance amount of Rs.7.86 lakhs has not been received (September 1997).

Other Tax Receipts

4.2.12 Short realisation of electricity duty due to application of incorrect rates

Under the provisions of Punjab Electricity (Duty) Act, 1958, the State Government by notification issued in July 1992 revised the rates of electricity duty in respect of High Tension (H.T.) Industrial Supply with sanctioned load of 70 KW and above from 17 paise to 20 paise per unit.

Duty charged at pre-revised rates resulted in short realisation of duty of Rs 5.30 lakhs.

In seven sub-divisions of Board as detailed below, the electricity duty in 238 cases was charged at old rates instead of at revised rates resulting in short realisation of duty amounting to Rs.5.30 lakhs.

Sl. No.	Name of Sub-division	No. of Cases	Amount short realised
			(In rupees)
1.	No.3 Faridabad	55	60,129
2.	Mathura Road Faridabad	60	1,29,924
3.	Ballabhgarh Industrial Area Faridabad	76	1,08,225
4.	City No. 1 Gurgaon	4	17,361
5.	Industrial Area Maruti Gurgaon	12	1,03,992
6.	City 'OP' Sonipat	15	28,367
7.	Model Town Hisar	16	81,637
Total		238	5,29,635

On this being pointed out (between October 1996 and March 1997) in audit, the department charged Rs 4.48 lakhs in consumer's account of which amount of Rs.1.37 lakhs has been recovered (March 1997). Further reply has not been received (September 1997).

4.2.13 Electricity duty not charged after expiry of exemption period

The State Government by a notification issued in June 1989, exempted new industrial units except those units mentioned in the schedule to the notification and those not covered under rural industries scheme from the payment of whole of the electricity duty for a period of five years from the date of release of electric connections.

The Electricity Board not charged duty even after the expiry of exemption period led to non-realisation of duty of Rs.5.13 lakhs.

In 9 Sub-divisions of the Board at Faridabad, Gurgaon, Sohna, Panipat, Bhiwani, Babyal (Ambala Cantt.) and Jind, it was noticed in audit, that exemption from payment of duty had been allowed to 22 consumers even beyond the expiry of exemption period. This resulted in non realisation of duty amounting to Rs.5.13 lakhs. On this being pointed out (between October 1996 and March 1997) in audit the department charged Rs.3.50 lakhs in consumer's account of which amount of Rs.1.07 lakhs has been recovered (March 1997). Reply in respect of the balance amount of Rs.1.63 lakhs has not been received (September 1997).

4.2.14 Misclassification of electricity duty

Under the Punjab Electricity (Duty) Act, 1958, and the Rules framed thereunder, the Electricity Board is required to deposit the duty collected into Government treasury/bank as early as possible and in no case later than 20th of the following month.

Electricity duty of Rs.6.88 crores collected by the Board misclassified as sale of power.

The internal audit wing of the Chief Electrical Inspector pointed out between April 1991 and March 1996 that the duty amounting to Rs.17.17 crores realised along with monthly bills was misclassified by the Board as its own revenue (sale of power) instead of crediting to

Other Tax Receipts

Government account. Out of this, amount of Rs.10.63 crores was adjusted by credit to electricity duty account during 1991-92 to 1995-96 leaving a balance of Rs.6.54 crores as on 31 October 1996. Year-wise break up of balance misclassified duty is tabulated below:

Year	Duty misclassified	Misclassified duty adjusted	Outstanding misclassified duty as on 31st October 1996
(In crores of rupees)			
1991-92	2.60	2.13	0.47
1992-93	3.87	3.23	0.64
1993-94	2.65	1.85	0.80
1994-95	4.08	2.28	1.80
1995-96	3.97	1.14	2.83
Total	17.17	10.63	6.54

Besides, it was noticed that there was misclassification of duty in two other Sub-divisions of the Board during the years 1994 to 1996. This resulted in non-payment of duty of Rs.33.61 lakhs to the Government as tabulated below:

Sl. No.	Name of Sub-division	Duty misclassified but not detected in internal audit
(In lakhs of rupees)		
1	Sub-division No.3 Faridabad	5.61
2	Sub-urban Ballabgarh	28.00
	Total	33.61

The omission was pointed out to the Board/Chief Electrical Inspector in March 1997. The Board stated (March 1997) that necessary adjustment will be made in the subsequent accounts.

4.2.15 Arrears of electricity duty

Arrears on account of uncollected duty ending March 1996, as intimated by the Department amounted to Rs.25.42 crores. Out of this, an amount of Rs.23.03 crores relates to the period prior to 1990-91. Year-wise details are given below:

Ineffective action by the department to recover the duty resulted in accumulation of arrears of Rs.25.42 crores.

Year	Amount (In crores of rupees)
Up to 1990-91	23.03
1991-92	1.31
1992-93	3.75
1993-94	0.59
1994-95	(-) 5.14 ³
1995-96	1.88
Total	25.42

Failure to recover the duty was attributed mainly to the following reasons:

(i) Deferment of duty of Rs.one crore due from Haryana Concast Limited, by the Government due to weak financial position of the company.

(ii) Duty of Rs.30 lakhs due from Dadri Cement Factory, Dadri, likely to be written off, being closed unit (now taken over by a Corporation of Central Government).

³ The department shown minus arrears of Rs 5.14 crores during the year 1994-95 and stated that the figure in minus was due to excess realisation of duty of previous years. The details/year-wise break up of the arrears of duty was not available with the department.

Other Tax Receipts

(iii) Cases of duty amounting to Rs.70.34 lakhs are pending in the civil/ arbitration courts.

(iv) The detailed break up of the remaining amount of Rs.23.42 crores was not available with the Department.

4.2.16 Shortfall in statutory inspection of electrical installations

The State Government vide notifications issued in July 1981 and June 1983 directed the Chief Electrical Inspector that all extra high, high voltage, medium voltage installations and small power installations (other than agricultural/low voltage installations) already connected to the supply system shall be inspected and tested by the electrical inspector once in a year and in 3 years respectively. The inspection fees for periodical inspections of low, medium, high tension and extra high tension installations ranged between Rs.50 and Rs.1000. The consumer is required to deposit the inspection fees in advance to the Chief Electrical Inspector.

Inaction of the department to inspect electrical installations led to loss of revenue of Rs.47.13 lakhs.

(i) Audit scrutiny revealed that there was short fall in the number of statutory inspections in the case of small power installations during the years 1991-92 to 1995-96 as per table below:

Year	Total Number of installations	Number due for inspection	Number actually inspected	Shortfall in inspection	Percentage of shortfall
1991-92	65,000	21,667	700	20,967	97
1992-93	65,798	6,798	4,116	2,682	39
1993-94	66,758	22,000	600	21,400	97
1994-95	72,000	23,667	647	23,020	97
1995-96	73,621	24,540	624	23,916	97

Other Tax Receipts

The shortfall in the prescribed number of inspections (91985) involving revenue loss of inspection fees at the rate of Rs.50 per installation amounted to Rs.45.99 lakhs, besides jeopardizing public safety and increasing the chances of electrical hazards.

(ii) Similarly, there was shortfall in inspection of extra high, high voltage and medium voltage installations during the years 1991-92 to 1995-96 resulting in revenue loss of Rs.1.14 lakhs as tabulated below:

Year	Number of installations due but not inspected	Amount
		(In rupees)
1991-92	12	2,570
1992-93	49	20,440
1993-94	49	14,200
1994-95	75	33,310
1995-96	181	43,100
Total	366	1,13,620

4.2.17 Non-reconciliation of treasury receipts.

In accordance with the provisions of the Punjab Subsidiary Treasury Rules, as applicable to Haryana and the instructions issued by the Finance Department, the heads of offices are required to maintain a remittance book in which particulars of challans rendered by the depositors in proof of payments of electricity duty and inspection fees are to be recorded. The figures noted in the books are to be reconciled with the treasury at the end of each month.

In the course of audit of accounts of the Chief Electrical Inspector, it was noticed (March 1997) that challans in proof of payments

of inspection fees and license fee into different treasuries of the State were received by the Electrical Inspectorate during 1991-92 to 1996-97 but monthly reconciliation with treasury records was not done. On being pointed out the department stated that reconciliation with treasury could not be done due to shortage of staff.

The above cases were reported to Chief Electrical Inspector in January 1997; their reply has not been received (September 1997).

B-PASSENGERS AND GOODS TAX

4.3 Short/non-recovery of passengers tax

As per Government notification issued (July 1994) under the Punjab Passengers and Goods Taxation Act, 1952, as applicable to Haryana, permit holders for plying buses on link routes of the State

*Passengers tax of
Rs. 29.09 lakhs
short/non-realised
from 52 Transport
Co-operative
Societies.*

under the scheme of privatisation of Passenger Road Transport, are required to pay lump sum passengers tax based on the seating capacity of the bus on monthly basis (Rs.13380 for 54 seater, Rs.12890 for 52 seater and Rs.7440 for 30 seater bus). The Excise and Taxation Department further clarified (September 1995) that tax will be charged for the whole month and not for the fraction of the month in which the permit is issued.

During the audit of records of the Deputy Excise and Taxation Commissioners, Rewari, Rohtak and Bhiwani for the years 1994-95 and 1995-96, it was noticed (between November 1995 and June 1996) that out of 52 Transport Co-operative Societies who were granted route permits (between July 1994 and October 1995) for plying buses on link routes, 31 Transport Co-operative Societies did not deposit passengers tax at all and the remaining 21 societies made only part

Other Tax Receipts

payment of passengers tax. Failure on the part of the department resulted in short/non-realisation of passengers tax of Rs.29.09 lakhs.

On this being pointed out (between November 1995 and June 1996) in audit, the department intimated (March 1997) that amount of Rs.22.70 lakhs had further been recovered from the Transport Co-operative Societies as per details given in the table below:

Sl. No.	Name of office	No. of buses plyed by Co-operative societies	Period during which payment of passengers tax short made	Tax due	Tax realised	Tax short realised	Remarks
				(In lakhs of rupees)			
1.	DETC Rewari	20	Between July 1994 and March 1996	11.37	5.18	6.19	Department intimated (March 1997) that out of Rs.6.19 lakhs, amount of Rs.4.89 lakhs had been recovered and efforts were being made to recover the balance amount.
2.	DETC Rohtak	9	Between September 1994 and March 1996	17.79	-	17.79	Department intimated (March 1997) that amount of Rs.17.53 lakhs from eight Co-operative societies had been recovered and the case of the remaining one society involving passengers tax of Rs. 0.26 lakh was under consideration.
3.	DETC Bhiwani	23	Between June 1995 and March 1996	6.34	1.23	5.11	Department intimated (March 1997) that out of Rs.5.11 lakhs, amount of Rs.0.28 lakh had been recovered.

The cases were reported to Government between January and July 1996; their replies have not been received (September 1997).

4.4 Under assessment of passengers tax

Under the Punjab Passengers and Goods Taxation Act, 1952 and the rules framed thereunder, as applicable to Haryana, passengers tax is levied and charged on all fares and freights in respect of passengers and goods carried by a motor vehicle. The Act further provides that if the passengers are carried or goods transferred free of charge, the tax will be levied and charged on determined fare at the normal rates prevalent on the route. In Haryana, passengers tax is charged at the rate of **60 per cent** of the value of the fares or freights from 20 July 1973. Haryana Government vide notifications issued in November 1990 and March 1992 fixed the rates of passengers fare for stage carriages in the State at 10.50 paisa and 12.08 paisa per passenger per kilometer with effect from 12 November 1990 and 1 April 1992 respectively.

During the audit of records of Deputy Excise and Taxation Commissioner, Sonipat, it was noticed (December 1994) that in Sonipat, a company was plying buses for carrying its employees to and from their residences to the factory premises. The company was required to pay passengers tax at the rate of **60 per cent** of the value of the fare fixed from time to time. The Excise and Taxation Officer (Enforcement)-cum-Assessing Authority, while finalising (between February 1994 and October 1994) the assessments for the years 1991-92, 1992-93 and 1993-94, assessed the tax at the rate of 5.25 paisa per kilometer per passenger for the years 1991-92 to 1993-94 instead of the chargeable rates of 6.30 paisa per kilometer per passenger for 1991-92 and of 7.25 paisa per kilometer per passenger for the years 1992-93 and 1993-94. The omission resulted in under assessment of passengers tax amounting to Rs.3.55 lakhs.

On this being pointed out (December 1994) in audit, the department recovered the entire amount of Rs.3.55 lakhs in May 1996.

C-STATE EXCISE DUTY

4.5 Short deposit of composite fee and interest

Under the Haryana Liquor Licence Rules, 1970, for grant or renewal of licence in forms L-4 and L-5 for retail vend of foreign liquor in a restaurant or in a bar attached to a restaurant, a composite fee is chargeable. As per Government notification issued in March 1994, the rates of composite fee were revised and a fee of rupees *three lakhs per annum* was leviable in respect of such vends located in towns/cities with population above 50,000 and those located on trunk routes, for the grant or renewal of licences. The licensee, however, was required to pay licence fee in four quarterly instalments, each payable in advance. Failure to do so rendered him liable to pay interest at the rate of **18 per cent** per annum for the period of delay.

During the audit of the records of Deputy Excise and Taxation Commissioner, Hisar, it was noticed (October 1995) that a licensee in Fatehabad (Hisar) who had been granted a licence for running a bar attached to restaurant for the year 1994-95 did not pay the fourth quarterly instalment (payable by 31 December 1994). The department also did not demand the amount of last quarterly instalment for the year and escaped their notice which resulted in short realisation of composite fee of Rs.75,000. In addition, interest of Rs.19,389 was also recoverable for non-payment of instalment by due date.

On this being pointed out (October 1995) in audit, the department recovered (May and June 1996) the entire amount of licence fee along with the interest of Rs.4,992 instead of chargeable interest of Rs.19,389 calculated for the period of default in making the payment. The department is yet to recover the balance amount of interest of Rs.14,397.

The case was reported to Government in December 1995; their reply has not been received (September 1997).

D-TAXES ON MOTOR VEHICLES

4.6 Non-recovery of token tax

The Punjab Motor Vehicles Taxation Act, 1924 and the Rules made thereunder, as applicable to Haryana, allow a person, exemption from payment of tax, in respect of vehicles for a quarter, if he proves to the satisfaction of the licensing officer that he has not used or permitted the use of the vehicle throughout the said quarter and has deposited the registration certificate with the licensing officer provided that he sends an advance intimation of his intention not to use the vehicle during that quarter for which exemption is claimed. Further, when such a vehicle is put on road even for a token period in a quarter, the tax has to be paid for the entire quarter.

During the audit of Regional Transport Authority, Faridabad, it was noticed (November 1996) that two transport Co-operative societies deposited (March 1996) registration certificates of two buses with the licensing officer. As per entries found recorded in the registration certificates deposit register, token tax in respect of both the buses was shown as paid up to December 1994 and March 1995 respectively instead of up to the date of deposit of registration certificates.

The registration certificates of these buses were, however, released in July and August 1996. The omission to recover the token tax up to the quarter in which the registration certificates were deposited resulted in non-recovery of token tax of Rs.50,188.

On this being pointed out (November 1996) in audit, the department issued (December 1996) notices to the concerned transport co-operative societies for recovery. Further report on recovery has not been received (September 1997).

The case was reported to Government in January 1997; their reply has not been received (September 1997).

4.7 Short levy of token tax

Under the Motor Vehicles Act, 1988, no person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered. Further, under the Punjab Motor Vehicles Taxation Act, 1924, as applicable to Haryana, no vehicle unless exempted by a specific order, can be put on road without payment of tax at the prescribed rate.

During the audit of the records of Regional Transport Authority, Rohtak, it was noticed (May 1996) that four buses of Haryana Roadways (Rohtak Depot) were got registered with the Registering Authority (Motors), Rohtak on 4 June 1996 but put on road during March 1996 prior to their registration and without payment of token tax for the concerned quarter during which those buses plied. Tax not paid amounted to Rs.26,730.

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On this being pointed out (May 1996) in audit, the department accepted (May 1996) the objection and stated that notice for recovery was being issued. Further progress on recovery has not been received (September 1997).

The case was reported to Government in June 1996; their reply has not been received (September 1997).

4.8 Defective maintenance of cash book and utilisation of departmental receipts towards expenditure

Under the State Financial Rules, all monetary transactions should be entered in the cash book as soon as those occur and be attested in token of check. The cash book should be closed regularly by the concerned officer with totals duly checked and initialled in token of correctness. At the end of the month, the head of the office is further required to check the cash balance and record a signed and dated certificate. Further, under the Punjab Treasury Rules, as applicable to Haryana, the entries of all moneys received by or tendered to Government servant on account of revenue of the State Government, shall be noted in the daily collection register and at the close of the day while signing the cash book, the head of the office should see that departmental receipts collected during the day, the utilisation of which towards expenditure is strictly prohibited, are credited into the treasury on the same day or the morning of next day at the latest, and there is a corresponding entry on the payment side of the cash book.

During the audit of the records of Regional Transport Authority, Karnal, it was noticed (September 1996 and March 1997) that the transactions recorded in the daily collection register were not correctly entered in the cash book and checked which resulted in discrepancies in the figures of daily collection register and cash book. Even their corresponding deposits into the treasury differed with the actual collection

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in few cases which are tabulated below along with other financial irregularities:

Sl. No.	Date	Receipt as per Day Book	Receipt as per Cash Book	Amount deposited in Treasury	Remarks
(In rupees)					
1.	28.6.94	93,150	92,650	92,650	Receipt as per day book is more. Amount of Rs.500 deposited less in treasury.
2.	13.10.94	1,40,060	1,12,320	1,37,960	Entry in the cash book has been made for less amount of Rs.27,740 and amount of Rs.2,100 less deposited in the treasury.
3.	28.11.94	2,11,190	2,09,110	2,09,110	Amount of Rs.2,080 shown less in the cash book and simultaneously less deposited in treasury.
4.	10.5.95	93,430	56,180	93,430	Amount of Rs.37,250 less accounted for in the cash book.
5.	23.5.95	1,49,985	-	1,49,985	Receipt of Rs.1,49,985 not recorded in the cash book at all.
6.	15.6.95	68,315	1,68,315	68,315	Either the receipt of Rs.one lakh taken less in the day book and subsequently deposited less in the treasury or entry for the excess amount recorded in the cash book.
7.	16.7.96	1,71,721	1,71,721	1,72,701	Amount of Rs.980 deposited in excess in the treasury.

Besides above mentioned irregularities, departmental receipts amounting to Rs.1.45 lakhs collected between May 1994 and March 1996 were not deposited into the treasury/bank but were utilised in giving advances to departmental staff in contravention of the aforesaid rules.

On the omission being pointed out (September 1996 and March 1997) in audit, the department stated (March 1997) that action to recover the deficient amount will be taken and entries in cash book would be rectified. The department has also recouped the entire amount of Rs.1.45 lakhs utilised towards departmental expenditure.

The case was reported to Government in October 1996; their reply has not been received (September 1997).

E-ENTERTAINMENTS DUTY AND SHOW TAX

4.9 Non-recovery of entertainments duty

Under the Punjab Entertainments Duty Act, 1955 and the rules framed thereunder, as applicable to Haryana, the proprietor of a video set exhibiting video shows on payment is required to make advance payment of entertainments duty, every quarter, at the rates prescribed by the Government from time to time. Under a Government Notification issued in March 1989, the entertainments duty is payable on the basis of population of the town in which the video house is located. For towns with population below ten thousand, duty is payable at the rate of Rs.10,000 per quarter and for towns with population of twenty five thousand and above, duty is payable at the rate of Rs.25,000 per quarter. The latest census figures shall be the basis for determining the population of any place.

During the audit of the records of Deputy Excise and Taxation Commissioner, Bhiwani, it was noticed (October 1996) that two video owners exhibiting video shows at Bhiwani, Tosham and one at Khanak did not pay entertainments duty of Rs.25,000, Rs.10,000 and Rs.30,000 for one, one and three quarters respectively during the year 1995-96. The duty was also not demanded by the department. This resulted in non-recovery of duty amounting to Rs.65,000.

On this being pointed out (October 1996) in audit, the department stated (October 1996) that efforts are being made to recover the amount. Further report on recovery has not been received (September 1997).

The case was reported to Government in November 1996; their reply has not been received (September 1997).

Chapter-V

Non-Tax Receipts		
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CHAPTER 5

NON-TAX RECEIPTS

5.1 Results of Audit

Test check of records in departmental offices relating to revenues of Co-operative Societies, State Lotteries, Agriculture, Irrigation, Mines and Minerals and Public Health conducted in audit during the year 1996-97 revealed under assessments and losses of revenue amounting to Rs.1829.22 lakhs in 8289 cases as depicted below:

	Heads of revenue	Number of cases	Amount
			(In lakhs of rupees)
A	Co-operation	136	123.93
B	Finance (State Lotteries)	16	209.43
C	Agriculture	40	183.36
D	Public Works(Irrigation)	261	1045.65
E	Mines and Geology	722	102.64
F	Public Health	7114	164.21
	Total	8289	1829.22

(a) In the case of Co-operation, the department accepted under assessments etc. of Rs.123.37 lakhs in 122 cases which were pointed out in audit during 1996-97, out of which an amount of Rs.9.44 lakhs in 7 cases has been recovered. Besides, an amount of Rs.64.35 lakhs has also been recovered during 1996-97 in 132 cases pointed out in earlier years.

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(b) In the case of State Lotteries, the department accepted loss of revenue of Rs.3.40 lakhs in 2 cases which were pointed out in audit during 1996-97 and the entire amount of Rs.3.40 lakhs has also been recovered in October 1996. Besides, an amount of Rs.10.38 lakhs has also been recovered during 1996-97 in 13 cases pointed out in earlier years.

(c) In the case of Agriculture, the department accepted loss of revenue of Rs.175 lakhs in 21 cases which were pointed out in audit during 1996-97, out of which, the department recovered an amount of Rs.80.59 lakhs in 13 cases. Besides, an amount of Rs.0.80 lakh has also been recovered during 1996-97 in 3 cases pointed out in earlier years.

(d) In the case of Irrigation, the department accepted under assessments etc. of Rs.64.22 lakhs in 42 cases which were pointed out in audit during 1996-97. An amount of Rs.0.11 lakh has also been recovered during 1996-97 in 4 cases pointed out in earlier years.

(e) In the case of Mines and Geology, the department accepted under assessment etc. of Rs.59.54 lakhs in 469 cases which were pointed out in audit during 1996-97, out of which, the department recovered an amount of Rs.21.06 lakhs in 221 cases. Besides, an amount of Rs.75.76 lakhs has also been recovered during 1996-97 in 435 cases pointed out in earlier years.

(f) In the case of Public Health, the department accepted under assessment etc. of Rs.0.89 lakh in one case which was pointed out in audit during 1996-97. An amount of Rs.3.14 lakhs has also been recovered during 1996-97 in 384 cases pointed out in earlier years.

A few illustrative cases involving Rs.318.79 lakhs and a review on "Revenue Receipts from Co-operative Societies" involving Rs.437.95 lakhs highlighting important observations are mentioned in the following paragraphs:

A-CO-OPERATION

5.2 Revenue receipts (other than interest) from Co-operative Societies

5.2.1 Introductory

Under the Haryana Co-operative Societies Rules, 1989, framed under the Haryana Co-operative Societies Act, 1984, the Registrar Co-operative Societies shall audit or cause to be audited by a person authorised by him by general or special orders in writing in this behalf, the accounts of every Co-operative Society at least once in each year.

Apart from interest receipts on loans, revenue realised from the Co-operative Societies include realisation of audit fee and dividend on Government's share capital

The Societies are required to pay to the Government, a fee for the audit of their accounts in accordance with the scales fixed by the Registrar with the prior approval of the State Government in respect of each class of Co-operative Society. The recovery of audit fee is watched through the Demand and Collection Register. The Act also provides that all sums due to Government including arrears of audit fee may, on a certificate issued by the Registrar, be recovered as arrears of land revenue.

According to the departmental instructions issued in September 1984, audit fee assessed by the general line staff on the basis of

Non-Tax Receipts

annual statements of the Societies is regarded as "provisional" and thereafter audit fee assessed on the basis of audited accounts is taken as "final". In case there is difference of profit/loss in a society at the time of audit by the departmental auditors, the Assistant Registrar shall revise the amount of audit fee as per audited profit/loss of the society and raise the demand accordingly.

The State Government issues sanctions to the Registrar Co-operative Societies for investment by way of Government contributions to the share capital of various Co-operative Societies. On these investments dividend is payable to the Government. In order to watch the interest of the Government, a register of dividend declared/deposited by the Co-operative Societies is maintained in the office of the Registrar Co-operative Societies.

There are 14,461 Co-operative Societies in the State of Haryana.

5.2.2. Organisational set up

The realisation of audit fee and dividend on Government's contribution towards capital from Co-operative Societies is administered by the Registrar Co-operative Societies, Haryana, Chandigarh who is the Head of the Department. For this purpose, a separate audit wing headed by the Chief Auditor functions under the administrative control of the Registrar Co-operative Societies. The Chief Auditor monitors the progress of audit fee and dividend on Government shares to be realised from various societies through demand and collection register. He is assisted by the Assistant Registrar Co-operative Societies at district and sub-divisional level.

5.2.3. Scope of Audit

A test-check of records for the years 1991-92 to 1995-96 was conducted between October 1996 and March 1997 in the offices of the Registrar Co-operative Societies Haryana, Chandigarh and 19 (out of 31) Assistant Registrars Co-operative Societies in the State with a view to ascertain the compliance of the provisions of the Act, Rules and Orders of the department relating to assessment and realisation of audit fee and dividend on Government share capital invested by the State Government.

5.2.4. Highlights

- **Out of 14,461 Co-operative Societies to be audited, 2941 had remained unaudited, 359 of them were for more than 5 years.**

(Paragraph 5.2.5)

- **There was a shortfall of Rs. 220.48 lakhs in revenue realisation than total expenditure incurred on audit staff during the years 1991-92 to 1995-96.**

(Paragraph 5.2.6)

- **Out of the total realisable demand of audit fee amounting to Rs.928.86 lakhs, Rs.721.94 lakhs had fallen into arrears.**

(Paragraph 5.2.7)

- **Non-assessment of audit fee on the basis of audited profit resulted in short recovery of Rs.123.98 lakhs.**

(Paragraph 5.2.8)

- **Declared dividend on share capital of State Government amounting to Rs.54.04 lakhs was not deposited by 12 societies.**

(Paragraph 5.2.11)

Non-Tax Receipts

- **Non-realisation of potential earnings of Rs.258.89 lakhs.**

(Paragraph 5.2.12)

5.2.5. Audit in arrears

Out of 14,461 Co-operative Societies to be audited during the year 1995-96, 2941 Societies remained unaudited as on 31 March 1996. Age-wise position of unaudited societies was as under:

2941 out of 14461 Co-operative societies remained unaudited as on 31 March 1996.

Period for which audit was pending	Number of societies
Upto 5 years and above	359
4 years	32
3 years	196
2 years	209
1 year	2145
Total	2941

The department attributed the reasons for non-conductance of audit of 2941 societies to non-availability of complete addresses/ records of 1595 societies, possession of records of 8 societies with Courts/Police, incomplete/ burnt records of 17 societies and non-conductance of audit of 1321 societies due to shortage of staff.

5.2.6. Trend of revenue vis-a-vis actual expenditure

The actual expenditure incurred on audit of Co-operative Societies, audit fee estimated, demanded and actually realised during

Shortfall of Rs.220.48 lakhs in revenue realisation than total expenditure incurred on audit staff during 1991-92 to 1995-96

Non-Tax Receipts

the five years ending 1995-96 were as under:

Year	Expenditure incurred	Audit Fee			Percentage of	
		Estimated	Demand raised during the year	Realised	Audit fee demanded to estimated audit fee	Audit fee realised to expenditure incurred
(In lakhs of rupees)						
1991-92	178.12	125	130.97	85.11	105	48
1992-93	197.18	129	270.27	208.16	210	106
1993-94	243.41	135	312.79	239.70	232	98
1994-95	276.90	140	316.28	252.72	226	91
1995-96	317.48	175	501.41	206.92	287	65

The estimates for all the years except 1991-92, were low as compared to the actual collection. The department stated that the estimates were provisional and due to non-predictability of the profit/loss of Co-operative Societies, the estimates could not be realistic.

Except in the year 1992-93, the expenditure incurred by the department exceeded the collections made. Percentage of audit fee collected to the expenditure incurred on its collection ranged between 48 to 98 per cent. There was a fall in audit fee realisation during the year 1995-96. The department intimated that six Co-operative sugar mills in the State were running in losses and audit fee at minimum prescribed rates were being realised from them resulting in short fall in realisation of audit fee.

Non-Tax Receipts

5.2.7. Arrears in realisation of audit fee

As per figures supplied (January 1997) by the department, the arrears of audit fee pending collection for the last five years were as under:

Non-realisation of audit fee resulted in accumulation of arrears amounting to Rs.721.94 lakhs.

Year	Outstanding at the end of previous year	Raised during the year	Total realisable demand	Realisation during the year	Arrears at the end of the year	Percentage of realisation to total realisable demand
(In lakhs of rupees)						
1991-92	182.83	130.97	313.80	85.11	228.69	27
1992-93	228.69	270.27	498.96	208.16	290.80	42
1993-94	290.80	312.79	603.59	239.70	363.89	40
1994-95	363.89	316.28	680.17	252.72	427.45	37
1995-96	427.45	501.41	928.86	206.92	721.94	22

Percentage of realisation of revenue to the total realisable revenue ranged between 22 and 42.

Year-wise details of arrears of outstanding audit fee as intimated by the department were as under:

Year	Amount
(In lakhs of rupees)	
Upto 1991-92	187.11
1992-93	97.94
1993-94	117.47
1994-95	164.56
1995-96	154.86
Total	721.94

Out of Rs. 721.94 lakhs recoverable, an amount of Rs.187.11 lakhs was pending for more than 5 to 17 years. Notices for the recovery of this amount as arrears of land revenue were not issued to the

defaulting Societies. There is no provision in the Co-operative Societies Act, 1984 and Rules, 1989 to penalise the defaulting societies by way of penalty/interest who do not make timely payment of audit fee.

5.2.8 Short recovery of audit fee

Under the Haryana Co-operative Societies, Rules, 1989, framed under the Haryana Co-operative Societies Act, 1984, every Co-operative Society is required to pay to the Government audit fee for the audit of its annual accounts by the auditors of Co-operative department for each Co-operative year in accordance with the scales and rates fixed by the Registrar with prior approval of the State Government. The audit fee from the Co-operative Societies is recovered initially on the basis of annual statements regarded as provisional and thereafter audit fee is assessed on the basis of audited figures of profit of the society.

Audit fee amounting to Rs.123.98 lakhs based on audited accounts of the 81 Co-operative societies not demanded by the department

It was noticed that in case of 100 Co-operative societies as against the collectable audit fee amounting to Rs.123.98 lakhs only an amount of Rs. 5.98 lakhs (collected provisionally at minimum rates) was recovered from 81 co-operative societies. From the remaining 19 co-operative societies even the minimum audit fee was also not collected. After pointing out by audit the department recovered a further sum of Rs.4.04 lakhs from 3 societies between June 1996 and March 1997.

5.2.9 Incorrect application of rates of audit fee

Under the rules, the audit fee in respect of Co-operative Sugar Mill is chargeable at the rate of 5 per cent of the net profit subject to certain minimum limits (Rs.30,000, Rs.45,000 and Rs.60,000 depending

Audit fee of Rs.0.74 lakh short levied due to application of incorrect rates.

upon the crushing capacity of the sugar mills). In case of Central co-operative Bank, audit fee is chargeable at the rate of 5 *per cent* of the net profit subject to minimum of Rs.15,000 for annual audit and Rs.30,000 for concurrent audit for each Co-operative year.

(a) During the audit of records of the Assistant Registrar Co-operative Societies, Panipat, it was noticed (between November and December 1996) that in case of Central Co-operative Bank at Panipat, the department recovered an audit fee of Rs. 15,000 instead of Rs.58868 (being 5 *per cent* of net profit for the year 1993-94) resulting in short recovery of Rs.43,868.

(b) During the audit of records of the Assistant Registrar Co-operative Societies Kaithal (December 1996), it was noticed that in case of Kaithal Co-operative Sugar Mills Ltd., minimum audit fee was collected at the rate of Rs.45,000 instead of the correct rate of Rs.60000 per annum resulting in short recovery of fee of Rs.30,000 for the years 1993-94 and 1994-95.

On the omissions being pointed out (November and December 1996) in audit, the department accepted the objections and stated (November and December 1996) that recoveries will be effected.

5.2.10 Non- recovery of audit fee from wound up societies

As per departmental instructions issued in September 1980, all Co-operative societies under winding up orders would be exempted from levy of audit fee. They will, however, be assessed to audit fee for the year in which they are brought under winding up as also for the year in which further revived. Audit fee is charged at the rate of 5 *per cent* of the

net profit subject to minimum of Rs.10,000 for each Co-operative year in respect of Central Co-operative Consumer Stores.

During the audit of records of Assistant. Registrar, Co-operative societies Kaithal, it was noticed (December 1996) that two Co-operative Consumers' Stores were wound up during October 1991 and September 1992 which were required to be assessed for audit fee up to the Co-operative years 1991-92 and 1992-93 respectively. The Central Co-operative Consumer Store, Kaithal was assessed to audit fee up to the year 1989-90 and the Co-operative Store at Guhla was assessed up to 1991-92 resulting in non-levy of audit fee of Rs.30,000.

On the omissions being pointed out (December 1996) in audit, the department accepted the objection and stated (December 1996) that recovery will be effected from the concerned societies.

5.2.11 Non-deposit of dividend on Share Capital of State Government

During the audit of dividend accounts of Registrar Co-operative Societies, Haryana, Chandigarh and Assistant Registrars Co-operative Societies, Ambala City, Hisar, Karnal, Kurukshetra, Sonipat and Yamunanagar for the period 1991-92 to 1995-96, it was noticed (February and March 1997) that 12 societies had been running in profit and their Board of Directors had passed the resolutions for payment of total dividend of Rs.54.04 lakhs to the Government but no amount of dividend was deposited by any of the society in Government account.

Dividend of Rs.54.04 lakhs on Share Capital of State Government not deposited by 12 societies.

The department while accepting the observation intimated (April 1997) that out of Rs.54.04 lakhs, a sum of Rs.5.40 lakhs had been recovered (March 1997) from four societies. Report on recovery of the

Non-Tax Receipts

balance amount has not been received (September 1997). There was no system to check which Co-operative Society is running in profit/loss for the purpose of ascertaining the accuracy of dividend declared/distributed by the society. No reconciliation is being done in the department with reference to investment made towards share capital, dividend received and dividend actually receivable.

5.2.12 Non-realisation of potential earnings

As per terms and conditions laid down in the sanction orders issued by the Registrar Co-operative Societies Haryana, Chandigarh, from time to time, every Co-operative society shall give a suitable return in the form of dividend on contribution of Haryana Government share capital on the basis of resolutions passed by the Board of Directors. Rule 72(i) of Haryana Co-operative Societies Rules, 1989 provides that in no Co-operative society the dividend shall exceed 10 per cent per annum of the paid up share capital.

Dividend up to Rs.258.89 lakhs on share capital of State Government was not declared by 34 societies running in profit.

During the audit of dividend accounts of the Registrar Co-operative Societies Haryana, Chandigarh and Assistant Registrars, Co-operative Societies, Hisar, Jind, Karnal, Kurukshetra, Panipat, Sirsa, Sonipat and Yamunanagar for the period from 1991-92 to 1995-96, it was noticed (February and March 1997) that 34 societies running in profit but had not declared any dividend. This resulted in non-realisation of maximum potential earnings amounting to Rs. 258.89 lakhs.

The department while accepting the audit observation intimated that the dividend will be got declared and deposited into

Government account. Further report has not been received (September 1997).

The above cases were reported to Government in May 1997; their reply has not been received (September 1997).

B-FINANCE DEPARTMENT

(State Lotteries)

5.3 Short deposit of sale proceeds of lottery tickets

As per accounting procedure of the Haryana State Lotteries Department, the accounts of sale proceeds of lottery tickets are required to be sent to the Directorate office of State Lotteries by each sales officer immediately after the close of the sale of tickets of each draw or on the date of the draw which ever is earlier. The accounts so received are required to be checked within a weeks time. The Section Officer (Incharge) at headquarters office would ensure that Prize Winning Tickets (P.W.T.'s), Book Transfers (B.T.'s) vouchers, demand drafts and contingent vouchers tally with the value of lottery tickets sold by each sales officer in that draw. In case the accounts so received are found to be short, he would bring the facts to the notice of the higher authorities and simultaneously take up the matter with sales officer concerned for rendering complete account by pointing out the shortcomings and the recovery of the amount so detected as a result of checking. Sales officer (concerned) would go through the recovery letter so issued to him and arrange to deposit the amount within 10 days positively failing which the recovery can be effected from his pending dues. He will also be liable for disciplinary action, in case, short comings so noticed are of glaring nature. Further, as per Financial Rules, monthly

*Mis-appropriation/
embezzlement of
Rs 178 lakhs due to
short/non-deposit of
sale proceeds of lottery
tickets.*

Non-Tax Receipts

receipts were required to be reconciled with the total deposits appearing in bank accounts.

During the audit of the records of the office of the Director, Haryana State Lotteries, Chandigarh, it was noticed (April 1996) that one of the Sales Officers of Lucknow Camp, while rendering final accounts in respect of the draws of three schemes (Shri Ganesh, Hari Om, Jai Durge) out of eight* schemes handled by him and held during the period from November 1994 to December 1995 had shown the amounts deposited to the tune of Rs.10.84 crores in bank accounts of the department opened in Punjab National Bank and Central Bank of India at Lucknow. On verification of the bank scrolls, it was noticed that the amounts aggregating to Rs.9.43 crores only were actually deposited. This resulted in short deposit of Rs.1.41 crores consequently led to misappropriation/embezzlement of Government receipts by the concerned Sales Officer to the tune of Rs.1.41 crores. Had the procedure of accounting the sale proceeds of lottery tickets as laid down by the department been followed properly and reconciliation of monthly figures of receipts/deposits in treasury been done from time to time, the misappropriation of Government revenue could have been avoided.

On this being pointed out (April 1996) in audit, the department, after investigation, accepted (July 1996) the facts of misappropriation of Rs 1.41 crores. The department, after further checking the accounts of the Sales Officer right from the date of his posting at Lucknow (May 1993 to December 1995), worked out the misappropriation to the tune of Rs.1.78 crores and lodged an FIR with the

* Shri Ganesh, Hari Om, Jai Durge, Maha Laxmi, Maha Bali, Jai Vishnu, Jai Durge (Instant) and Maha Laxmi (Instant)

Police on 9 September 1996. Final results of the proceedings are awaited (September 1997).

The matter was reported to Government in June 1996; their reply has not been received (September 1997).

5.4 Non-levy of penalty for loss of lottery tickets in transit

For smooth transportation of lottery tickets of various lottery schemes run by Haryana State Lotteries Department during the period from 4 July 1994 to 3 July 1995 and 1 November 1995 to 30 October 1996, two agreements were executed (September 1994 and March 1996) by the department through the Director, Haryana State Lotteries, Chandigarh with a transport company (hereinafter called Transporter) of New Delhi. According to the agreements, the transporter was to provide courier and transport services for transporting the lottery tickets to various camp offices in different parts of the country. The transporter was responsible for the shortage of tickets in transit. In case the delivery of tickets of any particular draw was found short, amount equal to the face value of the tickets of the draw, delivered short, was required to be deposited by the transporter within the stipulated period or to be adjusted from his security deposits.

During the audit of the records of the office of the Director, Haryana State Lotteries, Chandigarh, it was noticed (April 1996) that tickets for face value of Rs.3.40 lakhs relating to one lottery scheme were short delivered (between July 1995 and January 1996) by the transporter to the Sales Officers at Parwanoo and Lucknow. The department made no efforts to make good the amount till pointed out (April 1996) in audit.

On this being pointed out (April 1996) in audit, the department intimated (May 1997) that entire amount of Rs.3.40 lakhs has been recovered from the transporter in October 1996.

C-AGRICULTURE

5.5 Non-recovery of purchase tax and interest

As per the notification issued (October 1977) under the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 and the Rules made thereunder, as applicable to Haryana, an occupier or agent of a factory is required to pay tax at Rs.1.50 per quintal on sugarcane purchased by him, by the 14th of the following month. In the event of default, interest at the rate of **fifteen per cent per annum** shall be charged for the period of default.

*Purchase tax of
Rs 95.51 lakhs on
sugarcane short
deposited by sugar
mills.*

(i) During the audit of the records of Assistant Cane Development Officer, Karnal it was noticed (September 1996) that a sugar mill had purchased 52,92,757 quintals of sugarcane between November 1995 and June 1996 but did not deposit purchase tax amounting to Rs.79.39 lakhs which was due to be paid by the 14th of the month following the month of the purchase. Interest amounting to Rs.5.45 lakhs (up to 6 September 1996) was also required to be charged thereon for non-payment of tax.

On this being pointed out (September 1996) in audit, the department intimated (April 1997) that the sugar mill had purchased 53,48,381 quintals of sugar cane instead of 52,92,757 quintals and the entire amount of purchase tax of Rs.80.23 lakhs has been deposited by the sugar mill in October 1996 and March 1997 and efforts were being made

to recover the interest on delayed payment of purchase tax. Further report on recovery of interest has not been received (September 1997).

(ii) During the audit of the records of Assistant Cane Development Officer, Rohtak, it was noticed (July 1995) that a sugar mill had purchased 29,74,620 quintals of sugarcane between November 1994 and April 1995 and deposited purchase tax of Rs.29.34 lakhs against the payable tax of Rs.44.62 lakhs resulting in short deposit of tax of Rs.15.28 lakhs which was due to be paid by 14th of the month following the month of purchase. Interest amounting to Rs.2.08 lakhs (up to 15 March 1996) was also required to be charged thereon for non-payment of tax.

On this being pointed out (August 1995) in audit, the department intimated (March 1997) that the sugar mill has been reminded (February 1997) to deposit the amount. Further report on recovery has not been received (September 1997).

The case was reported to Government in August 1995; their reply has not been received (September 1997).

D-PUBLIC WORKS DEPARTMENT

(Irrigation)

5.6 Short recovery of water charges

Haryana Canal and Drainage Act, 1974, provides the chargeability of water rates for the canal water supplied for various purposes. Under the Haryana Canal and Drainage Rules, 1976, charges for canal water supplied in bulk to industries and power plants were recoverable at the rate of Rs 5 per 2500

Water charges amounting to Rs 14.35 lakhs short recovered due to application of pre-revised rates.

Non-Tax Receipts

cubic feet. As per Government notification issued in December 1994 (effective from 2 December 1994) these rates were revised to Rs.50.

(i) During the audit of the records of the office of the Executive Engineer, Water Services Division, Panipat, it was noticed (February 1996) that the Divisional office raised bills for the month of December 1994 of water charges for canal water supplied in bulk to thermal power plant at Panipat at pre-revised rates of Rs.5 per 2500 cubic feet instead of at revised rate of Rs.50 per 2500 cubic feet of water. This resulted in short recovery of water charges amounting to Rs.14.35 lakhs.

On this being pointed out (February 1996) in audit, the department raised (February 1996) the revised water bill against the thermal power plant. Further report on recovery has not been received (September 1997).

(ii) During the audit of the records of the office of the Executive Engineer, Water Services Division, Panipat, it was noticed (February 1996) that the work relating to supply of canal water in bulk to four water works of Public Health Department at villages Bhadoli Khas, Mundlana, Lohari and Pardhana was transferred (July 1994) from Israna (Panipat) Water Service Sub-division to Gohana (Sonipat) Water Service Sub-division. Sub divisional Canal Officer, Israna intimated (September 1994) to its sister unit at Gohana to charge water bills from these four water works from April 1994 and onwards along with arrears of water charges amounting to Rs.25,691 outstanding against three of these water works up to March 1994. The Gohana Sub-division raised water bills only from July 1994 onwards but neither the pending arrears (till March 1994) were recovered nor any demand was raised for the months of April 1994 to June 1994. The omission resulted in non-recovery of water

charges amounting to Rs.33,778 (arrear: Rs.25,691, current charges for April to June 1994: Rs.8,087).

On this being pointed out (February 1996) in audit, the department raised bills after incorporating the amounts outstanding up to March 1994. Further report on recovery has not been received (September 1997).

The cases were reported to Government in April 1996; their replies have not been received (September 1997).

E-MINES AND GEOLOGY

5.7 Short recovery of dead rent and interest

Under the Mines and Minerals (Regulations and Development) Act, 1957, the holder of a mining lease is required to pay royalty at the rates specified in the second schedule of the Act on any material removed or consumed by him or by his agent from the leased area by the dates stipulated in the lease deed. Further, as per lease agreement, the lessee shall pay either such royalty or the dead rent in respect of that area, which ever is higher. Under the Mineral Concession Rules, 1960, simple interest at **24 per cent per annum** is chargeable in the event of default in payment so long as the default continues.

During the audit of the records of the Mining Officer, Faridabad, it was noticed (June 1996) that three lessees who were granted mining leases for extraction of silica sand paid royalty on the mineral actually despatched during the year 1995-96 instead of dead rent which was higher than the royalty. The difference was neither recovered nor demanded by the department. This resulted in short recovery of dead rent

of Rs.1.13 lakhs. Besides, interest of Rs.6,788 (calculated up to June 1996) was also recoverable on the delayed payment of the balance amount.

On this being pointed out (June 1996) in audit, the department intimated (May 1997) that the amount of Rs.1.13 lakhs was recovered from the lessees in September 1996. Report on recovery of interest has not been received (September 1997).

5.8 Short raising of demand of contract money

Under the Punjab Minor Mineral Concession Rules, 1964, as applicable to Haryana, a mining contract for quarrying is granted by auction or by accepting tenders from the highest bidder. The contractor is required to deposit 25 *per cent* of the annual bid money as security and another 25 *per cent* (one twelfth of the bid money where value of contract exceeds Rs. 5 lakhs) as advance payment immediately on the allotment of the contract. The balance of the contract money is payable in advance either in monthly or quarterly instalments. In the event of default in payment, the competent authority may, by giving a notice, terminate the contract, forfeit the security and the instalments paid in advance, if any. Interest at the rate of 24 *per cent per annum* is also recoverable for the period of default in payment of instalments of contract money. Rules further provide that any sum due from the contractor on account of contract money shall be recovered as arrears of land revenue.

During the audit of records of the Assistant Mining Engineer (Department of Mines and Geology), Gurgaon, it was noticed (May 1996) that a contract for extraction of "Road metal and masonry stone" in village Kota Khandewla was granted to a contractor for the period from 8 April 1993 to 31 March 1996 for an amount of Rs.30,03,900 *per annum* payable in monthly instalments each of Rs.2,50,325. The

Non-Tax Receipts

contractor failed to pay monthly instalments from March 1995 onwards. The contract was terminated (August 1995) and the possession of the quarry was taken back by the department on 21 August 1995. The department further requested (September 1996) the Collector, Gurgaon, to issue recovery certificate for effecting recovery of the outstanding amount of contract money of Rs.11,68,217 and interest of Rs.2,15,685 against the actual recoverable amount of contract money of Rs.12,04,022. The mistake resulted in short raising of demand of contract money amounting to Rs.35,805 besides recovery of interest.

On the omission being pointed out (May 1996) in audit, the department intimated (July 1997) that the revised recovery certificate for Rs.14.28 lakhs has been got issued from the Collector Gurgaon in April 1997. Out of this, a sum of Rs.3 lakhs has also been recovered from the contractor and efforts were being made to recover the balance amount as arrears of land revenue. Further report has not been received (September 1997).

The matter was reported to Government in July 1996; their reply has not been received (September 1997).

5.9 Short levy of interest

Under the Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, a lessee, to whom a mining lease is granted, shall pay royalty, at the specified rates, on minor minerals despatched from the leased area by the dates stipulated in the lease deed. Default or delay in payment shall make the lessee liable for payment of interest at the rate of 24 *per cent per annum* for the period of default.

Non-Tax Receipts

During the audit of records of the Assistant Mining Engineer (Department of Mines and Geology), it was noticed (June 1996) that in Faridabad, a lease for extraction of 'Road metal and masonry stone' was granted to a lessee for the period from 6 May 1992 to 5 May 2002 over an area of 399.795 hectares. The lessee paid royalty late for the months of December 1995 to March 1996. Interest chargeable on belated payments of royalty worked out by the department to Rs 2,40,974 against the actual recoverable amount of Rs.3,71,461 which was also not demanded. The omission resulted in short charging of interest amounting to Rs.1,30,487.

On this being pointed out (June 1996) in audit, the department intimated (March 1997) that notice to recover the amount has been issued to the lessee in December 1996 who was further reminded in March 1997. Report on recovery is awaited (September 1997).

The case was reported to Government in July 1996; their reply has not been received (September 1997).

F-PUBLIC HEALTH

5.10 Non-recovery of penalty charges

As per Government instructions issued in July 1994, electric pumps installed direct on supply lines should, in no case, be allowed to continue and were to be removed and water supply disconnected. In the cases of those consumers, who were detected with such type of installations, penalty at the rate of Rs.1200 per installation, by way of past misuse, was to be levied. Besides, penal charges at the rate of Rs.100 per month were to be levied in addition to usual water charges till the pump is removed.

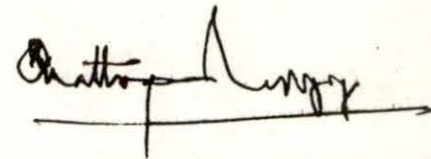
Non-recovery of penalty charges of Rs 16.80 lakhs for illegal installation of electric pumps on water supply lines.

Non-Tax Receipts

During the audit of the records of the Executive Engineer, Public Health Division, Bahadurgarh, it was noticed (October 1994) that there were 1400 consumers who had installed electric pumps direct on supply lines. The electric pumps, although were removed at the instance of the department, penalty amounting to Rs.16.80 lakhs by way of past misuse was not recovered.

On this being pointed out (November 1994) in audit, the department intimated (March 1997) that notices for recovery to 153 consumers out of 1400 have been issued and the Executive Engineer, Public Health Division, Bahadurgarh, had again been directed to recover the penalty charges from the consumers without losing any time. Report on recovery has not been received (September 1997).

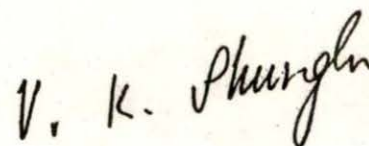
The case was reported to Government in November 1994; their reply has not been received (September 1997).



(B.K. CHATTOPADHYAY)
Accountant General(Audit) Haryana

CHANDIGARH
THE

Countersigned



(V. K. SHUNGLU)
Comptroller and Auditor General of India

NEW DELHI
THE

05 NOV 1997

Non-Fair Pricing

During the period of the review in the Eastern Districts...
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[Signature]
B.K. CHATTERJEE
Assistant Secretary

CHANDIGARH
THE

Commissioner

[Signature]
V. K. SINGH
Commissioner and Assistant Secretary of Health

NEW DELHI
THE

APPENDICES

Appendices

APPENDICES

Appendix-I
(Refer para 1.1 (ii))

(Collection of non-tax revenue)

Sr. No.	Particulars	1994-95	1995-96	1996-97	Percentage of increase (+)/Decrease (-) in 1996-97 over 1995-96
(Rupees in lakh)					
1	Dividends & Profits	701.94	314.60	452.89	(+)44
2.	Public Service Commission	25.01	12.31	52.09	(+)323
3.	Police	225.41	382.30	1105.44	(+)189
4.	Jails	119.19	122.82	55.38	(-)55
5.	Supplies & Disposals	678.97	841.02	3.16	(-)100
6.	Stationery & Printing	65.38	125.17	133.45	(+)7
7.	Public Works	256.65	211.28	267.92	(+)27
8.	Administrative Services	1798.97	1240.70	1182.25	(-)5
9.	Contribution & Recoveries towards Pension etc.	192.08	224.63	320.32	(+)43
10.	Education, Sports & Culture	1235.62	1353.66	1832.19	(+)35
11.	Family Welfare	7.56	6.99	11.14	(+)59
12.	Water Supply and Sanitation	1092.46	1305.40	1822.79	(+)40
13.	Housing	94.80	97.10	104.50	(+)8
14.	Urban Development	495.10	720.05	1333.23	(+)85
15.	Information & Publicity	8.31	7.70	15.63	(+)103
16.	Labour & Employment	116.66	210.56	216.36	(+)3
17.	Social Security & Welfare	175.87	283.26	563.39	(+)99
18.	Other Social Services	47.85	221.22	71.68	(-)68
19.	Crop Husbandry	271.97	211.36	190.38	(-)10
20.	Animal Husbandry	264.74	689.29	296.78	(-)57
21.	Dairy Development	0.78	1.64	2.35	(+)43
22.	Fisheries	58.05	73.71	137.35	(+)86
23.	Forestry and Wild Life.	1336.03	1780.07	2159.91	(+)21
24.	Co-operation	225.85	215.66	1067.45	(+)395

Appendices

Sr. No.	Particulars	1994-95	1995-96	1996-97	Percentage of increase (+)/Decrease (-) in 1996-97 over 1995-96
(Rupees in lakh)					
25.	Agriculture Programme	291.49	277.24	383.05	(+)38
26.	Land Reforms	0.03	-	0.01	Negligible
27.	Rural Development Programme	107.49	138.99	258.77	(+)86
28.	Major & Medium irrigation	1919.19	2100.25	2429.96	(+)16
29.	Minor Irrigation	5.52	5.71	306.48	(+)5267
30.	Village and Small Industries	928.06	126.33	113.06	(-)11
31.	Industries	41.95	15.45	69.82	(+)352
32.	Civil Aviation	7.68	6.54	3.56	(-)46
33.	Roads & Bridges	5.31	11.33	7.50	(-)34
34.	Scientific Research	0.04	0.02	0.04	(+)100
35.	Tourism	7.00	8.65	4.08	(-)53
36.	Other General Services	56.06	108.34	138.17	(+)28
	Total	12865.07	13451.35	17112.53	

Appendix-II
(Refer para 1.8 (iv))

(Outstanding Inspection Reports and Audit Observations)

Department	Number of Outstanding		Amount of receipts involved (Rupees in crore)	Number of Inspection reports to which even first replies had not been received
	Inspection Reports	Audit observations		
1. Co-operation	82	116	3.92	4
2. Food & Supplies	13	22	0.01	9
3. P.W.D.(B&R)	83	130	1.51	8
4. Agriculture	48	115	0.23	2
5. P.W.D. Irrigation	187	406	17.92	23
6. Cane Commissioner	28	33	9.69	2
7. Medical	94	189	0.66	15
8. Industries	32	41	0.35	7
9. Public Health	82	171	3.54	8
10. Animal Husbandry	73	106	0.87	12
11. Lotteries	7	26	2.72	1
12. Electricity	8	19	2.47	1
13. Mines and Metallurgical Industries	87	213	5.92	4
14. Horticulture	12	15	0.04	8
Total	836	1602	49.85	104

Appendix
(Sheet No. 1 of 2)

Statement of Expenditure for the year 1925

Department	Particulars	Amount	Percentage
1. Education		100	100
2. Public Health		10	10
3. Public Works		5	5
4. Police		15	15
5. Fire		10	10
6. Municipal Administration		10	10
7. Welfare		10	10
8. Public Health		10	10
9. Public Health		10	10
10. Public Health		10	10
11. Public Health		10	10
12. Public Health		10	10
13. Public Health		10	10
14. Public Health		10	10
Total		100	100