



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

FOR THE YEAR ENDED 31 MARCH 1991

NO. (2)  
(REVENUE RECEIPTS)

GOVERNMENT OF HARYANA



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## **PREFATORY REMARKS**

The Audit Report on Revenue Receipts of Government of Haryana, for the year 1990-91 is presented in this separate volume. The Report has been arranged in the following order :

- (i) Chapter 1 refers to trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue, the variations between the Budget estimates and the actual receipts under principal heads of revenue, the revenue in arrears for collection and the audit objections and inspection reports outstanding for settlement,
- (ii) In Chapters 2 to 5 are set out some of the important irregularities which came to the notice of Audit during test check of records relating to Sales Tax, Stamps and Registration Fees, Other Tax Receipts and Non-Tax Receipts.



## OVERVIEW

### 1. General

- (i) During the year 1990-91 revenue raised by the State Government, both Tax (Rs. 1070 crores) and Non-Tax (Rs. 511 crores) revenue amounted to Rs. 1581 crores as against Rs. 1356 crores during the previous year. Receipts from Government of India during the year, including grants-in-aid of Rs. 147 crores, aggregated to Rs. 333 crores. Receipts under Sales Tax (Rs. 495 crores) and State Excise (Rs. 286 crores) accounted for a major portion of receipts of Tax revenue. Under Non-Tax revenue, main receipts were from Road Transport (Rs. 146 crores), Interest Receipts (Rs. 127 crores) and Miscellaneous General Services (Rs. 138 crores). (Para 1.1)
- (ii) 99459 assessment cases were pending finalisation under Sales Tax and Passengers and Goods Tax at the end of March 1991 as against 83833 cases pending on 31st March 1990. (Para 1.3)
- (iii) Arrears of revenue pending collection at the end of 1990-91 under some principal heads amounted to Rs. 117 crores, out of which Rs. 31 crores were outstanding for more than 5 years. (Para 1.4)
- (iv) 1889 inspection reports (issued up to December 1990) containing 5314 audit objections with money value of Rs. 2658 lakhs were not settled up to June 1991. Out of these, 564 inspection reports containing 1178 objections of Rs. 1137 lakhs were outstanding for more than 5 years. (Para 1.8)
- (v) As a result of test audit conducted during 1990-91, under-assessments and losses of revenue

(vii)

(viii)

amounting to Rs. 12.65 crores were noticed. The under-assessments/losses of revenue relate to Sales Tax (Rs. 3.94 crores), Stamp Duty and Registration Fees (Rs. 1.36 crores), State Excise (Rs. 5.92 crores), Taxes on Motor Vehicles (Rs. 0.14 crore) and Non-Tax Receipts (Rs. 1.29 crores).  
(Para 2.1, 3.1, 4.1 and 5.1)

- (vi) This report includes cases of non-levy/short levy of tax, duty, interest, penalty etc. and findings of four reviews involving a financial effect of Rs. 10.25 crores noticed during test check in 1990-91 and earlier years. Of this, underassessment of Rs. 9.96 crores was accepted by the departments of which Rs. 0.41 crore was recovered till October, 1991. In respect of Rs. 0.29 crore the departments had not accepted the audit points for which their refutations have been incorporated in the relevant paragraphs.

## 2. Sales Tax

- (i) The review on 'Pendency of appeals at various levels and its impact on revenue collection-Sales Tax' brings out :

- Tax amounting to Rs. 37.02 crores was locked up in appeals at the close of the year 1989-90. (Para 2.2.4)
- Case files of appeal cases were missing in 1250 cases. (Para 2.2.6)
- There were delays ranging from 3 to 27 months in communicating final orders of Appellate Authorities in 949 decided cases. (Para 2.2.10)
- Quashing of demands amounted to Rs. 31.95 lakhs in two cases due to non-production of records by the Assessing Authority. (Para 2.2.12(b) & (c))
- Cases involving tax effect of Rs. 108.33 lakhs were pending for 18 to 36 months.

(Para 2.2.13 (i) (ii) (iv) )

(ix)

—In 78 cases involving tax effect of Rs. 280.04 lakhs, effective steps were not taken to get the stays vacated or for obtaining cash securities.

(Para 2.2.16)

(ii) The review on 'Recovery of Demands in arrears under Sales Tax' revealed :

—Ineffective action by the Department to get the stay orders granted by courts without obtaining cash security vacated, despite clear directions of the Supreme Court resulted in accumulation of arrears amounting to Rs. 5.34 crores. (Para 2.3.6)

—Failure to take prompt action for finalisation of assessments on cancellation of registration certificates resulted in non-recovery of Rs 65.50 lakhs.

(Para 2.3.7 (i) to (iv) )

—Delay in assessments resulted in accumulation of tax arrears of Rs 143.70 lakhs.

(Para 2.3.8 (i) to (viii) )

—Failure to verify the genuineness of dealers at the time of registration resulted in non-recovery of tax of Rs 31.79 lakhs.

(Para 2.3.9 (i) to (vii) )

—Irregular grant of exemption resulted in non-recovery of Rs. 16.80 lakhs.

(Para 2.3.10)

—Non-initiation of recovery proceedings resulted in accumulation of arrears of Rs. 65.70 lakhs.

(Para 2.3.11 (i) to (v) )

(iii) Incorrect computation of taxable turnover resulted in short recovery of tax and interest amounting to Rs. 13.42 lakhs. (Para 2.4 (a) (b) (i) (ii) (iii) & 2.6)

(iv) In 3 cases, non inclusion of value of suppressed sales in the gross turnover at the time of assessment resulted in short levy of tax of Rs. 6.63 lakhs. In addition, penalty of Rs. 13.25 lakhs and interest of Rs. 0.15 lakh was also leviable

(Para 2.5 & 2.11)

(x)

- (v) The application of incorrect rate of sales tax in 7 cases led to short levy of tax and interest amounting to Rs. 3.80 lakhs. (Para 2.7)
- (vi) Grant of excess rebate resulted in under assessment of tax and interest of Rs. 5.46 lakhs in 4 cases. Para 2.8 (a) & (b)
- (vii) In 3 cases, purchase tax of Rs. 4.61 lakhs including interest of Rs. 1.09 lakhs was not levied on goods used in the manufacture of finished goods transferred on consignment basis. (Para 2.9)
- (viii) Irregular grant of exemption to a dealer resulted in short assessment of tax and interest of Rs. 1.85 lakhs. (Para 2.11)

### 3. Stamp Duty and Registration Fees

Short recovery of stamp duty and registration fee amounting to Rs. 1.29 lakhs was noticed in 6 cases due to misclassification of instruments. (Para 3.2 & 3.4)

### 4. Other Tax Receipts

#### (A) State Excise

The review on 'State Excise Duties' revealed :

- Additional licence fee amounting to Rs. 6.39 lakhs was not recovered on lifting of excess quota of country liquor. (Para 4.2.8)
- Import duty of Rs. 2.67 lakhs was not charged on import of beer and Indian made foreign liquor imported in Haryana from places outside the state. (Para 4.2.9)
- Excise duty of Rs. 2.29 lakhs was not recovered on wastage of spirit in excess of the prescribed norms. (Para 4.2.12)
- Excise duty of Rs. 3.19 lakhs was not recovered on cancellation of licences and re-auction of vends. (Para 4.2.13 & 4.2.18)



(xi)

- There was short recovery of excise duty of Rs. 1.54 lakhs due to recovery at pre-revised rates.

(Para 4.2.11)

**(B) Taxes on vehicles**

In 57 cases, token tax of Rs. 3.39 lakhs was recovered at the instance of audit.

(Para 4.4)

**(C) Electricity Duty**

The review on 'Levy and collection of electricity duty' revealed :

- Irregular grant of exemption of duty led to non-realisation of revenue amounting to Rs 24.53 lakhs.

(Para 4.6.6 (a) & (b))

- Arrears of duty pending collection as on 31st March 1991 amounted to Rs 20.63 crores which included Rs 6.35 crores relating to the period 1966-67 to 1985-86.

(Para 4.6.11)

- Non-deposit of duty of Rs. 444.17 lakhs realised from consumers during April 1986 to March 1991, to Government account by the Haryana State Electricity Board.

(Para 4.6.12)

- Shortfall in statutory inspection of installations resulted in non-realisation of inspection fee amounting to Rs 44.42 lakhs.

(Para 4.6.13)

**5. Non-Tax Receipts**

**(A) Mines and Geology**

- (i) Royalty and interest amounting to Rs 5.28 lakhs was not recovered from the contractors.

(Para 5.2)

- (ii) Surface rent and water charges amounting to

(xii)

Rs 3.32 lakhs including interest of Rs 1.11 lakhs were not recovered from the lessee.

(Para 5.3)

- (iii) Royalty amounting to Rs. 3.32 lakhs could not be realised due to defective execution of lease deed.

(Para 5.4)

- (iv) Interest of Rs. 1.46 lakhs was demanded short due to incorrect calculation.

(Para 5.5)

## CHAPTER I

### GENERAL

#### 1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Haryana during the year 1990-91, the share of 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 :

	1988-89	1989-90	1990-91
	(In crores of rupees)		
I. Revenue raised by the State Government			
(a) Tax revenue	795.41	910.12	1069.54
(b) Non-tax revenue	354.71	445.93	511.10
<b>Total (I)</b>	<b>1150.12</b>	<b>1356.05</b>	<b>1580.64</b>
II. Receipts from Government of India			
(a) State's share of net proceeds of divisible Union Taxes	120.62	154.11	185.90
(b) Grants-in-aid	170.34	97.08	146.88
<b>Total (II)</b>	<b>290.96</b>	<b>251.19</b>	<b>332.78</b>
III. Total receipts of the State (I+II)	1441.08	1607.24	1913.42
IV. Percentage of I to III			
	80	84	83

(i) The details of the tax revenue raised during the year 1990-91, alongwith figures for the preceding two years, are given below and reflected in bar chart I :

	1988-89	1989-90	1990-91	Percentage of Increase (+) or Decrease(—) in 1990-91 over 1989-90
(In crores of rupees)				
1. Sales Tax	370.56	415.18	494.70	(+) 19
2. State Excise	192.87	236.68	286.35	(+) 21
3. Taxes on Goods and Passengers	94.46	100.88	102.10	(+) 1
4. Stamps & Registration Fee	70.71	92.55	101.50	(+) 10
5. Taxes on Vehicles	19.11	21.39	35.78	(+) 67
6. Taxes and Duties on Electricity	33.36	29.42	34.36	(+) 17
7. Land Revenue	0.73	0.73	0.94	(+) 29
8. Other Taxes and Duties on Commodi- ties and Services	13.61	13.29	13.81	(+) 4
<b>Total</b>	<b>795.41</b>	<b>910.12</b>	<b>1069.54</b>	<b>(+) 18</b>

Reasons for variations as stated by the respective departments are given below :

(a) Increase (19 per cent) in receipts under 'Sales Tax' was due to increase in trading activities, price

# GROWTH OF REVENUE (TAX RECEIPTS) DURING THE PERIOD 1988-89 TO 1990-91

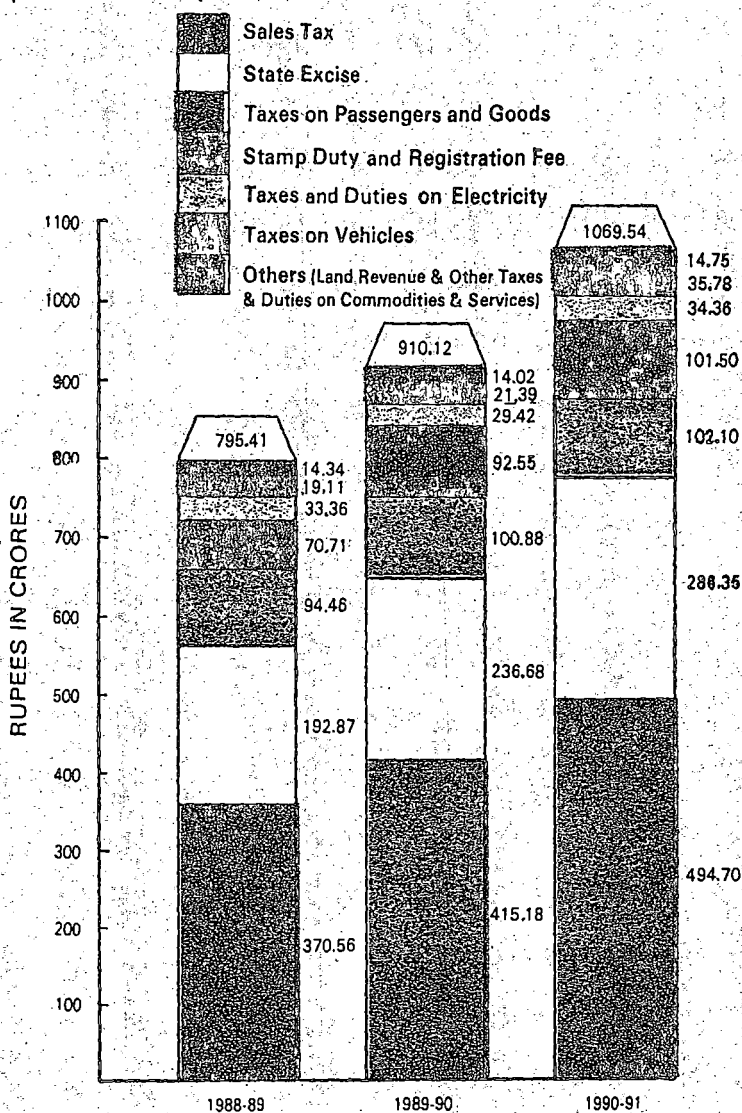


FIGURE 1  
(Para 1.1)



escalation and efforts made for recovery and checking evasions of Sales Tax.

(b) Increase (21 per cent) in receipts under 'State Excise' was due to more auction money received during 1990-91 as compared to 1989-90 and due to more sale of liquor.

(c) Increase (67 per cent) in receipts under 'Taxes on Vehicles' was due to levy of toll tax on the vehicles entering Haryana and opening of three more offices of Regional Transport Authorities.

(d) Increase (17 per cent) in receipts under 'Taxes and Duties on Electricity' was partly due to adjustment of old arrears of Rs. 2.40 crores during the year 1990-91 and sale of more power as compared to last year.

(e) Increase (29 per cent) in receipts under 'Land Revenue' was due to (i) increase in the rates of copying/mutation fees, (ii) levy of 5 per cent departmental charges on the recoveries made on behalf of various banks/corporations as arrears of Land Revenue and (iii) detection of more cases of short recoveries by the Internal Audit.

(ii) The details of major non-tax revenue received during the year 1990-91, alongwith figures for the preceding two years are given below and reflected in the bar chart 2 :

	1988-89	1989-90	1990-91	Percentage of Increase (+) or De- crease (-) in 1990-91 over 1989-90
	1	2	3	4
(In crores of rupees)				
1. Road Transport	131.85	142.69	146.13	(+) 2
2. Miscellaneous General services	72.41	105.35	138.49	(+) 31

	1	2	3	4
3. Interest Receipts	77.33	114.19	127.05	(+) 11
4. Non-ferrous Mining and Metallurgical Industries	6.59	8.40	9.15	(+) 9
5. Medical and Public Health	5.15	5.51	6.26	(+) 14
6. Others	61.38	69.79	84.02	(+) 20
	354.71	445.93	511.10	(+) 15

Reasons for variations as stated by the respective departments are given below :

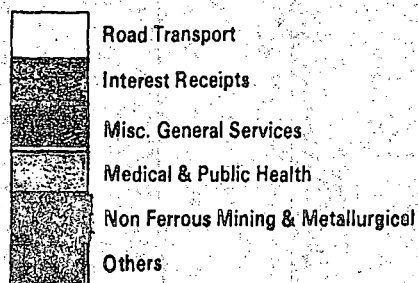
- (a) Increase (31 per cent) in receipts under 'Miscellaneous General Services' was due to sale of more lottery tickets.
- (b) Increase (11 per cent) in receipts under 'Interest-Receipts' was mainly due to excess realisation of interest from commercial undertakings and public sector and other undertakings.
- (c) Increase (14 per cent) in receipts under 'Medical and Public Health' was due to more amount received from Employees State Insurance Corporation, New-Delhi.

## 1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates of revenue for the year 1990-91 and actual receipts in respect of principal heads of tax and non-tax revenue and the reasons thereof as



# NON TAX RECEIPTS DURING THE PERIOD 1988-89 TO 1990-91



RUPEES IN CRORES

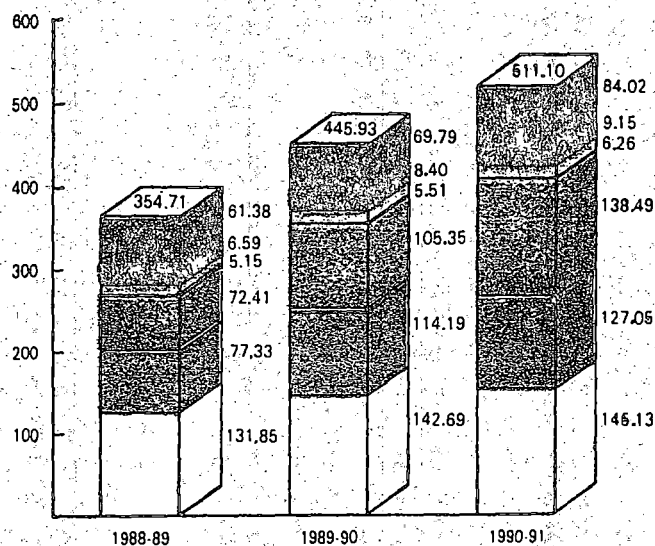


FIGURE 2  
(Para 1.1)



stated by the respective departments are given below :

Serial Number	Heads of revenue	Budget estimates	Actuals	Variations Increase (+) or Decrease (—)	Percentage of variations
1	2	3	4	5	6
(In crores of rupees)					
1.	Sales Tax	477.00	494.70	(+)17.70	(+)4
2.	State Excise	284.89	286.35	(+)1.46	Negligible
3.	Taxes on Goods and Passengers	115.42	102.10	(—)13.32	(—)12
4.	Stamps and Registration Fee	102.63	101.50	(—)1.13	Negligible
5.	Taxes on Vehicles	22.00	35.78	(+)13.78	(+)63
6.	Taxes and Duties on Electricity	34.00	34.36	(+)0.36	Negligible
7.	Land Revenue	1.00	0.94	(—)0.06	(—)6
8.	Other Taxes and Duties on Commodities	12.78	13.81	(+)1.03	(+)8
9.	Road Transport	154.35	146.13	(—)8.22	(—)5
10.	Interest Receipts	129.42	127.05	(—)2.37	(—)2

1	2	3	4	5	6
11.	Non-ferrous Mining and Metallurgical Industries	7.98	9.15	(+ )1.17	(+ )15
12.	Medical and Public Health	6.41	6.26	(—)0.15	Neg- ligible

(a) Decrease (12 per cent) in receipts under 'Taxes on Goods and Passengers' was due to agitations during August and September 1990 leading to disruption in road traffic.

(b) Increase (63 per cent) in receipts under 'Taxes on Vehicles' was due to levy of toll tax on vehicles entering Haryana and opening of three more offices of Regional Transport Authorities in the State.

(c) Increase (15 per cent) in receipts under 'Mining and Metallurgical Industries' was due to more realisation from auction of quarries.

### 1.3 Assessments in arrears

The number of assessment cases finalised during the year 1990-91 and pending at the end of 1990-91 alongside figures for the preceding year, are given below :

1	2	Sales Tax		Passengers and Goods Tax	
		1989-90	1990-91	1989-90	1990-91
3	4	5	6		
(i)	Number of assessments due for completion during the year				
(a)	Arrear cases	63491	83619	173	214
(b)	Current cases	137997	144220	407	422
(c)	Remand cases	1383	1371	7	5

1	2	3	4	5	6
(ii)	Number of assessments completed during the year				
(a)	Arrear cases	38581	47908	107	89
(b)	Current cases	79727	81257	264	243
(c)	Remand cases	944	895	2	—
(iii)	Number of assessments pending finalisation at the end of the year				
(a)	Arrear cases	24910	35711	66	125
(b)	Current cases	58270	62963	143	179
(c)	Remand cases	439	476	5	5

Year-wise break up of the pending assessments as at the end of the year 1990-91 is given below :

Number of cases		
	Sales Tax	Passengers and Goods Tax
Upto: 1985-86	314	3
1986-87	1863	8
1987-88	8268	23
1988-89	24990	70
1989-90	63715	205
<b>Total</b>	<b>99150</b>	<b>309</b>

## 1.4 Uncollected Revenue

As on 31st March 1991, arrears of revenue pending collection under principal heads of revenue, as reported by the departments, were as under :

Heads of revenue	Total arrears	Arrears outstanding for more than 5 years
------------------	---------------	---

1

2

3

(In crores of rupees)

1. Sales Tax	82.72	18.75
2. Taxes and Duties on Electricity	20.63	6.35
3. State Excise	4.29	3.41
4. Other Taxes and Duties on Commodities and Services		
(i) Receipts under the Sugarcane (Regulations, Supply and Purchase Control Act)	1.25	0.24
(ii) Receipts under the Punjab Entertainment (Cinematograph shows) Act	0.15	0.03
5. Non-ferrous Mining and Metallurgical Industries	2.36	1.05

1	2	3
6. Taxes on Goods and Passengers	3.00	0.09
7. Co-operation	1.83	0.67
8. Land Revenue	0.22	0.05
9. Road Transport	0.34	0.02
<b>Total</b>	<b>116.79</b>	<b>30.66</b>

Year-wise break up of uncollected revenue was as under:

Year	Amount (In crores of rupees)
Up to 1985-86	30.66
1986-87	6.19
1987-88	11.44
1988-89	25.36
1989-90	17.18
1990-91	25.96
	<b>116.79</b>

According to the information furnished by the departments (August 1991), the amount of arrears as on 31st March, 1991 was in the following stages of action :

	Amount (In crores of rupees)
1. Recoveries stayed by Appellate Authorities/Courts	35.56
2. Amount covered by Recovery Certificates	9.56
3. Amount likely to be written off	5.83
4. Due from H.S.E.B.	19.93
6. Other stages	45.91
<b>Total</b>	<b>116.79</b>

### Analysis of arrears

#### (a) Sales Tax

Sales Tax demand raised but not collected as on 31st March 1991 amounted to Rs. 82.72 crores as against Rs. 66.40 crores outstanding on 31st March 1990. The increase in arrears by Rs. 16.32 crores (24.58 per cent) was stated to be due to increase in number of cases assessed and more dealers having left the state resulting in issue of recovery certificates. Year-wise break up of the outstanding amount as on 31st March 1991 is given below :

Year	Amount (In crores of rupees)
upto 1985-86	18.75
1986-87	5.11
1987-88	9.29
1988-89	18.98*
1989-90	10.58
1990-91	20.01
	<b>82.72</b>

Recovery of Government dues exceeding Rs. 2 lakhs was outstanding in respect of 353 cases involving an amount of Rs. 63.35 crores.

District-wise position of individual cases with recovery due exceeding Rs. 5 lakhs was as under :

District	Number of cases	Amount (In lakhs of rupees)
1	2	3
1. Karnal	17	1915.64
2. Faridabad (west)	36	1106.15

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\*Increase in the figures as compared with those shown in the Audit Report for the year 1989-90 was stated to be due to additional demand becoming due as a result of re-assessment which is transferred to the arrears of previous years if not recovered in time.



1	2	3
3. Faridabad (East)	42	895.26
4. Sonapat	11	838.70
5. Rewari	11	139.22
6. Gurgaon	8	125.99
7. Bhiwani	3	121.42
8. Ambala	7	120.78
9. Jagadhri	11	107.42
10. Rohtak	5	106.91
11. Hisar	11	104.53
12. Jind	7	103.07
13. Panipat	2	49.57
14. Sirsa	2	20.22
	<b>173</b>	<b>5754.88</b>

**(b) Taxes and Duties on Electricity**

The amount of arrears of taxes and duties on electricity to be realised at the end of March 1991 was Rs.20.63 crores, as against Rs.19.69 crores outstanding at the end of March 1990. Year-wise details of the outstanding dues are given below :

Year	Amount (in crores of rupees)
upto 1985-86	6.35
1986-87	0.62
1987-88	1.28
1988-89	4.92
1989-90	4.12
1990-91	3.34
	<b>20.63</b>

The arrears were stated to be outstanding against the Haryana State Electricity Board. Non-recovery was attributed to the following reasons :

(i) Deferment of recovery of duty of Rs. 0.99 crore by Government in the case of Haryana Concast Limited, a public limited company, due to its weak financial position.

(ii) Pendency of 16 cases involving duty of Rs. 0.40 crore in the Civil Courts and with the Arbitrators.

(iii) Duty of Rs. 0.30 crore due from an assessee (Dadri Cement Factory, Dadri) is likely to be written off as the Commissioner of payments appointed on liquidation of the Company refused to accept the claim of the Department for Electricity dues.

The balance amount of Rs. 18.94 crores was outstanding partly due to non-adjustment of misclassified amount (Rs. 4.40 crores by the H.S.E.B. and partly due to non-recovery from the consumers Rs. 14.54 crores).

#### (c) State Excise

Arrears of revenue under State Excise as on 31st March 1991 amounted to Rs. 4.29 crores as against Rs. 4.13 crores outstanding on 31st March 1990. Year-wise details of the outstanding dues are given below :

Year	Amount (In crores of rupees)
Upto 1985-86	3.41
1986-87	0.08*
1987-88	0.28*
1988-89	0.23*
1989-90	0.26
1990-91	0.03
	<b>4.29</b>

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\*The increase in the figures of arrears during 1990-91 with those shown in Audit Report 1989-90 is due to certain arrears under State Excise which were not shown in the information supplied by the Department.

According to the information supplied (August 1991) by the Department, the amount of arrears as on 31st March, 1991 was in the following stages of action.

	Amount (In crores of rupees)
(i) Recoveries stayed by the Appellate Authorities/ Courts	1.35
(ii) In the process of recovery by issue of recovery certificate	0.35
(iii) Amount likely to be written off	0.48
(iv) Other stages	2.11
<b>Total</b>	<b>4.29</b>

### 1.5 Frauds and evasions of taxes

The table below indicates the amounts of taxes/receipts assessed during the year 1990-91 in cases of frauds and evasions of taxes/receipts detected by the departments concerned during 1990-91 and earlier years :

Nature of tax/ receipt	Cases pend- ing as on 1st April 1990	Number of cases detected during the year	Number of cases finalised during the year	Number of cases pending as on 31st March 1991	Amount of tax, interest and penalty levied		
1	2	3	4	5	6		
			Out of Col. 2	Out of Col. 2	Out of Col. 3	(In lakhs of rupees)	
				3	2	3	
Sales Tax	190	4562	130	4371	60	191	417.53
Passengers and Goods Tax	149	3666	93	3514	56	152	53.40

1	2	3	4	5	6
Entertain- ment Duty and Show Tax	4	34	—	25 4	9 0.66
State Excise	—	60	—	60 —	— 0.77
Medical	1	—	—	— —	1 —
Animal Husbandry	1	—	—	— —	1 0.66

### 1.6 Refunds

Position of refunds allowed during the year 1990-91 is given below :

	Sales Tax		State Excise		Passengers and goods Tax		Entertain- ment Duty and Show Tax	
	Num- ber of cases	Amo- unt	Num- ber of cases	Amo- unt	Num- ber of cases	Amo- unt	Num- ber of cases	Amo- unt
	(Amount in lakhs of rupees)							
Claims outstand- ing as on 1st April 1990	613	150.03	2	0.24	3	0.51	2	0.02
Claims received during the year 1990-91	1506	61.23	18	8.34	—	—	5	0.49
Refunds made during the year 1990-91	1698	161.49	19	8.46	3	0.51	6	0.39
Balance outstand- ing at the end of the year	421	49.77	1	0.12	—	—	1	0.12

### 1.7 Cost of Collection

Expenditure incurred on collection of the major revenue receipts during the year 1990-91 (with figures for the preceding two years) is given below :

Heads of Revenue	Year	Gross Collection	Expenditure	Percentage of expenditure to gross collection	All India percentage of cost of collection for the year 1989-90
(In crores of rupees)					
1. Sales	1988-89	370.56	7.34	1.98	
Tax	1989-90	415.18	8.97	2.16	
	1990-91	494.70	9.60	1.94	1.50
2. State	1988-89	192.87	0.80	0.41	
Excise	1989-90	236.68	0.84	0.35	
	1990-91	286.35	0.93	0.32	3.00
3. Stamps	1988-89	70.71	0.33	0.47	
and	1989-90	92.55	0.41	0.44	
Registration Fee	1990-91	101.50	0.65	0.64	5.00
4. Taxes	1988-89	19.11	0.59	3.09	
on Vehicles	1989-90	21.39	0.65	3.04	
	1990-91	35.78	0.85	2.37	3.00
5. Other	1988-89	141.43	0.46	0.33	
Taxes and Duties*	1989-90	143.59	0.42	0.29	
	1990-91	150.27	0.47	0.31	—

\*Figures against Taxes and Duties comprise collection and expenditure under the following heads of revenue :

1. Taxes on Goods and Passengers.
2. Taxes and Duties on Electricity.
3. Other Taxes and Duties on Commodities and Services.

### 1.8 Outstanding Inspection Reports

Audit observations on financial irregularities, defects in initial accounts and under-assessments of tax, noticed during local audit are communicated to the heads of the offices and to the next higher departmental authorities through local audit inspection reports, and first replies thereto are required to be sent within six weeks from the date of issue. The more important irregularities are also reported to the heads of the departments and Government. Half-yearly reports of audit objections outstanding for more than six months are also forwarded to Government to expedite their settlement.

(i) At the end of June 1991, 1889 inspection reports (issued upto December 1990) containing 5314 audit objections with money value of Rs. 2657.55 lakhs remained outstanding, out of which 564 inspection reports containing 1178 objections with money value of Rs. 1136.90 lakhs were outstanding for more than 5 years.

(ii) In respect of 213 inspection reports issued between April 1990 and March 1991, even the first replies had not been received (August 1991) despite issue of instructions by the Finance Department in February 1991 to all Heads of Departments for sending replies to the Audit Office within the prescribed period.

The matter regarding non-receipt of initial replies from the departments was reported to the Government between June 1991 and July 1991, their reply has not been received (January 1992).

The above position was also brought to the notice of the Chief Secretary to the Government of Haryana in November 1991; their reply has not been received.

(iii) Relatively large number of audit objections were outstanding under the following major heads.

	Year	Number of inspection reports	Number of audit objections	Amount (In lakhs of rupees)
<b>1. Sales Tax</b>				
upto	1985-86	65	196	186.60
	1986-87	22	158	8.18
	1987-88	22	262	40.77
	1988-89	22	229	114.45
	1989-90	24	365	293.03
	1990-91	10	46	84.54
	Total	165	1256	727.57
<b>2. Taxes on Vehicles</b>				
upto	1985-86	39	71	15.52
	1986-87	11	20	0.07
	1987-88	24	40	16.69
	1988-89	23	23	1.14
	1989-90	36	54	2.19
	1990-91	40	143	12.32
	Total	173	351	47.93
<b>3. Stamps and Registration Fee</b>				
upto	1985-86	98	155	38.34
	1986-87	37	56	16.39
	1987-88	49	97	18.13
	1988-89	60	158	62.04
	1989-90	67	178	17.87
	1990-91	62	177	28.03
	Total	373	821	180.80

**4. State Excise**

upto 1985-86	45	62	221.12
1986-87	10	23	4.42
1987-88	9	16	4.55
1988-89	12	24	52.81
1989-90	33	48	27.17
1990-91	18	82	27.19

Total	<u>127</u>	<u>255</u>	<u>337.26</u>
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**5. Taxes on Goods and Passengers**

upto 1985-86	25	36	6.13
1986-87	11	13	0.11
1987-88	12	17	3.24
1988-89	12	53	1.44
1989-90	17	88	24.83
1990-91	19	94	6.47

Total	<u>96</u>	<u>301</u>	<u>42.22</u>
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**6. Major and Minor Irrigation**

upto 1985-86	68	233	101.74
1987-88	23	80	47.40
1988-89	32	178	123.43

Total	<u>123</u>	<u>491</u>	<u>272.57</u>
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**7. Public****Werks (B&R)**

upto 1985-86	48	109	13.97
1987-88	29	66	53.36
1989-90	46	102	22.90

Total	<u>123</u>	<u>277</u>	<u>90.23</u>
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### 8. Non-ferrous Mining and Metallurgical Industries

upto 1985-86	25	50	274.01
1986-87	11	32	39.54
1987-88	8	40	25.01
1988-89	14	62	21.92
1989-90	12	64	10.02
1990-91	16	90	0.64
Total	86	338	371.14

### 9. Co-operation

upto 1985-86	32	72	5.33
1986-87	11	33	1.61
1987-88	9	16	0.65
1989-90	23	45	22.32
Total	75	166	29.91

### 10. Land Revenue

upto 1985-86	16	21	6.21
1986-87	1	1	0.32
1987-88	6	12	1.00
1988-89	8	15	0.76
1989-90	4	6	19.92
1990-91	13	21	9.37
Total	48	76	28.58

(iv) The more important types of irregularities noticed during local audit of Sales Tax (Faridabad and Karnal Districts) and those relating to receipts under the heads Stamps and Registration Fee and Passengers and Goods Tax, which are still (January 1992) to be settled are given below :

**(a) Sales Tax**

<b>Nature of irregularity</b>	<b>Number of cases</b>	<b>Amount involved (In lakhs of rupees)</b>
1. Under-assessment under Central Sales Tax Act	64	55.10
2. Incorrect computation of turnover	198	123.70
3. Non/short levy of penalty	58	68.09
4. Non-levy of interest	229	108.48
5. Application of incorrect rate of tax	26	28.31
6. Others	141	20.63
<b>Total</b>	<b>716</b>	<b>404.31</b>

These objections remained unsettled mainly due to :

	<b>Number of cases</b>	<b>Amount involved (In lakhs of rupees)</b>
(i) Non submission of final replies	626	375.86
(ii) Delay in finalising assessments by the appellate authorities	17	15.63
(iii) Others	73	12.82
<b>Total</b>	<b>716</b>	<b>404.31</b>

**(b) Stamp Duty and Registration Fee**

<b>Nature of irregularity</b>	<b>Number of cases</b>	<b>Amount involved (In lakhs of rupees)</b>
(1) Under-valuation of properties	2712	257.51
(2) Evasion of Stamp Duty and Registration Fee	987	57.49

(3) Irregular exemption of Stamp Duty and Registration Fee	592	28.62
(4) Short/Non-levy of Stamp Duty and Registration Fee	1066	14.77
(5) Others	643	38.57
<b>Total</b>	<b>6000</b>	<b>396.96</b>

These objections have remained unsettled due to :

	<b>Number of cases</b>	<b>Amount involved (In lakhs of rupees)</b>
(i) Want of replies	2150	128.58
(ii) Want of recoveries	1633	83.12
(iii) Want of decisions from the collectors	1220	101.95
(iv) Other reasons	997	83.31
<b>Total</b>	<b>6000</b>	<b>396.96</b>

**(C) Passengers and Goods Tax**

<b>Nature of irregularity</b>	<b>Number of cases</b>	<b>Amount involved (In lakhs of rupees)</b>
1. Short/non-realisation of National Permit Fee/ Passengers and Goods Tax	5453	52.38
2. Non recovery of tax for the intervening period	522	5.59
3. Others	2219	50.53
<b>Total</b>	<b>8194</b>	<b>108.50</b>

These objections have remained unsettled :

(i) For non-submission of replies	1354	40.06
(ii) For want of recoveries	5088	40.26
(iii) For other reasons	1752	28.18
<b>Total</b>	<b>8194</b>	<b>108.50</b>

### 1.9 Internal Control and Internal Audit

An internal audit system exists in the department of Excise and Taxation (Sales Tax) which administers the Acts relating to Sales Tax, State Excise Duty and Show Tax, Revenue department, which administers Land Revenue and Stamp Duty and Registration Fee and the Transport department which deals with taxes on Motor Vehicles. However, the internal audit system is not effective as proper records were not being maintained for pursuance of inspection reports/paras. Government has intimated (April 1991) that the setting up of an Internal Audit Organisation was under consideration.

On the basis of information supplied by these departments, the position of audit conducted and objections raised with money value and objections cleared in respect of each of these heads of revenue is given below :

#### 1.9.1 Performance of Internal Audit system

The number of units to be audited during each of the three years 1988-89 to 1990-91 and arrears in internal audit in respect of Land Revenue and Taxes on Motor Vehicles at the end of March 1991 are given below :

Year	Number of units (including units in arrears to be audited)	Number of units audited	Number of units remaining un-audited at the end of the year
1988-89	171	131	40
1989-90	211	109	102
1990-91	284	161	123

The receipt-wise break-up of the units in arrears was as under :

Receipt	Year		
	1988-89	1989-90	1990-91
1. Land Revenue	28	69	100
2. Taxes on Motor Vehicles	12	33	23
Total	40	102	123

The arrears were on the increase during the years 1989-90 and 1990-91 as compared to those of 1988-89. The increase in arrears in 1990-91 over 1988-89 was 207 per cent, 81 per cent of the total arrears pertained to land revenue.

The year-wise break-up of units pending audit as on 31st March 1991 though called for (August 1991), has not been received (January 1992).

The arrears were attributed (August 1991) by the Revenue Department to shortage of staff. The information pertaining to Stamp Duty and Registration fee has not been received (January 1992) from the Department despite repeated reminders.

### 1.9.2 Outstanding audit objections in internal audit

The number of internal audit reports issued, objections raised and amount of revenue involved therein, objections cleared and those pending at the end of the year 1990-91 were as under :

Year	Number of audit reports/ objections issued with money value			Number of audit reports/objections cleared upto 31st March 1991 with money value			Number of audit reports/objections outstanding as on 31st March 1991 with money value		
	Audit Re-ports	Ob-jections	Money Value (In lakhs of rupees)	Audit Re-ports	Ob-jections	Money Value (In lakhs of rupees)	Audit Re-ports	Ob-jections	Money Value (In lakhs of rupees)
1988-89	107	4061	183.88	27	2916	172.12	40	1145	11.76
1989-90	88	1589	324.40	26	588	132.06	28	701	192.34
1990-91	112	2502	168.68	29	906	137.06	35	1596	31.62
Totals	307	8152	676.96	82	4710	441.24	103	3442	235.72

### 1.9.3 Delay in issue of Internal Audit Reports

As per the normal practice, internal audit reports are required to be issued within 30 days of completion of audit. It was, however, noticed (August 1991) that there was considerable delay upto 582 days in issuance of internal audit reports between April 1988 and March 1991 as detailed below :

Name of head	Total number of audit reports	Number of audit reports issued late	Percent- age of delayed reports to the total number of reports issued	Delay in issuance of reports
1. Land Revenue	165	20	12	304 days to 582 days
2. Taxes on Motor Vehicles	122	101	83	3 days to 180 days

Despite considerable delay in the issue of internal audit reports, no control mechanism had been devised by the departments to ensure that these were issued within the prescribed period. It was noticed that no internal audit manual had been in existence.

The respective departments stated (August 1991) that delay in issue of reports was attributable to shortage of staff.

## CHAPTER 2

### SALES TAX

#### 2.1 Results of Audit

Test check of sales tax assessments and other records of 23 units conducted during the year 1990-91 revealed under-assessment of tax of Rs. 394.48 lakhs in 771 cases, which broadly fall under the following categories :

Details	Number of cases	Amount (In lakhs of rupees)
1. Incorrect computation of turnover	227	190.75
2. Interest not charged on non-payment/delayed payment of tax	74	55.20
3. Under-assessment under the Central Sales Tax Act	73	51.75
4. Non/short levy of penalty	81	33.12
5. Application of incorrect rate of tax	62	32.96
6. Other irregularities	254	30.70
	771	394.48

Out of 771 cases, the Department, in 171 cases, raised additional demands amounting to Rs. 6.84 lakhs. A few important cases noticed during 1990-91 and earlier years and findings of audit reviews on "Pendency of appeals at various levels" and "Recovery of Demands in arrears under Sales Tax" are mentioned in the succeeding paragraphs.

## 2.2 Pendency of appeals at various levels and its impact on revenue collection—Sales tax

### 2.2.1 Introductory

The Haryana General Sales Tax Act, 1973, provides that for any tax, penalty or interest payable in consequence of any order passed under the Act, a notice of demand shall be served upon the assessee. The amount specified in the notice of demand has to be paid within the time specified in the notice of demand which shall not be less than fifteen days or in the absence of any time being specified in the notice, within 30 days from the date of service of such notice.

An assessee dissatisfied with the assessment order, is entitled to file an appeal to the Joint Excise and Taxation Commissioner (Appeals) within 60 days from the date of order appealed against subject to the payment of whole or part of tax assessed or penalty imposed or interest levied. The Appellate Authority, if satisfied, that the assessee is unable to pay the whole of the amount of tax assessed, or the penalty imposed or the interest due, may, if the amount of tax and interest admitted by the appellant to be due has been paid, for reasons to be recorded in writing, entertain the appeal and may stay the recovery of balance amount subject to the furnishing of a bank guarantee or adequate security to his satisfaction. The Appellate Authority may either reject or accept the appeal and allow the relief sought or may remand the case to the Assessing Authority for re-assessment as directed. Further a second appeal rests with the Sales Tax Tribunal. Reference on the point of law arising out of the judgement of the Tribunal can be made to the High Court. The Act does not prescribe any procedure to be followed by the Appellate Authority in disposing of the appeals filed before him.

### 2.2.2 Scope of Audit

Out of three Appellate Authorities, records of two Appellate Authorities at Faridabad and Rohtak and five districts falling under their jurisdiction viz; Faridabad (East), Faridabad (West), Gurgaon, Rohtak and Hisar were test checked between April 1991 and June 1991 with a view to ascertain the pendency of appeals, its impact on revenue collection and expeditious disposal of remand cases. The statistical information incorporated in the review, however, covers the entire State.



### 2.2.3 Organisational set up

There are three Appellate Authorities in the State designated as Joint Excise and Taxation Commissioner (Appeals), one each in the three sales tax divisions at Ambala, Faridabad and Rohtak. The Joint Excise and Taxation Commissioners (Appeals) are not directly appointed as such. These are transferrable posts and any departmental officer of the rank of Joint Excise and Taxation Commissioner can be posted as an Appellate Authority. The jurisdiction of each of the Appellate Authority is as under :

Name of appellate authority	Jurisdiction
1. Joint Excise and Taxation Commissioner (Appeals), Ambala	Ambala, Karnal, Kurukshetra, Kaithal, Panipat and Jagadhri
2. Joint Excise and Taxation Commissioner (Appeals), Faridabad	Faridabad (East), Faridabad (West), Gurgaon, Rewari and Narnaul
3. Joint Excise and Taxation Commissioner (Appeals), Rohtak	Rohtak, Sonapat, Jind, Bhiwani, Hisar and Sirsa

### 2.2.4 Highlights

—Tax amounting to Rs. 37.02 crores was locked up in appeals at the close of the year 1989-90.

—Out of 3760 pending appeal cases, case files for only 2510 appeals were available. The remaining 1250 appeal files were missing.

—In 949 decided cases, the final orders of the Appellate Authorities were communicated late by 3 to 27 months.

—In contravention of departmental instructions, 65 stay cases were decided after a period ranging between 3 to 37 months.

—In two appeal cases assessment records demanded by the Appellate Authorities were not made available resulting in quashing of demands of Rs. 31.95 lakhs.

Three appeal cases involving tax effect of Rs. 108.33 lakhs were pending for the last 18 to 36 months.

Effective steps were not taken to get the stay vacated in 78 cases involving a tax effect of Rs. 280.04 lakhs.

## 2.2.5 Position of collection of revenue

The information regarding collection of revenue, arrears, revenue locked up in appeals and their percentage to total revenue during 1987-88 to 1989-90 is given below:

Year	Total arrears upto the end of the year	Receipts during the years	Revenue invol- ved in appeals  pertain- ing to the year con- cerned	cumu- lative total reve- nue involved in appe- als at the end of the year	Percen- tage of columns (4) to (3)	Percen- tage of columns (5) to (2)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(in crores of rupees)						
1987-88	47.00	314.93	NA*	17.87	—	38.02
1988-89	62.81	370.56	NA*	30.26	—	48.18
1989-90	66.40	415.18	NA*	37.02	—	55.75

## 2.2.6 Details of appeals pending as on 31-3-1990

Year-wise details of appeals pending with the Appellate Authorities at Faridabad and Rchtak as on 31st March 1990

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\*Figures not made available by the Department.

are given below :

Name of Appellate Authority	Year	Number of cases	Amount of tax involved (In lakhs of rupees)
Joint Excise and Taxation Commissioner (Appeals) Rohtak	Prior to 1987-88	29	Figures not available with the authority
	1987-88	49	
	1988-89	79	
	1989-90	374	
	Total	531	
Joint Excise and Taxation Commissioner (Appeals) Faridabad	Prior to 1987-88	400	Figures not available with the authority
	1987-88	598	
	1988-89	847	
	1989-90	1038	
	Total	2883	
High Court			
	Prior to 1987-88	34	262.46
	1987-88	35	333.08
	1988-89	121	755.84
	1989-90	87	366.14
	Total	277*	1717.52*
Supreme Court			
	Prior to 1987-88	48	221.88
	1987-88	2	5.91
	1988-89	—	—
	1989-90	19	2.67
	Total	69*	230.46*

\*Does not include information relating to districts of Ambala, Sirsa and Sonapat as the records were stated to have been destroyed during disturbances.

The information in respect of Appellate Authority at Ambala could not be collected as the records were stated (May 1991) to have been burnt during disturbances.

The details of appeals pending with the High Court/ Supreme Court, their tax effect and age of pendency could not be collected as no record in this regard was maintained by the Department. The information called for from the Department (March 1991) has not been received (January 1992)

Against 2883 appeals pending as on 31st March 1990 Appellate Authority Faridabad, informed the Commissioner (April 1990) that 1633 appeal cases only were available. The case files in respect of 1086 appeals which have to be 1250 in number were not traceable and were stated to be missing.

### 2.2.7 Trend of appeals filed and their disposal

The position of growth of appeals that were pending before the Appellate Authorities at Rohtak and Faridabad and percentage of their disposal during the years 1987-88 to 1989-90 was as under :

	Joint Excise and Taxation Commi- ssioner (Appeals), Faridabad			Joint Excise and Taxation Commi- ssioner (Appeals), Rohtak		
	1987-88	1988- 89	1989- 90	1987- 88	1988- 89	1989- 90
1. Number of appeals for disposal at the beginning of the year	1033	1215	2693	442	650	580
2. Addition during the year	1350	1692	1417	1022	1364	1139
3. Total	2383	2907	4110	1464	2014	1719

4. Disposal during the year	1168	525	1227	814	1434*	1188
5. Number pending at the end of the year	1215	2693**	2883	650	580	531
6. Percentage of disposal (4) to (3)	49	18	30	56	71	69

Out of 3414 (2883+531) appeal cases pending at the close of the year 1989-90, 106 appeals were pending for more than five years and 323 appeals were pending for more than 3 years but less than 5 years. A large number of appeal cases were pending because no time limit had been fixed under the Act/Rules for deciding the appeals.

### 2.2.8 Norms for disposal of appeal cases

As per departmental instructions issued by the Excise and Taxation Commissioner a quota of 120 appeal cases per month was fixed for disposal by each Appellate Authority. However, the actual number of cases disposed of by the Appellate Authority Faridabad and Rohtak during the years 1987-88 to 1989-90 fell much short of the prescribed quota as per details given below :

Name of Appellate Authority	Year	Quota prescribed for disposal of appeals in a year	Number of appeals disposed of	Short fall	Percentage of short-fall
1	2	3	4	5	6
Joint Excise and Taxation	1987-88	1440	1168	272	19

\*Includes 563 cases transferred to Appellate Authority, Faridabad.

\*\*Balance actually comes to 2382 but shown as 2693 in the monthly report for March 1989 submitted by the Appellate Authority Faridabad.

1	2	3	4	5	6
Commissioner 1988-89 (Appeals)		1440	525	915	64
Faridabad	1989-90	1440	1227	213	15
Joint Excise and Taxation Commissioner 1988-89 (Appeals)	1987-88	1440	814	626	43
		1440	871*	569	40
Rohtak	1989-90	1440	1188	252	18

The shortfall in disposal of cases ranged between 15 per cent to 64 per cent in the case of Faridabad while in the case of Rohtak the shortfall was between 18 per cent to 43 per cent.

Reasons for not deciding cases as per norms fixed, though called for in April 1991 have not been intimated so far (January 1992). However, as per remarks of the Appellate Authority on the progress reports for the months of June 1988 to October 1988 he was restrained from deciding appeal cases by the Excise and Taxation Commissioner.

## 2.2.9 Details of disposal of appeals

In the monthly reports, the detail of appeals disposed of by the Appellate Authorities (submitted to the Excise and Taxation Commissioner) during the years 1987-88 to 1989-90 was as under :

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\*The figure excludes 563 cases transferred to the Appellate Authority, Faridabad.

Year	Joint Excise and Taxation Commissioner (Appeals), Faridabad			Joint Excise and Taxation Commissioner (Appeals) Rohtak		
	1987-88	1988-89	1989-90	1987-88	1988-89	1989-90
(i) Appeals set aside						
(a) Number	304	121	397	273	309	460
(b) Money value (in lakhs of rupees)	144.87	55.22	151.30	340.00	329.45	170.78
(ii) Cases re- manded to assessing authorities						
(a) Number	527	265	570	305	229	250
(b) Money value (in lakhs of rupees)	256.38	146.77	472.44	199.20	130.61	98.58
(iii) Cases dis- posed of on the basis of written sub- mission by the assessee	N.A.*					
(iv) By decision of appeals	N.A.*					
(v) Cases accepted (including partly accepted)						
(a) Number	337	139	260	236	333	478
(b) Money value (in lakhs of rupees)	49.58	21.10	17.09	37.05	19.46	40.85
(vi) Total						
(a) Number	1168	525	1227	814	871**	1188
(b) Money value (in lakhs of rupees)	450.83	223.09	640.83	576.25	479.52	310.21

\*As per records of the Appellate Authorities, separate information was not available.

\*\* The figure excludes 563 cases transferred to the Appellate Authority, Faridabad.



## 2.2.10 Delay in communication of orders of the Appellate Authorities

To enable the Assessing Authorities to take prompt follow up action on appeal cases decided by the Appellate Authorities and the appellants to claim refund arising as a result of their appeals which have been accepted, it is incumbent on the part of the Appellate Authorities to ensure that the orders passed by them in appeal are communicated expeditiously to the Assessing Authorities and the appellants. A review of appeal cases disposed of during the years 1987-88 to 1989-90 revealed that in most of the cases orders passed were communicated late; delay ranging from 3 months to 27 months.

Out of 949 (decided) cases test checked, it was noticed that in 603 cases the orders passed were issued after 3 to 6 months, in 313 cases after 7 to 12 months and in 33 cases after 12 months resulting in belated consequential action. No time limit for issue of orders passed has been laid down in the Act/Rules or instructions issued by the Department.

## 2.2.11 Delay in disposal of cases where stay had been granted

Instructions issued in March 1984 provide that the appeal cases involving tax effect of Rs. 5000 and above where stay has been granted should be disposed of within three months of the grant of stay.

(i) A test check of records of the Appellate Authorities, Faridabad and Rohtak revealed that in 65 appeal cases where stay was granted during 1987-88 to 1989-90, there was delay ranging between 3 to 37 months in deciding the cases.

(ii) In the case of a dealer of Sirsa an additional demand of Rs. 0.49 lakh pertaining to the year 1981-82 was created in January 1988. The dealer went in appeal before the Appellate Authority, Rohtak in April 1988 and prayed for stay of the demand. His stay application was rejected by the Appellate Authority in June 1988 and the dealer then filed an appeal before the Sales Tax Tribunal in July 1988. The Tribunal granted stay in August 1988 against surety bond and directed the Appellate Authority to decide the appeal. However, the case was still pending (November 1991) for more than three years.



(iii) The Assessing Authority Sonapat raised in September 1987 an additional demand of Rs. 2.82 lakhs pertaining to the years 1980-81 and 1981-82 against a dealer. The dealer filed an appeal before the Appellate Authority, Rohtak in January 1988 and requested for grant of stay. His stay application was rejected by the Appellate Authority in March 1988. The dealer then filed an appeal before the Tribunal which granted him stay in May 1988 against surety bond and directed the Appellate Authority to decide the appeal. The appeal was still pending (November 1991) after the expiry of 3 years from the date of grant of stay.

#### **2.2.12 Delay in deciding the appeals due to non-furnishing of information/records by the Assessing Authorities**

(a) To enable the Appellate Authorities to decide the appeals expeditiously, it is incumbent on the part of the Assessing Authority to furnish information and produce the records demanded by them promptly.

Audit scrutiny of 22 cases relating to Gurgaon (4), Sonapat (6), Faridabad (4), Rohtak (5) and Hisar (3) revealed that the requisite information/records called for by the Appellate Authorities were either not furnished or were furnished late by the Assessing Authorities resulting in grant of adjournments (18 cases) and extension of stay in recovery in 4 cases. The delay in submission of records ranged between 2 to 28 months.

#### **(b) Loss of revenue due to misplacement of impounded documents**

The business premises of a dealer of Jhajjar (Rohtak) were inspected in June 1986 and his books were impounded by the Assessing Authority. On the basis of impounded books the turnovers for the years 1985-86 and 1986-87 were enhanced by Rs. 3.84 lakhs and Rs. 3.35 lakhs respectively and additional demands of Rs. 1.10 lakhs and Rs. 0.66 lakh were raised in November 1987. The dealer filed an appeal before the Appellate Authority, Rohtak in December 1987. The Appellate Authority directed the Assessing Authority to produce the impounded books for verification of additions made in the turnover. The impounded books were not produced by the Assessing Authority as the same were stated to

have been misplaced by the Assessing Authority. Due to non-production of books, the Appellate Authority set aside (September 1988) the order of November 1987 and remanded the case. Non-production of impounded books by the Assessing Authority resulted in quashing of the demand and resultant loss of revenue amounting to Rs. 1.76 lakhs.

(c) An additional demand of Rs. 30.19 lakhs pertaining to the year 1984-85 was created against a dealer of Faridabad in March 1988 under the Central Sales Tax Act. The dealer filed appeal before the Appellate Authority, Faridabad in June 1988. On rejection of his stay application, the dealer applied for stay to the Sales Tax Tribunal who in turn directed (August 1988) the Appellate Authority to get the amount of Rs. 6.29 lakhs deposited from the dealer and then entertain the appeal. On the dealer's compliance regarding deposit of Rs. 6.29 lakhs in cash and furnishing of surety bond for the balance amount, the Appellate Authority directed the Assessing Authority to produce the assessment file containing the documents submitted by the appellant. However, he did not produce the assessment file (January 1989). The Appellate Authority quashed the order of March 1988 and remanded the case to the Assessing Authority in January 1989. Non-production of records by the Assessing Authority resulted in quashing of demand of Rs. 30.19 lakhs. The remand case has not yet been decided and the amount of Rs. 6.29 lakhs deposited by the dealer was refunded to him in July 1989.

### **2.2.13. Delay in taking up of appeal cases**

(i) In the case of a dealer of Dabwali (Sirsa) an additional demand of Rs. 6.76 lakhs was raised in December 1989 pertaining to the year 1989-90. The dealer did not pay the demanded tax and instead filed an appeal (January 1990) before Appellate Authority Rohtak, against the creation of demand and applied for grant of stay. The proceedings in this case were initiated (December 1990) after eleven months from the date of filing of appeal. No decision had been taken on the stay application and appeal was still pending (July 1991) resulting in locking up of revenue of Rs 6.76 lakhs for a period over 18 months.

(ii) The Assessing Authority, Sonapat directed a dealer of Sonapat in December 1988 to deposit additional security of Rs. 95 lakhs by 31st December 1988 to safeguard the tax

payable under the Act. The dealer did not deposit the amount and filed an appeal before the Appellate Authority, Rohtak in December 1988 against orders of the Assessing Authority. Though a period of more than 2 years has since elapsed, the appeal case was still pending (July 1991) with the Appellate Authority.

(iii) An additional demand of Rs. 2.65 lakhs relating to the year 1987-88 was raised against a dealer of Bhiwani in December 1988. The dealer filed an appeal before the Appellate Authority Rohtak in February 1989 and applied for entertainment of appeal without payment of demand. The proceedings were initiated by the Appellate Authority in October 1989. His stay application was rejected and appeal was also dismissed ex-parte in January 1991. By this time the appellant had closed down his business and demand of Rs. 2.65 lakhs had not been recovered (November 1991). The delay in finalisation of appeal resulted in demand remaining uncollected.

(iv) Demands amounting to Rs. 6.57 lakhs pertaining to the years 1979-80, 1983-84 and 1984-85 were created against three dealers of Sirsa in November 1989, March 1989 and October 1987 respectively. The dealers filed appeals before the Appellate Authority, Rohtak between February 1988 and December 1989 and requested for grant of stay against payment of demands. The stay applications and appeals were still pending with the Appellate Authority (November 1991) resulting in locking up of revenue of Rs. 6.57 lakhs for a period ranging between 1½ to 3 years.

## **2.2.14 Delay in finalisation of follow up action on cases remanded by the Appellate Authorities**

Departmental instructions issued in October 1984 provide that the cases remanded back by the Appellate Authorities to the Assessing Authorities for re-assessment should be decided within the financial year in which these were remanded.

(i) In respect of 130 remand cases, which were test checked, the re-assessment proceedings were not finalised within the financial year in which these were remanded. Eighty five cases were not finalised within the same financial year but finalised after 5 to 27 months from the date of remand by

the Appellate Authority, 27 cases were still pending finalisation though a period ranging between 9 and 41 months had elapsed from the date of remand. In eighteen cases remand orders from the Appellate Authorities had not been received by the Assessing Authorities (after a lapse of period ranging between 14 and 48 months) though the same were remanded during the period between April 1987 and February 1990.

(ii) An additional demand of Rs. 19,840 pertaining to the year 1982-83 was raised against a dealer of Hisar in June 1986. The dealer filed appeal before the Appellate Authority, Rohtak in November 1986 objecting the levy of tax at the rate of 7 per cent instead of 4 per cent on the sales of certified seeds. The case was remanded (May 1987) to the Assessing Authority for verification of rate of tax. The remand orders were, however, issued after a gap of more than two years in September 1989. The remand case was decided by the Assessing Authority in April 1991 and a demand of Rs. 45,194 was raised against the dealer. Delay in issue of remand orders after 27 months by the Appellate Authority and finalisation of remand case after 19 months by the Assessing Authority resulted in belated raising of demand and its delayed collection.

(iii) A penalty of Rs. 0.60 lakh was imposed against a dealer of Hisar in March 1988. The dealer deposited the amount and filed an appeal before the Appellate Authority, Rohtak in April 1988 against the levy of penalty. The Appellate Authority decided the appeal in January 1989 and set aside the orders levying penalty and remanded the case to the Assessing Authority. Instead of deciding the remand case expeditiously the Assessing Authority refunded the amount of Rs. 0.60 lakh in October 1989. The remand case had not yet been finalised though a period of more than 2 years had since elapsed.

(iv) The appeals of three dealers of Rohtak were decided between October 1986 and July 1988 and cases were remanded by the Appellate Authority, Rohtak.

The remand orders were, however, received late between June 1987 and June 1989 from the Appellate Authority. The follow up action on these remand cases was initiated between December 1987 and March 1990. The cases had not been finalised (November 1991).

(v) An additional demand of Rs. 16.07 lakhs pertaining to the year 1987-88 was raised against a dealer of Gurgaon in July 1989. The dealer filed an appeal before the Appellate Authority, Faridabad in August 1989 and requested for grant of stay of demand. The stay was granted in September 1989. The Appellate Authority decided the appeal in March 1990 and quashed the orders of July 1989 and remanded the case to the Assessing Authority. The remand order was, however, issued in November 1990. The remand case involving a revenue of Rs. 16.07 lakhs was still pending (November 1991) with the Assessing Authority.

#### **2.2.15 Monitoring and control mechanism for watching the receipt and disposal of appeals**

(a) To keep a proper watch for the receipt and disposal of appeal cases, all such appeals received by the Appellate Authorities are entered in a register called the Institution Register. As and when an appeal is decided, entries in the relevant columns regarding date of decision, nature of decision/disposal, tax relief allowed, if any, are entered in that register. It is through this register that the manner of disposal of each appeal is watched. During examination of the records of Appellate Authorities of Faridabad and Rohtak it was noticed that the Institution Registers from April 1987 to March 1990 contained a number of defects as detailed below :

(i) In Faridabad, the number of cases entered in the Institution Register for 1989-90 were shown as 1371, but on actual count the number was 1429. It was observed that in the registers for 1987-88 and 1988-89 maintained in the office of Appellate Authority, Faridabad and Rohtak, 46 cases and 24 cases respectively were found to have been entered subsequently in between the lines by putting 'A' to the regular serial number. These entries were not authenticated by the competent authority. The chances of entertaining of time barred appeals on back dates cannot be ruled out leading to loss of revenue to the Government.

(ii) The abstracts showing opening balance, the number of appeals received, appeals disposed of during the given period (Month/year) and the number of appeals outstanding were not prepared at the end of the period. The manner and the dates of disposal of appeals were also not marked against each case in the register.

## B. Submission of monthly progress reports

In order to watch and monitor the receipt and disposal of appeal cases and the performance of the Appellate Authorities, monthly progress reports are sent by each Appellate Authority to Excise and Taxation Commissioner. Audit scrutiny of monthly reports of Faridabad and Rohtak revealed that the reports submitted were not depicting the true state of affairs of receipts and disposal of appeals.

(i) In the monthly report of March 1990 submitted by the Appellate Authority, Faridabad, the number of appeals shown pending at the close of the year was 2883, but files of 1633 cases only were available. The remaining 1250 case files were not traceable nor their details were available.

(ii) As per the Institution Register, 1388 and 1429 appeals were received by the Appellate Authority, Faridabad during the years 1988-89 and 1989-90 but in the monthly statement, their number was shown as 1692 and 1417 respectively. Similarly the number of appeals received by Appellate Authority, Rohtak as per the Institution Register was 826,979 and 965 during the years 1987-88, 1988-89 and 1989-90 but in the monthly statement these were shown as 1022, 1364 and 1139 respectively.

(iii) In the monthly return for August 1989 in respect of the Appellate Authority, Faridabad the money value of appeals accepted was incorrectly worked out as Rs. 55.69 lakhs instead of Rs. 5.56 lakhs. Similarly, in the monthly return for September, 1989 the progressive money value of appeals rejected, was shown as Rs. 5.61 crores against actual figures of 56.26 lakhs. Again in the monthly statement for March 1990 the money value of appeal cases remanded was calculated as Rs. 4.12 crores against actual figures of Rs. 4.72 crores.

(iv) The position of receipt and disposal of appeals shown in the reports for the years 1987-88, 1988-89 and 1989-90 submitted by the Appellate Authority Faridabad to the Department in April 1988, April 1989 and April 1990 respectively did not tally with the position intimated to the

Department in June 1990 as detailed below :

Year	Receipt of appeals		Disposal of appeals		Closing balance	
	As per regular mon-thly return	As per revised return sub-mitted in June, 1990	As per regular mon-thly return	As per revised return sub-mitted in June, 1990	As per regular mon-thly return	As per revised return sub-mitted in June, 1990,
1987-88	1350	1331	1168	1187	1215	1177
1988-89	1692	1388	525	552	2693	2051
1989-90	1417	1135	1227	1261	2883	2567

The variation in figures supplied in June 1990 with those supplied in earlier years, was stated (December 1991) to be due to physical verification of cases conducted by the Appellate Authority.

### C. Disposal Register

The appeals after disposal are required to be entered in the Disposal Register in the order of their decision i.e. appeals decided on 1st of a month should be entered first to the appeals decided on 2nd of the month.

In audit (April to June 1991) it was noticed that the Disposal Registers from April 1987 to March 1990 in respect of Faridabad and Rohtak were incorrectly maintained in as much as (i) cases were not entered as per above orders (ii) no monthly or yearly abstracts were prepared (iii) in Faridabad the entries made in the register were not authenticated by the Appellate Authority or any other responsible officer of the Department (iv) certain cases were entered as disposed of on the dates on which the judgements were reserved instead of on the dates of release of judgements (v) manner of disposal of appeals was not recorded and the cases entered in the register did not tally with those shown in the monthly statements.

#### **D. Ineffective maintenance of Control Register of remand cases**

To watch the follow up action in respect of cases decided by the Appellate Authorities, the Assessing Authorities are to maintain a control register indicating therein the date and manner of follow up action taken in respect of all cases decided by the Appellate Authorities. It was noticed in audit that no consolidated record in this regard was maintained. A control register of remand cases only was maintained by the Deputy Excise and Taxation Commissioners Faridabad, Gurgaon, Rohtak and Hisar from 1987-88 to 1989-90. The Audit scrutiny of these control registers revealed that these were not being maintained properly as all the cases remanded were not entered, the details of follow up action taken was not recorded.

#### **2.2.16 Stay of Sales tax demands by the Appellate Authorities**

In the matter of grant of stay on acceptance of bank guarantee, the Supreme Court observed\* in May 1985 that "Governments are run on public funds and if large amounts all over the country are held up during the pendency of litigations, it becomes difficult for the Government to run and become oppressive to the people. Government's expenditure can not be made on bank guarantees or securities. Thus courts should refrain from passing any interim orders, staying the realisation of indirect taxes or passing such orders which may have the effect of non-realisation of indirect taxes. This will be healthy for the country and courts". Further, Calcutta High Court, following the ratio of supreme Court's judgement, held\*\* that "the direction of the trial judge regarding the securing of the amount through bank guarantees was liable to be set aside".

A test check of records of Faridabad, Gurgaon, Panipat, Rewari, Hisar, Rohtak, Karnal, Jagadhri and Bhiwani districts revealed (April 1991 to June 1991) that in 78 cases tax

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\*Empire Industries Limited and others v/s Union of India (1985) (20) ELT-179 (SC.)

\*\*Assistant Collector of Central Excise, Chandan Nagar, West Bengal v/s Dunlop India Limited (1985) SCC-260.



(including penalty and interest) of Rs. 280.04 lakhs demanded by the Department was stayed by the Appellate Authorities without obtaining cash security despite the Supreme Court/High Court's Judgements referred to as above.

Effective steps to get the stay orders vacated have not been taken (November 1991) by the Department.

The foregoing facts were reported (July 1991) to the Government; their reply has not been received (January 1992).

## **2.3 Recovery of Demands in arrears under Sales Tax**

### **2.3.1 Introductory**

In Haryana, Sales Tax is levied and collected under the Haryana General Sales Tax Act, 1973 and the Rules made thereunder. Every registered dealer is required to deposit the tax due along with his monthly/quarterly returns to be submitted to the department. Assessment proceedings are required to be initiated within five years by the Department after the expiry of return period. On assessment, the tax already paid by the dealer is adjusted and an additional demand for the balance amount, if any, is raised against the dealer. The tax demanded is payable within thirty days from the date of service of the demand notice. If the sales tax dues (including interest, penalty, composition fee etc.) are not paid by the dealer within the time specified in the demand notice or within the extended period, if any, the Assessing Authority may apply to the Collector for recovery of the Government dues as arrears of land revenue. After approval by the Collector, the Assessing Authority (the Assistant Collector) is required to issue recovery certificates and take all legal steps such as attachment of property and arrest and detention of dealer necessary for recovery of the tax dues as arrears of land revenue.

### **2.3.2 Scope of audit**

Out of the sixteen sales tax districts in Haryana, records of nine districts viz. Ambala, Jagadhri, Karnal, Panipat, Faridabad, Gurgaon, Rewari, Rohtak and Hisar relating to the years 1986-87 to 1990-91 were test checked (February 1991 to May 1991) with a view to examining cases of arrears in

sales tax demands due to delay in assessment of cases, non-issue of recovery certificate, non-initiation of recovery proceedings; irregular grant of exemption certificate, cancellation of registration certificate and non-verification of genuineness of dealers/sureties.

### 2.3.3 Organisational set-up

The overall control and superintendence of the Sales Tax Organisation vests with the Excise and Taxation Commissioner who is assisted by the Deputy Excise and Taxation Commissioners, the Excise and Taxation Officers, Assistant Excise and Taxation Officers, Taxation Inspectors and other allied staff in the administration of State Sales Tax Act, 1973 and Central Sales Tax act, 1956. The amount of tax, interest and penalty imposed under this Act, which remains unpaid after the due date, shall be recoverable as arrears of land revenue and powers to this effect are vested with the Assessing Authorities. The Assistant Excise and Taxation Officers and the Excise and Taxation Officers have been vested with powers of Assistant Collector Grade I and the Deputy Excise and Taxation Commissioners have been delegated powers of Collector under Section 27 of the Punjab Land Revenue Act, 1887.

### 2.3.4 Highlights

—Ineffective action by the Department to get the stay orders, granted by courts vacated without obtaining cash security despite the directive of the Supreme Court resulted in accumulation of arrears amounting to Rs. 5.34 crores.

—Cancellation of registration certificates before assessments resulted in non-recovery of arrears involving Rs. 65.50 lakhs.

—Delay in assessment resulted in non-recovery of arrears of Rs. 143.70 lakhs.

—Failure to verify the genuineness of the sureties/dealers resulted in non-recovery of arrears of Rs. 31.79 lakhs.

—Irregular grant of exemption certificate resulted in non-recovery of arrears involving Rs. 16.80 lakhs.

—Non-initiation of recovery proceedings resulted in non-recovery of arrears involving Rs. 65.70 lakhs.

### 2.3.5 Position of arrears

As per information supplied by the Department (July 1991) the tax dues pending collection during the last 5 years were as under ;

Year	Total receipt under Sales tax (In crores)	Arrears upto the end of the year	Increase(+) Decrease(—)	Percentage of arrears to total revenue under Sales Tax
1986-87	256.24	34.58	+ 1.56	13.50 %
1987-88	314.93	47.00	+12.42	14.92 %
1988-89	370.56	52.96	+ 5.96	14.29 %
1989-90	415.18	66.40	+13.44	15.99 %
1990-91	496.31	82.72	+16.32	16.67 %

The arrears of Rs. 82.72 crores outstanding at the end of the year 1990-91 were at the following stages of action.

Stage of action	Amount of arrears (In crores of rupees)
1. Recoveries stayed by Courts and other Appellate Authorities	38.76
2. In the process of recovery including amounts covered by recovery certificates	28.85
3. Recoveries held up due to insolvency of the dealers	6.60
4. Demands likely to be written off	5.45
5. Recoveries stayed by other authorities	2.41
6. Other stages	0.65
<b>Total</b>	<b>82.72</b>

Year-wise break up of the arrears is as under :

Year	Amount of arrears (In crores of rupees)
Upto 1986-87	23.86
1987-88	9.29
1988-89	18.98
1989-90	10.58
1990-91	20.01
<b>Total</b>	<b>82.72</b>

Some of the important cases involving heavy amounts of arrears are mentioned in the following paragraphs :

### **2.3.6 Stay of demands by High Court against bank guarantee/other securities**

In the matter of grant of stay on acceptance of bank guarantee, the Supreme Court had observed\* in May 1985 that "Governments are run on public funds and if large amounts all over the country are held up during the pendency of litigations, it becomes difficult for the Government to run and become oppressive to the people. Government's expenditure can not be made on bank guarantees or securities. Thus courts should refrain from passing any interim orders, staying the realisation of indirect taxes or passing such orders which may have the effect of non-realisation of indirect taxes. This will be healthy for the country and courts". Further, Calcutta High Court following the ratio of Supreme Court's judgement held\*\* that "the direction of trial judge regarding the securing of the amount through bank guarantee was liable to be set aside".

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\*Empire Industries Limited and others v/s Union of India 1985 (20) ELT 179 (SC).

\*\*Assistant Collector of Central Excise Chandan Nagar West Bengal v/s Dunlop India Limited 1985/SCC-260.

During test check of records it was noticed (February 1991 to May 1991) that, despite the clear ruling of the Supreme Court, in 156 cases the tax amounting to Rs. 5.34 crores demanded from the assesseees by the Department was stayed by the Punjab and Haryana High Court between March 1989 to March 1991 without obtaining cash securities.

The Department had not taken any effective steps to get the stay orders vacated in these cases. This resulted in accumulation of arrears of Rs. 5.34 crores.

### **2.3.7. Cancellation of registration certificate.**

Under the Haryana General Sales Tax Act 1973, the Commissioner may from time to time by order, amend or cancel any Certificate of Registration if the dealer has violated any of the provisions of the act or the rules, made thereunder or for any other sufficient cause including misuse of the certificate or when any business, in respect of which certificate has been granted has been discontinued. Besides, the certificate may also be cancelled, if the dealer does not furnish the security or the additional security demanded from him. As per instructions issued by the Excise and Taxation Commissioner, Haryana in May 1976, prompt action is required to be taken for cancellation of Certificate of Registration and finalisation of assessment in order to ensure that the demands created do not become irrecoverable.

(i) The Registration Certificate was granted to a dealer of Faridabad in March 1983. As the dealer failed to furnish additional security by September 1986 demanded by the Department, notice regarding cancellation of the registration certificate was issued in November 1986. The registration certificate was cancelled in November 1986. Assessments for the years 1983-84 to 1986-87 were finalised between January 1987 and July 1990 and a demand of Rs. 19.07 lakhs was raised. The outstanding amount was declared as arrears recoverable under Punjab Land Revenue Act, 1887 between April 1987 and October 1990. Recovery certificates were issued to the collector, Mathura (U.P.) between December 1987 and November 1990 but the cases were not pursued effectively at the higher level for recovery. Report on recovery is still awaited (January 1992). However Rs. 0.50 lakh was recovered from two sureties.

Failure of the Department to assess the cases immediately on cancellation of registration certificate in November 1986 and non pursuance of cases effectively resulted in non-recovery of revenue of Rs. 18.57 lakhs (November 1991).

(II) A dealer of Faridabad was asked to furnish additional security of Rs. 0.50 lakh by November 1986, but the dealer failed to give the additional security. As a result, the registration certificate was cancelled in November 1986. The assessment for 1986-87 was framed in March 1990 and penalty case decided in July 1990. Additional demand of Rs. 4.93 lakhs was raised in March 1990 and July 1990. As the dealer failed to deposit the tax, recovery certificate was issued to the Collector Mathura in November 1990. The firm had since been closed. The sureties had also closed down their business and the dues continued to remain unrealised (November 1991).

Failure to finalise the assessment immediately after cancellation of registration certificate resulted in accumulation of arrears amounting to Rs. 4.93 lakhs.

(III) A dealer of Faridabad (Palwal) closed down his business in March 1987 and his registration certificate was cancelled with effect from 1st April 1987. The assessment for the year 1985-86 was completed in December 1990 raising an additional demand of Rs. 3 lakhs. On his failure to pay the tax, the amount of Rs. 3 lakhs was declared as arrears recoverable under Punjab Land Revenue Act in February 1991. Thereafter, no follow up action was taken to recover the amount. Failure of the Department in finalisation of assessment case for about  $3\frac{1}{2}$  years after the cancellation of registration certificate, and non-pursuance of the case thereafter resulted in non recovery of revenue amounting to Rs. 3 lakhs.

(iv) A dealer of Panipat was assessed for 1984-85 in August 1989 on best judgement basis and a demand of Rs. 39 lakhs was raised. He had closed down his business and his registration certificate was cancelled in October 1986. As the dealer failed to pay tax, recovery proceedings were started in March 1990 under Punjab Land Revenue Act, 1887. Particulars of the property of the dealer as given in his application for grant of registration certificate were found to be incorrect. Recovery could also not be effected from the

sureties as one surety was a defaulter in his own case, the second surety was not in a sound financial position and the third surety had filed a suit in a civil court that he never stood surety for the dealer. Recovery certificate issued to the Deputy Collector, Sales tax, Ghaziabad (U. P.) in September 1990 was received back in January 1991 as the dealer was not available at the given address. The recovery certificate was again issued to the Collector, Ghaziabad (U. P.) in February 1991 giving the amended address. Report on recovery has not been received (January 1992).

Failure of the Department to finalise assessment immediately on cancellation of Registration Certificate in October 1986 and to verify the genuineness of the sureties at the time of registration resulted in non recovery of tax amounting to Rs. 39 lakhs.

### **2.3.8. Non-recovery of arrears due to delay in assessment.**

In Haryana, Sales Tax is levied and collected under the Haryana General Sales Tax Act, 1973 and the Central Sales Tax Act, 1956 and the rules made thereunder. Dealers registered under the Act *ibid* are required to submit returns periodically. If the Assessing Authority is satisfied that the returns furnished are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns without requiring the presence of the dealer. Where the Assessing Authority is not satisfied without requiring the presence of the dealer who furnished the returns, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns. The Assessing Authority, on the day specified in the notice or as soon as possible be after hearing such evidence as the dealer may produce, assess the amount of tax due from the dealer. In case, the dealer fails to comply with the terms of notice, the Assessing Authority shall within five years after the expiry of such period, proceed to assess, to the best of his judgement, the amount of tax due from the dealer. Demand created as a result of assessment is payable by the dealer within thirty days from the date of service of notice.



During scrutiny of records (February 1991 to May 1991) it was noticed that in eight cases detailed below, the arrears of Rs. 143.70 lakhs could not be recovered due to delay in finalisation of assessments.

(i) The assessment of a dealer of Faridabad for the years 1984-85, 1985-86 and 1986-87 were initiated during July 1989 to May 1990 and completed during March 1990 to June 1990 although he had applied for cancellation of Registration Certificate in June 1987. Reassessment for 1983-84 under Section 31 of the Haryana General Sales Tax Act, 1973 was initiated in 1986-87 but was completed in March 1990. Total demand amounting to Rs. 36.79 lakhs in respect of all these years including additional demand of Rs. 7.04 lakhs for the year 1983-84 was raised but the same remained unrealised. Recovery certificate was issued to the Collector Guwahati in October 1990. Recovery is awaited (January 1992). Action to recover Rs. 0.25 lakh from one surety having immovable property in Faridabad, was also not taken. No recovery could be made from the second surety as he had also closed down his business.

Reasons for delay in assessment after application of the dealer for cancellation of Registration Certificate in June 1987 and non-recovery of demand of Rs. 0.25 lakh from the surety though called for (April 1991) have not been intimated by the Department (January 1992).

(ii) A dealer of Faridabad had closed down his business with effect from March 1984 and applied for cancellation of Registration Certificate in April 1984. His assessment for the year 1984-85 was made in March 1990 after a lapse of about five years and a demand of Rs. 3.82 lakhs was raised. Recovery Certificate was issued to the Collector New Delhi in November 1990. Both the sureties had withdrawn surety with effect from 24th November 1984 and 3rd January 1985. Fresh sureties were not obtained. As a result, the amount could not be recovered from the sureties of the dealer. No reasons for not finalising the assessment for more than 5 years from receipt of intimation of closure of business in March 1984 and application for cancellation of certificate in April 1984 were intimated.

This resulted in non-recovery of demand amounting to Rs. 3.82 lakhs.



(iii) The assessments of a dealer of Faridabad for the years 1978-79 to 1982-83 were finalised between February 1984 and March 1987 and additional demand of Rs. 17.76 lakhs was raised. The assessee did not pay the tax as he had left Faridabad. Recovery certificates were issued to the Collector, Delhi in July 1984 and July 1985. The Collector, Delhi informed in July 1985 that the defaulter had left Delhi long ago. The Department, however, later came to know that the defaulter had not actually left Delhi and had only shifted his residence. Accordingly recovery certificate to Collector Delhi was again issued in January 1991. The amount also could not be recovered from the sureties as both the sureties had left Faridabad and their whereabouts were not known.

Delay in assessment of the cases from four to five years resulted in non-recovery of Government dues amounting to Rs. 17.76 lakhs.

(iv) Assessment proceedings of a dealer of Rewari for the year 1983-84 were started in November 1987 and finalised in September 1989. Additional demand of Rs. 4.86 lakhs under State and Central Act was raised. On refusal of the Joint Excise and Taxation Commissioner (Appeals) to entertain the appeal without payment of tax, the dealer went in appeal to the Sales Tax Tribunal Haryana. The Tribunal vide orders (April 1990) directed the dealer to pay tax of Rs. 0.40 lakh (in four instalments of Rs. 0.10 lakh) and furnish surety for the balance amount. The dealer had neither deposited Rs. 0.40 lakh nor furnished any surety for the balance amount of Rs. 4.46 lakhs. The sureties furnished at the time of registration of the dealer in March 1981 were also found to be non-genuine. Thereafter, the case was not pursued for recovery with the dealer. The delay in assessment and non pursuance of case after decision of the Tribunal resulted in non-recovery of dues amounting to Rs. 4.86 lakhs.

(v) The Registration Certificate of a dealer of Jagadhri was cancelled by the Assessing Authority in October 1981 as the dealer was found indulging in dubious transactions. The dealer also closed down his business in the year 1981. However, his assessments for the year 1980-81 and 1981-82 which were pending at the time of cancellation of Registration Certificate, were finalised in September 1990 raising an additional demand of Rs. 4.71 lakhs. The recovery has neither been effected from the dealer despite issue of notices nor

from sureties as one surety had closed down his business and no attempt was made to contact the second surety. In response to audit observations (March 1991) regarding inordinate delay in the assessment, the Assessing Authority stated (March 1991) that assessment proceedings had been initiated in October 1981 but details of dubious transactions were furnished by another Assessing Authority in August 1990. The delay in finalisation of assessments due to non-pursuance of case resulted in non-recovery of dues amounting to Rs. 4.71 lakhs (November 1991)

(vi) Assessment of a dealer of Karnal for the years 1978-79 to 1982-83 were made in November 1990 and additional demand of Rs. 1.70 lakhs was raised. The dealer did not pay the tax as he had already closed down his business sometimes during 1984-85 and left for Ahmedabad as per statement of two dealers recorded by the Department in January 1987. No action to recover the arrear from sureties had been taken so far. The delay for eight to eleven years in finalising the assessment cases had resulted in non-recovery of tax of Rs. 1.70 lakhs.

(vii) In Faridabad, assessments of a limited company for the years 1981-82 to 1983-84 were framed after three to four years between September 1985 and March 1988 and an additional demand of Rs 67.11 lakhs under State Act and Central Act was raised. By the time the assessments were framed, the company had gone into liquidation (August 1984) as per orders of the Delhi High Court. The official liquidator called for (September 1984) details of sales tax arrears from the Deputy Excise and Taxation Commissioner, Faridabad, which were intimated to the official liquidator in September 1985 (1981-82), March 1987 (1982-83), and May 1988 (1983-84). The assessments were not finalised expeditiously despite having received (September 1984) intimation that the firm was under liquidation. The amount could not be recovered from the sureties as both the sureties had obtained stay from the Civil Court Faridabad in May 1988.

On this being pointed out (April 1991) in audit the Assessing Authority stated (May 1991) that assessment proceedings had been taken up in time but finalised late and in case these had been decided earlier the dealer

would have gone into liquidation earlier resulting into unemployment of labour.

The Assessing Authority's reply was not acceptable as it was hypothetical. The Excise and Taxation Commissioner to whom the case was referred (July 1991) for comments accepted the audit point (December 1991) and asked the concerned Deputy Excise and Taxation Commissioner to initiate the appropriate action against the defaulting Assessing Authority. The delay in assessment resulted in non-recovery of dues of Government to the tune of Rs. 67.11 lakhs.

(viii) In Rewari, assessments of a limited company for the years 1980-81 and 1981-82 were finalised between January 1985 and July 1986 raising a demand of Rs. 6.95 lakhs under State Act and Central Act. The company had in the meantime closed down its business and gone into liquidation in April 1985. The demand was declared between September 1985 to September 1986 as recoverable under Punjab Land Revenue Act. The official liquidator was requested in October 1986 to register the claim who in turn informed (March 1990) that the claim would be registered when the same was called for. Two Directors of two other firms who had stood sureties of Rs. 0.50 lakh each had withdrawn their sureties in April 1986. Delay to assess the cases and non-recovery of dues from sureties (to the extent of Rs. one lakh) resulted into accumulation of arrear of Rs. 6.95 lakhs.

### **2.3.9 Failure to verify the genuineness of dealers/sureties**

Under Haryana General Sales Tax Act, 1973 and Haryana General Sales Tax Rules, 1975, the Assessing Authority before granting a Certificate of Registration is required to satisfy himself, after making an enquiry, that the applicant is a bonafide dealer and the particulars furnished by him are correct. The dealer may also be required to furnish cash security or personal bond along with the application for registration where it appears to be necessary to do so by the Assessing Authority for the proper realisation of tax payable. The amount of security shall in no case exceed the tax payable as estimated by the Assessing Authority on the turnover of the dealer for the year in which such security is required to be furnished before registering a

dealer, after checking his financial position, the genuineness of persons standing as surety is also to be verified. A certificate issued under the Act shall be valid up to such period as may be prescribed provided that if an application for renewal of registration certificate is made within the prescribed time, the holder of the registration certificate shall be deemed to be in possession of valid registration certificate until the registration certificate is renewed or till the dealer is informed that the renewal of the registration certificate has been refused. Further, if the Assessing Authority is satisfied that the application is in order and the fee has been paid or deposited, he shall after satisfying himself regarding the continuance of the business and genuineness of the security, renew the certificate of registration.

A few cases where the genuineness of the dealers/sureties was not verified are as under :

(i) The assessment of a dealer of Gurgaon (comprising of two partners) for the years 1983-84 and 1984-85 were finalised in March 1986 and December 1988 respectively and total demand of Rs. 3.19 lakhs was raised. The firm had closed its business and recovery certificates were issued in June 1986 and March 1989 to Collector Delhi for effecting recovery. One person who was stated to be partner was found to be an employee of a Nationalised Bank but he denied his partnership in the firm. He submitted an affidavit in this respect to the Collector Delhi and also filed a suit in the civil court of Delhi in March 1990 against the Department. Second person also gave an affidavit to the Collector Delhi denying his partnership in the said firm.

Failure to verify the bonafides and genuineness of the dealer at the time of registration of new firm resulted in accumulation of arrears of Rs. 3.07 lakhs (after adjustment of demand of Rs. 0.12 lakh from two sureties).

(ii) Registration certificate of a dealer of Hisar granted in September 1984, was cancelled in January 1986 on receipt of intimation (June 1985) from two sureties of their intention to withdraw and failure of the dealer to furnish fresh sureties and findings of the Department that the dealer was fictitious. Assessment proceedings for 1984-85 were not pursued during the period from September 1985 to July 1987 and December 1987 to January 1990. Assessment

was finalised in January 1991 i.e. after five years after cancellation of registration certificate and demand of Rs. 5.35 lakhs was raised. The demand remained outstanding (November 1991).

Failure to verify the genuineness of the dealer at the time of grant of registration and delay in assessment after cancellation of registration certificate resulted in non-recovery of tax amounting to Rs. 5.35 lakhs.

(iii) Assessment of a dealer of Hisar for the year 1988-89 was framed in January 1990 and a demand of Rs. 12.19 lakhs was raised. The dealer had however, already closed down his business and left the State. Recovery certificate was issued to the Collector Siriganagar in December 1990. No reply has been received from the Collector. Two sureties of Rs. 0.50 lakh each obtained at the time of grant of registration in March 1987 were also found to be untraceable.

Failure of the Department to verify the genuineness of the sureties at the time of registration resulted in non-recovery of Rs. one lakh out of arrears of Rs. 12.19 lakhs from the sureties.

(iv) A dealer of Panipat was assessed to tax of Rs. 3.54 lakhs for the years 1982-83 and 1983-84 between October 1987 and January 1988. The dealer had already closed down his business and was not traceable. One surety out of two sureties of Rs. 0.50 lakh obtained had withdrawn his surety in September 1983 as informed by him in January 1987 (when approached for recovery). Second surety was also not traceable.

The delay of more than 3 years in finalising assessment and failure to verify the genuineness of the sureties/non-obtaining of fresh surety at the time of withdrawal of one surety resulted in accumulation of arrears amounting to Rs. 3.54 lakhs.

(v) A demand of Rs. 3.19 lakhs for the assessment year 1986-87 was raised in June 1990 against a dealer of Jagadhri. Registration Certificate of the dealer was renewed in May 1987 on the condition that fresh surety bond would be furnished within fifteen days otherwise registration certificate would be cancelled. Neither the dealer furnished



fresh surety bond nor his registration certificate was cancelled by the Department. However, after the non recovery was pointed out in audit, Rs. 0.18 lakh has been recovered from the dealer upto August 1991. The balance amount of Rs. 3.01 lakhs is still to be recovered for which the Department has written to the revenue authorities not to change the ownership of the property owned by the dealer. Further progress has not been received.

Failure to cancel the Registration Certificate and to obtain fresh surety bond at the time of renewal of Registration Certificate resulted in non recovery of tax demand of Rs. 3.01 lakhs.

(vi) Registration certificate of a dealer of Hisar was renewed in September 1982 without obtaining fresh surety bond despite report of inspector to obtain fresh bonds. The Department gave notice in October 1988 asking the dealer to furnish two sureties otherwise registration certificate would be cancelled from March 1987. The dealer did not comply with this. A demand of Rs. 0.57 lakh was raised for the year 1985-86 in February 1990. On non-payment by the dealer, recovery certificate to Collector-cum-Deputy Excise and Taxation Commissioner Jind was issued in August 1990 as the dealer had closed down his business at Hisar and was carrying on business in Jind district. The surety (Rs. 0.40 lakh given at the time of initial registration) had also closed down his business.

Failure to obtain fresh surety at the time of renewal of registration certificate resulted in non recovery of Rs. 0.40 lakh out of arrear of Rs. 0.57 lakh.

(vii) In Faridabad, assessments of a dealer for seven years from 1977-78 to 1983-84 were framed between March 1984 to July 1988 and additional demand of Rs. 4.06 lakhs was raised. The business was closed in the year 1982-83. For recovery of demand, recovery certificates were issued to the Commissioner of commercial taxes Calcutta/Collector Calcutta in January 1985, June 1986 and January 1989. Summons for recovery were issued to two persons who had stood surety for Rs. 0.10 lakh each. One surety replied that the surety bond given by him was not accepted as it was not signed by the assessing authority in token of its acceptance. Last letter to second surety was issued in

September 1988. No further action to recover the arrears was taken.

Failure to complete the surety papers and late finalisation of assessment after the closure of the business resulted in accumulation of arrears of tax amounting to Rs. 4.06 lakhs.

### **2.3.10 Irregular grant of exemption certificates**

Haryana Government Excise and Taxation Department by a notification issued in June 1985 exempted the unit, in whose favour a certificate of genuineness of its being a tiny rural unit has been or is issued by the Industries Department of the Haryana State, from the payment of tax on the purchase and sale of goods under the Haryana General Sales Tax Act, 1973 provided the goods purchased without payment of tax to the selling registered dealers are required by it for use in the manufacture/production of goods for sale.

A dealer of Hisar was granted Registration Certificate in April 1985 and exemption certificate from October 1986 to October 1987 was granted on the basis of a report by Taxation Inspector on 14 October 1986. It was however, noticed by the Department that the dealer was not doing any manufacturing work and the factory premises remained locked from March 1986 to September 1987 except August 1986. Electric connection was disconnected in November 1986. The dealer had also not purchased/hired generator for running the factory. The exemption certificate was withdrawn by the Department in September 1987 vide orders of November 1987. The assessment for the year 1986-87 was finalised in December 1990 and additional demand of Rs. 16.80 lakhs was raised in respect of exempted sales. The arrears were declared recoverable under Punjab Land Revenue Act, 1887 in March 1991 but recovery certificate was yet to be issued.

Failure of the Department to verify the genuineness of the unit at the time of grant of exemption certificate and delay in finalisation of assessment resulted in accumulation of arrears of Rs. 16.80 lakhs.

### **2.3.11 Delay in initiating/non-pursuance of recovery proceedings**

In Haryana, sales tax is levied and collected under the

Haryana General Sales Tax Act, 1973 and the rules made thereunder. If the sales tax dues (including interest, penalty and composition fee etc.) are not paid by the dealer within the time specified in the demand notice or within the extended time, if any, the Assessing Authority may apply to the Collector for recovery of the Government dues as arrears of land revenue. After approval by the Collector, the Assessing Authority (the Assistant Collector) is required to issue recovery certificates and take all legal steps necessary for recovery of tax dues as arrears of land revenue.

During scrutiny of records, it was noticed that in the following cases the tax demanded could not be recovered due to non-pursuance/delay in initiating recovery proceedings.

(i) A dealer in Rohtak was assessed for the year 1984-85 to 1986-87 between August 1986 and December 1988. Additional demand of Rs. 19.86 lakhs for the years 1984-85 to 1986-87 was created by the Revisional Authority between February 1989 to December 1989. An amount of Rs. 27500 was realised from sureties. The arrear amounting to Rs. 19.59 lakhs was declared recoverable under Land Revenue Act, 1887 in March 1990 and warrant of arrest was issued in February 1991 against the dealer after lapse of 11 months. A letter received in July 1990 from a person indicated that the proprietor had property comprising of one house and one shop. No action to attach the property was taken. The details of property had also not been enquired from the Revenue Authority Rohtak.

Non-pursuance of the case effectively deprived of the Department of revenue and resulted in accumulation of arrears of Rs. 19.59 lakhs.

(ii) Assessment of a dealer of Karnal for the years 1979-80 and 1980-81 was finalised in August 1984 and June 1985 and a demand of Rs. 11.88 lakhs was raised. Arrears of Rs. 11.85 lakhs (after adjustment of refund of Rs. 3229) was declared as arrear recoverable under Punjab Land Revenue Act, 1887 in September 1984 and July 1985. Summons were issued to both the sureties for recovery of Rs. 0.30 lakh in July 1986 but no follow up action was taken. In March 1987 warrant of arrest was issued against one partner of the firm who was released after keeping him in lock up/jail for 40 days. Warrant



of arrest issued against the other partner in January 1987 could not be executed upto March 1990. In November 1990, the other partner submitted medical certificate that he was suffering from heart disease. Details of property held by the partners had not been called for from the Revenue Authorities.

Failure to take up the follow up action against the second partner for three years (March 1987 to March 1990), against the sureties after July 1986 and to obtain the details of property resulted in non-recovery of arrears amounting to Rs. 11.85 lakhs.

(iii) A dealer of Faridabad was granted Registration Certificate in December 1984. Assessment notices for 1984-85 were issued in June 1985 and March 1986. However, the dealer did not respond and it came to the notice of the Department that there was no such firm at the given address. The Assessment cases for 1984-85 to 1986-87 were finalised between March 1987 and July 1990. A demand of Rs. 19.70 lakhs was raised. The arrears were declared as recoverable under Punjab Land Revenue Act, 1887 and recovery certificates were issued to the Collector, Delhi between November 1987 to November 1990. Recovery of Rs. 0.25 lakh was effected from one of the sureties. The Assessing Authority had directed in November 1987 to procure property certificate from the Revenue authorities but no action had been taken (April 1991). The Collector, Delhi also sought additional information in August 1989, but the same had not been furnished (November 1991).

Ineffective pursuance of the recovery case and non obtaining of the details of property for attachment resulted in accumulation of arrears of Rs. 19.45 lakhs.

(iv) Four dealers of Gurgaon were assessed for the years 1985-86, 1986-87, 1988-89 and 1988-89 on 29th March 1990, 28th March 1990, 28th March 1990, and 23rd January 1990 respectively and additional demands of Rs. 1.60 lakhs (1985-86), Rs. 0.22 lakh (1986-87), Rs. 2.11 lakhs (1988-89) and Rs. 1.59 lakhs (1988-89) were created. The Department had not served the tax demand notice on the dealers till April 1991. The dealer was supposed to deposit the additional demands within one month from the date of receipt of the notice.

Failure to serve demand notices on the dealers for more than a year and to initiate recovery proceedings resulted in accumulation of tax arrear amounting to Rs. 5.52 lakhs.

(v) Assessments of a dealer of Rewari for the years 1983-84 to 1985-86 were finalised between March 1989 and August 1990 and a demand of Rs. 9.29 lakhs was raised. As the dealer failed to make the payment and had already closed down business, recovery certificates were issued to the Collector, Delhi between August 1990 and January 1991. One surety of the dealer had withdrawn his surety during July 1983. No action had been taken against the other surety upto May 1991.

Failure to finalise the cases in time, to obtain fresh surety in place of the surety already withdrawn and also to take action against the second surety resulted in non-recovery of arrears to the extent of Rs. 9.29 lakhs.

### **2.3.12 Other interesting cases**

(i) Assessments of a firm of Karnal (comprising of 8 partners) for the years 1987-88 and 1988-89 were framed in March 1990 and a demand of Rs. 2.41 lakhs was raised. The arrears were declared (October 1990) recoverable under Punjab Land Revenue Act, 1887. Rs. 0.50 lakh was recovered from one of the partners and Rs. 0.25 lakh from a surety. Out of the eight partners, six partners were still doing business in Haryana but no action was taken to recover the amount from them. Failure to take effective steps against the partners resulted in non-recovery of arrears of Rs. 1.66 lakhs.

(ii) Two dealers of Faridabad were assessed to tax of Rs. 2.35 lakhs (for 1984-85 and 1985-86) in one case and Rs. 1.66 lakhs (for 1984-85 to 1986-87) in a second case between March 1988 and March 1990. An amount of Rs. 0.25 lakh was recovered from their sureties. Arrears in both cases were declared recoverable under the Punjab Land Revenue Act, 1887 as the dealers failed to pay the amount. Properties in both the cases were attached in June 1988 and March 1990 respectively. No proceedings to realise the arrears by auctioning their properties had been taken so far (November 1991)

In reply to one case, the Department stated (April 1991) that action to start proceedings to auction the property was

being taken shortly. Failure to auction the properties to realise arrears resulted in accumulation of tax of Rs. 3.76 lakhs.

The above cases were reported to the Government in July 1991; their reply has not been received (January 1992).

#### **2.4 Incorrect computation of taxable turnover**

(a) Under the Haryana General Sales Tax Rules, 1975 a registered dealer may reduce the amount of tax paid under the Act at the first stage of sale of goods from the amount of tax payable by him on such goods or goods manufactured or processed therefrom, when sold within the State or in the course of inter-State trade or commerce, or in the course of export outside the territory of India. Further, for non-payment of tax due alongwith returns, the dealer is liable to pay interest at one per cent per month for the first month and at one and half per cent thereafter.

A dealer of Hisar purchased H. R. Steel Strips (taxable at the stage of first sale) valued at Rs. 679.41 lakhs during the year 1988-89 from within Haryana State after payment of tax and used them in the manufacture of taxable goods out of which, goods valued at Rs. 452.35 lakhs were transferred to his branch office outside the State. The Assessing Authority while finalising the assessment (March 1990) erroneously allowed rebate of tax paid on the entire purchase valued at Rs. 679.41 lakhs instead of allowing deduction of the proportionate tax on the purchase value of goods sold in the State or in the course of inter-State sales. The incorrect deduction resulted in under assessment of tax of Rs. 10.35 lakhs. Besides, interest of Rs. 1.66 lakhs was also chargeable for short payment of tax.

On the omission being pointed out (July 1990) in audit, the Department referred (January 1991) the case to Revisional Authority for suo-moto action. Further report has not been received (January 1992).

The case was reported to Government in November 1990; their reply has not been received (January 1992).

(b) Under the Haryana General Sales Tax Rules, 1975, in calculating the taxable turnover, a registered dealer may deduct from his gross turnover the purchase value of goods which have been subjected to tax at the first stage under section 18



of the Haryana General Sales tax Act, 1973, used by him in the manufacture of goods other than those specified in schedule B for the purposes specified in Section 24 of the Act. Besides, interest is also chargeable for non-payment of tax alongwith the returns.

(i) A dealer of Hisar claimed deduction amounting to Rs. 18.43 lakhs on account of tax paid goods purchased from within Haryana from April 1987 to December 1987 and used in the manufacture of other goods. While finalising (October 1989) the assessment, the Assessing Authority allowed deduction of Rs. 15.52 lakhs (equal to balance taxable turnover available after allowing certain deductions) instead of admissible deduction of Rs. 3.59 lakhs representing proportionate value of manufactured goods sold within Haryana or in the course of inter-State sales. The mistake resulted in under assessment of tax of Rs. 47,713 besides interest of Rs. 14,072 chargeable for short payment of tax.

On the omission being pointed out (July 1990) in audit, the Department intimated (May 1991) that the case was referred (February 1991) to the Revisional Authority for taking suo-moto action. Further report has not been received (January 1992).

(ii) A dealer of Hisar purchased lubricants (taxable at the stage of first sale) valued at Rs. 25.09 lakhs during the year 1987-88 after payment of tax. Lubricants valued at Rs. 10.21 lakhs were determined to have been used by the dealer in his self manufacturing account and the rest were used either in job work or in the manufacture of finished goods sent on consignment sale. The dealer was entitled to tax relief, by way of deduction of Rs. 10.21 lakhs from his gross taxable turnover of Rs. 1014.13 lakhs. While finalising assessment (November 1989), the Assessing Authority instead of allowing set off of Rs. 10.21 lakhs against the turnover of sales tax, adjusted it partly against the purchase tax turnover of Rs. 9,51,381. The mistake resulted in excess tax relief of Rs. 41,229 as the sales tax turnover was exigible to tax at four per cent whereas purchase tax turnover was liable to tax at eight per cent. Besides penalty, interest for short payment of tax was also chargeable.

On the omission being pointed out (July 1990) in audit, the Department referred (January 1991) the case to the

Revisional Authority for suo-moto action. Further report has not been received (January 1992).

(iii) A dealer of Hisar purchased lubricants and high speed diesel (taxable at the stage of first sale) valued at Rs. 6.26 lakhs during the year 1987-88 after payment of tax and used it in the manufacture of taxable goods. 57.48 per cent of the goods so manufactured were sent on consignment basis or on branch transfers outside the State. The Assessing Authority while framing assessment (March 1990) erroneously allowed deduction of Rs. 6.26 lakhs instead of allowing deduction of the proportionate purchase value of goods used in taxable goods sold. The mistake resulted in short levy of tax of Rs. 27,495. Besides, interest of Rs.11,413 was also chargeable for short payment of tax.

On the omission being pointed out (July 1990) in audit, the Department referred (January 1991) the case for suo-moto action.

The above cases were reported to Government between November 1990 and May 1991; their reply has not been received (January 1992).

## 2.5 Evasion of tax

Under the Haryana General Sales Tax Act, 1973, "turnover" includes the aggregate of the amounts of the sales and purchases and parts of sales and purchases made by any dealer whether as principal agent or in any other capacity during the given period less any sum allowed as cash discount under ordinary trade practice but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before delivery thereof. Further, if a dealer has maintained false or incorrect accounts, with a view to suppressing his sales, purchases or stocks of goods, 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 ten times (five times from 17th April 1984 and three times from 1st January 1988) the amount of tax which would have been avoided, if the turnover as returned by such dealer, had been accepted as correct.

A dealer of Faridabad did not disclose sale of tea (taxable at the stage of first sale) amounting to Rs. 87.69 lakhs

made to two dealers of Karnal during the year 1982-83. While finalising (August 1989) the assessment, the Assessing Authority failed to include the sale in the gross turnover though the facts about suppression of sales were on records of the Department. The omission resulted in short levy of tax of Rs. 6.26 lakhs. Besides, minimum penalty of Rs. 12.52 lakhs was also leviable.

On the omission being pointed out (February 1991) in audit, the Department referred (June 1991) the case to the Revisional Authority for taking suo-moto action. Further, report has not been received (January 1992).

The case was reported to Government in April 1991; their reply has not been received (January 1992).

## 2.6 Non-levy of tax on incidental charges

Under the Haryana General Sales Tax Act, 1973, "turnover" includes the aggregate of the amounts of sales and purchases and parts of sales and purchases made by any dealer including the sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof. Further, for non payment of tax due along with the returns, the dealer is liable to pay interest at the rate of one per cent for the first month and at one and half per cent thereafter.

A dealer of Kurukshetra realised incidental charges of Rs. 31.93 lakhs from Food Corporation of India on account of sale of foodgrains effected in the course of inter-State trade and commerce during the year 1980-81. However, this amount was not included in the gross turnover as returned by him. While finalising the assessment (January 1987), the Assessing Authority did not include the element of incidental charges which was part of the sale value. The omission resulted in under assessment of tax amounting to Rs. 1.28 lakhs. Besides, interest amounting to Rs. 1.32 lakhs for short payment of tax along with the returns was also leviable.

On the omission being pointed out (September 1990) in audit, the Department raised (June 1991) additional demand of Rs. 3.59 lakhs (tax Rs. 1.28 lakhs and interest Rs. 2.31 lakhs). Report on recovery has not been received (January 1992).



The case was reported to Government in December 1990; their reply has not been received (January 1992).

## **2.7 Application of incorrect rate of tax.**

(i) Under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) which are supported by valid declarations in Form 'C' from the purchasing dealers, tax is leviable at the rate of ten per cent or at the rate applicable to the sale of such goods inside the State, whichever, is higher. Under the Haryana General Sales Tax Act, 1973 duplicating machines, being classified items, are taxable at the rate of twelve per cent.

A dealer of Gurgaon made inter-State sale of plain paper copiers valued at Rs. 13.01 lakhs and Rs. 42.86 lakhs during the years 1984-85 and 1985-86 respectively. Out of this, sale of Rs. 12.40 lakhs and Rs. 27.36 lakhs was made to unregistered dealers during the years 1984-85 and 1985-86 respectively. The Assessing Authority while finalising (July 1987 and January 1989) assessments, incorrectly charged tax at the rate of ten per cent instead of at twelve per cent. Plain paper copiers, ipso-facto, are duplicating machines in functional result and as such, were exigible to tax at the rate of twelve per cent. The mistake resulted in short levy of tax amounting to Rs. 89,057. Besides, penalty and interest amounting to Rs. 40,740 for non payment of tax alongwith the returns was also leviable.

On the omission being pointed out (December 1989 and January 1990) in audit, the Assessing Authority stated that there was no specific mention of plain paper copier in the schedule 'A' of the Act. However, on a subsequent reference by audit in June 1990, the Excise and Taxation Commissioner accepted (March 1991) the audit point. Further report on the action taken to recover the amount has not been received (January 1992).

(ii) Under the Central Sales Tax Act, 1956, inter-State sales to Government departments are taxable at the concessional rate of four per cent when such sales are supported by valid declaration (form D) given by a duly authorised officer of the Government Department. But tax on sale of goods, other than declared goods, to unregistered dealers shall be calculated at the rate of ten per cent or at the rate applicable to the

sale or purchase of such goods inside the appropriate State, whichever is higher. In Haryana solar PV lighting system/power system is taxable at ten per cent being a general item. Further, for any short payment of tax, the dealer is also liable to pay interest in addition to the penalty leviable under Section 47 of the Act *ibid*.

A dealer of Faridabad made inter-State sales valued at Rs. 9.05 lakhs during the year 1988-89 to the Non-conventional Energy Development Agency, Lucknow which is not a Government Department and charged tax at the rate of 4 per cent against form D. The Assessing Authority while finalising assessment (January 1990), also incorrectly levied tax on the sales at the concessional rate of 4 per cent instead of correct rate of 10 per cent viewing the buyer as a Government Department. The mistake resulted in under-assessment of tax of Rs. 54,288. Besides, interest of Rs. 7,059 and penalty were also leviable for short payment of tax alongwith the returns.

On the omission being pointed out (July 1990) in audit, the Department referred the case to the Revisional Authority for suo-moto action.

(iii) Under the Central Sales Tax Act, 1956, Inter-State sales of goods (other than declared goods) not supported by valid declarations in the prescribed Form 'C', are taxable at the rate of ten per cent or at the rate applicable to the sale of such goods inside the State, whichever is higher. Under the Haryana General Sales Tax Act, 1973 electrical appliances covered under item No. 18 of Schedule A appended to the Act, are taxable at twelve per cent plus two per cent surcharge on the amount of tax payable. Further, interest is also chargeable for non payment of tax alongwith the returns.

A dealer of Faridabad sold boosters valued at Rs. 5.61 lakhs and Rs. 5.98 lakhs to unregistered dealers during the assessment years 1985-86 and 1986-87 respectively. The Assessing Authority while finalising assessments for these years in February 1987 and June 1988 respectively, taxed these sales at the rate of 10 per cent incorrectly classifying the boosters under electrical goods instead of at 12 per cent the rate applicable to



electrical appliances. The mistake resulted in tax of Rs. 25,962 being levied short. Besides, interest of Rs. 21,248 was also chargeable for non-payment of tax alongwith the returns.

On the mistake being pointed out (January 1990) in audit, the Department referred (July 1990) the case to the Revisional Authority for taking suo-moto action who created (November 1990) additional demand of Rs. 46,950 including interest of Rs. 20,988.

(iv) Under the Central Sales Tax Act, 1956, the tax payable by a dealer on his turnover, in so far as the turnover or any part thereof relates to the sale of any goods in the course of inter State trade or commerce the sale or, as the case may be, the purchase of which is, under the sales tax law of the appropriate State, exempt from tax generally or subject to tax generally at a rate which is lower than four per cent shall be nil or, as the case may be, shall be calculated at the lower rate. In Haryana utensils are liable to sales tax at the rate of three per cent plus ten per cent surcharge on the amount of tax payable. In addition, interest is also chargeable for non/short payment of tax alongwith the returns.

Two dealers of Jagadhri made inter-State sales of utensils valued at Rs. 108.25 lakhs to unregistered dealers during 1988-89. While finalising the assessments (December 1989 and January 1990), the Assessing Authority levied tax on these sales at the lower rate of three per cent instead of the correct rate of 3.30 per cent by ignoring the element of surcharge which constitutes part of the tax leviable in the State. The mistake resulted in short levy of tax by Rs. 32,479. Besides, interest of Rs. 12,203 was also chargeable for short payment of tax alongwith the returns.

On the omission being pointed out (April 1990) in audit, the Department referred (December 1990) the case to Revisional Authority for suo-moto action. Further report has not been received (January 1992).

(v) Under the Haryana General Sales Tax Act, 1973, levy of surcharge on the amount of tax payable

by a dealer was increased from two per cent to ten per cent with effect from 1st January 1988. Further, a dealer is liable to pay tax on the purchase of goods (other than those specified in schedule B to the Act) when purchased in the State without payment of tax and used in the manufacture of other taxable goods which are despatched outside the State in any manner other than by way of sale. Further for non-payment of tax due as per returns, the dealer is liable to pay interest at one per cent for the first month and at one and half per cent thereafter.

A dealer of Hisar was assessed (July 1989) to tax of Rs. 8.80 lakhs on the basis of prorata value of goods purchased from within the State during the year 1987-88 and used in the manufacture of goods consigned outside the State. A surcharge at the rate of two per cent on the tax of Rs. 3.18 lakhs relating to the period from 1st January 1988 to 31 March 1988 was levied instead of the correct rate of ten per cent. Further, while finalising the assessment (July 1989) the Assessing Authority omitted to levy tax on the prorata purchase value of consumable stores valued at Rs. 7.39 lakhs used in the manufacture of goods consigned outside the State. The mistake on both the counts resulted in under assessment of tax of Rs. 50,452 (Rs. 25,488 short levy of surcharge and Rs. 24,964 under assessment of tax). Besides, interest of Rs. 12,602 (Rs. 5,227 interest on short levy of surcharge and Rs. 7,375 interest on non levy of tax) was also chargeable for short/non payment of tax alongwith the returns.

On the omission being pointed out (July 1990) in audit, the Department admitted the mistake and referred (February 1991) the case to the Revisional Authority for suo-moto action.

(vi) Under the Central Sales Tax Act, 1956, tax on sale of goods other than declared goods to un-registered dealers in the course of inter-State trade or commerce shall be calculated at the rate of ten per cent or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher. In Haryana, airconditioners and water coolers

are liable to sales tax at the rate of ten per cent and twelve per cent respectively plus two per cent surcharge (Ten per cent surcharge with effect from 1st January 1988) on the amount of tax payable. In addition, interest is also chargeable from the dealer for non-payment of tax alongwith returns.

A dealer of Faridabad made inter-State sales of airconditioners and water coolers valued at Rs. 40.21 lakhs and Rs. 7.77 lakhs respectively to unregistered dealers during the year 1987-88. While finalising the assessment (November 1989), the Assessing Authority levied tax on these sales at the lower rate by ignoring the element of surcharge. The mistake resulted in short levy of tax by Rs. 27,153. Besides, interest of Rs. 7,616 was also chargeable for short payment of tax alongwith the returns.

On the omission being pointed out (July 1990) in audit, the Department referred (November 1990) the case to Revisional Authority for suo-moto action. Action taken by Revisional Authority has not been intimated (January 1992).

The above cases were reported to Government between October 1990 and March 1991; their reply has not been received (January 1992).

### **2.3 Under assessment due to excess rebate**

(a) Under the Haryana General Sales Tax Rules, 1975, a registered dealer may reduce the amount of tax paid under the Act at the first stage of sale of goods purchased by him, from the amount of tax payable by him on such goods or goods manufactured or processed therefrom, when sold within the State or in the course of inter-State trade or commerce, or in the course of export outside the territory of India.

(i) A dealer of Hisar purchased raw material valued at Rs. 129.47 lakhs during the year 1988-89 from within Haryana State after payment of tax and used the same in the manufacture of taxable goods. Out of the goods so manufactured, goods valued at Rs. 105.83 lakhs were transferred to his branch offices outside

the State on consignment basis. While finalising assessment (December 1989) the Assessing Authority allowed rebate of tax on entire purchases of Rs. 129.47 lakhs instead of limiting it in proportion of goods sold within the State or in the course of inter-State sales. The mistake resulted in excess relief of tax of Rs. 4,23,310. Besides, interest for short payment of tax was also chargeable.

On this being pointed out (July 1990) in audit, the Department accepted the omission and referred (February 1991) the case to the Revisional Authority for taking suo-moto action.

(ii) A dealer of Faridabad purchased glass bottles (taxable at the stage of first sale, valued at Rs. 29.91 lakhs during the year 1988-89 after payment of tax. Glass bottles valued at Rs. 27.10 lakhs used in manufacture (packing) of taxable goods included bottles valued at Rs. 7.21 lakhs for branch transfers not considered as sales. At the time of assessment (August 1989), the Assessing Authority while disallowing rebate on value of bottles used in branch transfer goods, calculated tax at four per cent plus ten per cent surcharge on the amount of tax instead of correct rate of tax on the purchase value at the rate of twelve per cent plus surcharge. Thus, against admissible rebate of Rs. 2.62 lakhs, the dealer was allowed rebate of Rs. 3.26 lakhs. The mistake resulted in under assessment of tax of Rs. 63,561.

On the omission being pointed out (June 1990) in audit, the Department referred (November 1990) the case to Revisional Authority for suo-moto action. Further report has not been received (January 1992).

The above cases were reported to Government in October 1990 and November 1990, their reply has not been received (January 1992).

(b) Under the Haryana General Sales Tax Act, 1973, on sale of rice, tax 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 produced. Similar set off of purchase tax is also to be given from the tax levied on the sale of rice in the course of inter-State trade or commerce under the Central Sales Tax Act, 1956.

(i) A dealer of Panipat husked 25,448 quintals of paddy valued at Rs. 42.48 lakhs during the year 1987-88. The average purchase price of such paddy used in husking rice worked out to Rs. 166.91 per quintal. Out of rice so obtained from the paddy, the dealer sold 3889.67 quintals of rice valued at Rs. 17.81 lakhs to the District Food and Supplies Controller (DFSC) and in the local market. While finalising assessment (April 1989), the Assessing Authority allowed rebate from the tax assessed on sale of rice by taking average purchase price of paddy at Rs. 263.30 per quintal instead of Rs. 166.91 per quintal resulting in excess relief of tax of Rs. 19,582 to the assessee. Besides penalty, interest of Rs. 3430 for short payment of tax was also leviable.

On the omission being pointed out (July 1990) in audit, the Assessing Authority referred (November 1990) the case to the Revisional Authority for suo-moto action. Further report has not been received (January 1992).

(ii) A dealer of Jagadhri husked 94,435 quintals of paddy which was assessed to tax on its purchase value of Rs. 147 lakhs during the year 1986-87. The average purchase price of such paddy, thus, worked out to Rs. 155.66 per quintal. While finalising (March 1990) assessment, the Assessing Authority erroneously allowed rebate on the purchase value of paddy at the rate of Rs. 163.72 per quintal instead of Rs. 155.66 per quintal. The mistake resulted in under assessment of tax amounting to Rs. 19,239. Besides, interest and penalty for non-payment of tax alongwith returns were also leviable.

On the omission being pointed out (July 1990) in audit, the Assessing Authority re-examined the case and rectified (December 1990) the mistake after taking into account the quantity of paddy actually husked from the stock of previous year and the paddy purchased during the year 1986-87 and raised additional demand of Rs. 31,739 including interest and penalty of Rs. 17,236. Report on recovery is awaited (January 1992).

The above cases were reported to Government in September and October 1990; their reply has not been received (January 1992).

## 2.9 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) when purchased in the State without payment of tax and used in the manufacture of other taxable goods which are despatched outside the State in any manner other than by way of sale. Further, for short payment of tax the dealer is liable to pay interest at one per cent for the first month and at one and half per cent per month thereafter.

(i) A dealer of Hisar purchased, without payment of tax, raw material such as zinc, sockets, plastic rings and other consumable stores valued at Rs. 355.30 lakhs during the year 1987-88 from within the State and used them in the manufacture of other taxable goods. Out of the goods so manufactured, goods valued at Rs. 1132 lakhs were transferred to its branches outside the State or sold them on consignment basis. While finalising the assessment (September 1989), the Assessing Authority levied tax on the proportionate purchase value of zinc, sockets and plastic rings used in the manufacture of goods, sold on consignment basis or transferred to its branches outside the State but omitted to levy tax on the proportionate purchase value of consumable stores valued at Rs. 34.28 lakhs used in the manufacture of goods so transferred to its branches or on consignment sale. The omission resulted in short levy of tax (inclusive of surcharge) of Rs. 2.85 lakhs. Besides, interest amounting to Rs. 71300 for short payment of tax was also chargeable.

On the omission being pointed out (June 1990) in audit, the Department referred (January 1991) the case to the Revisional Authority for suo-moto action. Further report has not been received (January 1992).

(ii) A dealer of Karnal purchased, without payment of tax, goods valued at Rs. 192.55 lakhs during the

year 1986-87 from within the State and used them in the manufacture of other goods. Out of manufactured goods, goods valued at Rs. 139.29 lakhs were consigned out of Haryana which included goods valued at Rs. 6543857 in which goods purchased without payment of tax were used. While framing assessment (December 1989) the Assessing Authority worked out the purchase value of goods used in the manufacture of goods transferred on consignment basis (Rs. 6543857) to Rs. 8.54 lakhs by adopting incorrect figures of gross turnover (Rs. 70501639 instead of Rs. 63116264) and goods sold (Rs. 3128121 instead of Rs. 6543857). The value of goods used in the manufacture of goods consigned out of Haryana actually worked out to Rs. 19.96 lakhs. The mistake resulted in short assessment of tax of Rs. 46,595. Besides, interest of Rs. 22135 for short payment of tax was also chargeable in addition to maximum penalty of Rs. 69,893 leviable under the Act *ibid*.

On the omission being pointed out (August 1990) in audit, the Department referred (April 1991) the case to Revisional Authority for suo-moto action. Further report has not been received (January 1992).

(iii) A dealer of Bhiwani purchased raw material valued at Rs. 95.99 lakhs from within the State during the year 1985-86 and used the same in the manufacture of taxable goods. Out of the goods manufactured, goods valued at Rs. 67 lakhs were sent outside the State as branch transfers and sale on consignment basis. While finalising assessment (August 1987), the Assessing Authority erroneously worked out the proportionate purchase value of raw material used in the manufacture of consignment sale/branch transfers at Rs. 53.52 lakhs instead of Rs. 58.55 lakhs for levy of purchase tax. The mistake resulted in under assessment of tax amounting to Rs. 20,102. Besides, interest and penalty amounting to Rs. 16,032 for non payment of tax alongwith returns was also chargeable.

On the omission being pointed out (September 1989) in audit, the Assessing Authority on re-examination rectified the mistake and raised (September 1990) additional demand of Rs. 36,134 including interest and penalty of Rs. 16,032.



The above cases were reported to Government between November 1990 and April 1991; their reply has not been received (January 1992).

## 2.10 Loss of revenue due to delayed assessment

Under the Haryana General Sales Tax Act, 1973, if a dealer does not furnish returns in respect of any period by the prescribed date, 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 the case of a dealer of Karnal, assessment proceedings for the year 1982-83 were initiated by issuing statutory notice for the first time on 28th July 1989 and the assessment was framed (August 1989) ex-parte creating a demand of Rs. 1.29 lakhs as the dealer had closed down his business. The dealer, however, went in appeal and challenged the assessment on the ground that the assessment proceedings were initiated after the limitation period of five years. The Appellate Authority held (April 1990) that the assessment made by the Assessing Authority could not be sustained as it was barred by time. Failure of the Department for framing late assessment resulted in loss of revenue of Rs. 1.29 lakhs.

On the omission being pointed out (September 1990) in audit, followed up by reminders in December 1990 and February 1991, the Department has not furnished any reply (January 1992).

The case was reported to Government (November 1990); their reply has not been received (January 1992).

## 2.11 Suppression of sales

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 or 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 five times (three times with effect from 1-1-1988) the amount of tax which would have been avoided, if the turnover as returned by such dealer had been accepted as correct. Besides, interest is also chargeable from the dealer for non/short payment of tax alongwith returns.

(i) A dealer of Faridabad declared in his returns for the year 1986-87, 6165 Kgs. of scrap generated in the manufacture of 12935 numbers of radiators. The Assessing Authority while framing assessment (March 1989) determined the quantity of scrap at 13,130.90 Kgs. by inadvertently adopting the production of 7756 radiators. The correct quantity of scrap generated on declared production of 12935 radiators worked out to 28211.23 Kgs. This resulted into suppression of sales amounting to Rs. 2.53 lakhs resulting in short levy of tax of Rs. 20,672. Besides, minimum penalty of Rs. 41,344 and interest of Rs. 14800 was also leviable for short payment of tax alongwith the returns.

On the omission being pointed out (December 1989) in audit, the Department referred (August 1990) the case to Revisional Authority for taking suo-moto action who raised (April 1991) additional demand for Rs. 35,473 (including interest of Rs. 14801) with direction to the Assessing Authority for imposition of penalty on account of suppression of sales. Penalty proceedings had not yet been finalised (November 1991).

(ii) A brick kiln owner of Hisar in his trading account for the year 1984-85, showed purchase of 149.880 tonnes of coal, with 72 tonnes as opening stock. He was accordingly assessed (July 1985) to tax amounting to Rs. 32,253. While examining the assessment order (June 1986), it was noticed in audit, that 19 goods receipt sheets (GR's) duly verified by the Assessing Authority with reference to proper page number of cash book and ledger regarding purchase of coal were found placed in the dealer's file and according to these GR's the total quantity of coal purchased worked out to

275.125 tonnes and not 149.880 tonnes, thereby resulting in suppression of purchase of 125.245 tonnes of coal. This resulted in under-assessment of tax of Rs. 15,814 and a minimum penalty of Rs. 31,628.

On the omission being pointed out (June 1986) in audit, the Department moved the case for suo-moto action (January 1987). The Revisional Authority remanded the case (September 1988) to the Assessing Authority for making detailed enquiry in regard to the purchase of coal. The Assessing Authority, after cross verification established (November 1990) that purchase of 125.246 tonnes of coal was suppressed and created an additional demand of tax and penalty of Rs. 47816 (Rs. 15816 plus Rs. 32000). Report on recovery has not been received (January 1992).

The case was reported to Excise and Taxation Commissioner in September 1986 who also confirmed (January 1991) the raising of demand of Rs. 47,816.

The above cases were reported to Government in June and July 1991; their reply has not been received (January 1992).

## 2.12. Irregular grant of exemption

To encourage cottage industries, tiny rural industries in Haryana, Government under section 13 of Haryana General Sales Tax Act, 1973, exempted all classes of Co-operative Societies and persons running cottage industries and other units located in rural areas from payment of tax on the purchase or sale of any goods. The exemption is admissible from the date of submission of application for exemption to the department after obtaining certificate of genuineness from the Board constituted under the Khadi and Village Industries Commission Act, 1956 or from Haryana Industries Department.

A dealer of Gurgaon made sales of Rs. 15.36 lakhs to a dealer of Maharashtra in the year 1987-88 and was granted exemption from payment of tax on such sales. As the dealer was not granted any exemption under the Act, the exemption allowed to him was irregular. The omission resulted in

short assessment of tax of Rs. 1.54 lakhs. Besides, interest of Rs. 31,488 was also chargeable for non-payment of tax.

On the omission being pointed out (January 1991) in audit, the Department raised (June 1991) an additional demand of Rs. 1.85 lakhs (including interest of Rs. 31,488).

The case was reported to Government in March 1991; their reply has not been received (January 1992).

### 2.13. Fictitious adjustment of tax

Under the Haryana General Sales Tax Act, 1973, before any dealer furnishes the returns, he shall, in the prescribed manner, pay into a Government treasury or the Reserve Bank of India or the State Bank of India the full amount of tax due from him under this Act according to such returns and shall furnish alongwith the returns, receipts from such treasury or bank showing the payment of such amount. Failure to pay tax alongwith returns entails penalty not exceeding one and a half times of the amount of tax to which the dealer is assessed. Further, interest is also chargeable at one per cent per month for the first month and at one and a half per cent thereafter.

A dealer of Narwana did not pay any tax with the returns during the year 1988-89. In the assessment finalised in March 1990 the Assessing Authority raised a demand of Rs. 21,690. The demand was, however, erroneously shown as paid in the disposal register and demand notice was not issued. This resulted in non recovery of tax of Rs. 21,690. Besides, interest of Rs. 3,472 and penalty for non-payment of tax was also chargeable.

On the omission being pointed out (July 1990) in audit, the Department accepted the mistake and recovered (February 1991) tax of Rs. 21,690. The Department further stated, (July 1991) that interest and penalty of Rs. 8737 has been levied and is under the process of recovery.

The case was reported to Government (January 1991); their reply has not been received (January 1992).

#### 2.14. Non/short levy of Interest

Under the Haryana General Sales Tax Act, 1973 and Central Sales Tax Act, 1956, a dealer is required to pay the full amount of tax due from him according to his return which is to be submitted by the prescribed date. In the event of default, 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. Further for failure to pay the tax due according to the returns, the prescribed authority, after affording the dealer a reasonable opportunity of being heard, may 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.

✓ (i) A dealer of Bhiwani did not pay tax due along with returns during the year 1985-86. While finalising assessment (February 1990), the Assessing Authority created additional demand of tax of Rs. 35,706. Besides penalty, interest chargeable amounting to Rs. 27,470 for non-payment of tax along with the returns was not demanded.

On the omission being pointed out (August 1990) in audit, the Department raised (August 1990) additional demand of interest of Rs. 31,218 calculated upto August 1990 and further stated (January 1991) that action to impose penalty would be taken separately as the dealer is not traceable as yet.

(ii) In the case of a dealer of Faridabad, the Assessing Authority while finalising (March 1990) the assessment for the year 1983-84 erroneously calculated interest for 65 months instead of for 77 months. The mistake resulted in short levy of interest of Rs. 31,878.

On the mistake being pointed out (March 1991) in audit, the Department created (March 1991) demand of Rs. 31,878 and issued (June 1991) recovery certificate for additional demand to the Collector Guwahati.

The above cases were reported to Government in November 1990 and April 1991; their reply has not been received (January 1992).

### **2.15. Non-production of assessment files**

During the year 1990-91, 632 assessment files, relating to 23 units assessed by the Assessing Authorities during the year 1989-90 involving taxable turnover amounting to Rs. 8336.65 lakhs in 505 cases were not produced to Audit for scrutiny. In the remaining 127 cases taxable turnover was not found recorded in the disposal registers. No reasons were however assigned for non production of these files. Production of these cases to Audit at a late stage would render audit scrutiny in certain cases ineffective as recovery of under assessment, if any, pointed out by Audit might become time barred by the time these files are produced to Audit.

The matter was reported to the Department between June 1990 and April 1991; their reply has not been received (January 1992).

### **2.16. Recovery at the instance of Audit**

In 136 cases under assessments of tax or non-levy of interest and penalty amounting to Rs. 7.61 lakhs were accepted by the Department and the amount was also recovered between May 1990 and May 1991.

## CHAPTER 3

### STAMPS AND REGISTRATION FEES

#### 3.1. Results of Audit

Test check of records in departmental offices, conducted in audit during the year 1990-91, revealed short levy and non-levy of stamp duty and registration fee and other irregularities amounting to Rs. 135.74 lakhs in 1555 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Loss of stamp duty and registration fee due to under valuation of properties	770	84.60
2. Evasion of stamp duty and registration fee	181	17.32
3. Irregular exemption of stamp duty and registration fee	267	7.65
4. Short/non-levy of stamp duty and registration fee	212	3.98
5. Other irregularities	125	22.19
	1555	135.74

Some of the important cases noticed in 1990-91 and earlier years are mentioned in the following paragraphs :

#### 3.2. Irregular exemption of stamp duty

Under the Indian Stamp Act, 1899, as applicable to Haryana, Stamp Duty in respect of an instrument of mortgage (where possession of the property or any part of the

property comprised in such deed is not given) is chargeable at one and a half per cent of the amount of loan secured by such instrument. Further, Government vide their notification dated 6th August 1981, remitted 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 the Haryana Financial Corporation, for loans secured by them from the Haryana Financial Corporation.

In the Office of sub-Registrar, Ballabgarh, an instrument of mortgage (without possession of property) for securing a loan of Rs. 51.30 lakhs was executed (August 1989) in favour of the Haryana Financial Corporation by a firm which was not a Small Scale Industry on non-judicial stamp paper of Rs. 18 instead of execution of the same with Stamp Duty at one and a half per cent of the amount of loan secured. This resulted in short levy of Stamp Duty amounting to Rs. 76,932.

On the omission being pointed out (December 1990) in audit, the sub-Registrar issued (December 1990) notice for recovery. The matter was again brought to the notice of the Department in February 1991. Further development has not been intimated (January 1992).

The case was reported to Government in March 1991; their reply has not been received (January 1992).

### 3.3. Evasion of stamp duty

The Indian Stamp Act, 1899, as applicable to Haryana, envisages that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable should be fully and truly set forth therein. 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 in such an instrument are not fully set forth, shall be punishable with a fine which may extend to five thousand rupees.

In Punhana, an agreement to sell agricultural land measuring 11.05 acres for Rs. 5.74 lakhs was executed and



recorded with the document writer in March 1989. Subsequently general power of attorney was given in June 1989 by the vendor to a blood relation of the persons with whom agreement to sell was entered into, conferring the usual rights to dispose of the property by sale. The vendee to whom general power of attorney was given in June 1989 sold the land to his sons for Rs. 1.98 lakhs against the value of Rs. 5.74 lakhs recorded in the agreement to sell. The sale deed was executed and registered in July 1989 for a lesser consideration thereby resulting in evasion of stamp duty amounting to Rs. 47,000. Besides, penalty for under valuation done was also leviable, but not levied.

The omission was pointed out (June 1990) in audit; reply of the Department has not been received (January 1992).

Government to whom the case was reported (March 1991) intimated (August 1991) that the matter has been referred to collector for adjudication.

### 3.4. 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.

In two cases involving short levy of stamp duty Rs. 22,400 and registration fee Rs. 925 due to misclassification of instruments, the whole amount was recovered on being pointed out (July 1990) in audit. Other cases are given below :

In the office of the Sub-Registrar, Panipat, three lease deeds for a period of 99 years were registered in July 1989. Stamp duty on these instruments was charged on the basis of basic rent instead of average annual rent. This resulted in short levy of stamp duty and registration fee amounting to Rs. 28,682 (stamp duty : Rs. 28022; registration fee : Rs. 660).

On the mistake being pointed out (November 1990) in audit, the Department accepted the short recovery and



issued notices for recovery in November 1990. Further progress has not been received (January 1992).

The case was reported to Government (January 1991); their reply has not been received (January 1992).

### 3.5. Evasion of stamp duty and registration fee 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 a consideration and it authorises the attorney to sell any immovable property, the deed is liable to stamp duty 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 to sell the property, further to any party, at his discretion on behalf of the vendor, the power of attorney should be subjected to stamp duty and registration fee for the sale consideration in terms of article 48(f) read with article 23 of schedule 1-A to the Indian Stamp Act, 1899.

During the audit of Sub-Registrar at Nuh it was noticed (June 1990) that an agreement to sell was executed (July 1989) after receiving full consideration of Rs. 1,90,000 and handing over the possession of property to the purchaser. Simultaneously power of attorney authorising the attorney to dispose of property in any manner and to sign the sale deed was given. Stamp duty amounting to Rs. 23,750 was leviable on consideration, as applicable to a sale deed whereas stamp duty of Rs. 15 only was charged. This resulted in short levy of stamp duty amounting to Rs. 23,735.

On the omission being pointed out (June 1990) in audit, the Sub-Registrar, Nuh intimated (April 1991) that the case has been referred to the Collector for assessing the proper duty leviable. Further report has not been received.

The case was reported to Government in June 1990; their reply has not been received (January 1992).

### **3.6. Recovery at the instance of Audit**

In 76 cases, short levy of stamp duty and registration fee amounting to Rs. 94879, where money value did not exceed Rs. 20000 in each case due to under valuation of properties, misclassification of instruments etc. was accepted and recovered by the Department.

## CHAPTER 4

### Other Tax Receipts

#### 4.1. Results of Audit

Test check of records in departmental offices, conducted in audit during the year 1990-91, revealed short/non-recovery of excise duty, taxes on vehicles amounting to Rs. 606.35 lakhs in 8291 cases which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
A. State Excise	301	592.13
B. Taxes on Vehicles	7990	14.22
	8291	606.35

Some of the important cases noticed in 1990-91 and earlier years are mentioned in the following paragraphs.

#### A—STATE EXCISE

#### 4.2. State Excise Duty

##### 4.2.1. Introductory

Excise Duty on alcoholic liquors for human consumption and on medicinal and toilet preparations containing alcohol or opium, Indian hemp and other narcotic drugs and narcotics in Haryana is levied and is collected under the authority of the following Central and State laws and rules made thereunder :

- (a) The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and rules made thereunder.

- (b) The Punjab Excise Act, 1914 and rules made thereunder, namely, the Punjab Excise Fiscal Orders, 1932, the Haryana Liquor Licence Rules, 1970, the Punjab Liquor Permit and Pass Rules, 1932, the Punjab Distillery Rules 1932, the Punjab Breweries Rules, 1956, the Punjab Sweets (Manufacture) Rules, 1955 and the Punjab Excise Bonded Warehouse Rules, 1957. These State laws and rules are applicable to the State of Haryana also.

The revenue is mainly derived from "fixed", "assessed" and "auction" fees for the grant of licences of various vends under the Haryana Liquor licence Rules, 1970 and "excise duties" levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State under the Punjab Excise Fiscal Orders, 1932. Fees and duties are levied and accounted for in the offices of the concerned Deputy Excise and Taxation Commissioners/Deputy Excise and Taxation Commissioners (Inspection).

#### **4.2.2. Scope of audit**

Out of 17 Deputy Excise and Taxation Commissioner's Offices, records in respect of 6 offices of Ambala, Karnal, Rohtak, Jind, Bhiwani and Gurgaon for the years 1987-88 to 1990-91 were test checked (January 1991 to March 1991) with a view to ascertaining the extent of compliance of various rules and orders regarding the levy and collection of excise duties.

#### **4.2.3. Organisational set up**

The Excise Department in Haryana functions under the administrative control of the Excise and Taxation Commissioner. To assist the Commissioner in the proper administration of the Department, Deputy Excise and Taxation Commissioners are appointed.

In each of the 17 Excise districts there is one Deputy Excise and Taxation Commissioner. From October 1990 the charge of excise branch has been transferred to the Deputy Excise and Taxation Commissioner (Inspection). Each bonded warehouse, distillery, brewery and bonded pharmacy is under the charge of an officer of the Excise Department.

These units serve as primary units for levy and collection of excise duties and allied levies.

#### 4.2.4. Highlights

—Additional licence fee amounting to Rs. 6.39 lakhs was not recovered on lifting of excess quota of country liquor.

—Import duty amounting to Rs. 2.67 lakhs on the import of beer and Indian made foreign liquor in Haryana from places outside the State was not charged.

—Excise duty at revised rates on Indian made foreign liquor, beer and rum amounting to Rs. 1.54 lakhs was not recovered.

—Excise duty of Rs. 2.29 lakhs on wastage of spirit in excess of prescribed norms was not recovered.

—Revenue of Rs. 1.10 lakhs on cancellation of licences and re-auction of the vends was not recovered from the defaulting licensees.

—Additional excise duty of Rs. 2.09 lakhs due to irregular adjustment of security was not recovered.

—Revenue amounting to Rs. 12.50 lakhs on re-auction of vends was not realised due to non-observance of prescribed procedure.

## 4.2.5. Trend of revenue

(a) The revenue realised from state excise duties during the last four years was as under : (figure 3)

Year	Total revenue of the State (in crores of rupees)	Revenue realised under State Excise (in crores of rupees)	Percentage with reference to total revenue (Column 2 and 3)	Increase in the excise revenue over the previous year (in crores of rupees)	Percentage of increase (Column 4)
1	2	3	4	5	6
1987-88	1042.40	158.54	15.21	25.80	19.43
1988-89	1150.12	192.87	16.77	34.33	21.65
1989-90	1356.05	236.68	17.45	43.81	22.71
1990-91	1580.64	286.35	18.12	49.67	20.99

## TOTAL REVENUE OF THE STATE

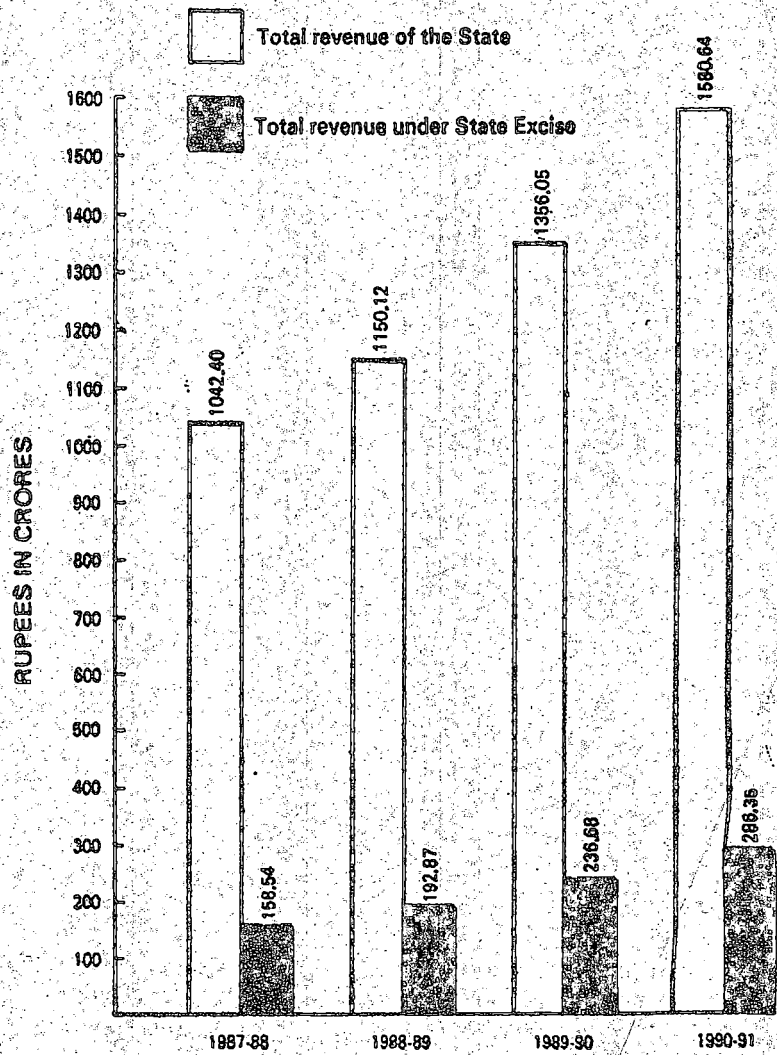
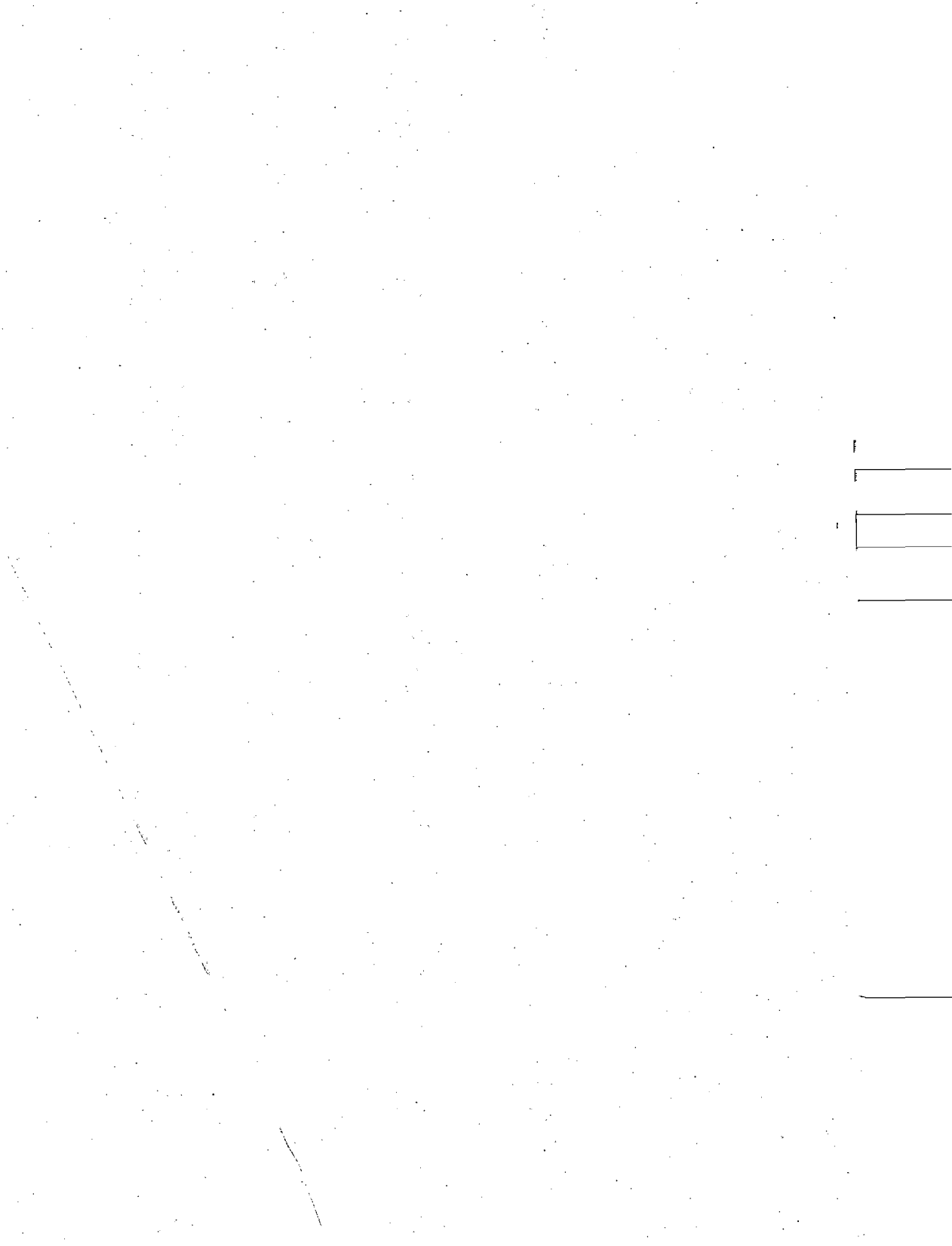


FIGURE 3  
(Para 4.2.5)





**(b) Arrears pending collection**

As on 31st March 1991, arrears of revenue pending collection as reported by the Department were Rs. 429.30 lakhs.

The arrears were in the following stages of action :

	Amount
	(In lakhs of rupees)
(i) Recoveries stayed by Courts/Government	165.23
(ii) Property attached for recovery	60.45
(iii) In process of recovery by issue of recovery certificate	54.53
(iv) Amount likely to be written off	47.56
(v) Recovery being effected in instalments	29.83
(vi) Other stages	71.70
<b>Total</b>	<b>429.30</b>

The year-wise break up of the arrears was as under :

Year	Amount
	(In lakhs of rupees)
Upto 1987-88	377.09
1988-89	23.41
1989-90	25.53
1990-91	3.27
<b>Total</b>	<b>429.30</b>

#### 4.2.6 Grant of licences under the Excise Acts and Rules

The number of licences granted in the State under the provisions of Excise Act and Rules made thereunder from April 1987 to March 1991 as supplied by the Department were as under :

Year	Retail licence of : Country liquor      Indian made foreign liquor		Phar- macy licences	Other licen- ces	Total
1	2	3	4	5	6
1987-88	556	286	45	110	997
1988-89	584	295	48	121	1048
1989-90	605	303	48	220	1176
1990-91	747	290	51	260	1348

#### 4.2.7 Allotment of rectified spirit to pharmacies

The quantity of rectified spirit allotted and made available to the pharmacies in the State for use in alcoholic preparation during the four years 1987-88 to 1990-91 was as under :

Year	Quantity allotted	Quantity lifted	Quantity short lifted
(In lakhs of bulk litres)			
1987-88	6.70	5.99	0.71
1988-89	7.21	6.93	0.28
1989-90	7.36	5.76	1.60
1990-91	8.57	7.87	0.70

Short lifting of rectified spirit by the pharmacies

during 1989-90 was attributed to the restrictions imposed by the Government on medicinal preparations containing alcohol above 20% volume by volume.

#### **4.2.8 Non-recovery of licence fee for additional quota lifted by licencees**

Under the Haryana liquor Licence Rules, 1970, quota of country liquor, in proof litres, for each vend is announced before the vend is put to auction. The licensee may obtain additional quota upto 20 per cent of the quota fixed for his vend on payment of full rate of excise duty and additional licence fee at the rate of half of the incidence of licence fee calculated on the original licence fee of his vend upto the year 1987-88 and at the rate of State average incidence of licence fee from 1988-89 onwards. The licensee may obtain an additional quota upto 50 per cent of the originally allotted quota on payment of full rate of excise duty and additional licence fee calculated at the rate of 80 per cent of the incidence of licence fee for his vend upto 1987-88 and at State average incidence from 1988-89 onward. The State average incidence for the years 1988-89 and 1989-90 was Rs. 41.23 and Rs. 43.85 per proof litre respectively.

(i) Five vends of country liquor in four districts of Bhiwani, Gurgaon, Jind and Kurukshetra were auctioned for the years 1987-88 to 1989-90 for an annual quota of 2,37,000 proof litres. Against this, the licensees were allowed to lift 2,48,597.85 proof litres resulting in excess lifting of 11,597.85 proof litres. On the excess quantity lifted,

the additional licence fee amounting to Rs. 2.51 lakhs (as per norms referred to above) was recoverable as detailed below but was not recovered.

Year	District	Number of vendors	Annual quota to be lifted (in proof litres)	Actual quantity lifted (in proof litres)	Excess (in proof litres)	Rate at which additional licence fee is recoverable (in Rupees per proof litre)	Additional licence fees not recovered (Rupees)
1	2	3	4	5	6	7	8
1987-88	Gurgaon	1	60000	60990	990	40.13	19815
	Jind	1	17000	17742.5	742.5	43.53	16161
1988-89	Kurukshetra	1	25000	25742.5	742.5	41.23	15307
1989-90	Jind	1	104000	112429.85	8429.85	43.85	184825
	Bhiwani	1	31000	31693	693	43.85	15194
Total		5	237000	248597.85	11597.85		251302

On the omission being pointed out in audit, the Department recovered Rs. 2.14 lakhs (between January 1989 and January 1991). Report on recovery of the balance amount has not been received (January 1992).

(ii) In Rohtak and Ambala districts, 23 country liquor vends were auctioned (March 1988 and March 1989) in groups to seven licensees for the years 1988-89 and 1989-90. Out of 23 vends, 9 vends had lifted 17638.5 proof litres of country liquor in excess of the original quota fixed for those vends individually. The excess lifting of quota escaped the notice of the Department as vend wise issue register had not been maintained. The additional licence fee of Rs. 3.88 lakhs was recoverable on excess quota so lifted which was not recovered by the Department.

On the omission being pointed out (October 1990 and March 1991) in audit, the Department stated (January and March 1991) that there was no overall excess lifting of quota in respect of each group of vends. The reply of the Department is not tenable as the permits for issue of liquor were being issued to individual vends and not to the group as a whole. Further, the auction of vends in group was permitted for consequential increase in revenue only. The matter was again referred (May 1991) to the Department/Government followed up by reminder (September 1991); their reply has not been received (January 1992).

#### 4.2.9 Non-levy of import duty

Under the Punjab Excise Fiscal Orders, 1932 as applicable to Haryana and amended by a Government notification dated the 2nd March 1989, an import duty at the specified rates shall be levied on beer and Indian made foreign spirit imported into Haryana from any brewery, distillery, warehouse or wholesale vend located in any other State or Union Territory in India.

Audit scrutiny (August 1990 and October 1990) revealed that in Ambala, Gurgaon and Rohtak districts, five licencees imported, after 1st April 1989, 42,960 bottles



of beer having strength upto 5 per cent and 3,27,708 bottles of Indian made foreign spirit without payment of import duty amounting to Rs. 2.67 lakhs.

On the omission being pointed out in audit, the Department accepted the omission and recovered (December 1990 and March 1991) Rs. 2.44 lakhs. Report on recovery of the balance amount of Rs. 23661 has not been received (January 1992).

#### **4.2.10 Short recovery of export duty on denatured spirit**

Under the Punjab Excise Fiscal Orders, 1932, as applicable to Haryana, export duty at the rate of Rs. 3 per bulk litre is leviable on the export of denatured spirit to other States or Union Territories in India by the distilleries of Haryana State.

Two distilleries at Faridabad and Yamunanagar districts exported during the year 1989-90, 29200 bulk litres of denatured spirit outside the State. Export duty at the rate of Rs. 3 per bulk litre amounting to Rs. 87,600 was chargeable on this export but the Department recovered Rs. 32,900 resulting in short recovery of export duty amounting to Rs. 54,700.

On the omission being pointed out (June and July 1990) in audit, the Department stated (June 1991) that the notices for recovery were being issued to the licencees. Report on recovery has not been received (January 1992).

#### **4.2.11 Non-recovery of enhanced excise duty**

The Punjab Excise Fiscal Orders, 1932, as applicable to Haryana, provide for levy of excise duty on liquor or spirit and beer when removed from licenced distilleries or bonded warehouses and breweries in the State or when imported into the State from any other State or Union Territories in India. From 1st April 1987, the rate of excise duty was enhanced on Indian made foreign liquor from Rs. 36 to Rs. 40 per proof litre, on rum (when issued to Canteen Stores Department for issue

to military personnel) from Rs. 6 to Rs. 13.33 per proof litre and on beer from Rs. 2 to Rs. 2.50 per bottle. From 1st April 1988, the rate of excise duty on rum was enhanced to Rs. 20.33 per proof litre.

Two licensees of Jind and Sonapat had closing stock of 16,596.5625 proof litres of Indian made foreign spirit (Whisky), 1382.625 proof litres of rum and 78,276 bottles of beer on 31st March, 1987 and 5437.6875 proof litres of rum on 31st March 1988. On the sale of these stocks on or after 1st April 1987 and 1st April 1988 respectively, the licensees paid duty at the pre-revised rates instead of at the revised rates. This resulted in short realisation of excise duty amounting to Rs. 1.54 lakhs.

On the irregularity being pointed out (February 1988 and July 1990) in audit, the Department recovered (September 1990) Rs. 48,630 in one case. Report on recovery of the balance amount of Rs. 1.05 lakhs has not been received (January 1992).

#### **4.2.12 Non-levy of duty on excess wastage**

(a) The Punjab Distillery Rules, 1932 as applicable to Haryana provide for wastage allowance of spirit during storage, bottling operations and in bottled spirit room at 2 per cent, 1.5 per cent and one per cent respectively. Excise duty on spirit wasted in excess of the prescribed limits is recoverable from the distillery.

In a bottling plant at Sonapat and a distillery in Hisar, duty amounting to Rs. 1.20 lakhs on wastage of 2574.6 proof litres of Indian made foreign spirit and 1446.95 proof litres of country spirit during 1988-89 to 1989-90 in excess of the permissible limits was not levied.

On the mistake being pointed out (July 1990 and September 1990) in audit, the Department recovered (January 1991 and February 1991) Rs. 1.03 lakhs. Report on recovery of the balance amount of Rs. 17364 has not been received (January 1992).

(b) The Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, empower the State Government to

fix, from time to time, the percentage of wastage of alcohol used in the production of medicinal or toilet preparations. Duty was leviable on any wastage in excess of the permissible limit. The State Government by a notification dated 11th November 1987 fixed the percentage of wastage of alcohol.

In Karnal, Gurgaon and Rohtak districts, eighteen licensees of pharmaceutical works claimed during the years 1987-88 to 1989-90 allowance for wastage of 14444.82 alcoholic litres in excess of the prescribed limit used in medicinal preparations resulting in short realisation of excise duty amounting to Rs. 1.09 lakhs.

On the omission being pointed out (December 1989 and March 1991) in audit, the Department stated (February and March 1991) that notices for recovery were being issued in 16 cases of Karnal district and referred one case in respect of Gurgaon district to the Excise and Taxation Commissioner for comments. Reply in one case of Rohtak has not been received (January 1992).

Further progress of the cases has not been received (January 1992).

#### **4.2.13 Loss of revenue due to re-auction of vends**

Under the Haryana Liquor Licence Rules, 1970, licences of vends for country liquor and Indian made foreign liquor are granted by auction. A successful bidder is required to deposit, by way of security, an amount equal to 16  $\frac{2}{3}$  percent of the annual licence fee (bid money), of which 5 per cent is payable at the fall of the hammer and the remaining 11  $\frac{2}{3}$  per cent within a period of ten days from the date of auction. The entire amount of security or ninety per cent, as may be deemed proper by the Excise and Taxation Commissioner, is required to be adjusted against the last instalments of licence fee payable. The remaining licence fee is payable in monthly instalments equal to one eleventh of the total annual licence fee by the 20th of each month. The Excise and Taxation Officer incharge of the district, may authorise the licensees to deposit the amount of instalment or part thereof upto the last day of the month for which the instalment is due, on pay-



ment of interest at the rate of 15 per cent per annum for the period from the first day of the month to the date of payment of instalment or any part thereof deposited after due date. For failure to pay any instalment alongwith interest by the due date, the licence for vend is liable to be cancelled and re-auctioned at the risk and expense of the defaulting licensee. The amount is recoverable from the original vendor as arrears of land revenue.

In Bhiwani district, two vends, one each of country liquor and Indian made foreign liquor, were auctioned (March 1989) for the year 1989-90 for Rs. 13.41 lakhs to two licensees. The licensees, after paying instalments and security aggregating Rs. 6.52 lakhs (upto June and July 1989), stopped making further payments. The Department cancelled their licences and re-auctioned (August 1989 and October 1989) the vends for Rs. 5.80 lakhs. The re-auction resulted in loss of Rs. 1.10 lakhs (including Rs. 1000 as expenses on re-auction of vends) recoverable from the defaulting licensees. No recovery has, however, been effected (January 1992).

On this being pointed out (May 1990 and October 1990) in audit, the Department stated (March 1991) that recovery proceedings against the defaulters had been initiated. Further report on the recovery has not been received (January 1992).

#### **4.2.14 Application of incorrect rates of excise duty**

Under the Medicinal and Toilet Preparations (Excise duties) Act, 1955, excise duty at the prescribed rates is leviable on all dutiable goods manufactured in India. Government of India, Finance Department, by a notification dated 1st March 1989 enhanced the rates of duty from Rs. 6.60 to Rs. 10, Rs. 13 to Rs. 20 and Rs. 52 to Rs. 80 on per litre of pure alcohol depending on the nature of medicinal/toilet preparation in which such alcohol is used.

Two pharmaceutical units in Karnal and Rohtak districts paid between March 1989 and November 1989 excise duty either at old rates applicable prior to March 1989 or at lower rates on their alcoholic preparations resulting in short payment of excise duty amounting to Rs. 0.37 lakhs.

On the mistake being pointed out (February and March 1991) in audit, the Department stated (February 1991) that notice for recovery was being issued in one case (Karnal district). Reply of the Department in the other case has not been received (January 1992).

#### **4.2.15 Short recovery of composite fee**

Under the Haryana Liquor Licence Rules, 1970, on grant or renewal of a licence for retail vend of foreign liquor in a restaurant or in a bar attached to a restaurant a composite fee is charged in four quarterly instalments payable by the 10th of the 1st month of the quarter. In towns with population exceeding 50,000 composite fee of Rs. 1.5 lakhs per annum is leviable for the grant of or renewal of a licence. Further, under the Punjab Excise Act, 1914, for contravention of any of the provision of the Act or of any rule penalty to the extent of Rs. 200 is leviable.

In Panipat, two licences (L-4, L-5) of a licensee were renewed for the year 1989-90 in August 1989 on his application of renewal and deposit of 1st instalment of Rs. 37,500 in March 1989. The licensee paid 2nd instalment (July 1989) and 3rd instalment (part payment) of Rs. 12500 (October 1989). The balance of 3rd and 4th instalment amounting to Rs. 62500 was neither paid by the licensee nor demanded by the Department.

On the omission being pointed out (July 1990) in audit, the Department admitted the mistake and recovered the entire amount in August 1990. Penalty for non payment of licence fee was not levied (January 1992).

The case was reported (July 1990) to Government; their reply has not been received (January 1992).

#### **4.2.16 Short levy of excise duty on shortage in bonded warehouse**

The Punjab Excise Bonded Warehouses Rules, 1957, as applicable to Haryana prescribe maximum wastage allowance of one per cent in respect of despatches of liquor from a distillery to a bonded warehouse for loss

of liquor in transit by leakage or breakage of vessels or bottles containing liquor. No wastage for shortage occurring during transit is permissible under the rules.

In Ambala district a bonded warehouse (Canteen Store Department) paid excise duty at the rate of Rs. 13.33 and Rs. 20.33 per proof litre on an inadmissible shortage during transit of 4265.435 proof litres of rum during April 1987 to September 1990. The duty was however chargeable at the rate of Rs. 40 per proof litre as the rate of Rs. 13.33 and Rs. 20.33 were applicable only to rum issued to the military personnel as per order 4 of the Punjab Excise Fiscal Orders, 1932. This resulted in short levy of duty amounting to Rs. 0.95 lakh.

On the omission being pointed out (October 1990 and January 1991) in audit, the Department stated (January 1991) that the case was being referred to the Excise and Taxation Commissioner for guidance. Further report has not been received (January 1992).

#### **4.2.17 Non-recovery of licence fee and interest**

The Haryana Liquor Licence Rules, 1970, provide for payment of monthly instalment of licence fee by the 20th of each month by a licensee holding licence for vending country liquor or Indian made foreign liquor. Failure to do so would render him liable to pay interest at 15 percent per annum from the first day of the relevant month upto the day of payment.

In Gurgaon, Bhiwani, Karnal and Jind districts, five vends for the year 1989-90 were auctioned in March 1989 for Rs. 39.92 lakhs. Against this the licensees deposited Rs. 39.35 lakhs upto March 1990, resulting in short deposit of Rs. 56620 which was not demanded by the Department. Besides, interest amounting to Rs. 10,506 was also recoverable upto March 1991.

On the omission being pointed out (between July 1990 and October 1990) in audit, the Department recovered (July 1990 and February 1991) Rs. 24,152 in two cases. Report on recovery of the balance amount of Rs. 42,974 has not been received (January 1992).

#### 4.2.18 Non-recovery of additional excise duty due to irregular adjustment of security

Under the Punjab Excise Fiscal Orders, 1932, as applicable to Haryana and amended by Government notification dated 2nd March 1989, the rate of duty on country spirit was to be charged as under :

- (i) Basic excise duty — Rs. 9.57 per proof litre.
- (ii) Additional excise duty — Rs. 2.43 per proof litre.

Further, under the Haryana Liquor Licence Rules, 1970, licences for vending country liquor and Indian made foreign liquor are granted by auction. A successful bidder is required to deposit by way of security, an amount equal to  $16 \frac{2}{3}$  per cent of the annual licence fee (bid money). The entire amount of security or its ninety per cent, as may be deemed proper by the Commissioner, shall be adjusted against the last instalments of licence fee payable by him unless the same or any part thereof is forfeited or adjusted against any amount of fee or penalty payable by him in respect of his licence. After adjustment of ninety per cent of the amount of security, the remaining ten per cent shall be refundable to the licensee after adjusting therefrom any kind of arrears due to Government from him after the close of the financial year.

In Ambala district four country liquor vends with an annual quota of 1,75,000 proof litres, were auctioned for the year 1989-90. The licencees paid the duties on 88,951.5 proof litres of country liquor upto September 1989. On being granted a stay by the Punjab and Haryana High Court, the licensees stopped payment of additional excise duty in October 1989. The Court, in April 1990, dismissed the petition and held the levy of additional excise duty as legally valid.

Scrutiny of records in the office of D.E.T.C., Ambala (October 1990) revealed that the Department had incorrectly adjusted the entire amount of security of Rs. 14.39 lakhs towards the monthly instalments of licence fee of January and February 1990 whereas the Department should have adjusted only ninety per cent of the security

amount and retained the balance 10 per cent which amounted to Rs. 1.44 lakhs, pending decision by the court on the levy of additional excise duty. The entire amount of additional excise duty of Rs. 2.09 lakhs becoming due from the licensees on receipt of the decision of the court has remained unrealised (June 1991) as the Department lost the opportunity of realising the additional excise duty to the extent of Rs. 1.44 lakhs due to incorrect adjustment of full amount of security.

On the omission being pointed out (October 1990) in audit, the Department stated (January 1991) that recovery proceedings were under progress. Further report on recovery has not been received (January 1992)..

#### **4.2.19 Loss due to non observance of prescribed procedure regarding auction of vends.**

The Haryana Liquor Licence Rules, 1970, inter-alia, provide that if any person whose bid has been accepted by the Presiding Officer at the auction, fails to deposit the prescribed amount of security or refuses to accept the licence, the Collector or any officer authorised in this behalf may re-sell the licence in public auction at the risk and cost of the defaulting bidder and the deficiency in licence fee shall be recoverable from him as arrears of land revenue.

(i) In Bhiwani and Rohtak districts, one country liquor vend and one Indian made foreign liquor vend, were auctioned (March 1989) for Rs. 7.10 lakhs and 11.02 lakhs respectively for the year 1989-90. The successful bidders signed the bid sheets (March 1989) and deposited 5 per cent security (March 1989) but refused to accept the licences and deposit the balance security. The collector re-auctioned (March and April 1989) the vends for Rs. 4.75 lakhs and Rs. 7.31 lakhs respectively and directed (April 1989) the Deputy Excise and Taxation Commissioner, Rohtak to initiate proceedings for recovery of deficient amount of Rs. 3.16 lakhs from the defaulting bidder. No action except forfeiture of security of Rs. 35,500 was taken by the Department to realise the deficient amount of Rs. 2 lakhs from the defaulting bidder of Bhiwani district.

On the omission being pointed out (May 1990) in audit, the Department stated (April 1991) that the recovery was being effected in one case of Rohtak district. As regards the case of Bhiwani district, the Department stated that it was not valid contract as the bidder had not deposited the full amount of security, and as such no loss was caused to the State. The reply of the Department is contradictory as in a case relating to Rohtak district, the Department agreed to recover the deficient amount whereas in the other case stated that the amount is not recoverable though facts and circumstances of both the cases were similar in nature. Report on recovery in case of Rohtak district is awaited (January 1992).

(ii) A country liquor vend in Hisar district for the year 1989-90 was auctioned on 6th March 1989, for Rs. 25.85 lakhs. The vend was re-auctioned on 20th March 1989 for Rs. 24.41 lakhs on the plea that the bid sheets were not signed by the successful bidder. An audit scrutiny (April 1990) revealed that the plea taken for re-auction of vend was not correct as the bid sheet and the knocked down slip were signed by the successful bidder. The Department, however, failed to recover the prescribed security deposit from the successful bidder on the spot. The lapse on the part of the Department resulted in loss of Rs. 1.44 lakhs.

Further, plea of the Department that no loss occurred to the State as the contract was not valid due to non-deposit of security is also not sustainable as it is not in conformity with the provisions of rule 36(27) ibid which inter-alia states that "if a bidder refuses to deposit security amount, the vend shall be re-auctioned at his risk and cost".

(iii) In Kurukshetra district, 9 vends for retail sale of country liquor were auctioned on 10th March 1989 in three groups consisting of three vends each. The first and second groups were knocked down for Rs. 46.05 lakhs and for Rs. 17.25 lakhs respectively in favour of the same bidder. While the auction of third group (given by the same person) reached Rs. 21.05 lakhs, the bidder walked out of the pandal. This bidder also refused to sign bid sheets for the first and second groups

These vends were re-auctioned on 23rd March 1989, for Rs. 78.45 lakhs (Rs. 47.05, 15.30 and 16.10 lakhs respectively). Failure of the Department to complete the bid papers after fall of hammer in respect of each group of vends resulted in loss of Rs. 0.95 lakh in respect of first two groups and Rs. 4.95 lakhs for the third group.

On the omission being pointed out (May 1990) in audit, the Department stated (April 1991) that no valid contract came into existence as the successful bidder did not deposit 5 per cent security. The reply of the Department is not acceptable as refusal to deposit security by the bidder after fall of hammer renders him liable to make good any loss which the Department may suffer as a result of re-auction.

#### 4.2.20. Non-disposal of alcoholic preparations

The Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, provide that any goods warehoused may be left in the warehouse in which they are deposited for a period of three years or such extended period as the Excise Commissioner in each case may allow. The owner of any such goods remaining in the warehouse shall, before the expiry of the stipulated period, clear the same for consumption in the State after payment of duty or for removal in bond to another bonded warehouse or for exportation.

In three pharmaceutical units at Karnal and Jind, finished/unfinished medicines with alcoholic preparations lying in warehouse before December 1986 were not cleared till March 1991. No steps had been taken by the Department for the disposal of the stocks of alcoholic preparations involving excise duty amounting to Rs. 41,394.

On this being pointed out between December 1989 and March 1991 in audit, the Department recovered Rs. 15,608 between December 1989 and February 1990. Report on recovery of balance amount has not been received (January 1992).



#### 4.2.21 Loss of revenue due to non-compliance of the prescribed provisions for auction of vend.

The Punjab Intoxicants License and Sale Orders, 1956, provide that no licence for the sale of liquor or drugs may be given unless either there is an ascertained demand for such liquor or drugs in the locality concerned or it is granted to counteract the illicit supply of liquor. Further, when it is proposed to grant a licence for the retail vend on any premises which was not licensed in the preceding year, the Collector shall take all reasonable steps to ascertain the opinion of persons who reside or have property in the neighbourhood of that vend.

Under the Punjab Gram Panchayat Act, 1952, as applicable to Haryana, a Gram Panchayat may pass resolution that intoxicating liquor may not be sold at any licenced shop within the local area of the Gram Panchayat.

In Rohtak district two liquor vends (one for country liquor and one for Indian made foreign liquor) were closed in 1986-87 on the basis of a resolution passed by the Gram Panchayat. On 17th February 1987, a resolution purported to have been passed by the Gram Panchayat was sent to the Department for re-opening of two vends. The Gram Panchayat on coming to know of it made a representation on 4th March 1987 to the Deputy Commissioner/Department objecting to the opening of the vends in the village. The Deputy Commissioner after holding enquiry, informed the Department on 7th March 1987 not to open the vends. Disregarding the advice of the Deputy Commissioner, the vends for the year 1987-88 were auctioned on 10th March 1987 for Rs. 11.90 lakhs and 6.10 lakhs. The Gram Panchayat filed a civil writ petition in the Punjab and Haryana High Court on 28 March 1987. The Court after granting interim stay on 30th March 1987 quashed the impugned auction on 15 July 1987 as the resolution of the Panchayat dated 17 February 1987 was found to be fake. Thus the vends did not function during the year 1987-88. The vend relating to sale of Indian made foreign liquor was auctioned for 1986-87 for Rs. 8.85 lakhs at a nearby site. In 1987-88 this vend was proposed for auction in the new village instead of its

old site of 1986-87. The shifting of vend from old site to new site despite the earlier resolution of Gram Panchayat and its representation dated 4th March 1987 and adverse recommendations of the Deputy Commissioner dated 7th March 1987 deprived the Government of, the potential revenue of Rs. 8.85 lakhs or so which it would have earned in case the vend had been auctioned at old site.

On this being pointed out (October 1988) in audit, the Department gave no justification except that the vends were closed on the decision of the Court.

The matter was reported to Government in October, 1988; their reply has not been received (January 1992).

#### **4.2.22 Interest not recovered**

The Haryana Liquor Licence Rules 1970, provide for payment of monthly instalment of licence fee by the 20th of each month by a licensee holding licence. Failure to do so render him liable to pay interest at the rate of 15 per cent per annum from the first day of the relevant month upto the date of payment of instalment or any part thereof deposited after due date.

Licencees in Bhiwani, Jind and Karnal districts, failed to pay the monthly instalments of licence fee by the prescribed dates during the years 1987-88 to 1989-90. Interest of Rs. 46,492 was chargeable on belated payment of licence fee which was not demanded.

On the omission being pointed out (between October 1988 and October 1990) in audit, the Department recovered (between October 1989 and March 1991) Rs. 15,511. Report on recovery of balance amount is awaited (January 1992).

#### **4.2.23 Non-recovery of penalties**

Under the Punjab Excise Act, 1914, as applicable to Haryana, penalty is leviable in the event of contravention of any of the provisions of the Act or of any rule, notification or order made, issued or given thereunder.

Test check of records in audit of five offices (Gurgaon, Karnal, Rohtak, Jind and Bhiwani) revealed that no action had been taken to recover the amount of Rs. 1.66 lakhs in respect of penalties imposed by the Department in 56 cases during the period from 1987-88 to 1989-90.

On this being pointed out between October 1988 and March 1991 in audit, the Department recovered between September 1990 and December 1990 Rs. 22,730 in four cases. Report on recovery of the balance amount has not been received (January 1992).

#### **4.2.24 Non-reconciliation of remittances into treasuries**

Under the Punjab Subsidiary Treasury Rules, as applicable to Haryana, the head of office is required to maintain a remittance book in which particulars of challans tendered by the licencees (depositors) in token of having made the payment of licence fee, excise duty, export and import fee etc. into the treasury are to be recorded. The figures noted in the book are required to be reconciled with the treasury each month by the 15th of the following month.

(i) A scrutiny of records of the office of the Deputy Excise and Taxation Commissioner Bhiwani and of the Treasury, revealed that details of a sum of Rs. 64.47 lakhs appearing in the treasury books between March 1989 and January 1990 were not found recorded in the remittance book of the Department though certificate of reconciliation with treasury was recorded in the register every month after adopting the grand total as per Treasury record. This shows that effective reconciliation was not done.

This was pointed out (October 1990) in audit, but final reply has not been received (January 1992).

(ii) There was difference in figures of receipts, from excise duties for the years 1987-88 to 1990-91 as supplied by the Department and those appearing in the

Finance Accounts of the State Government as per table given below :

Year	Figures furnished by the department	Figures as per Finance Accounts (In lakhs of rupees)	Difference
1987-88	15865.88	15853.65	+12.23
1988-89	19313.61	19287.13	+26.48
1989-90	23664.90	23668.00	-3.10
1990-91	28675.47	28635.10	+40.37

On this being pointed out (July 1991) in audit, the Department stated (July 1991) that the matter was under investigation and field offices were directed to reconcile the figures every month.

The above cases were reported to Department/Government (July 1991); reply has not been received (January 1992). Further report is awaited.

#### 4.3 Recovery at the instance of Audit

In 51 cases, non-recovery of interest, penalty, import duty, fixed fee and excise duty amounting to Rs. 7.87 lakhs was accepted and recovered by the Department.

### B—Taxes on Motor Vehicles

#### 4.4 Non levy of token tax

(i) Under the Motor Vehicles Act, 1939, no person shall drive any motor vehicle nor cause or permit the vehicle to be driven in any public place or in any other place for the purpose of carrying passengers or goods 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 brought on road without payment of tax at the prescribed rate.

In 23 cases, where the vehicles had been plying without payment of tax, an amount of Rs. 1.52 lakhs was recovered between April 1990 and May 1991 on being pointed out in audit. Further in respect of 34 vehicles owned by various public undertakings, tax amounting to Rs. 1.87 lakhs not recovered earlier due to grant of irregular exemptions was recovered between August 1990 and April 1991 at the instance of audit.

On 9 buses belonging to Haryana Roadways at Rohtak and Hisar, tax amounting to Rs. 59,153 had not been charged for the quarters ending June 1989 and December 1989 although the buses were plying before getting these registered.

On the omission being pointed out (February 1991 and April 1991) in audit the Department recovered Rs. 33412 in May 1991. Report on recovery of balance amount has not been received (January 1992).

(ii) The Punjab Motor Vehicles Taxation Act, 1924 and the rules made thereunder, as applicable to Haryana allow a person an exemption from payment of tax in respect of a vehicle 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 deposit the registration certificate with the licensing officer provided that he sends an advance intimation of his intention not to use the vehicle during the quarter for which exemption is claimed. Further, when a vehicle is found to be plying for a token period in a quarter, the tax has to be paid for the entire quarter.

Haryana Roadways (Karnal Depot) did not deposit tax in respect of six buses for the quarters ending between September 1989 and March 1990 though these buses continued to ply after deposit of registration certificate and beyond the periods upto which tax had been paid, resulting in tax amounting to Rs. 38,239 not being realised.

On the omission being pointed out (October 1990) in audit, the Department stated (February 1991) that



a notice for recovery had been issued. Further progress on recovery has not been received.

The above cases were reported to Government between November 1990 and April 1991; their reply has not been received (January 1992).

#### 4.5 Recovery at the instance of audit

In 42 cases (where money value of each case was less than Rs. 20,000), non-recovery or short recovery of token tax amounting to Rs. 31480 was accepted and recovered.

### C—Taxes and Duties on Electricity

#### 4.6 Levy and collection of Electricity Duty

##### 4.6.1 Introductory

Electricity Duty (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 (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 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.

##### 4.6.2. Scope of Audit

The records in the Office of the Chief Electrical Inspector (C.E.I.) to the Government of Haryana, Chandigarh and 19 (out of 185) operation sub-divisions of the Board for the period 1986-87 to 1990-91 (upto January 1991) were test checked between November 1990 and April 1991 with a view to ascertaining that the duty had correctly been levied and promptly paid and credited to Government Account.

#### 4.6.3. 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 and 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 agriculture installations and to issue licences under the Indian Electricity Act, 1910 and the Indian Electricity Rules 1956.

#### 4.6.4. Highlights

(i) Irregular grant of exemption of duty resulted in non-realisation of duty amounting to Rs. 24.53 lakhs.

(ii) Arrears on account of uncollected duty (ending March 1991) amounted to Rs. 20.63 crores of which Rs. 6.35 crores related to the period 1966-67 to 1985-86.

(iii) Duty amounting to Rs. 444.17 lakhs realised from the consumers during April 1986 to March 1991 was shown by the Board as its own revenue and not paid to the Government.

(iv) Shortfall in statutory inspection of installations resulted into revenue loss of inspection fee amounting Rs. 44.42 lakhs.

#### 4.6.5. Trend of revenue

The estimated collection of duty (including inspection fee and other receipts) and the actual receipts for the



five years ending 1990-91 are given below :

Year	Budget estimates	Actuals	Variations Increase (+) Decrease (—)	Percent- age of varia- tion Increase (+) De- crease (—)
1	2	3	4	5
(In crores of rupees)				
1986-87	34.22	27.21	(—)7.01	(—)20
1987-88	32.35	27.67	(—)4.68	(—)14
1988-89	33.88	33.36	(—)0.52	Negli- gible
1989-90	35.00	29.42	(—) 5.58	(—)16
1990-91	34.00	34.36	(+) 0.36	Negli- gible

The decrease of 20 per cent and 14 per cent in 1986-87 and 1987-88 respectively as stated by the Department was due to less sale of electricity than anticipated in the budget, while the decrease (16 per cent) in 1989-90 was due to less realisation of electricity duty by the Board.

#### 4.6.6. Irregular grant of exemption

(a) Under the Punjab Electricity (Duty) Act, 1958, no electricity duty is leviable on the sale or consumption of energy which is consumed or 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 consumption of energy by Military Engineering Services in respect of commercial and industrial undertakings and shops, street lighting, cinemas etc., for the entertainment of defence personnel and other than bonafide supply to departmental colonies.

(i) Audit Scrutiny of Panchkula sub-division of the Board, revealed (April 1991) incorrect allowance of exemption from levy of duty to a commercial and industrial undertaking resulting in non-realisation of electricity duty to the extent of Rs. 20.51 lakhs on 120.62 lakh units consumed during the period November 1986 (date of grant of electric connection) to March 1991, by treating the same as a Government connection.

On the omission being pointed out (April 1991) in audit, the Board recovered (July 1991 and August 1991) Rs. 10.60 lakhs and stated (August 1991) that balance amount of Rs. 9.91 lakhs is being recovered in monthly instalments.

(ii) While releasing electric connection to MES (Garrison Engineer) Hisar (Connected load 250 KW) on 17th June, 1982, duty on consumption of energy for street lighting (connected load 24 KW as per test report) was not levied although street lighting was not exempt from the levy of electricity duty. This resulted in non-levy of duty amounting to Rs. 1.14 lakhs (worked out on monthly average basis as prescribed by the Board) for the period June 1982 to November 1990.

On the omission being pointed out (December 1990) in audit, the Board asked (March 1991) the consumer to intimate the break up of connected load separately for street lighting, cinema, shops, staff quarters etc. Further report has not been received (January 1992).

(iii) In Ambala cantonment sub-division, electricity duty was not levied and collected from the Post and Telegraph Department in respect of energy supplied to tubewell connection (released in a departmental colony on 31st October 1979 for water supply), treating it as

a bonafide consumption of the Department. It was observed (March 1991) in audit that since the energy consumed by this tubewell was for the departmental P&T colony, duty was leviable. Irregular exemption resulted in non-realisation of duty amounting to Rs. 12,302 from April 1986 to February 1991.

On the omission being pointed out (March 1991) in audit, the Department accepted the objection and asked (April 1991) the concerned Sub-divisional Officer to charge duty from the consumer. Further progress is awaited (January 1992).

(b) The State Government by notifications issued in March 1970 and January 1981 exempted the new units with prescribed limit of capital investment and set up in the specified area from the payment of whole of the electricity duty for a period ranging from 3 to 7 years from the date of production. The exemption certificates were to be issued by the Chief Electrical Inspector upto May 1974 and thereafter by the Industries Department.

(i) District Industries Centre, Hisar allowed (April 1983 and March 1985) exemption from the payment of duty to a unit in two spells (21 March 1983 to 20 March 1985 and 21 March 1985 to 20 March 1988). Audit scrutiny (December 1990) revealed that the Board released electric connection to the consumer in March 1982 and the consumer had already consumed 1.58 lakh units of energy during the year 1982-83 i.e. prior to the commencement of first spell of exemption period viz., 21 March 1983. Since exemption is allowable to the new industrial unit only, the exemption granted to the unit already established was irregular and resulted in non-realisation of duty amounting to Rs. 1.63 lakhs during the period 21 March 1983 to 20 March 1988.

On the irregularity being pointed out (December 1990) in audit, the Department called for (March 1991) from the District Industries Centre, Hisar and the Sub-Divisional Officer concerned, the actual date of commencement of production. Final reply has not been received despite issue of reminder (January 1992).

(ii) An Ice and Cold storage unit at Jind was granted (July 1975) exemption from the payment of duty by the District Industries Centre Jind for a period of 7 years with effect from 31st March 1974 which was withdrawn subsequently on receipt of clarificatory orders (October 1976) from Government that Cold Storage units being non-manufacturing units did not qualify for exemption from duty. The unit, was, however, again allowed (May 1982) similar exemption for a period of 7 years from 29 April 1982 to 28 April 1989. It was noticed (December 1990 and March 1991) in audit that a similar exemption for the period of 7 years with retrospective effect from 31st March 1974 was allowed in January 1986 on the receipt of orders from Government issued in pursuance of the decision of Punjab and Haryana High Court.\* The amount of electricity duty realised during the period March 1974 to May 1981 was also refunded to the unit (July 1986), but the exemption for the period from 29 April 1982 to 28 April 1989 allowed (in May 1982) was not withdrawn thereby resulting in non-realisation of duty amounting to Rs. 1.13 lakhs for the period June 1983 to April 1989. Records prior to June 1983 though called for in audit (December 1990) were not made available.

On the omission being pointed out (December 1990) in audit, the Department did not accept audit objection and stated (March 1991) that the two exemptions related to two different units in separate premises as the connected load of factory was bifurcated on 8 March 1983. The reply of the Department is not tenable as both the exemptions were allowed to the same unit and for the same premises and the connected load of the unit was bifurcated on 19 May 1983 i.e., after the expiry of exemption period commencing from 31 March 1974 to 30 March 1981 and after the start of the other exemption period from 29 April 1982.

#### **4.6.7. Electricity duty not charged after expiry of exemption period**

The State Government by a notification issued in January 1981 allowed exemption from the payment of

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\*M/s Anand Cold Storage, Gharaunda (Karnal) v/s Government of Haryana (1981) CWP 138.

whole of the electricity duty to the new industrial units with prescribed limit of capital investment and set up in the specified areas, for a period ranging from 3 to 7 years from the date of production.

In 3 sub-divisions of the Board at Panchkula, Panipat and Karnal, it was noticed (June 1990 and February 1991) in audit that exemption from payment of duty had been allowed to 11 consumers even beyond the expiry of exemption period. This resulted in non realisation of duty amounting to Rs. 1.31 lakhs.

On the omission being pointed out (June 1990 and February 1991) in audit, the Department charged (November 1990) Rs. 55,430 in the accounts of 3 consumers and recovered (March 1991) Rs. 33,602 from 2 consumers. Report on recovery of balance amount of Rs. 21,828 as also action taken against remaining 8 consumers has not been received (January 1992).

#### 4.6.8. Electricity duty not charged on light load consumption

The State Government by notifications issued in January 1981 and December 1988 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. Further, the Punjab Electricity (Duty) Rules, 1958, as applicable to Haryana, provide that where part of supply of energy is dutiable and part is exempt, the consumer shall instal an additional, suitable and correct meter or submeter to record the quantities of the two kinds of consumption separately.

It was noticed in audit (between December 1990 and March 1991) in the six sub-divisions test checked that the District Industries Centres allowed exemptions from the payment of duty on power load consumption to 26 units for the various periods. The Department did not charge duty on light load consumption also from these units. The Board had neither installed nor asked the consumers to instal separate meters for recording consumption of light energy. The omission resulted in



non-realisation of duty amounting to Rs. 1.29 lakhs on light energy (worked out on monthly average basis) for various periods between April 1986 to January 1991.

On this being pointed out in audit (between December 1990 and March 1991), the Department charged (between December 1990 and February 1991) Rs. 99,752 in the accounts of 18 consumers, out of which Rs. 86,453 had been recovered between January 1991 and March 1991. Report on charging of balance duty of Rs. 0.29 lakh and recovery of balance amount of Rs. 13,299 has not been received (January 1992).

#### **4.6.9 Short realisation of electricity duty on monthly minimum charges**

As per Appendix XI of the Memorandum Explanatory on the Budget of Haryana Government, where the monthly minimum charges (MMC) are recoverable from the consumers (other than domestic and commercial) under the various schedules of electricity tariff's, the duty is leviable on the MMC in accordance with the rates of duty prescribed for relevant categories of consumers.

In eight cases pertaining to two sub-divisions (Fatehabad and Panchkula), duty was charged on the basis of units consumed instead of charging after converting the monthly minimum charges into units on the basis of tariff applicable to each consumer. This resulted in short realisation of duty amounting to Rs. 73,612 for the period May 1987 to December 1990.

On this being pointed out (December 1990 and January 1991) in audit, the Board did not accept the objections stating that electricity duty was charged on actual consumption of energy. The reply of the Board is not tenable in view of the provisions stated above.

#### **4.6.10. 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 alongwith the bills for energy

supplied and shall be deposited into the 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.

It was noticed (March 1991) in audit that the Board collected duty during the years 1986-87 to 1990-91 from the consumers in cash alongwith the bills for energy supplied every month and retained the whole of the duty so collected without any orders of the competent authority. At the end of each financial year, the State Government adjusted the payment of duty towards loan to the Board by contra receipt of the amount in the State exchequer as electricity duty under the relevant heads of account as tabulated below :

Year	Duty asses- sed	Duty reali- sed	Deposi- ted during the year	Amount of loan sanc- tioned	Date of loan sanc- tioned
1	2	3	4	5	6
(In crores of rupees)					
1986-87	26.81	25.02	Nil	26.24	27th March 1987
1987-88	27.87	25.61	Nil	27.80	29th March 1988
1988-89	34.14	30.22	Nil	33.03	30th March 1989
1989-90	34.00	30.26	Nil	29.00	30th March 1990
1990-91	38.11	38.57	Nil	34.00	26th March 1991



#### 4.6.11. Arrears of electricity duty

Arrears on account of un-collected duty ending March 1991, as intimated by the Department, amounted to Rs. 20.63 crores. Out of this, an amount of Rs. 6.35 crores relates to the period 1966-67 to 1985-86. Year-wise details are given below :

Year	Revenue	Amount realised	Progres- sive	Percen- tage to the total revenue realised (Col. 2 & 3).
1	2	3	4	5
(In crores of rupees)				
Upto 1985-86	N.A.	6.35	6.35	—
1986-87	27.21	0.62	6.97	2.28
1987-88	27.67	1.28	8.25	4.63
1988-89	33.36	4.92	13.17	14.75
1989-90	29.42	4.12	17.29	14.00
1990-91	34.36	3.34	20.63	9.72
		<b>20.63</b>		

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

(i) Deferment of duty of Rs. 99 lakhs due from Haryana Concast limited by the Government due to weak financial position of the Company.

(ii) Pendency of 16 cases involving duty of Rs. 40.28 lakhs in the Civil/Arbitrators courts. —

(iii) Duty of Rs. 30.03 lakhs due from M/s Dadri Cement Factory, Dadri likely to be written off as the Commissioner of payments appointed on liquidation of the Company refused to accept the claim of the Department for payment of electricity duty.

(iv) Non-adjustment of misclassified amount of electricity duty by the H.S.E.B.

#### 4.6.12. 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.

The Internal Audit Wing of the Chief Electrical Inspector pointed out between April 1986 to March 1991 that the duty amounting to Rs. 707.06 lakhs realised alongwith the monthly bills was misclassified by the Board as its own revenue instead of crediting to Government account. Out of this Rs. 266.44 lakhs were adjusted during 1986-87 to 1990-91 leaving a balance of Rs. 440.62 lakhs as on 31st March 1991. Year-wise break-up of the balance misclassified duty is given below :

Year	Duty Misclassified	Misclassified duty adjusted	Outstanding misclassified duty as on 31st March, 1991
1	2	3	4
(In lakhs of rupees)			
1986-87	101.08	30.58	70.50
1987-88	122.91	47.29	75.62

1	2	3	4
1988-89	126.53	52.29	74.24
1989-90	224.50	112.76	111.74
1990-91	132.04	23.52	108.52
	707.06	266.44	440.62

On this being pointed out (April 1991) in audit, the Chief Electrical Inspector intimated (April 1991) that the matter was taken up (May 1990) with the Board for the adjustment of pending amount. Further report has not been received (January 1992).

A few cases of misclassification of duty not detected by the Internal Audit Wing of the Chief Electrical Inspector are given below :

In City Sub-Division Hansi, five consumers deposited monthly energy bills amounting to Rs. 21.26 lakhs (including duty of Rs. 3.55 lakhs) relating to the period February 1987 to October 1990 in parts. The entire amount (including duty of Rs. 3.55 lakhs) was classified as Board's revenue and the Board omitted to pay duty to the Government. This resulted in non-payment of duty of Rs. 3.55 lakhs to the Government.

The omission was pointed out (November 1990) in audit. Reply of the Department is awaited (January 1992).

#### **4.6.13. Shortfall in statutory inspection of electrical installations**

The State Government, by a notification issued in July 1981, directed that all extra high, high voltage and medium voltage 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 three years respectively. The inspection fee 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 fee in advance to the Chief Electrical Inspector.

It was noticed (April 1991) in audit that there was shortfall in the number of statutory inspections in the case of medium/small power installations during the years 1986-87 to 1990-91 as per table below :

Year	Number of installations	Number due for inspection	Number actually inspected	Short fall in inspection	Percentage of shortfall
1986-87	49,647	16,549	1,000	15,549	94
1987-88	54,298	18,099	500	17,599	97
1988-89	56,536	18,845	1,400	17,445	93
1989-90	59,000	19,666	1,000	18,666	95
1990-91	60,825	20,275	700	19,575	97
	2,80,306	93,434	4,600	88,834	95

The Shortfall in the prescribed number of inspections involving revenue loss of inspection fees at the rate of Rs. 50 per installation amounted to Rs. 44.42 lakhs, could also jeopardise public safety and increase the chances of electrical hazards. On this being pointed out (April 1991) in audit, the Department attributed the shortfall to inadequacy of staff and to the restriction of the duration of tours to ten days in a month.

#### 4.6.14. 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, inspection fee 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 between October 1990 and April 1991 that challans in proof of payments of inspection fee and licence fee into different treasuries of the State were received by the Electrical Inspectorate but monthly reconciliation with treasury records was not done.

The table below indicates the figures of receipts of inspection fees and other receipts for the years 1986-87 to 1990-91 as shown in the Finance Accounts of the State Government.

Year	Inspection fee	Other receipts
	(In lakhs of rupees)	
1986-87	91.74	5.47
1987-88	27.91	0.95
1988-89	31.49	1.37
1989-90	39.65	3.37
1990-91	34.56	1.38

On being pointed out (October 1990 and April 1991) in audit, the Department stated (May 1991) that the confirmation regarding depositing of the amount into the treasuries was being obtained from the concerned treasury and reconciliation could not be carried out due to shortage of staff.

The foregoing points were reported to the Government (July 1991), followed by reminder (September 1991).

## CHAPTER 5

### NON-TAX RECEIPTS

#### 5.1. Results of Audit

Test check of records of departmental offices dealing with assessment, collection and realisation of non-tax receipts, conducted in audit during the year 1990-91, revealed under assessment or losses of revenue amounting to Rs. 129.48 lakhs in 4345 cases as indicated below :

Name of department	Number of cases	Amount (In lakhs of rupees)
(A) Mines and Geology	352	120.07
(B) Medical	3988	9.05
(C) Agriculture	5	0.36
	4345	129.48

Some of the important cases noticed in 1990-91 and earlier years are mentioned in the following paragraphs.

#### A—MINES AND GEOLOGY

#### 5.2. Short recovery of royalty and interest

Under the Punjab Minor Minerals Concession Rules 1964, as applicable to Haryana, a lessee to whom the mining lease is granted shall pay royalty at specified rates on minor minerals despatched from the leased area. Lease deeds executed for this purpose may also stipulate extraction of a minimum quantity of mineral so that even if the lessee extracts lesser quantity, he will be liable to pay royalty on the basis of this minimum quantity. Default or delay in payment shall make the lessee liable for payment of interest at a rate of 15 per cent per annum.

(i) In Gurgaon, mining lease for Sehsoia mines for extraction of sand from an area of 159.66 hectares, was granted to a lessee for a period of ten years from 13th September 1988 to 12th September 1998. According to the lease deed, the lessee was under obligation to extract minimum 300 tonnes of sand per hectare per annum. Minimum royalty payable at the rate of Rs. 5 per tonne for two years from 13th September 1988 to 12th September 1990 worked out to Rs. 4.79 lakhs against which the lessee paid Rs. 63058 thereby resulting in short recovery of royalty amounting to Rs. 4.16 lakhs. Besides, interest of Rs. 78929 (worked out upto 30th November 1990) was also chargeable for short payment of royalty.

On the omission being pointed out (March 1990 and January 1991) in audit, the Department issued (October 1990 and August 1991) notices for recovery. Further report on recovery has not been received (January 1992). In the meantime another amount of Rs. 0.47 lakh has become due as interest upto August 1991.

(ii) In Faridabad, mining lease for extraction of sand from an area of 162 hectares was granted to a lessee for a period from 16th May 1985 to 7th May 1995. According to the lease deed, the lessee was under obligation to extract minimum 300 tonnes of sand per hectare per annum. Minimum royalty payable at the rate of Rs. 5 per tonne for the period from 16th May 1989 to 15th May 1990 worked out to Rs. 2.43 lakhs against which the lessee paid Rs. 2.20 lakhs, resulting in short/non-recovery of royalty amounting to Rs. 22,950. Besides, interest amounting to Rs. 9645 for non-payment of royalty was also chargeable for the period 16th May 1989 to 30th November 1990.

On the omission being pointed out (November 1990) in audit, the Department stated (May 1991) that the amount was being recovered.

The above cases were reported to Government between March 1990 and March 1991; their reply has not been received (January 1992.)



### 5.3 Non-recovery of Surface Rent, Water Charges and interest thereon

Under the Minerals Concession Rules, 1960 and the Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, a lessee to whom the mining lease is granted, shall pay surface rent and water charges for the surface area occupied/used by him for the purposes of mining operations at such rates not exceeding the land revenue, water and cesses assessable on the land as may be fixed by the Government and specified in the lease deed. In Haryana, land revenue was abolished with effect from 16 October 1986. Further, simple interest at the rate of 12 per cent (15 per cent from 16th June 1987) per annum is also recoverable for the period of default.

In Bhiwani, mining lease for extraction of copper, zink and Kankar from an area of 1633.07 acres was granted (August 1984) to a lessee for a period of twenty years. The lessee was required to pay surface rent and water charges at the rate of Rs. 4 and Rs. 20 per acre per annum respectively. Neither had the lessee deposited surface rent and water charges nor did the Department take action for recovering of the same, thereby, resulting in non-recovery of surface rent and water charges amounting to Rs. 2.21 lakhs (surface rent Rs. 0.14 lakh and water charges Rs. 2.07 lakhs). Besides, interest of Rs. 1.11 lakhs was also chargeable for non-payment of the dues.

On the omission being pointed out, (November 1990) in audit, the Department issued notice for recovery (December 1990). Report on recovery has not been received.

The case was reported (May 1991) to the Government; their reply has not been received (January 1992).

### 5.4 Loss of revenue due to defective execution of lease deed

Under the Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, a lessee to whom the mining lease is granted, shall pay royalty on minor mine-

rals despatched from the leased area at specified rates. Lease deeds executed for this purpose may also stipulate extraction of a minimum quantity of mineral so that even if the lessee extracts lesser quantity, he will be obliged to pay royalty on the basis of this minimum quantity.

In Faridabad, a mining lease for extraction of sand from an area of 60.16 hectares was granted (July 1984) to a private lessee for ten years. The lease deed so executed stipulated that the lessee shall pay minimum royalty on the basis of 300 metric tonne per hectare per annum. The lease was, however, terminated prematurely by Government in October 1986 in order to grant it to Haryana Minerals Limited, a Public Sector Undertaking, which took possession of the mining area on 4th October 1986. However, in the lease deed executed with Haryana Minerals Limited, the clause to pay royalty on the basis of minimum quantity of 300 metric tonne per hectare per annum was erroneously omitted to be incorporated with the result that the lessee did not pay any royalty on the plea that no mineral was extracted by them from the mining area from the date of occupation till 14th January 1991. The defective execution of lease deed deprived the Government of revenue of Rs. 3.32 lakhs for the period from 4th October 1986 to 14th January 1991.

On the omission being pointed out (January 1991) in audit, the Department stated (May 1991) that the said clause has been incorporated in the lease deed with effect from 15th January 1991 and simultaneously Government have been requested to waive off the arrears of royalty upto 14th January 1991. Further report has not been received (January 1992).

The case was reported to the Government (June 1991) followed up by reminder (August 1991); their reply has not been received (January 1992).

### **5.5 Short calculation of interest**

Under the Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, a mining lease for quarrying is granted by auction or by inviting tenders to the highest bidder. The lessee is required to deposit 25 per

cent of the annual bid money as security and one twelfth of the annual bid money as advance payment immediately on the allotment of the contract. The balance of the contract money is payable in advance, in monthly instalments due on 16th of every month. In the event of default in payment, the competent authority may by giving a notice, terminate the contract and forfeit the security. Interest at the rate of 15 per cent per annum is also recoverable for the period of default.

In Ambala, a contract for extraction of boulder, gravel and sand from the quarry of village Kotian was granted (April 1988) through auction for the period from 16-4-88 to 31-3-90. As the contractor failed to pay the monthly instalments, the Department terminated (April 1989) the contract and took over possession of the quarry in April 1989 and thereafter issued (December 1989) recovery certificate for recovery of balance amount of contract money of Rs. 38.78 lakhs and interest of Rs. 4.83 lakhs calculated upto 3-12-89. Audit scrutiny (December 1990) revealed that interest upto 3-12-89 actually worked out to Rs. 6.29 lakhs instead of Rs. 4.83 lakhs. Incorrect calculations resulted in short demand of interest amounting to Rs. 1.46 lakhs.

On the mistake being pointed out (December 1990) in audit, the Department accepted the omission and stated (December 1990) that action was being taken to recover the amount as arrears of land revenue. Report on recovery has not been received (January 1992).

The case was reported to Government in January 1991 followed up by reminder in March 1991; their reply has not been received (January 1992).

#### **5.6 Recovery at the instance of Audit**

In 3 cases, non recovery of contract money, royalty, and dead rent etc. amounting to Rs. 87,972 was accepted and recovered by the Department.

## B—MEDICAL

### 5.7 Misappropriation of Government revenue

As per departmental instructions issued in October 1989, medical officers in Haryana were competent to issue medical certificates under the new Motor Vehicles Act, 1989, to the applicants for a driving licence. They were required to charge a fee of Rs. 15 in each case and money so realised was to be deposited into the Government treasury.

In the office of Chief Medical Officer, Jind, 1800 medical certificates were issued during the period from 2nd November 1989 to 2nd February 1990 and fee realised amounting to Rs. 27,000 was not deposited in the Government treasury.

On the omission being pointed out (October 1990) in audit, the Department stated (January 1991) that efforts were being made to recover the amount. Report on recovery has not been received (January 1992).

The case was reported to Government in October 1990; their reply has not been received (January 1992).

## C—AGRICULTURE

### 5.8 Non-recovery of purchase tax and interest

The Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 and the Rules made thereunder, as applicable to Haryana, require the occupier or agent of a factory to pay tax not exceeding Rs. one and fifty paise per quintal, on sugarcane purchased by him by the prescribed date. In the event of default, interest at the rate of fifteen per cent per annum shall be chargeable for the period of default.

In Rohtak, a sugar mill purchased 16092.20 quintals of sugarcane in April 1990 from Uttar Pradesh but did not deposit purchase tax of Rs. 24,138 which was due to be paid by 14th May 1990. Besides, interest amounting to Rs. 3789 (upto May 1991) was also chargeable for non-payment of tax.

On the omission being pointed out (April 1991) in audit, the Department intimated (June 1991) that sugar mill was being asked to deposit the purchase tax alongwith interest.

The case was reported to Government in April 1991; their reply has not been received (January 1992).

#### **D—CO-OPERATION**

##### **5.9. Short recovery of audit fee**

Under the Punjab Co-operative Societies Rules, 1963 as applicable to Haryana, every co-operative society is liable to pay audit fee as prescribed by Government for audit of its annual accounts by the auditors of the Co-operation Department. The fee is charged as a percentage of the net profit of the society subject to certain minimum and the maximum limits. In the case of a credit and service society, the audit fee is chargeable at the rate of 5 per cent of its net profit subject to a minimum of Rs. 500.

In the office of Assistant Registrar of Co-operative Societies, Ferozepur Jhirka, audit fee amounting to Rs. 500 was recovered from a credit and service society on the basis of net profit reflected in the accounts for the co-operative year 1987-88 before this was audited by the Department. Later, on completion of audit of accounts of the society (October 1988) additional fee amounting to Rs. 27,490 became recoverable on the basis of audited figures of net profit, but the same was not demanded.

On the omission being pointed out (December 1989) in audit, the Department stated (February 1991) that efforts were being made to recover amount less recovered.

Report on recovery has not been received (August 1991). The case was reported to the Government (March 1991); their reply has not been received (January 1992).

**CHANDIGARH**

The

**(RAGHUBIR SINGH)**

**Accountant General (Audit) Haryana**

**Countersigned**

**NEW DELHI**

The

**(C.G. SOMIAH)**

**Comptroller and Auditor General of India**