



**Report of the
Comptroller and Auditor General
of India**

for the year ended March 1998

**No. 1
Revenue Receipts**

Government of West Bengal

Finance: Dep. H. (Budget Branch)
20/1/99 6P-2/98

Rs. 129
(Free of Cost)

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PREFATORY REMARKS

The Report for the year ended 31 March 1998 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, land revenue, state excise, motor vehicles tax, amusements tax, other tax receipts, mines and minerals, forest and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1997-98 as well as those noticed in earlier years but could not be covered in previous years' Reports.

Overview

Overview

This Report contains 57 paragraphs including 2 reviews relating to non-levy, short levy of tax, interest, penalty etc involving Rs. 668.08 crore. Some of the major findings are mentioned below:

The Government's receipts for the year 1997-98 amounted to Rs. 9027.82 crore against Rs. 8227.12 crore for the year 1996-97. 55 per cent (Rs. 4966.27 crore) of this was raised by the State through tax revenue (Rs. 4516.78 crore) and non-tax revenue (Rs. 449.49 crore). 45 per cent (Rs. 4061.55 crore) was received from the Government of India in the form of State's share of divisible Union taxes (Rs. 3047.77 crore) and grants-in-aid (Rs. 1013.78 crore) during the year 1997-98. *[Paragraph 1.01]*

The arrears in collection of revenue increased by 22 per cent over the previous year. Outstanding revenue at the end of March 1998 amounted to Rs. 620.25 crore in respect of Sales Tax (Rs. 343.21 crore), Electricity Duty (Rs. 163.75 crore), Agricultural Income Tax (Rs. 92.14 crore) and Amusements Tax (Rs. 21.15 crore) while it was Rs. 507.71 crore in the previous year. *[Paragraph 1.05]*

Test check of records of the Sales Tax, Motor Vehicles Tax, Land Revenue, State Excise, Amusements Tax, Other Departmental Receipts etc conducted during the year 1997-98, revealed underassessment, short levy of revenue amounting to Rs. 888.35 crore in 832 cases. The departments concerned accepted underassessments etc of Rs. 811.40 crore in 725 cases of which Rs. 804.97 crore in 528 cases pertain to the year 1997-98 and the rest to earlier years. *[Paragraph 1.07]*

As on 30 June 1998, 1247 inspection reports, issued up to December 1997 containing 3,850 audit observations involving receipts amounting to Rs. 540.32 crore, were outstanding for want of response or final action by the concerned departments. *[Paragraph 1.08]*

Sales Tax

Incorrect determination of gross turnover in the case of 8 dealers under 4 charge offices resulted in short levy of sales tax including additional sales tax and turnover tax amounting to Rs. 67.46 lakh. *[Paragraph 2.02]*

Excess allowance of concessional rate of tax resulted in non/short levy of tax to the extent of Rs. 50.63 lakh in 2 charge offices. *[Paragraph 2.03]*

In the case of 8 dealers under 6 charge offices turnovers escaped assessment resulting in non/short levy of tax to the extent of Rs. 46.78 lakh. *[Paragraph 2.04]*

By not imposing a penalty on a Calcutta dealer for irregular collection of sales tax there was a loss of revenue of at least Rs. 24.35 lakh. *[Paragraph 2.11]*

There was short realisation of tax amounting to Rs. 15.96 lakh due to allowance of excess credit to 3 dealers in Calcutta. *[Paragraph 2.13]*

Land Revenue

Although the irregular transfer of Government land in Nadia district by the Fisheries department to a private company was regularised at the instance of audit, revenue to the extent of Rs. 62.65 lakh was yet to be realised. In 3 other cases, land revenue of Rs. 310.24 lakh had not been realised, even though land measuring 275.25 acres had been transferred to Central/State Undertakings. *[Paragraph 3.02]*

In South 24-Parganas district delay of 23 years in settlement of Government land resulted in loss of revenue to the extent of Rs. 17.02 lakh. *[Paragraph 3.03]*

State Excise

Undue benefit derived by 2 country liquor manufacturers from *operational increase* in the quantity of spirit distilled resulted in non-realisation of additional fee amounting to Rs. 6.21 lakh. [Paragraph 4.02]

Delay in removal of accumulated stock of IMFL from 5 warehouses in Calcutta district resulted in blockage of revenue amounting to Rs. 25.34 lakh for about 8 years.

[Paragraph 4.03]

Motor Vehicles Tax

Failure of the Public Vehicles Department to refix the seating capacity and record the same in the Registration Certificates of Ambassador taxis in Calcutta for over 12 years resulted in loss of revenue to the extent of Rs. 104.54 lakh. [Paragraph 5.02]

There was failure on the part of the department to collect additional tax amounting to Rs. 22.61 lakh from 98 vehicle owners in Jalpaiguri region due to incorrect application of the High Court's direction. [Paragraph 5.08]

Amusements Tax

A review on 'Assessment and collection of amusement tax' revealed the following points:

Lack of proper initiative on the part of the tax enforcement authorities to collect the particulars of registered cable operators available with head post offices resulted in non-levy and non-realisation of revenue to the extent of Rs. 346.67 lakh from cable operators. In addition, there was non-realisation of revenue of Rs. 12.18 lakh in respect of unregistered cable operators. [Paragraph 6.02.06]

Failure to conduct surprise check/inspection led to shortfall in collection and evasion of entertainment tax of Rs. 80.27 lakh from cinema hall owners.

[Paragraphs 6.02.08 and 6.02.09]

Absence of proper survey and follow-up action for assessment resulted in non/short levy of tax and penalty to the tune of Rs. 65.25 lakh from the owners of VCR/VCP sets. [Paragraph 6.02.07]

Fine of Rs. 57.33 lakh was not imposed although the offences by 4 cinema hall owners were of *continuing nature*. [Paragraph 6.02.11]

Best judgement assessment, without reference to available records led to undercharge of entertainment tax to the tune of Rs. 9.99 lakh in respect of a five star hotel in Calcutta. [Paragraph 6.02.13]

Tax of Rs. 11.34 lakh was not levied on the proceeds of special shows, despite non-fulfilment of the conditions of grant of exemption. [Paragraph 6.02.16]

Other Tax Receipts

There was evasion of stamp duty and registration fees to the extent of Rs. 888.91 lakh involving 562 sale deeds registered in Delhi and Mumbai while properties were situated in Calcutta and adjoining districts. [Paragraph 7.02]

Failure to enrol 517 professional entities like nursing homes, pathology laboratories, stamp vendors, money lenders, cable operators etc led to non-collection of profession tax amounting to Rs. 8.35 lakh in 5 districts. [Paragraph 7.05]

Undervaluation of 26 properties registered in Hooghly district resulted in evasion of stamp duty and registration fees amounting to Rs. 5.95 lakh. *[Paragraph 7.03]*

Mines and Minerals

Treatment of wet sand as dry sand resulted in loss of cess revenue to the extent of Rs. 9.40 lakh in Burdwan district. *[Paragraph 8.03]*

Interest amounting to Rs. 33.44 lakh for delayed payment of mining dues was not imposed in 3 cases. *[Paragraph 8.06]*

Forest Receipts

Cesses to the extent of Rs. 5.39 lakh were not realised for extraction and removal of boulders from 2 forest divisions treating the royalty paid on forest produce to include elements of cess. *[Paragraph 9.02]*

Other Non-tax Receipts

A review on 'Assessment and collection of water rate' revealed the following points:

The expenditure incurred on maintenance of water courses, collection charges etc was far in excess of revenue collected as water rates, the difference being Rs. 361.09 crore during the period from 1992-93 to 1996-97. *[Paragraph 10.02.06]*

Non-utilisation of irrigation potential created resulted in loss of revenue to the extent of Rs. 49.93 crore. *[Paragraph 10.02.07]*

Non-utilisation of available water in an irrigation project involved revenue to the tune of Rs. 93.93 crore. *[Paragraph 10.02.08]*

Failure to issue notification, non-preparation/non-receipt of test notes, non-assessment and non-realisation etc contributed towards shortfall in revenue to the extent of Rs. 67.42 crore. *[Paragraph 10.02.09]*

Penalty to the tune of Rs. 5.79 crore was not imposed for diversion of normal flow of canal water besides non-realisation of water rate to the extent of Rs. 0.58 crore. *[Paragraph 10.02.11]*

Certificate proceedings to recover water rate amounting to Rs. 33.52 crore were not initiated. *[Paragraph 10.02.12]*

Incorrect determination resulted in diminution of arrear demand to the extent of Rs. 13.98 crore. *[Paragraph 10.02.14]*

CHAPTER 1

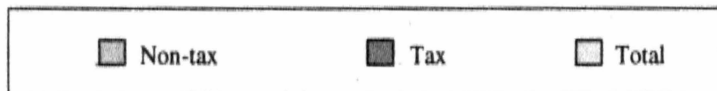
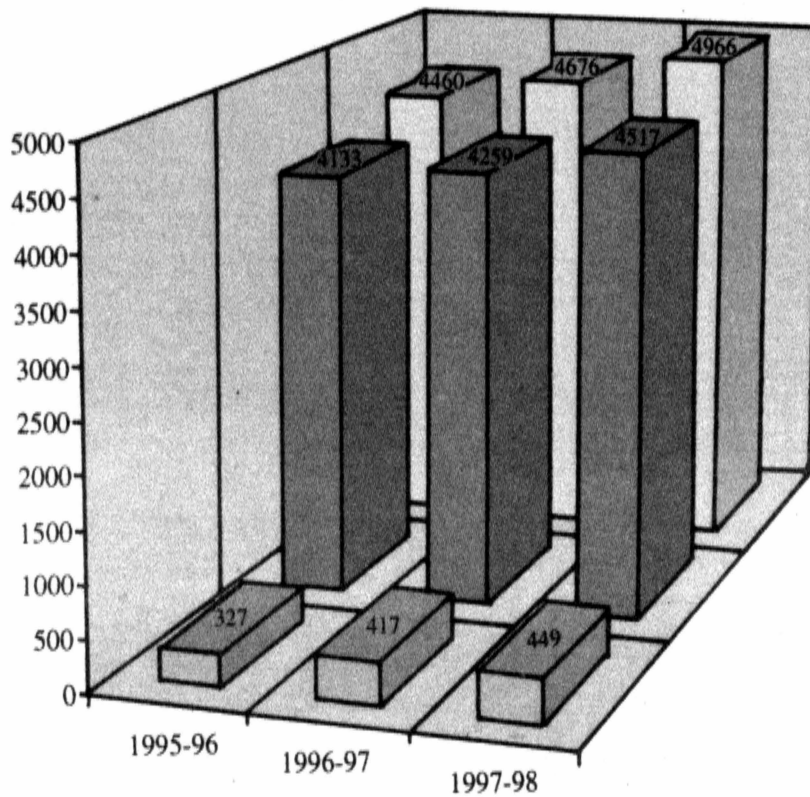
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GENERAL

CHART I

Tax and non-tax revenue raised by West Bengal Government

Amount in crore of rupees



GENERAL

1.01 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of West Bengal during the year 1997-98, State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding 2 years are given below and exhibited in Chart I:

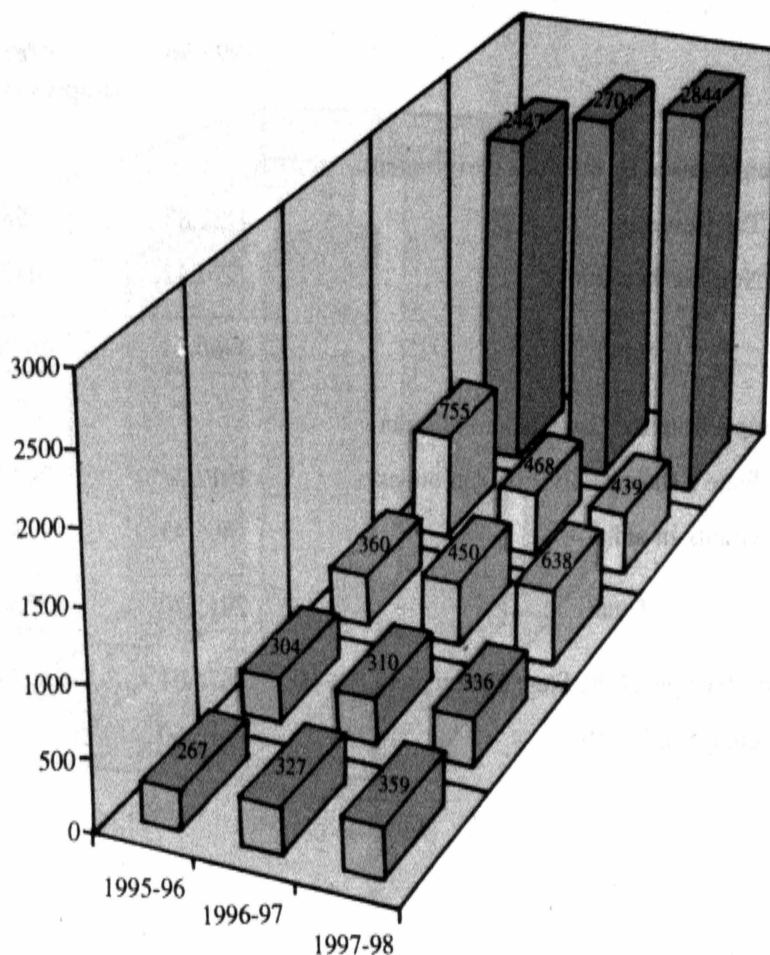
	1995-96	1996-97	1997-98
	(Rupees in crore)		
I. Revenue raised by the State Government			
(a) Tax Revenue	4132.87	4258.90	4516.78
(b) Non-tax Revenue	327.47	417.45	449.49
Total	<u>4460.34</u>	<u>4676.35</u>	<u>4966.27</u>
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	2017.27	2420.15	3047.77
(b) Grants-in-aid	898.43	1130.62	1013.78
Total	<u>2915.70</u>	<u>3550.77</u>	<u>4061.55</u>
III. Total Receipts of the State Government (I + II)	7376.04	8227.12	9027.82*
Percentage of I to III	60	57	55

*For details please see statement number 11 'Detailed Accounts of Revenue by Minor Heads' in the Finance Accounts of the Government of West Bengal for the year 1997-98. Figures under the head '0021—Taxes on Income other than Corporation Tax—Share of net proceeds assigned to States' booked in the Finance Accounts under A—Tax Revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

CHART II

Tax revenue raised by West Bengal Government

Amount in crore of rupees



State Excise Stamp Duty and Registration Fees Other Taxes Land Revenue Sales Tax

Others also include Taxes on Goods and Passengers, Other Taxes on Income and Expenditure, Taxes on Vehicles, Taxes on Agricultural Income, Taxes and Duties on Electricity, Taxes on Immovable Property other than Agricultural Land and Other Taxes and Duties on Commodities and Services.

(i) The details of the tax revenue raised during the year 1997-98, along with corresponding figures for the preceding 2 years are given below and exhibited in Chart II:

(Rupees in crore)

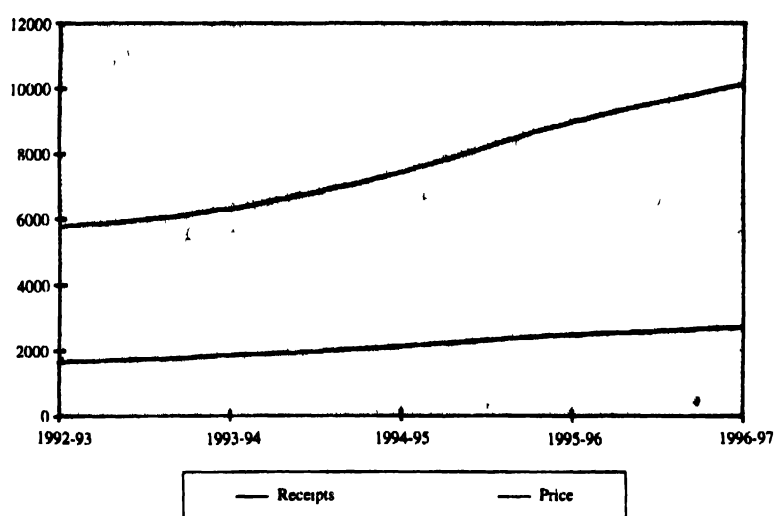
	1995-96	1996-97	1997-98	Percentage of increase (+)/ decrease (-) in 1997-98 over 1996-97
1. Sales Tax	2447.23	2704.16	2844.31	(+) 5.18
2. State Excise	266.78	326.80	358.79	(+) 9.79
3. Land Revenue	755.31	468.31	439.46	(-) 6.16
4. Stamps and Registration Fees	304.00	309.81	335.82	(+) 8.40
5. Other Taxes	359.55	449.82	538.40	(+) 19.69
Total	4132.87	4258.90	4516.78	(+) 6.06

(ii) The increase of receipts from sales tax and the State Domestic Product (SDP) for manufacturing units are indicated below:

(Rupees in crore)

Year	Receipts from sales tax	Percentage increase of sales tax receipts over last year	SDP for manufacturing units	Percentage increase of SDP over last year
1992-93	1622.42	14.67	5759.57	7.50
1993-94	1813.22	11.76	6327.29	9.86
1994-95	2091.18	15.33	7434.43	17.50
1995-96	2447.23	17.03	8982.80	20.83
1996-97	2704.16	10.50	10119.09	12.65

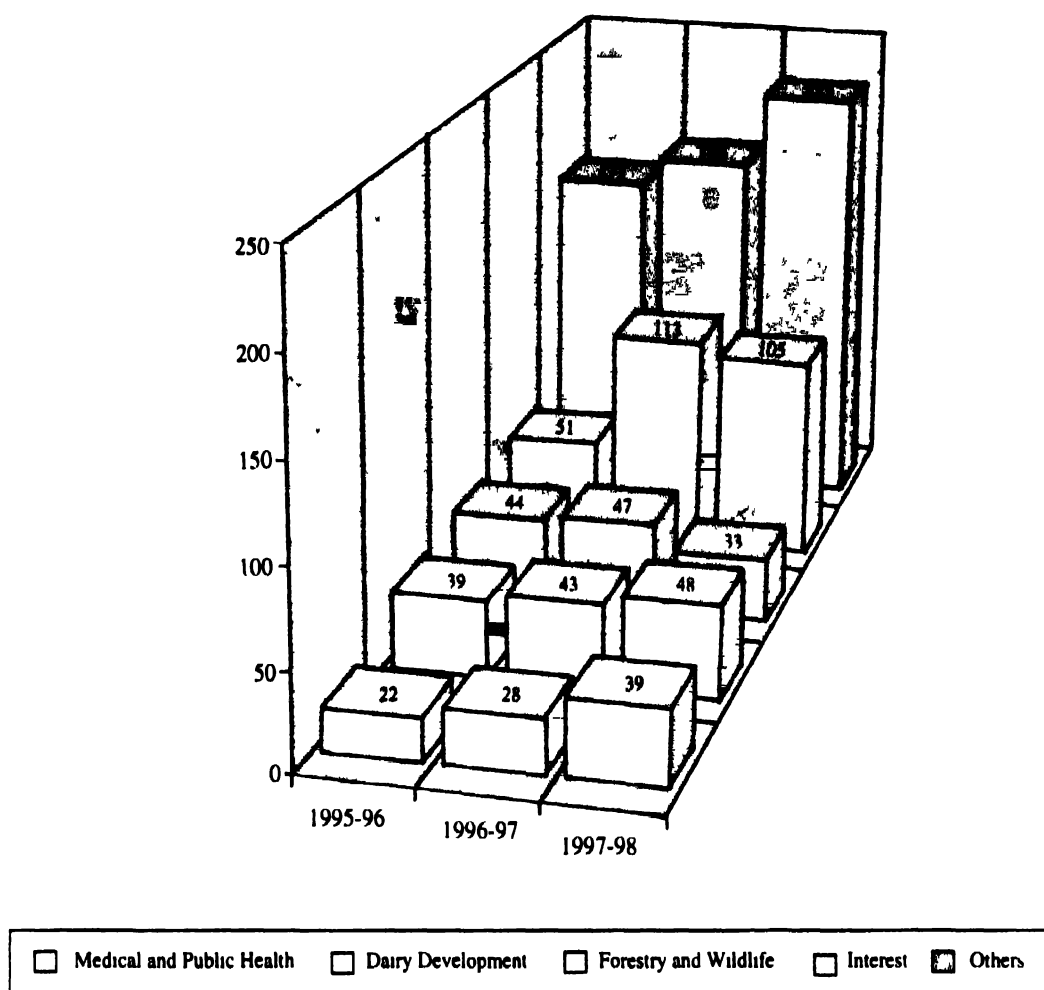
A graphic representation follows:



(Figures in crore of rupees)

[Source : Economic Review 1997-98]

CHART III
Non-tax revenue raised by West Bengal Government
Amount in crore of rupees



Others also include Police, Education, Sports, Arts and Culture, Industries, Non-ferrous Mining and Metallurgical Industries, Minor Irrigation, Roads and Bridges and Social Security and Welfare

The reasons for non-consonance between the rate of increase in receipts from sales tax and the SDP from the year 1993-94 were stated (December 1997) by the department to be remission and deferment of taxes on purchases, existence of tax free items and enjoyment of tax holidays by the newly set up industries. However, as observed in paragraph 2.02 of the Audit Report (Revenue Receipts) for the year 1995-96, the short realisation of revenue amounting to Rs. 13.84 crore was primarily due to irregular deferment of taxes (Rs. 13.20 crore) as well as irregular grant of remission to ineligible industrial units (Rs. 64.41 lakh). For the year 1996-97, however, the reasons for lack of harmony are yet to be received from the department.

(iii) The details of major non-tax revenue receipts during the year 1997-98, along with corresponding figures for the preceding 2 years are given below and exhibited in Chart III:

	1995-96	1996-97	1997-98	(Rupees in crore)
				Percentage of increase (+)/ decrease (-) in 1997-98 over 1996-97
1. Interest	50.94	112.76	104.89	(-) 6.98
2. Medical and Public Health	22.31	28.31	38.61	(+) 36.38
3. Dairy Development	39.36	43.37	47.95	(+) 10.56
4. Forestry and Wildlife	44.27	47.01	33.16	(-) 29.46
5. Others	170.59	186.00	224.88	(+) 20.90
Total	327.47	417.45	449.49	(+) 7.68

The reasons for variations in receipts during 1997-98 as compared to those of 1996-97, as furnished by the departments, are as under:

(a) *Sales Tax*: The increase (5.18 per cent) was due to larger collection under the Central Sales Tax Act as well as larger collection of surcharge on sales tax.

(b) *State Excise*: The increase (9.79 per cent) was due to larger receipts on account of sale of country fermented liquors, malt liquors and foreign liquors.

(c) *Stamps and Registration Fees*: The increase (8.40 per cent) was due to escalation of duties on judicial and non-judicial stamps.

(d) *Medical and Public Health*: The increase (36.38 per cent) was due to larger receipts from Employees' State Insurance Scheme.

(e) *Forestry and Wildlife*: The decrease (29.46 per cent) was due to less collection from sale of timber and other forest produce.

1.02 Additional resource mobilisation

In order to cope up with the non-plan and plan requirements of the State, the State Government is to take resort to additional resource mobilisation due to shortage of revenue generating from major sources like tax/non-tax revenue and grants-in-aid received from the Government of India.

Additional resource mobilisation in this State is generally envisaged through imposition of new taxes, upward revision of taxes as well as rationalisation of the tax structure. The details of expected additional resources proposed to be raised during the last 5 years ending March 1998 are given below:

General

(Rupees in crore)						
Sl.	Source of revenue	1993-94	1994-95	1995-96	1996-97	1997-98
1.	Upward revision and rationalisation of the rate of sales tax	31.00	42.00	30.00	—	—
2.	Rationalisation of the rates of stamp duty for registration	—	—	—	10.00	—
3.	Imposition of taxes on entry of goods by introduction of separate legislation* Rs 20 crore					
	Less provisions for exemption to newly set up industries Rs. 11 crore	9.00	—	—	—	—
4.	Upward revision of the rate of excise duty	—	—	—	20.00	—
5.	Imposition of luxury tax on tobacco products	—	40.00	—	—	—
6.	Restructuring of motor vehicles tax**	—	—	—	5.00	—
7.	(a) Bringing more luxurious and costly items under the WB Luxury Tax Act, 1994 Rs. 10 crore					
	(b) Imposition of additional surcharge on sales tax Rs. 60 crore					
	Less concession/relief Rs. 28 crore	—	—	—	—	42.00
8.	Raising the rate of cess on coal under different Acts relating to land revenue	—	—	—	40.00	—
9.	Other taxes	—	—	—	5.00	—
Total		40.00	82.00	30.00	80.00	42.00

In the Budget Statement the additional resource mobilisation by way of taxation for the year 1993-94 was actually shown at Rs. 90 crore.

The quantum of additional resource mobilisation included in the budget estimates for the last 5 years ending March 1998 is indicated below:

(Rupees in crore)						
Year	Budgetary resources	Additional mobilisation of resources at current rate of taxation	Total	Actual collection of revenue	Excess (+)/ Shortfall (—)	Percentage of excess (+)/ shortfall (—)
1993-94	3792.75	40.00	3832.75	3221.55	(—) 611.20	(—) 15.9
1994-95	3739.75	82.00	3821.75	4072.28	(+) 250.53	(+) 6.6
1995-96	4367.15	30.00	4397.15	4460.34	(+) 63.19	(+) 1.4
1996-97	4858.19	80.00	4938.19	4676.35	(—) 261.84	(—) 5.3
1997-98	5897.64	42.00	5939.64	4966.27	(—) 973.37	(—) 19.6

There has been substantial shortfall in collection of revenue during the years 1993-94, 1996-97 and 1997-98. Thus, additional resources could not be mobilised.

1.03 Variations between Budget Estimates and Actuals

The variations between the Budget estimates and Actual receipts for the year 1997-98 under the principal heads of revenue are given below:

*Tax of Rs. 20 crore on entry of goods during 1993-94 was not imposed.

**Raising the rate of additional tax of Rs. 5 crore on motor vehicles was not effected.

(Rupees in crores)				
Heads of revenue	Budget estimates	Actual receipts	Variation increase (+)/ shortfall (-)	Percentage of variation increase (+)/ shortfall (-)
(A) Tax Revenue				
1. Sales Tax	3365.00	2844.31	(-) 520.69	(-) 15.47
2. State Excise	324.50	358.79	(+) 34.29	(+) 10.57
3. Land Revenue	733.20	439.46	(-) 293.74	(-) 40.06
4. Stamps and Registration Fees	418.00	335.82	(-) 82.18	(-) 19.66
5. Taxes on Goods and Passengers	0.10	0.00†	(-) 0.00	(-) 97.80
6. Other taxes on Income and Expenditure*	161.00	123.53	(-) 37.47	(-) 23.27
7. Taxes on Vehicles	145.00	147.92	(+) 2.92	(+) 2.01
8. Taxes and Duties on Electricity	105.00	136.92	(+) 31.92	(+) 30.04
9. Other taxes and duties on Commodities and Services**	223.50	121.20	(-) 102.30	(-) 45.77
10. Taxes on Agricultural Income	3.15	6.71	(+) 3.56	(+) 113.01
11. Taxes on Immovable Property***	2.70	2.12	(-) 0.58	(-) 21.48
Total	5481.15	4516.78	(-) 964.37	(-) 17.59
(B) Non-tax Revenue				
1. Interest	71.82	104.89	(+) 33.07	(+) 46.04
2. Medical and Public Health	75.58	38.61	(-) 36.97	(-) 48.91
3. Dairy Development	66.68	47.95	(-) 18.73	(-) 28.09
4. Forestry and Wildlife	54.00	33.16	(-) 20.84	(-) 38.59
5. Police	23.70	28.84	(+) 5.14	(+) 21.69
6. Non-ferrous Mining and Metallurgical Industries	13.58	8.43	(-) 5.15	(-) 37.92
7. Roads and Bridges	9.32	12.08	(+) 2.76	(+) 29.61
8. Industries	11.57	7.30	(-) 4.27	(-) 36.90
9. Education, Sports, Arts and Culture	9.19	6.06	(-) 3.13	(-) 34.06
10. Minor Irrigation	6.60	5.37	(-) 1.23	(-) 18.64
11. Social Security and Welfare	3.87	3.82	(-) 0.05	(-) 1.29
12. Other cases	112.38	152.98	(+) 40.60	(+) 36.12
Total	458.29	449.49	(-) 8.80	(-) 1.92

The department attributed the shortfall in collection in sales tax to the countrywide recession in the engineering industry.

The reasons for variations though called for (April 1998) from other departments were not furnished (September 1998).

†Actual collection is Rs. 22,828.

*This head includes receipts under Taxes on Professions, Trades, Callings and Employments.

**This head includes taxes under Entertainment, Betting, Luxury and receipts under Raw Jute Taxation Act.

***This head includes receipts under the West Bengal Multistoreyed Building Tax Act, 1975.

General

1.04 Cost of collection

Expenditure incurred on collection of revenue under some principal heads of revenue during the year 1997-98 and the preceding 2 years is given below:

Heads of Revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to collection	All India average (percentage)
(Rupees in crore)					
1. Sales Tax	1995-96	2447.23	31.79	1.30	1.29
	1996-97	2704.16	35.03	1.30	1.19
	1997-98	2844.31	40.42	1.42	
2. State Excise	1995-96	266.78	15.45	5.79	3.20
	1996-97	326.80	18.61	5.69	3.53
	1997-98	358.79	20.01	5.58	
3. Stamps and Registration Fees	1995-96	304.00	17.91	5.89	3.46
	1996-97	309.81	19.66	6.35	3.37
	1997-98	335.82	22.43	6.68	
4. Taxes on Vehicle	1995-96	119.13	4.09	3.43	2.57
	1996-97	134.27	4.52	3.37	2.60
	1997-98	147.92	5.14	3.47	

It would appear from the above table that the expenditure on collection of taxes in West Bengal was higher than the All India averages during the period from 1995-96 to 1996-97 in respect of State Excise and Stamps and Registration Fees.

1.05 Arrears of revenue

The details of arrears of revenue as furnished by some of the departments are indicated below:

Department	Revenue Head	Arrears at the end of	Arrears more than 5 years old	Remarks
(Rupees in crore)				
Finance	Sales Tax	March 1997	309.00	Despite pursuance at Government level, the Department did not furnish details of arrears covered under recovery proceedings and pending before judicial and departmental appellate authorities.
		March 1998	343.21	
			198.60	
			209.72	

The increase of 5.18 per cent (Rs. 140.16 crore) over the previous year's receipts through increase in Central sales tax collection and surcharge on sales tax, was offset by the 11.07 per cent increase in arrears over the previous year.

Electricity Duty	March 1997	106.37	—	Arrears were mainly due from the CESC Ltd. and the West Bengal State Electricity Board.
	March 1998	163.75		

Although there was an increase of 55.08 per cent (Rs. 48.63 crore) over the previous year's receipts there was substantial arrears of unrecovered revenue which increased by 53.94 per cent over the previous year.

Amusements Tax	March 1997	19.75	—	This included disputed amount of Rs. 7.32 crore in respect of dues for inter-State betting. An amount of Rs. 2.73 crore was covered by recovery certificates.
	March 1998	21.15		
Agricultural Income Tax	March 1997	29.10	—	An amount of Rs. 9.74 crore was covered by recovery certificates.
	March 1998	34.78		
Rural Employment Cess on tea	March 1997	36.69	—	There were 119 cases each under RE and PE cesses where more than Rs. 2 lakh in each case were outstanding. Recoveries stayed by the Hon'ble High Court amounted to Rs. 2.59 crore and Rs. 0.61 crore respectively.
	March 1998	42.43		
Primary Education Cess on tea	March 1997	6.80	—	
	March 1998	14.93		
Irrigation and Waterways	March 1997	39.18	—	For recovery of arrears proposals for induction of Panchayat bodies and posting of Revenue Officers in the vacant posts, besides monitoring at different circle offices were under consideration of Government.
	March 1998	40.58		

Information in respect of the Finance (Professions tax and Stamps and Registration fee), Forest, Commerce and Industries, Land and Land Reforms, Excise, Transport, Home, Public Works and Housing departments at the end of March 1998 was not received even at the end of November 1998 although the matter was taken at the level of Secretary/Principal Secretary to Government.

1.06 Arrears in assessment

The details of information regarding arrears in assessment from the Finance, Forest, Commerce and Industries, Land and Land Reforms, Excise, Transport, Home, Public Works and Housing departments though called for in April 1998 were not received (November 1998) except in the cases mentioned below:

Revenue Head	Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears in percentage (against total cases)
Sales Tax	1996-97	1,11,113	1,54,266	2,65,379	1,06,742	1,58,637	59.78
	1997-98	1,58,637	2,53,530	4,12,167	1,46,668	2,65,499	64.42
Agricultural Income Tax	1996-97	2,589	1,185	3,774	1,568	2,206	58.45
	1997-98	2,206	200	2,406	282	2,124	88.28
Amusements Tax	1996-97	1,030	476	1,506	420	1,086	72.11
	1997-98	1,086	1,348	2,434	549	1,885	77.44
Electricity Duty	1996-97	471	4	475	—	475	100.00
	1997-98	475	—	475	—	475	100.00

As is obvious from the above table, urgent remedial action to overcome these arrears is called for.

1.07 Results of audit

Test check of records of Sales Tax, Land Revenue, State Excise, Motor Vehicles Tax, Taxes on Agricultural Income, Forest and other departmental offices conducted during the year 1997-98 revealed underassessment/short levy/loss of revenue etc amounting to Rs. 888.35 crore in 832 cases. During the course of the year 1997-98, the concerned departments accepted underassessment etc of Rs. 811.40 crore involved in 725 cases of which 528 cases involving Rs. 804.97 crore were pointed out in audit during 1997-98 and the rest in earlier years.

This Report contains 57 paragraphs including 2 reviews involving financial effect of Rs. 668.08 crore which illustrate some of the major findings of audit. The Government/department have accepted audit observations involving Rs. 629.62 crore. Recovery made in 16 cases amounted to Rs. 2.05 crore. Audit observations with a total revenue effect of Rs. 0.25 crore have not been accepted by the Government/department but their contentions, having been found at variance with facts or legal provisions have been appropriately commented upon in the relevant paragraphs/reviews. Replies/final replies have not been received in respect of the balance amount.

1.08 Outstanding Inspection Reports and audit observations

1.08.01 Audit observations on incorrect assessments, underassessments, non-levy or short levy of taxes, duties and other revenue receipts as well as on irregularities and deficiencies in initial records of assessments noticed during local audit, which are not settled on the spot, are communicated to heads of offices and to higher authorities through inspection reports for prompt settlement. The important financial irregularities are also brought to the notice of heads of departments and Government for taking prompt corrective action. Government have prescribed that first replies to the inspection reports should be sent by heads of offices to heads of departments within three weeks from the date of receipt of the inspection report. The heads of departments, in turn are required to transmit the replies, along with their comments, to the Accountant General within two months from the date of receipt of the replies from their subordinate offices. Half-yearly statements of audit observations, pending settlement for want of final replies from the departmental authorities are also forwarded to Government in June and December every year for expediting clearance of outstanding observations.

1.08.02 The number of inspection reports and audit observations with money value on tax and non-tax heads, issued up to December 1997 which were pending settlement by the departments as on 30 June 1998, along with figures for the preceding 2 years, are given below:

	As on 30th June		
	1996	1997	1998
1. Number of outstanding inspection reports	1,285	1,106	1,247
2. Number of outstanding audit observations	3,637	3,470	3,850
3. Amount of receipts involved (rupees in crore)	196.55	318.80	540.32

1.08.03 Out of 1,247 inspection reports pending settlement as on June 1998, even the first reply had not been received in respect of 866 reports containing 3,014 audit observations. Department-wise details of such outstanding inspection reports and audit observations are given below:

Department	Number of inspection reports	Number of audit observations	Earliest years to which inspection report relates
1. Finance			
(a) Sales Tax	363	1,660	1988-89
(b) Entry Tax	72	101	1981-82
(c) Professions Tax	49	82	1984-85
(d) Stamps and Registration Fees	79	98	1983-84
(e) Agricultural Income Tax	18	46	1982-83
(f) Amusements Tax	47	93	1989-90
(g) Non-Judicial Stamps	6	7	1982-83
(h) Electricity Duty	40	70	1984-85
2. Forest			
Forest Receipts	32	48	1991-92
3. Commerce and Industries			
Mines and Minerals	44	177	1988-89
4. Land and Land Reforms			
Land Revenue	70	471	1984-85
5. Excise			
State Excise	13	58	1992-93
6. Transport			
Motor Vehicles Tax	9	23	1995-96
7. Others			
Departmental Receipts	24	80	1987-88
Total	866	3,014	

The above unsatisfactory position was reported to Government of West Bengal.

CHAPTER 2

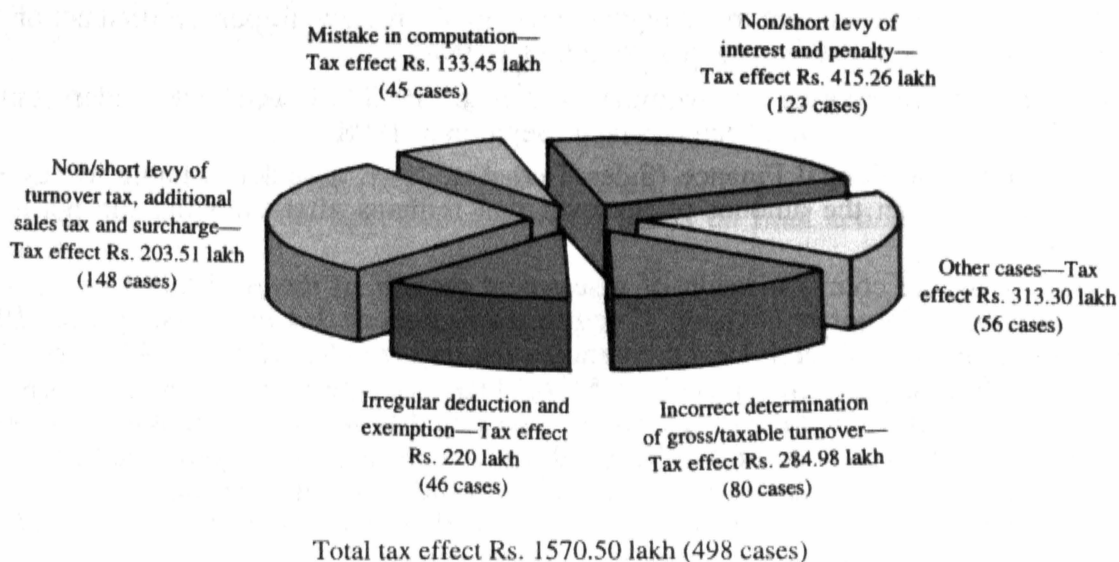
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SALES TAX

SALES TAX

2.01 Results of audit

Test check of records of the offices of the Commercial Taxes Directorate conducted in audit during the year 1997-98, revealed underassessments of tax and other irregularities involving Rs. 1570.50 lakh in 498 cases, which broadly fall under the following categories:



During the course of the year 1997-98 the Commercial Taxes Directorate accepted underassessments etc of Rs. 1420.29 lakh in 443 cases of which 362 cases involving Rs. 1024.84 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

A few illustrative cases involving Rs. 732.53 lakh highlighting important observations are given in the following paragraphs.

2.02 Incorrect determination of gross turnover

Incorrect determination of gross turnover in the case of 8 dealers under 4 charge offices resulted in short levy of sales tax including additional sales tax and turnover tax amounting to Rs. 67.46 lakh.

(a) Under the Bengal Finance (Sales Tax) Act, 1941, 'sale price' means the amount payable to a dealer as valuable consideration for the sale of any goods, including any sum charged for anything done by the dealer in respect of the goods at the time of, or before delivery thereof, other than cost of freight or delivery or the cost of installation, when such cost is separately charged. Accordingly, sales tax, excise duty, transport and handling charge recovered from customers form part of sale price and is includible in gross turnover.

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1995) a dealer for the year ending March 1993 element of sales tax of Rs. 56.76 lakh collected by the dealer was not included in the gross turnover. This resulted in short determination of gross turnover by Rs. 56.76 lakh with consequent short levy of tax to the extent of Rs. 5.48 lakh including additional sales tax and turnover tax.

On this being pointed out (August 1996) in audit, the department stated (February 1998) that a revised demand notice had been issued to the dealer, but due to non-payment of the amount the case had been referred (November 1997) to the certificate officer for realisation. Report on realisation has not been received (September 1998).

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(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Behala charge, Calcutta, it was noticed (November 1996) that in assessing (May 1995) a dealer for the years ending March 1993 and March 1994 excise duty and sales tax aggregating Rs. 41.20 lakh recovered by him from the customers were not included in the gross turnover. Incorrect determination of gross turnover by Rs. 41.20 lakh resulted in short levy of tax of Rs. 2.20 lakh inclusive of turnover tax.

On this being pointed out (November 1996) in audit, the department stated (September 1997) that the case had been sent to the higher authority for review. Report on final action taken by the department has not been received (September 1998).

The cases were reported to Government in January 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is liable to pay tax at the prescribed rates on the amount of turnover that remains after allowing the permissible deductions.

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1996) a dealer for the year ending March 1994 credit notes amounting to Rs. 1609.59 lakh were allowed to be deducted from the gross receipts of Rs. 5496.33 lakh for determination of gross turnover of the dealer. An examination of records, however, revealed that out of total amount as allowed by the assessing officer credit notes of Rs. 493.58 lakh related to the previous year and were required to be added back to the gross turnover of the dealer for the year under scrutiny. This resulted in short determination of gross turnover by Rs. 493.58 lakh with consequent short levy of tax of Rs. 49.45 lakh including additional sales tax and turnover tax.

On this being pointed out (July 1997) in audit, the department stated (March 1998) that the case was pending in appeal. Report on final action taken has not been received (September 1998).

(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (April 1995) a dealer for the year ending March 1993 his miscellaneous taxable sales amounting to Rs. 16.73 lakh were incorrectly deducted from the gross turnover instead of adding back to it. The mistake resulted in short determination of gross turnover by Rs. 33.45 lakh with consequent short levy of tax to the extent of Rs. 3.35 lakh including additional sales tax and turnover tax.

On this being pointed out (March 1997) in audit, the department stated (March 1998) that the entire amount had been realised (December 1997).

(iii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1996) a dealer for the year ending March 1994 his claim for consignment sale was allowed to the extent of Rs. 13.67 lakh out of total claim of Rs. 391.73 lakh. A scrutiny of records, however, revealed that an amount of Rs. 356.98 lakh was added back to gross turnover as disallowed claim of consignment sales incorrectly instead of Rs. 378.06 lakh. The mistake resulted in short determination of gross turnover by Rs. 21.08 lakh with consequent short levy of tax to the extent of Rs. 2.11 lakh including additional sales tax and turnover tax.

On this being pointed out (March 1997) in audit, the department stated (August 1998) that appellate order had been passed taking the audit observations into consideration and notice had been issued to the dealer. Report on realisation has not been received (September 1998).

(iv) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Bankura charge, Bankura, it was noticed that in assessing a dealer under the State Act, his inter-State sales of goods were determined at Rs. 20 lakh each for the year ended March 1993 and for the year ended March 1994, but at the time of computation of tax his sales under the Central Act, were incorrectly taken at Rs. 10 lakh each instead of at Rs. 20 lakh resulting in short determination of turnover by Rs. 20 lakh with consequent short levy of tax of Rs. 2 lakh.

On this being pointed out (July 1997) in audit, the department stated (February 1998) that the cases had been referred (February 1998) to the higher authority for *suo motu* revision. Report on further action taken has not been received (September 1998).

(v) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1996) a dealer for the year ending March 1994 his gross turnover was determined at Rs. 2678.53 lakh after allowing admissible deduction from gross sales of Rs. 2680.64 lakh. A scrutiny of annual accounts filed by the dealer and kept with case records, however, revealed that his gross turnover was correctly to be determined at Rs. 2697.27 lakh. This resulted in short determination of gross turnover by Rs. 18.74 lakh with consequent short levy of tax to the tune of Rs. 1.88 lakh inclusive of additional sales tax and turnover tax.

On this being pointed out (August 1997) in audit, the department stated (May 1998) that the case was lying before the appellate authority. Report on final action taken has not been received (September 1998).

(vi) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Berhampore charge, Murshidabad, it was noticed (August 1996) that in assessing (April 1996) a dealer for the year ending March 1994 his tax-paid sale of Rs. 170.95 lakh was allowed to be deducted from the gross turnover of Rs. 187.04 lakh. However, his taxable turnover was incorrectly determined at Rs. 6.19 lakh instead of the correct amount of Rs. 16.09 lakh. This resulted in short determination of taxable turnover by Rs. 9.90 lakh with consequent short levy of tax of Rs. 99,183 inclusive of additional sales tax and turnover tax.

On this being pointed out (August 1996) in audit, the department stated (October 1997) that case records had been sent (November 1996) to the appellate authority in connection with appeal case. Report on final action taken by the department has not been received (September 1998).

The cases were reported to Government between October 1996 and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.03 Excess allowance of concessional rate

Excess allowance of concessional rate of tax resulted in non/short levy of tax to the extent of Rs. 50.63 lakh in 2 charge offices.

(a) Under the Central Sales Tax Act, 1956 and the rules made thereunder read with the notification issued in March 1991, inter-State sales of non-ferrous sheets to registered dealers are taxable at the concessional rate of two per cent if such sales are supported by prescribed declarations obtainable from the purchasing dealers. Otherwise such sales are liable to tax at the normal rate of ten per cent or at the State rate, whichever is higher.

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed (October 1996) that while assessing (June 1995) a dealer for the year ending March 1993 out of his total claim of inter-State sales of aluminium sheets amounting to Rs. 288.71 lakh made to registered dealers, sales turnover of Rs. 25.36 lakh was allowed on the basis of prescribed declaration while balance amount of Rs. 263.35 lakh was disallowed for want of adequate evidences. However, while computing tax such disallowed amount of Rs. 263.35 lakh was incorrectly considered as admissible claim. This resulted in excess allowance of claim of concessional rate on Rs. 237.99 lakh with consequent short levy of tax of Rs. 19.04 lakh.

On this being pointed out (October 1996) in audit, the department stated (September 1998) that the dealer had made payment in August 1998 against revised demand notice.

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(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1996) a dealer for the year ending March 1994 his claim for concessional rate of tax of 2 per cent was allowed on Rs. 1368.60 lakh being sales of non-ferrous metal to registered dealers duly supported by prescribed declarations. Scrutiny of statement of declaration forms kept with case records, however, revealed that out of the total claim of Rs. 1368.60 lakh, claim of Rs. 45.12 lakh was inadmissible. This resulted in excess allowance of claim of concessional rate on Rs. 45.12 lakh with consequent short levy of tax by Rs. 3.61 lakh.

On this being pointed out (August 1997) in audit, the department stated (February 1998) that a proposal for necessary correction had been sent to the higher authority. Report on final action taken by the department has not been received (September 1998).

The case was reported to Government in November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales of goods other than declared goods to registered dealers are taxable at the concessional rate of four per cent provided such sales are supported by prescribed declarations obtainable from purchasing dealers, otherwise such sales are exigible to tax at the normal rate of ten per cent or at the State rate whichever is higher.

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed (August 1997) that in assessing (June 1996) a dealer for the year ending March 1994 his claim for concessional rate of tax of 4 per cent was allowed to the extent of Rs. 951.84 lakh being sales to registered dealers duly supported by declaration forms. Scrutiny of supporting statement of declaration forms, however, revealed that the said sum included 17 declaration forms amounting to Rs. 34.15 lakh not related to the period under assessment. This resulted in excess allowance of concessional rate on Rs. 34.15 lakh with consequent short levy of tax by Rs. 1.97 lakh.

On this being pointed out (August 1997) in audit, the department stated (February 1998) that a proposal for revision of the relevant assessment order had been sent to the higher authority. Report on final action taken by the department has not been received (September 1998).

The case was reported to Government in November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed (August 1997) that in assessing (June 1996) a dealer for the year ending March 1994 concessional rate of tax of 4 per cent was allowed on Rs. 1081.80 lakh being inter-State sales of goods to registered dealers supported by prescribed declarations. However, scrutiny of supporting statement of declaration forms revealed that the actual turnover qualifying for concessional rate amounted to Rs. 1061.80 lakh. This resulted in excess allowance of concessional rate on Rs. 20 lakh with consequent short levy of tax of Rs. 1.20 lakh.

On this being pointed out (August 1997) in audit, the department stated (August 1997) that necessary proposal for rectification of the assessment order had been forwarded to the appellate authority for consideration as the case was under appeal. Report on final action taken by the department has not been received (September 1998).

The case was reported to Government in November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(c) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, sales of goods to any undertaking supplying electrical energy are taxable at a concessional rate of one per cent if such sales are supported by prescribed declaration forms. Otherwise such sales are exigible to tax at the normal rate.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Durgapur charge, Burdwan, it was noticed (January 1997) that in assessing (June 1995) a dealer for the year ending March 1993 his claim for concessional rate of tax on Rs. 524.51 lakh being sales of goods to an undertaking supplying electrical energy was allowed in full. However, scrutiny of records revealed that such sales turnover to the extent of Rs. 188.33 lakh was supported by prescribed declaration forms in respect of which sales tax was realised by the dealer at the rate of one per cent and on the balance amount of claim of Rs. 336.18 lakh, not supported by declaration forms, sales tax was realised by the dealer at the normal rate of 8 per cent. Thus, there was an excess allowance of claim for concessional rate of tax on Rs. 336.18 lakh with consequent short levy of tax of Rs. 24.81 lakh inclusive of additional sales tax.

On this being pointed out (January 1997) in audit, the department stated (January 1998) that the assessment order had been revised by the higher authority in November 1997 and revised demand notice was issued accordingly in January 1998. Report on realisation has not been received (September 1998).

The case was reported to Government in April 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.04 Turnover escaping assessment

In the case of 8 dealers under 6 charge offices turnovers escaped assessments resulting in non/short levy of tax to the extent of Rs. 46.78 lakh.

(a) Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is liable to pay tax at the prescribed rates on that part of his turnover which remains after allowing admissible deductions.

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (May 1996) a dealer for the year ending March 1994 inter-State sales of goods were allowed to the extent of Rs. 680.21 lakh to be deducted from the gross turnover of Rs. 1,500 lakh. However, balance amount, taxable under the State Act, was incorrectly computed at Rs. 665.21 lakh instead of at Rs. 819.79 lakh. The mistake resulted in escapement of turnover of Rs. 154.58 lakh from taxation with consequent short levy of tax of Rs. 16.26 lakh inclusive of additional sales tax and turnover tax.

On this being pointed out (March 1997) in audit, the department stated (March 1998) that a proposal for rectification of the original assessment order had been sent (August 1997) to the higher authority. Report on final action taken has not been received (September 1998).

The case was reported to Government in November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Shyambazar charge, Calcutta, it was noticed that in assessing (June 1995) a dealer for the year ending March 1993 his sales turnover of crockeries imported from outside the State for Rs. 36.69 lakh was not included in the gross turnover for the purpose of assessment. This resulted in escapement of turnover of Rs. 36.69 lakh from taxation with consequent short levy of tax by Rs. 5.50 lakh inclusive of additional sales tax.

On this being pointed out (June 1997) in audit, the department stated (December 1997) that proposal for *suo motu* review of the assessment order was sent to the higher authority. Report on final action taken has not been received (September 1998).

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The case was reported to Government in August 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(iii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Ballygunj charge, Calcutta, it was noticed that in assessing (June 1996) a dealer for the year ending March 1994 his gross turnover was determined at Rs. 225.29 lakh and charged to tax after allowing admissible deductions. Scrutiny of certified accounts of the dealer, however, revealed that the dealer had effected sales of green tea leaves for Rs. 28.44 lakh which were not taken into account during assessment. This resulted in escapement of turnover by Rs. 28.44 lakh with consequent short levy of tax to the extent of Rs. 1.09 lakh.

On this being pointed out (May 1997) in audit, the department stated (May 1997) that proposal for revision of the case was being sent to the higher authority. Report on final action taken has not been received (September 1998).

The case was reported to Government in August 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) Under the Central Sales Tax Act, 1956, a dealer is liable to pay tax at the prescribed rates on all sales effected by him in the course of inter-State trade or commerce.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (December 1991) a manufacturer dealer for the year ending December 1987 his sale proceeds of 5 Fork Lift Trucks amounting to Rs. 120.16 lakh were not assessed to tax. This resulted in escapement of sales turnover by Rs. 120.16 lakh from taxation with consequent short levy of tax by Rs. 12.71 lakh calculated at the rate of 11 per cent on the amount.

On this being pointed out (December 1992) in audit, the department stated (September 1998) that demand notice had been issued to the dealer directing him to make payment. Report on realisation has not been received (September 1998).

The case was reported to Government in April 1993 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(c) Under the Bengal Finance (Sales Tax) Act, 1941, sales of India-made foreign liquor are taxable at the rate of 11 per cent with effect from 15 April 1993.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Lyons Range charge, Calcutta, it was noticed that in assessing (June 1996) a dealer for the year ending March 1994 his taxable turnover was assessed at Nil although he had sales of India-made foreign liquor to the extent of Rs. 68.51 lakh during the period from May 1993 to March 1994. This escapement of turnover of Rs. 68.51 lakh from taxation resulted in non-levy of tax of Rs. 7.81 lakh including additional sales tax.

On this being pointed out (October 1996) in audit, the department stated (February 1998) that proposal for revision of the case had been sent (September 1997) to the higher authority. Report on final action taken has not been received (September 1998).

The case was reported to Government in December 1996 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(d) Under the West Bengal Sales Tax Act, 1954, a dealer is liable to pay tax at the prescribed rates on that part of his turnover which remains after allowing admissible deductions.

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Colootola charge, Calcutta, it was noticed that in assessing (May 1996) a dealer for the year ending March 1994 his gross turnover was determined at Rs. 60 lakh but tax was computed on Rs. 47.53 lakh. The mistake resulted in escapement of turnover of Rs. 12.47 lakh from taxation with consequent short levy of tax by Rs. 1.05 lakh including additional sales tax.

On this being pointed out (May 1997) in audit, the department stated (March 1998) that revised demand had been raised (December 1997) for realisation. Report on realisation has not been received (September 1998).

The case was reported to Government in June 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1995) a dealer for the year ending March 1993 his taxable balance was arrived at Rs. 421.11 lakh for the purpose of levy of tax. However, at the time of computation, tax was levied on a total sum of Rs. 413.59 lakh. This resulted in escapement of turnover by Rs. 7.52 lakh with consequent short levy of tax to the tune of Rs. 64,084 including additional sales tax.

On this being pointed out (January 1997) in audit, the department stated (February 1998) that as the case was under appeal necessary proposal for revision was sent to the appellate authority for action. Report on final action taken has not been received (September 1998).

The case was reported to Government in May 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(e) Under the Bengal Finance (Sales Tax) Act, 1941, sales of refrigerators and washing machines were chargeable to tax at the rate of fifteen per cent during the period from 16 August 1991 to March 1993 and thereafter the items were taxable under the West Bengal Sales Tax Act, 1954 during the period from April 1993 to 10 April 1994 chargeable to tax at the rate of twenty per cent as sales of notified commodities. Sales of locally purchased notified commodities are, however, exempted from payment of tax but sales of closing stock of such goods prior to the date of their becoming notified commodities are chargeable to tax at the appropriate rate applicable before the notification.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Ultadanga charge, Calcutta, it was noticed (June 1997) that in assessing (June 1996) a dealer for the year ending March 1994 his sales of closing stock of refrigerators and washing machines of Rs. 10.73 lakh as on March 1993 were not charged to tax at the rate of 15 per cent. This resulted in escapement of turnover by Rs. 10.73 lakh with consequent short levy of tax to the tune of Rs. 1.72 lakh inclusive of additional sales tax and turnover tax.

On this being pointed out (June 1997) in audit, the department stated (May 1998) that the case records had been sent to the higher authority for revision. Report on final action taken has not been received (September 1998).

The case was reported to Government in August 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.05 Short levy due to excess allowance of export sales

Excess allowance of export sales (Rs. 33.03 lakh) made during 1993-94 resulted in short levy of tax to the extent of Rs. 3.30 lakh in 2 charge offices in Calcutta.

Under the Central Sales Tax Act, 1956, inter-State sales of goods made in the course of export out of India are exempt from tax if such sales are supported by proper evidence of export, otherwise the sales are exigible to tax at the normal rate of ten per cent or at the State rate, whichever is higher.

Sales Tax

(a) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Esplanade charge, Calcutta, it was noticed (November 1997) that in assessing (June 1996) a dealer for the year ending March 1994 his claim for export sales was allowed to the extent of Rs. 79.26 lakh on the strength of documentary evidences. However, scrutiny of the list of export sales furnished by the dealer revealed that such allowable claim was to the extent of Rs. 54.81 lakh. This resulted in excess allowance of export sales to the tune of Rs. 24.45 lakh with consequent short levy of tax by Rs. 2.44 lakh.

On this being pointed out (November 1997) in audit, the department stated (November 1997) that action was being taken. Report on final action taken by the department has not been received (September 1998).

The case was reported to Government in December 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed (March 1997) that in assessing (June 1996) a dealer for the year ending March 1994 exemption was allowed on Rs. 521.19 lakh being inter-State sales of goods for export out of India. A scrutiny of records, however, revealed that the said amount included 2 sales aggregating Rs. 8.58 lakh which were not supported by documentary evidences. This resulted in excess allowance of exemption on Rs. 8.58 lakh with consequent short levy of tax by Rs. 85,816.

On this being pointed out (March 1997) in audit, the department stated (March 1997) that a proposal for *suo motu* revision of the assessment order had been sent to the higher authority. Report on final action taken has not been received (September 1998).

The case was reported to Government in November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.06 Mis-classification of goods

Treatment of general goods as declared goods by a Calcutta dealer resulted in short levy of tax to the extent of Rs. 5.11 lakh.

Under the Bengal Finance (Sales Tax) Act, 1941, sales of cast iron castings, scraps etc are chargeable to tax at the rate of eight per cent as general goods.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Jorasanko charge, Calcutta, it was noticed that in assessing (June 1996) a dealer for the year ending March 1994, his sales of cast iron castings, scraps etc were charged to tax at the rate of 4 per cent treating the goods as declared goods instead of at the rate of 8 per cent as leviable on general goods. This mis-classification of goods resulted in short levy of tax by Rs. 5.11 lakh including additional sales tax and turnover tax.

On this being pointed out (July 1997) in audit, the department stated (April 1998) that the case had been referred (September 1997) to the higher authority for revision. Report on final action taken has not been received (September 1998).

The case was reported to Government in August 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.07 Non-raising of demand

Demand for additional tax amounting to Rs. 8.66 lakh was not raised involving 3 dealers under 2 charge offices.

Under the Sales Tax Laws of West Bengal, a dealer is liable to pay additional amount of tax demanded including penalty found due on final assessment, as per demand notice served upon him.

During the course of audit of assessment records of 2 charge offices in Calcutta, it was noticed that tax including interest for Rs. 8.66 lakh was assessed but demand notices were not issued in respect of the cases mentioned below:

Sl. No.	Name of the charge	Year of assessment ended/month of assessment	Amount due for tax etc	Amount not demanded	Reply of the department
(Rupees in lakh)					
1.	Bhowanipore	<u>March 1995</u> Between January and April 1997	4.00	4.00	The department stated (September 1997) that action was being taken.
2.	Park Street	<u>March 1993</u> June 1995	3.41	3.41	The department stated (May 1997) that demand notice was being issued.
3.	Bhowanipore	<u>March 1994</u> June 1996	1.25	1.25	The department stated (October 1997) that action was being taken.
TOTAL				8.66	

All the cases were reported to Government between July and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.08 Loss of revenue due to delay in making fresh assessment

Delay in making fresh assessments at the instance of appellate authority in the case of a dealer in North 24-Parganas resulted in loss of revenue to the extent of Rs. 60,000.

Under the Bengal Finance (Sales Tax) Act, 1941, a fresh assessment in pursuance of an order of appellate authority is required to be completed within a period of four years from the date of passing such order and hence assessment made thereafter, becomes time-barred. This provision is also applicable to the assessment made under the Central Sales Tax Act, 1956.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Barrackpore charge, North 24-Parganas, it was noticed (February 1995) that in disposing of the appeal petition of a dealer for assessment for the year ended October 1983 the appellate authority directed (1 February 1990) the assessing officer to make fresh assessment. However, scrutiny of records revealed (February 1995) that no fresh assessment was made till the date of audit (February 1995) by which time the assessment was barred by limitation of time. This resulted in loss of revenue of Rs. 0.60 lakh.

On this being pointed out (February 1995) in audit, the department stated (March 1995) that the matter was being looked into. Report on further development has not been received (September 1998).

The case was reported to Government in July 1995 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.09 Short levy of purchase tax

Purchase tax amounting to Rs. 1.20 lakh was levied short due to incorrect computation in the case of a dealer.

Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a dealer is liable to pay purchase tax on all his purchases from unregistered dealers, of goods intended for direct use in manufacture in West Bengal of goods for sale. Such tax is leviable at the rate of four per cent on the taxable specified purchase price determined by the assessing officer.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed (January 1997) that in assessing (June 1995) a dealer for the year ending March 1993 purchase tax at the rate of 4 per cent on his taxable specified purchase price of Rs. 40 lakh determined by the assessing officer was incorrectly computed at Rs. 40,000 instead of Rs. 1.60 lakh. The mistake resulted in short levy of purchase tax by Rs. 1.20 lakh.

On this being pointed out (January 1997) in audit, the department stated (February 1998) that a revision proposal was being sent to the West Bengal Commercial Taxes Appellate and Revisional Board to whom the dealer had preferred an appeal. Report on further development has not been received (September 1998).

The case was reported to Government in May 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.10 Short levy of tax on contractual transfer price due to allowance of irregular deduction

Allowance of irregular deduction from contractual transfer price resulted in short levy of tax amounting to Rs. 5.05 lakh in the case of a dealer.

Under the Bengal Finance (Sales Tax) Act, 1941, any transfer of property in goods for valuable consideration involved in the execution of a works contract (contractual transfer) shall

be deemed to be a sale of those goods by the person making such transfer. Every dealer, whose contractual transfer price during any year ending on or after April 1984 exceeds rupees two lakh, is liable to pay tax at the prescribed rate on that part of his contractual transfer price which remains after allowing admissible deductions from the first day of the year following such year.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed (June 1997) that in assessing (June 1996) a dealer for the year ending March 1994 no tax was levied by the assessing officer on contractual transfer price of Rs. 126.32 lakh of the dealer during computation of tax. An examination of supporting documents of the assessment order, however, revealed that the dealer was liable to pay tax. However, this amount was paid before filing the revised return which was considered by the assessing authority towards payment of interest. This omission resulted in non-levy of tax to the extent of Rs. 5.05 lakh on contractual transfer price.

On this being pointed out (June 1997) in audit, the department stated (May 1998) that the entire amount had been paid by the dealer before assessment and regularisation of such tax paid would be done at the time of disposal of the revision proposal. Report on final action taken has not been received (September 1998).

The case was reported to Government in November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.11 Non-imposition of penalty for irregular collection of sales tax

Minimum penalty of Rs. 24.35 lakh was not imposed on a dealer for irregular collection of sales tax.

Under the Bengal Finance (Sales Tax) Act, 1941, a dealer who is not liable to pay tax in respect of any sale of goods is not entitled to collect tax on sale of such goods and in the case of collection of any amount by way of tax from the customers the amount so collected is required to be deposited into Government exchequer under intimation to the Commissioner. In the case of failure to deposit the amount so collected, the Commissioner is empowered to direct the dealer to pay by way of penalty a sum not less than the amount of tax so collected but not exceeding double the amount of tax so collected.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed (June 1997) that while assessing (June 1996) a dealer for the year ending March 1994 no penalty was imposed for irregular collection of sales tax of Rs. 24.35 lakh by the dealer on sale of tax-paid declared goods which was also not deposited into Government exchequer. This resulted in non-imposition of minimum penalty of Rs. 24.35 lakh on the dealer.

On this being pointed out (June 1997) in audit, the department stated (April 1998) that notice had been issued (March 1998) to the dealer imposing penalty. Report on final action taken has not been received (September 1998).

The case was reported to Government in November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.12 Incorrect concession allowed to local corporate bodies and Government undertakings

Irregular allowance of concessional rate of tax to local corporate bodies and Government undertakings resulted in short levy of tax amounting to Rs. 2.23 lakh in the case of a dealer.

Under the Bengal Finance (Sales Tax) Act, 1941, sales of goods to Government or a corporation or undertaking established under the Road Transport Corporation Act, 1950, are taxable at a concessional rate of four per cent. Local corporate bodies and other Government undertakings are not eligible to such concessional rate of tax.

During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Netaji Subhas Road charge, Calcutta, it was noticed (February 1997) that in assessing (June 1995) a dealer for the year ending March 1993 his sales aggregating Rs. 62.61 lakh were allowed as sales to Government and charged to tax at the concessional rate of 4 per cent. However, scrutiny of records revealed that Rs. 54.55 lakh represented sales to local corporate bodies and Government undertakings which were not eligible for concessional rate of tax. This concession incorrectly allowed on Rs. 54.55 lakh resulted in short levy of tax by Rs. 2.23 lakh inclusive of additional sales tax.

On this being pointed out (February 1997) in audit, the department stated (March 1998) that after revising the assessment demand had been raised and the dealer had preferred appeal against the revised order of assessment. Report on final action taken by the department has not been received (September 1998).

The case was reported to Government in April 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.13 Short realisation due to excess credit

There was short realisation of tax amounting to Rs. 15.96 lakh due to allowance of excess credit to 3 dealers under 2 charge offices in Calcutta.

Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a dealer is required to pay tax on the basis of self-assessment before furnishing return of his sales. The amount of tax so paid is adjusted against the demand assessed at the time of completion of regular assessment.

In 2 charge offices in Calcutta short realisation of tax amounting to Rs. 15.96 lakh was noticed as detailed below:

Sl. No.	Name of the charge	Year of assessment ending in/month of assessment	Amount of tax paid by the dealer	Amount of tax credited in assessment records	Excess allowance of tax	Reply of the department
(Rupees in lakh)						
1.	Corporate Division	<u>March 1993</u> June 1995	5.14	13.55	8.41	The department stated (February 1998) that the case had been referred (November 1997) to the certificate officer for realisation.
2.	Corporate Division	<u>March 1994</u> June 1996	18.31	23.61	5.30	The department stated (May 1998) that the case was under appeal.
3.	Park Street	<u>Between March 1990 and March 1991</u> December 1994	45.59	47.84	2.25	The department stated (February 1998) that revised demand notices were issued.
Total					15.96	

All the cases were reported to Government between August 1995 and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.14 Non/short levy of turnover tax

Turnover tax amounting to Rs. 62.99 lakh was not levied or levied short in the case of 43 dealers under 19 charge offices although their turnover exceeded the prescribed limits.

A dealer whose aggregate of the gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 during any year ending on or after 1 April 1979 exceeds rupees fifty lakh becomes liable to pay turnover tax at the prescribed rate from the first day of the year immediately following such year on that part of his turnover which remains after allowing admissible deduction therefrom. With effect from 1 June 1987 a dealer whose aggregate gross turnover under the Acts during last year ended on or after first day of June exceeds rupees twentyfive lakh is liable to pay turnover tax at the prescribed rates from the first day of the year immediately following such year. Once a dealer becomes liable to pay turnover tax, he continues to be so liable until the expiry of three consecutive years irrespective of whether or not the aggregate of his gross turnover under both the Acts during these years exceeds rupees fifty lakh or rupees twentyfive lakh as the case may be.

During the course of audit of assessment records of 19 charge offices in 7 districts*, it was noticed that the gross turnover of 43 dealers for the year ending between March 1988 and March 1994 had exceeded the prescribed limit in each case. The dealers, therefore, became liable to pay turnover tax on their turnover in the subsequent years. However, turnover tax amounting to Rs. 62.99 lakh in the above cases was not levied/levied short by the department as detailed below:

*Calcutta, Dakshin Dinajpur, Hooghly, Howrah, North 24-Parganas, Siliguri and Uttar Dinajpur.

Sl. No.	Name of the charge	Assessment year ended in which turnover had exceeded Rs. 50 lakh/ Rs. 25 lakh	Subsequent assessment year(s) in respect of which turnover was leviable but not levied/ assessment or reassessment completed	Turnover liable for turnover tax	Turnover tax leviable but not levied/ short levied	Reply of the department
1	2	3	4	5	6	7
(Rupees in lakh)						
1.	Bowbazar	March 1990	March 1991 and 1992 June 1993	948.54	14.23	The department stated (March 1998) that the cases had been re-opened as per order (November 1997) of the higher authority.
2.	Bhowanipore	Between March 1991 and March 1994	Between March 1992 and <u>March 1995</u> Between June 1993 and February 1997	648.29	8.57	The department stated (September and October 1997) that out of 10 cases, 3 cases were being informed to the appellate authority to whom the dealers preferred an appeal, revision proposal was sent in 2 cases, in one case <i>ex parte</i> assessment completed (May 1998) and action was being taken in the remaining cases.
3.	Corporate Division	—	<u>March 1993</u> June 1995	314.41	4.24	The department stated (April 1998) that the case had been taken into consideration by the appellate authority at the time of passing orders for revision.
4.	Park Street	Between March 1988 and March 1991	Between March 1989 and <u>March 1992</u> June 1993	432.66	3.31	The department stated (March 1998) that a proposal for review had been sent (December 1997) to the higher authority.
5.	Park street	—	<u>March 1994</u> June 1996	368.02	2.84	The department stated (March 1998) that one case had been sent (December 1997) to the higher authority for review and the remaining assessment order had been modified and fresh demand notice was issued (December 1997).
6.	Rajakatra	—	Between March 1990 and <u>March 1992</u> June 1993	442.89	2.53	The department stated (February 1997) that opinion of the higher authority was being sought for re-opening 3 cases while in other cases they agreed to take action.

1	2	3	4	5	6	7
(Rupees in lakh)						
7.	Corporate Division	—	<u>March 1993</u> November 1994	500.00	2.50	The department stated (March 1998) that the dealer had preferred an appeal but the appellate authority upheld (November 1995) the decision of the assessing authority.
8.	Kadamtala	March 1992	<u>March 1993</u> <u>and 1994</u> May 1995	130.00	1.80	The department stated (February 1998) that the cases had been referred to the appellate authority to whom the dealer had preferred an appeal.
9.	Corporate Division	—	<u>March 1991</u> July 1994	558.79	1.74	The department stated (February 1998) that the case had been referred to the certificate officer for realisation.
10.	Bhowanipore	March 1993	<u>March 1994</u> June 1996	184.10	1.68	The department stated (September 1997) that action was being taken.
11.	Naren Dutta Sarani	Between March 1988 and March 1992	Between March <u>1989 and March 1993</u> Between June 1993 and June 1995	195.49	1.59	The department stated (November 1996) that in 3 cases action was being taken while in the remaining cases they agreed to look into the matter.
12.	Siliguri	March 1989	Between March 1990 and <u>March 1993</u> Between June 1993 and June 1995	140.13	1.51	The department stated (January 1997) that action was being taken.
13.	Corporate Division	—	<u>March 1994</u> June 1996	187.78	1.50	The department stated (February 1998) that the case had been referred to the appellate authority to whom the dealer had preferred an appeal.
14.	Raiganj	—	<u>March 1995</u> May 1996	132.42	1.32	The department stated (June 1998) that the entire amount had been realised.
15.	Serampore	March 1990	March 1991 <u>and 1992</u> June 1993	218.48	1.18	The department stated (June 1998) that necessary action for re-opening the instant assessments had been initiated.

1	2	3	4	5	6	7
(Rupees in lakh)						
16.	Netaji Subhas Road	March 1992	<u>March 1993</u> June 1995	94.71	1.15	The department stated (March 1998) that one case was under revision and in the remaining case Rs. 47,554 had been realised.
17.	Cossipore	—	<u>March 1993</u> June 1995	222.88	1.11	The department stated (March 1998) that the case records had been sent to the higher authority for revision.
18.	Bhowanipore	Between March 1992 and March 1993	Between March 1993 and <u>March 1994</u> Between March and June 1996	210.12	1.05	The department stated (October 1997) that action was being taken in one case and revised demand notice was sent to the dealer in the remaining case.
19.	Siliguri	March 1989	Between March 1990 and <u>March 1993</u> Between June 1993 and May 1995	143.67	0.98	The department stated (January 1997) that the case records were being sent to the higher authority for re-opening.
20.	Rajakatra	July 1988	<u>June 1989</u> March 1994	90.00	0.90	The department stated (March 1998) that proposal seeking permission to review the case had been sent (June 1997) to the higher authority.
21.	Balurghat	March 1994	<u>March 1995</u> January 1997	101.24	0.89	The department stated (February 1998) that the case records had been sent (August 1997) to the higher authority for revision.
22.	Chandney Chawk	Between March 1988 and March 1989	Between March 1990 and <u>March 1992</u> June 1993	129.51	0.83	The department stated (April 1998) that the cases were under appeal.
23.	Shibpur	March 1992	<u>March 1993</u> June 1995	74.98	0.75	The department stated (March 1998) that the case was reviewed and fresh demand notice had been issued (June 1997).

1	2	3	4	5	6	7
(Rupees in lakh)						
24.	Balurghat	March 1994	<u>March 1995</u> December 1996	99.19	0.74	The department stated (July 1998) that revised demand notice had been issued.
25.	Barrackpore	March 1992	<u>March 1993</u> June 1995	64.78	0.65	The department stated (February 1997) that necessary action was being taken.
26.	Salt Lake	March 1991	<u>March 1992</u> June 1993	62.93	0.63	The department stated (June 1998) that proposal for re-opening the case had been sent (August 1997) to the higher authority.
27.	Salt Lake	March 1991	<u>March 1992</u> June 1993	160.40	0.62	The department stated (June 1998) that a proposal for review the instant case had been sent to the higher authority.
28.	Colootola	March 1993	<u>March 1994</u> May 1996	59.87	0.60	The department stated (March 1998) that a proposal for revision of the case was being sent to the appellate authority.
29.	Balurghat	March 1993	<u>March 1994</u> June 1996	59.39	0.59	The department stated (May 1998) that the assessment order was upheld during revision by the revisional authority and the dealer had been asked to make payment.
30.	Serampore	—	<u>March 1990</u> June 1993	118.58	0.54	The department stated (March 1998) that the case had been sent (September 1997) to the higher authority for re-opening.
31.	Shyambazar	Between March 1989 and March 1994	Between March 1990 and <u>March 1995</u> Between June 1993 and December 1995	83.72	0.42	The department stated (December 1997) that the cases had been re-opened to realise the amount.
Total				62.99		

All the cases were reported to Government between June 1996 and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.18 Non-levy of tax on sale of import replenishment licence

Sales tax amounting to Rs. 23 lakh on import replenishment licence/exim scrip/exim certificate was not levied in the case of 14 dealers under 6 charge offices.

Under the Bengal Finance (Sales Tax) Act, 1941, goods include all kinds of movable property other than actionable claims, stocks, shares or securities. Import replenishment (REP) licence, exim scrips and exim certificate which are granted by the Chief Controller of Imports and Exports in recognition of export of certain products can be transferred by way of sale without endorsement by the licensing authority. It was also judicially held* that REP licence and exim scrips are goods taxable under the Sales Tax Laws. Hence, transfer of exim scrips, exim certificate and import replenishment licence for valuable consideration is sale of movable property in goods and exigible to tax.

During the course of audit of assessment records of 6 charge offices in Calcutta, it was noticed that in 14 cases, due to non-inclusion of receipts from sales of import replenishment licence/exim scrips/exim certificate in the gross turnover of the dealers, there was non-levy of tax amounting to Rs. 23 lakh as detailed below:

*Vikas Sales Corporation and Another Vs. Commissioner of Commercial Taxes and Another [STI-1996-100-114(SC)].

Sl. No.	Name of the charge	Year of assessment ending in/month of assessment	Value of REP licence/exim scrips/exim certificate not included in gross turnover	Tax leviable but not levied	Reply of the department
1	2	3	4	5	6
(Rupees in lakh)					
1.	Shyambazar	Between March 1993 and March 1994 Between December 1995 and June 1996	106.65	10.69	The department stated (December 1997) that proposal for <i>suo motu</i> review of the cases had been sent to the higher authority.
2.	Esplanade	March 1992 June 1993	69.75	6.21	The department stated (November 1997) that proposal was being sent to the higher authority for re-opening the case.
3.	Ezra Street	March 1993 June 1995	19.64	1.97	The department stated (August 1998) that the assessment records along with audit observations had been sent to the higher authority for necessary action.
4.	Corporate Division	Between March 1991 and March 1992 Between October and December 1994	15.47	1.38	The department stated (February-May 1998) that in one case relevant assessment was modified after considering the audit observations and sent (January 1998) to the certificate officer for realisation and the remaining case was under revision.
5.	Salt Lake	Between March 1991 and March 1994 Between June 1993 and February 1996	12.20	1.17	The department stated (April 1998) that 2 assessment cases had been re-opened, one case had been modified and proposal for revision of the remaining 2 cases had been sent (August 1997) to the higher authority.
6.	Ballygunj	Between March 1992 and March 1993 Between June 1993 and April 1994	10.36	1.04	The department stated (March 1998) that proposal for re-opening of deemed assessment for the year 1992 and proposal for <i>suo motu</i> revision for the year 1993 had been sent to the higher authority.
7.	Esplanade	March 1993 June 1995	5.40	0.54	The department stated (March 1998) that the audit observations was being sent to the appellate authority to whom the dealer had preferred an appeal.
Total				23.00	

All the cases were reported to Government between August 1996 and December 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.19 Mistake in computation of tax

There was mistakes in computation of tax to the extent of Rs. 56.11 lakh in the case of 9 dealers under 7 charge offices.

(a) Test check of assessment records of different sales tax offices revealed short realisation of tax due to mistake in computation as mentioned below:

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1995) a dealer for the year ending March 1993 his claim for concessional rate of tax on Rs. 259.76 lakh being sales to registered dealers was allowed to the extent of Rs. 155.57 lakh and out of the balance amount of Rs. 104.19 lakh, Rs. 100 lakh was charged to tax at the rate of 10 per cent and Rs. 4.19 lakh was charged to tax at the rate of 11 per cent. However, tax at the rate of 10 per cent on Rs. 100 lakh was incorrectly computed at Rs. 3.85 lakh instead of at Rs. 9.62 lakh. The mistake resulted in short levy of tax by Rs. 5.77 lakh.

On this being pointed out (October 1996) in audit, the department stated (February 1998) that the case had been referred (January 1998) to the certificate officer for realisation. Report on realisation has not been received (September 1998).

The case was reported to Government in February 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in a deemed assessment (June 1993) case for the year ending March 1991, 4 per cent and 8 per cent taxable sales were shown by the dealer in his return for quarter ending June 1990 at Rs. 9.77 lakh and Rs. 588.97 lakh whereas tax was computed on Rs. 17.06 lakh and Rs. 581.68 lakh respectively. Further, turnover tax at the rate of 1.5 per cent on taxable balance of Rs. 727.55 lakh for the said quarter was incorrectly computed at Rs. 10.67 lakh by the dealer in place of Rs. 10.91 lakh. The mistakes resulted in short payment of tax including turnover tax aggregating Rs. 50,308 in the deemed assessment case.

On this being pointed out (June 1995) in audit, the department stated (February 1998) that the case had been re-opened by the higher authority. Report on final action taken has not been received (September 1998).

The case was reported to Government in January 1996 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(iii) During the course of audit of the assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in re-assessing (April 1994) a dealer for the year ending September 1982 under the Bengal Raw Jute Taxation Act, 1941, penalty of Rs. 1 lakh was imposed. However, at the time of computation the same was worked out to Rs. 50,000. The mistake resulted in short levy of penalty by Rs. 50,000.

On this being pointed out (April 1996) in audit, the department stated (June 1998) that the matter had been referred (May 1998) to the certificate officer for realisation. Report on realisation has not been received (September 1998).

The case was reported to Government in January 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes of 6 charge offices in 3 districts* it was noticed that due to mistake in computation there was underassessment of tax amounting to Rs. 49.34 lakh as mentioned below:

*Calcutta, Hooghly and Howrah.

Sl. No.	Name of the charge	Assessment year ending/month of assessment/ re-assessment	Turnover liable to tax	Tax assessable	Tax assessed	Tax assessed short	Reply of the department
1	2	3	4	5	6	7	8
(Rupees in lakh)							
1.	Corporate Division	<u>March 1994</u> June 1996	1666.86	118.04	89.02	29.02	The department stated (March 1998) that a proposal for <i>suo motu</i> revision of the assessment order had been sent to the higher authority.
2.	Bhowanipore	<u>March 1995</u> November 1996	300.00	12.00	1.20	10.80	The department stated (September 1997) that the matter had been informed to the appellate authority to whom the dealer had preferred an appeal.
3.	Park Street	<u>March 1995</u> February 1997	100.00	10.74	6.74	4.00	The department stated (May 1997) that notice was being issued.
4.	Kadamtala	<u>March 1993</u> June 1995	30.00	3.00	0.30	2.70	The department stated (February 1998) that fresh demand had been raised.
5.	Serampore	<u>March 1993</u> June 1995	18.00	1.62	0.52	1.10	The department stated (March 1997) that action was being taken.
6.	Corporate Division	<u>December 1993</u> January 1996	—	46.60	45.60	1.00	The department stated (March 1998) that the dealer had paid (December 1997) the entire amount.
7.	Behala	<u>March 1993</u> June 1995	22.50	2.34	1.62	0.72	The department stated (June 1998) that the dealer had preferred an appeal.
Total						49.34	

All the cases were reported to Government between January 1996 and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.18 Non-levy of tax on sale of import replenishment licence

Sales tax amounting to Rs. 23 lakh on import replenishment licence/exim scrip/exim certificate was not levied in the case of 14 dealers under 6 charge offices.

Under the Bengal Finance (Sales Tax) Act, 1941, goods include all kinds of movable property other than actionable claims, stocks, shares or securities. Import replenishment (REP) licence, exim scrips and exim certificate which are granted by the Chief Controller of Imports and Exports in recognition of export of certain products can be transferred by way of sale without endorsement by the licensing authority. It was also judicially held* that REP licence and exim scrips are goods taxable under the Sales Tax Laws. Hence, transfer of exim scrips, exim certificate and import replenishment licence for valuable consideration is sale of movable property in goods and exigible to tax.

During the course of audit of assessment records of 6 charge offices in Calcutta, it was noticed that in 14 cases, due to non-inclusion of receipts from sales of import replenishment licence/exim scrips/exim certificate in the gross turnover of the dealers, there was non-levy of tax amounting to Rs. 23 lakh as detailed below:

*Vikas Sales Corporation and Another Vs. Commissioner of Commercial Taxes and Another [STI-1996-100-114(SC)].

Sl. No.	Name of the charge	Year of assessment ending in/month of assessment	Value of REP licence/exim scrips/exim certificate not included in gross turnover	Tax leviable but not levied	Reply of the department
1	2	3	4	5	6
(Rupees in lakh)					
1.	Shyambazar	Between March 1993 and March 1994 Between December 1995 and June 1996	106.65	10.69	The department stated (December 1997) that proposal for <i>suo motu</i> review of the cases had been sent to the higher authority.
2.	Esplanade	March 1992 June 1993	69.75	6.21	The department stated (November 1997) that proposal was being sent to the higher authority for re-opening the case.
3.	Ezra Street	March 1993 June 1995	19.64	1.97	The department stated (August 1998) that the assessment records along with audit observations had been sent to the higher authority for necessary action.
4.	Corporate Division	Between March 1991 and March 1992 Between October and December 1994	15.47	1.38	The department stated (February-May 1998) that in one case relevant assessment was modified after considering the audit observations and sent (January 1998) to the certificate officer for realisation and the remaining case was under revision.
5.	Salt Lake	Between March 1991 and March 1994 Between June 1993 and February 1996	12.20	1.17	The department stated (April 1998) that 2 assessment cases had been re-opened, one case had been modified and proposal for revision of the remaining 2 cases had been sent (August 1997) to the higher authority.
6.	Ballygunj	Between March 1992 and March 1993 Between June 1993 and April 1994	10.36	1.04	The department stated (March 1998) that proposal for re-opening of deemed assessment for the year 1992 and proposal for <i>sou motu</i> revision for the year 1993 had been sent to the higher authority.
7.	Esplanade	March 1993 June 1995	5.40	0.54	The department stated (March 1998) that the audit observations was being sent to the appellate authority to whom the dealer had preferred an appeal.
Total				23.00	

All the cases were reported to Government between August 1996 and December 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.19 Mistake in computation of tax

There was mistakes in computation of tax to the extent of Rs. 56.11 lakh in the case of 9 dealers under 7 charge offices.

(a) Test check of assessment records of different sales tax offices revealed short realisation of tax due to mistake in computation as mentioned below:

(i) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in assessing (June 1995) a dealer for the year ending March 1993 his claim for concessional rate of tax on Rs. 259.76 lakh being sales to registered dealers was allowed to the extent of Rs. 155.57 lakh and out of the balance amount of Rs. 104.19 lakh, Rs. 100 lakh was charged to tax at the rate of 10 per cent and Rs. 4.19 lakh was charged to tax at the rate of 11 per cent. However, tax at the rate of 10 per cent on Rs. 100 lakh was incorrectly computed at Rs. 3.85 lakh instead of at Rs. 9.62 lakh. The mistake resulted in short levy of tax by Rs. 5.77 lakh.

On this being pointed out (October 1996) in audit, the department stated (February 1998) that the case had been referred (January 1998) to the certificate officer for realisation. Report on realisation has not been received (September 1998).

The case was reported to Government in February 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(ii) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in a deemed assessment (June 1993) case for the year ending March 1991, 4 per cent and 8 per cent taxable sales were shown by the dealer in his return for quarter ending June 1990 at Rs. 9.77 lakh and Rs. 588.97 lakh whereas tax was computed on Rs. 17.06 lakh and Rs. 581.68 lakh respectively. Further, turnover tax at the rate of 1.5 per cent on taxable balance of Rs. 727.55 lakh for the said quarter was incorrectly computed at Rs. 10.67 lakh by the dealer in place of Rs. 10.91 lakh. The mistakes resulted in short payment of tax including turnover tax aggregating Rs. 50,308 in the deemed assessment case.

On this being pointed out (June 1995) in audit, the department stated (February 1998) that the case had been re-opened by the higher authority. Report on final action taken has not been received (September 1998).

The case was reported to Government in January 1996 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(iii) During the course of audit of the assessment records of the Assistant Commissioner, Commercial Taxes, Corporate Division, Calcutta, it was noticed that in re-assessing (April 1994) a dealer for the year ending September 1982 under the Bengal Raw Jute Taxation Act, 1941, penalty of Rs. 1 lakh was imposed. However, at the time of computation the same was worked out to Rs. 50,000. The mistake resulted in short levy of penalty by Rs. 50,000.

On this being pointed out (April 1996) in audit, the department stated (June 1998) that the matter had been referred (May 1998) to the certificate officer for realisation. Report on realisation has not been received (September 1998).

The case was reported to Government in January 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes of 6 charge offices in 3 districts* it was noticed that due to mistake in computation there was underassessment of tax amounting to Rs. 49.34 lakh as mentioned below:

*Calcutta, Hooghly and Howrah.

Sl. No.	Name of the charge	Assessment year ending/month of assessment/ re-assessment	Turnover liable to tax	Tax assessable	Tax assessed	Tax assessed short	Reply of the department
1	2	3	4	5	6	7	8
(R u p e e s i n l a k h)							
1.	Corporate Division	<u>March 1994</u> June 1996	1666.86	118.04	89.02	29.02	The department stated (March 1998) that a proposal for <i>suo motu</i> revision of the assessment order had been sent to the higher authority.
2.	Bhowanipore	<u>March 1995</u> November 1996	300.00	12.00	1.20	10.80	The department stated (September 1997) that the matter had been informed to the appellate authority to whom the dealer had preferred an appeal.
3.	Park Street	<u>March 1995</u> February 1997	100.00	10.74	6.74	4.00	The department stated (May 1997) that notice was being issued.
4.	Kadamtala	<u>March 1993</u> June 1995	30.00	3.00	0.30	2.70	The department stated (February 1998) that fresh demand had been raised.
5.	Serampore	<u>March 1993</u> June 1995	18.00	1.62	0.52	1.10	The department stated (March 1997) that action was being taken.
6.	Corporate Division	<u>December 1993</u> January 1996	—	46.60	45.60	1.00	The department stated (March 1998) that the dealer had paid (December 1997) the entire amount.
7.	Behala	<u>March 1993</u> June 1995	22.50	2.34	1.62	0.72	The department stated (June 1998) that the dealer had preferred an appeal.
Total						49.34	

All the cases were reported to Government between January 1996 and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

2.20 Loss of revenue due to non-levy of tax and non-imposition of penalty on concealment of sales

Non-levy of tax and non-imposition of penalty for concealment of sales by 2 dealers resulted in loss of revenue to the extent of Rs. 10.63 lakh.

Under the Bengal Finance (Sales Tax) Act, 1941, if in the course of assessment proceedings, the Commissioner is satisfied that a dealer has concealed any sales or furnished any incorrect particulars thereof with an intent to reduce the amount of tax payable by him, the Commissioner may impose by way of penalty a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him if the concealment had not been detected. The Commissioner of Commercial Taxes, West Bengal, clarified in his circular of June 1991 that where assessing officer did not initiate penal proceedings, he should record the reasons for not doing so. As per judicial decision* penalty proceedings for concealment of sales cannot be started by the successor on the basis of satisfaction of another officer.

(a) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Burdwan charge, Burdwan, it was noticed (February 1997) that a dealer filed his return for the assessment year ended March 1995 omitting sale amounting to Rs. 1.13 crore which was detected by sales tax check post authority. The assessing authority, however, assessed (June 1996) tax on this suppressed sale but did not impose penalty nor recorded any reason in the assessment order for non-imposition of penalty. Thus, the minimum penalty amounting to Rs. 5.08 lakh computed on the amount of tax for concealed sales could have been imposed upon the dealer.

On this being pointed out (February 1997) in audit, the department stated (March 1997) that penalty proceedings were to be completed in course of assessment proceedings and before the completion thereof. The reply is not tenable in audit since the assessing officer failed to impose penalty by drawing proceedings before finalisation of assessment.

(b) During the course of audit of assessment records of the Assistant Commissioner, Commercial Taxes, Maniktala charge, Calcutta, it was noticed (May 1997) that in assessing (between June and December 1995) a dealer for the years ending between March 1990 and March 1993 suppression of inter-State sales turnover aggregating Rs. 22.18 lakh was detected by the investigating officer, Central Section, in November 1996 but the same was not included in the gross turnover of the said years for the purpose of taxation. This resulted in evasion of tax to the extent of Rs. 2.22 lakh. Besides, minimum penalty of Rs. 3.33 lakh was also leviable.

On this being pointed out (May 1997) in audit, the department stated (September 1997) that case records had been sent to the higher authority for *suo motu* revision of the cases. Report on final action taken has not been received (September 1998).

The cases were reported to Government between July and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

*Jiten & Co. Vs. Sales Tax Officer, Ward No. 10, Delhi 39STC-308 (Delhi).

2.21 Non/short levy of interest

Interest to the extent of Rs. 126.66 lakh was either not levied or levied short in the case of 37 dealers under 16 charge offices.

(i) Under the Sales Tax Laws in West Bengal, a dealer who furnishes return in respect of any period by the prescribed date or thereafter but fails to make full payment of tax payable in respect of such period by such prescribed date, is liable to pay a simple interest at two per cent for each English calendar month of default reckoned from the first day of the month next following the prescribed date for submission of return up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of assessment whichever is earlier.

During the course of audit of assessment records of 7 charge offices in the districts of Calcutta, Darjeeling and Burdwan, it was noticed that in 12 cases interest amounting to Rs. 48.44 lakh though leviable for non-payment of admitted tax, was not levied or levied short as detailed below:

Sl. No.	Name of the charge	Year of assessment ended in/month of assessment	Period of default for which interest was leviable	Amount on which interest was leviable	Interest leviable but not levied/short levied	Reply of the department
1	2	3	4	5	6	7
				(Rupees in lakh)		
1.	Durgapur	<u>March 1993</u> June 1995	Between August 1992 and May 1995	24.81	14.64	The department stated (January 1998) that the assessment order had been revised (November 1997) and demand notice was issued in January 1998.
2.	Lyons Range	<u>March 1993</u> June 1995	Between August 1992 and May 1995	23.95	14.13	The department stated (February 1998) that a proposal for cancellation of the eligibility certificate had been sent (April 1997) to the appropriate authority.
3.	Lyons Range	Between March 1993 and March 1994 <u>Between March 1994 and June 1996</u>	Between August 1992 and May 1996	12.34	6.62	The department stated (February 1998) that proposals for <i>suo motu</i> revision of 2 cases had been sent (September 1997) to the higher authority and in the remaining case revised demand notice had been sent (November 1996) to the dealer.
4.	Bowbazar	Between March 1991 and March 1992 <u>June 1993</u>	Between May 1991 and May 1993	14.23	5.98	The department stated (March 1998) that the cases had been re-opened (November 1997).
5.	Bhowanipore	Between March 1993 and March 1995 <u>Between May 1995 and January 1997</u>	Between August 1992 and December 1996	9.22	4.78	The department stated (September 1997) that in respect of 2 cases action was being taken while the remaining case was being sent to the appellate authority with whom the dealer had preferred an appeal.
6.	Corporate Division	<u>March 1993</u> August 1994	Between May and July 1993	14.27	0.86	The department stated (February 1998) that the case had been revised.

1	2	3	4	5	6	7
				(Rupees in lakh)		
7.	Esplanade	<u>March 1993</u> June 1995	Between June 1992 and May 1995	1.17	0.72	The department stated (February 1998) that the case was pending before the West Bengal Commercial Taxes Tribunal.
8.	Siliguri	<u>March 1993</u> June 1995	Between August 1992 and May 1995	1.20	0.71	The department stated (July 1998) that demand had been placed (July 1998) with the Official Liquidator, High Court, Calcutta.
Total				48.44		

All the cases were reported to Government between July 1996 and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(ii) Under the Sales Tax Laws in West Bengal, a dealer who fails to furnish a return in respect of any period by the prescribed date or thereafter before assessment in respect of such period and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date, is liable to pay a simple interest at two per cent for each English calendar month of default reckoned from the first day of the month next following the prescribed date for submission of return up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of assessment whichever is earlier.

In 11 charge offices in Calcutta, Hooghly, Howrah and Murshidabad districts, it was noticed (between July 1995 and May 1997) that in 20 cases interest amounting to Rs. 59.67 lakh though leviable for non-payment of admitted tax was not levied or levied short as detailed below:

Sl. No.	Name of the charge	Year of assessment ended in/month of assessment	Period of default for which interest was leviable	Amount on which interest was leviable	Interest leviable but not levied/short levied	Reply of the department
1	2	3	4	5	6	7
(Rupees in lakh)						
1.	Ballygunj	Between March 1987 and <u>March 1994</u> Between June 1993 and February 1996	Between May 1987 and January 1996	40.28	29.69	The department stated (May 1997) that proposals for <i>suo motu</i> revision of the cases were being sent to the higher authority.
2.	Ultadanga	Between March 1994 and <u>March 1995</u> Between June and December 1996	Between August 1993 and November 1996	40.01	5.95	The department stated (May 1998) that 2 cases were under appeal and the remaining case had been modified.
3.	Ultadanga	<u>March 1994</u> Between April and June 1996	Between August 1993 and May 1996	50.72	4.27	The department stated (July 1997) that action was being taken.
4.	Bhowanipore	<u>March 1993</u> June 1995	Between August 1992 and May 1995	6.40	3.12	The department stated (March 1998) that notice had been issued to the dealer for review of the assessment order.
5.	Park Street	<u>March 1994</u> June 1996	Between June 1993 and May 1996	4.25	2.55	The department stated (June 1997) that the matter was being looked into in one case and interest was being levied in other case.
6.	Lyons Range	Between March 1992 and <u>March 1993</u> Between December 1994 and June 1995	Between August 1991 and May 1995	3.67	2.30	The department stated (February 1998) that 2 cases of one dealer had been referred to the certificate officer for recovery and the remaining case had been referred to the higher authority for <i>suo motu</i> review.

1	2	3	4	5	6	7
(Rupees in lakh)						
7.	Howrah	<u>March 1993</u> May 1995	Between August 1992 and April 1995	18.40	1.66	The department stated (February 1998) that the case was under appeal.
8.	Ballygunj	Between March 1992 and <u>March 1994</u> Between December 1994 and June 1996	Between May 1992 and May 1996	2.48	1.57	The department stated (May 1997) that in one case proposal for <i>suo motu</i> revision was being sent to the higher authority and in the remaining case action was being taken to realise the dues.
9.	Corporate Division	<u>March 1994</u> June 1996	Between August 1993 and May 1996	2.38	1.48	The department stated (May 1998) that the case was under revision.
10.	Ballygunj	<u>March 1991</u> April 1994	Between August 1990 and March 1994	1.98	1.40	The department stated (June 1998) that proceedings for <i>suo motu</i> revision of the assessment had been initiated.
11.	Corporate Division	<u>March 1993</u> November 1994	Between August 1992 and October 1994	10.00	1.13	The department stated (March 1998) that the dealer had preferred (January 1996) an appeal to the West Bengal Commercial Taxes Appellate and Revisional Board to whom the matter had been informed.
12.	Rajakatra	<u>June 1989</u> March 1994	Between November 1988 and February 1994	0.90	1.07	The department stated (February 1997) that proposal was being sent to the higher authority for review of the case.
13.	Bhowanipore	<u>March 1994</u> May 1996	Between August 1993 and April 1996	1.88	1.07	The department stated (September 1997) that action was being taken.
14.	Serampore	<u>March 1993</u> June 1995	Between August 1992 and May 1995	1.61	0.95	The department stated (March 1997) that action was being taken.

1	2	3	4	5	6	7
(Rupees in lakh)						
15.	Jorabagan	<u>March 1993</u> June 1995	Between August 1992 and May 1995	5.19	0.92	The department stated (January 1998) that the case was pending for revision.
16.	Berhampore	<u>March 1993</u> June 1995	Between August 1992 and May 1993	92.00	0.54	The department stated (September 1996) that the matter was being looked into.
Total				59.67		

All the cases were reported to Government between September 1991 and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(iii) Under the Sales Tax Laws in West Bengal, a dealer who fails to make payment of any tax demanded after assessment by the date specified in the demand notice, is liable to pay a simple interest at two per cent for each English calendar month of default reckoned from the first day of the month next following the date specified in such notice up to the month preceding the month of full payment of tax or up to the month preceding the month of commencement of certificate proceedings, whichever is earlier.

During the course of audit of assessment records of 4 charge offices in Calcutta, it was noticed that in 5 cases interest amounting to Rs. 18.55 lakh though leviable for non-payment of assessed tax within specified date, was not levied or levied short as detailed below:

Sl. No.	Name of the charge	Year of assessment ended in/month of assessment	Period of default for which interest was leviable	Amount on which interest was leviable	Interest leviable but not levied/short levied	Reply of the department
1	2	3	4	5	6	7
(Rupees in lakh)						
1.	Esplanade	Between March 1986 and <u>March 1989</u> March 1993	Between June 1993 and February 1994	370.84	7.41	The department stated (March 1998) that <i>suo motu</i> revisional proposal had been sent (February 1998) to the higher authority.
2.	Bhowanipore	<u>March 1992</u> July 1995	Between September 1995 and June 1996	157.12	6.25	The department stated (September 1997) that action was being taken.
3.	Rajakatra	Between March and <u>April 1987</u> November 1990	Between February 1991 and June 1995	3.19	3.23	The department stated (April 1998) that the cases had been referred (November 1997) to the certificate officer for realisation.
4.	Burtola	<u>September 1984</u> September 1988	Between December 1988 and March 1995	1.09	1.66	The department stated (March 1997) that action was being taken.
Total					18.55	

All the cases were reported to Government between January and November 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

CHAPTER 3

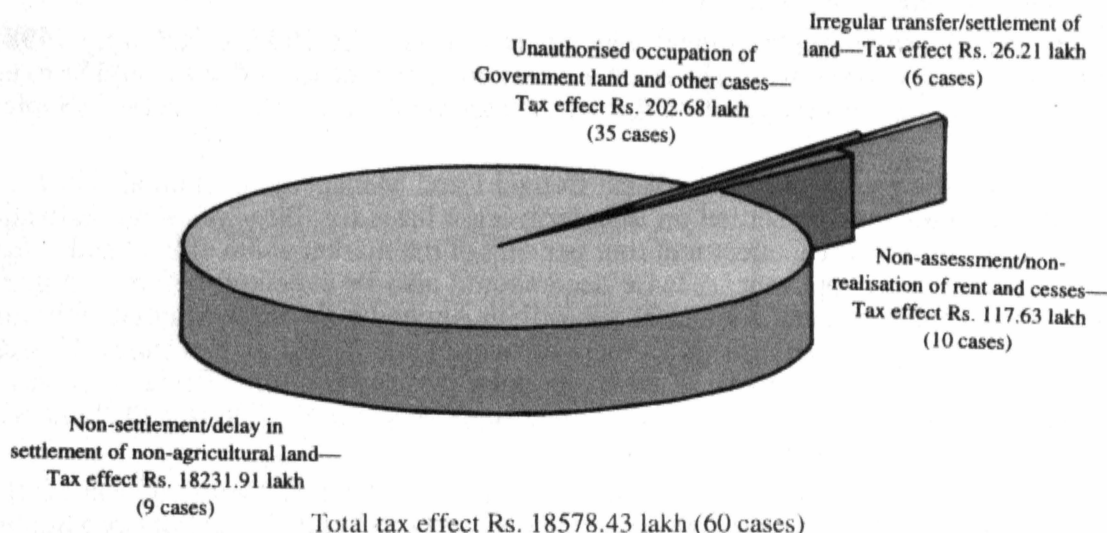
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LAND REVENUE

LAND REVENUE

3.01 Results of audit

Test check of records of land revenue in District Land and Land Reforms Offices, conducted in audit during the year 1997-98, revealed non/short realisation of revenue amounting to Rs. 18578.43 lakh in 60 cases, which broadly fall under the following categories:



During the course of the year 1997-98 the concerned department accepted underassessments etc of Rs. 18562.27 lakh in 60 cases of which 45 cases involving Rs. 18462.16 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

A few illustrative cases of important observations involving Rs. 457.68 lakh are given in the following paragraphs.

3.02 Non-realisation of revenue due to irregular transfer of Government land

Irregular transfer of Government land to a private company in Nadia district and to State/Central Undertakings in other districts resulted in non-realisation of revenue to the extent of Rs. 372.89 lakh.

(a) Under the provisions of the West Bengal Land Management Manual, 1977, Government lands cannot in ordinary course be sold to any individual. Proposals for transfer of Government lands by sale to local authorities, statutory bodies and public undertakings may, however, be considered by the Board of Revenue. In case the land is possessed by other departments of the State Government, the Board of Revenue will ask that department, through the Department of Land Utilisation and Reforms and Land and Land Revenue (now the Land and Land Reforms Department) to relinquish the land to the latter, if there is no objection to the proposal. The land will then be leased out by the Board in accordance with the rules of the Manual.

In Nadia district, it was noticed (September 1996) that 14.91 acres of land was recorded in the Record-of-Rights in the name of the Development and Planning and Refugee Relief and Rehabilitation Department. The Fisheries Department, being the *permissive possessor* of the land was not vested with the right of sale. The Fisheries Department, disregarding the provision, made a proposal for outright sale of the land to M/s. International Ferrites Limited (company) at a market value of Rs. 100.52 lakh determined by the Collector, Nadia. The land was handed over to the company in 1994. As per the agreement, the said company had made an interim payment of Rs. 15 lakh to the Fishery Development Corporation before handing over of the land and subject to final settlement which would be done as per assessment of the value of the land. On the violation

of the procedure of transfer of the land being pointed out (September 1996) in audit, the District Land and Land Reforms Officer initiated (September 1996) a long term lease proposal and the Land and Land Reforms Department accorded (January 1998) sanction for long term lease of the land for 30 years.

As the land in question had already been handed over to the company (1994) in advance total amount due from the said company worked out to Rs. 62.65 lakh (rent Rs. 12.06 lakh, cess Rs. 10.38 lakh and *salami* Rs. 40.21 lakh).

Government, to whom the matter was reported in January 1997, stated (July 1998) that long term settlement proposal would be finalised very soon and the lease deed would be executed on realising the requisite sum. Report on further development has not been received (September 1998).

(b) Under the provisions of the West Bengal Land Management Manual, 1977, vested non-agricultural lands may be settled on long term lease basis for thirty years on realisation of annual rent to be fixed by the Collector at four per cent of the market value of land and *salami*, in lump, at ten times the annual rent. A lease deed should also be executed before handing over possession stipulating terms and conditions set forth in Appendix IV of the Manual including the due date for payment of lease rent (with the approval of the Board of Revenue). Cesses and surcharge are also leviable at the rate of eightysix paise per rupee of rent. There is, however, no specific provision in the Manual for giving advance possession of Government land without realising prescribed rent and *salami* in advance.

(i) Test check of records of the District Land and Land Reforms Officer, Birbhum, revealed (June 1998) that land measuring 36.73 acres had been handed over between September 1995 and April 1996 to the West Bengal Power Development Corporation Limited as per the Board of Revenue order dated 21 September 1995. No lease agreement had been executed though a period ranging from 25 to 32 months had already elapsed since the date of handing over the land. Non-observance of existing procedure for long term settlement resulted in non-realisation of revenue in the shape of rent, *salami* and cess to the extent of Rs. 171.09 lakh.

On this being pointed out (June 1998) in audit, the district authority stated (June 1998) that the matter was being looked into. Report on further action taken has not been received (September 1998).

The matter was reported to Government in June 1998; their reply has not been received (September 1998).

(ii) During the course of audit in the office of the District Land and Land Reforms Officer, Tamluk, it was noticed (February 1997) that land measuring 236.82 acres had been handed over in 1984 to Calcutta Port Trust without realising annual rent and *salami* and obtaining approval of the Board of Revenue. Handing over of Government land without observing the necessary formalities resulted in non-realisation of revenue of Rs. 102.43 lakh (rent Rs. 39.79 lakh, *salami* Rs. 28.42 lakh and cess Rs. 34.22 lakh).

Government, to whom the matter was reported in June 1997, stated (July 1998) that the district authority, Tamluk, had instructed the concerned Block Land and Land Reforms Officer to trace the concerned records for long term settlement for realisation of Government dues.

(iii) During the course of audit in the office of the District Land and Land Reforms Officer, Murshidabad, it was noticed (March 1996) that a piece of Government land measuring 1.70 acres was handed over to the North Bengal State Transport Corporation on 1 January 1996 without initiating any lease proposal as per rules. This irregular transfer of Government land led to non-realisation of rent amounting to Rs. 6.12 lakh from January 1996 to December 1997 and *salami* of Rs. 30.60 lakh leviable under the rules.

On this being pointed out in audit (March 1996), the district authority stated (December 1997) that all out efforts had already been made to realise the amount. Report on realisation of the amount has not been received (September 1998).

Government, to whom the case was reported in August 1996, endorsed (April 1998) the views of the department.

3.03 Delay in re-settlement of land resulted in loss of revenue

In South 24-Parganas district delay of 23 years in settlement of Government land resulted in loss of revenue to the extent of Rs. 17.02 lakh.

Under the provisions of the West Bengal Land Management Manual, 1977, persons holding non-agricultural land without any lease for more than twelve years, cannot ordinarily be ejected as per provisions of the West Bengal Non-Agricultural Tenancy Act, 1949. Long term lease is required to be offered to such persons for a minimum period of thirty years subject to payment of annual rent and *salami* in lump. In giving long term settlement for the first time rent should be fixed at four per cent of the market value of land and *salami* charged at ten times the annual rent. In the event of unwillingness, steps as prescribed are to be initiated for ejection and for unauthorised use and occupation of land damage fee at the rate prescribed from time to time is to be realised.

During test check of records of the Additional District Magistrate and District Land and Land Reforms Officer, South 24-Parganas, it was noticed that 7 *bighas* 3 *kathas* 24 *chattaks* and 9 sft of land situated within Calcutta Municipal Corporation area had been leased out to 2 persons on long term basis with effect from 1 April 1935 to 31 March 1965 at an annual rent of Rs. 2,288. On spot verification (between 1966 and 1998) the department ascertained that ex-lessees had inducted 28 persons before expiry of lease term and used to earn money by subletting the leasehold land in question. For unlawful use and occupation of the land the department issued eviction notice but the unauthorised holders of the land moved to the Court and obtained civil rule. Hon'ble High Court, Calcutta set aside (13 December 1971) the notice of the eviction and allowed liberty to the Government for proceeding afresh in accordance with law. After a long gap of 23 years the district authority obtained (17 June 1995) legal opinion and issued (February 1997) letter to the Land Acquisition Collector, Calcutta requesting to assess value of the land but the latter could not assess value of the land for non-furnishing sketch map of the particular plot.

Failure on the part of the department to initiate action for long term settlement with the existing possessors of the land even after vacation of the civil rule, resulted in loss of revenue in the shape of rent of Rs. 13.66 lakh and lump sum *salami* of Rs. 3.36 lakh calculated on the basis of market value of the land prevailing in the vicinity of the land between the years 1963 and 1993.

On this being pointed out (April 1998) in audit, the department stated (April 1998) that for settlement of the land market value was being ascertained. Report on further development has not been received (September 1998).

Government, to whom the case was reported (between September 1993 and April 1998), stated (June 1998) that the Land Acquisition Collector, Calcutta, had also been requested by that department to expedite the work of assessment of market value of the concerned land. Report on further development has not been received (September 1998).

3.04 Short/non-realisation of rent due to delay in renewal of lease

Non-renewal of leases of non-agricultural land in the districts of Burdwan and Tamluk for above 12 years resulted in non/short realisation of revenue to the extent of Rs. 1.72 lakh.

Under the provisions of the West Bengal Land Management Manual, 1977, at the time of renewal of long term lease, rent should be fixed on such fair and reasonable terms as may be agreed upon between the Collector and the lessee. The Board of Revenue in their orders issued in May and August 1982, directed that rent of those leases, which had expired but could not be renewed till 31 December 1981 and the lessees were holding the leases, should be enhanced by 12.5 per cent per annum over the existing rent and thereafter the lease should be renewed from 1 January 1982 by fixing rent at 4 per cent of the market value of the land. No *salami* is, however, chargeable at the time of renewal of such lease.

In the District Land and Land Reforms Offices of Burdwan and Tamluk, it was noticed (between January 1995 and September 1997) that 2 long term leases in respect of 2.07 acres of non-agricultural land had expired between 1987 and 1989. The legal heirs and ex-lessees had applied for renewal of leases between 11 September 1988 and 16 February 1994 but the department failed to renew the leases till March 1998. This resulted in non-realisation of Government revenue to the tune of Rs. 1.72 lakh.

Government, to whom the cases were reported between October 1995 and December 1997, stated (June 1998) that in one case the concerned District Land and Land Reforms Officer had already directed the Block Land and Land Reforms Officer for initiating action for long term proposal and the other case was lying with the department for sanction. Report on further development has not been received (September 1998).

3.05 Unauthorised occupation of Government land

Inaction on the part of the department to settle non-agricultural lands with 17 persons and 4 clubs which were in unauthorised occupation since 1955-56 in Nadia district resulted in non-realisation of revenue to the extent of Rs. 19.84 lakh.

The West Bengal Land Management Manual, 1977 provides that if Government vested lands are occupied unlawfully for more than twelve years, the occupiers may be offered long term lease settlement for a period of thirty years, with option of successive renewals on realisation of annual rent to be fixed at four per cent of the market value of land and lump sum *salami* at ten times the annual rent.

During the course of audit in the office of the District Land and Land Reforms Officer, Nadia, it was noticed (July-September 1996) that 17 persons and 4 clubs had been occupying 15.63 acres of vested non-agricultural land between 1955-56 and 1995-96 and using it for various purposes without any authority. The department did not take any action to settle the land with them as per rules. Due to inaction to settle the land, the department could not realise Rs. 5.94 lakh in the shape of rent for the years 1994-98 in addition to lump sum *salami* of Rs. 13.90 lakh.

On this being pointed out (July-September 1996) in audit, the district authority stated (March 1998) that the concerned Block Land and Land Reforms Officer had been instructed for early settlement of the land and realisation of dues. Report on further action taken has not been received (September 1998).

The cases were reported to Government in January 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

3.06 Non-realisation of lease rent in respect of *sairati* interests

*In Nadia district 49 *sairati* interests (jalkar, falkar etc) were not settled owing to various irregularities resulting in non-realisation of lease rent and cess to the extent of Rs. 6.05 lakh.*

Under the provisions of the West Bengal Land Management Manual, 1977, all *sairati* interests like fisheries/*jalkar* etc would be leased out on year to year basis but not exceeding seven years at a time. The Collector has to fix the economic rent and realise twentyfive per cent of the annual rent at the time of settlement of *sairati* interests and the balance before the beginning of the year. Besides, cesses at the prescribed rate are also realisable. Rent for the successive years is to be deposited by the lessee in full before the beginning of the respective year and a lease agreement is required to be executed beforehand.

Non-settlement of *sairati* interests due to irregularities like non-execution of lease agreements, non-settlement of *jalkar*, delay in decision for settlement and delay in initiation of proposal by the department as noticed (September 1996) in audit resulted in non-realisation of revenue amounting to Rs. 6.05 lakh as detailed below:

Sl. No.	Name of the district with block	Description of the <i>sairuti</i> interests	Previous year's lease rent (per year)	Period for which lease rent realisable (between)	Amount of non-realisation (rent and cesses) (Rupees in lakh)	Nature of irregularity	Reply of the department
1	2	3	4	5	6	7	8
1.	Nadia (Kalyani LR block)	Satima Falkar	Rs. 26,500	1994 and 1996	1.38	Due to non-execution of lease agreement with the lessee	The district authority stated (March 1998) that the said interest had been handed over to the Kalyani Municipality on year to year lease basis from 1997 and Sub-Divisional Land and Land Reforms Officer was being instructed to realise arrear dues from 1994 to 1996.
2.	Nadia (10 LR blocks)	37 Jalkars	Rs. 85,389	1990 and 1995	1.59	Due to non-settlement of the jalkars	The district authority stated (March 1998) that attempts were being made to settle all jalkars with the Nadia District Fishermen Co-operative Federation (NDFCF) and other co-operative societies.
3.	Nadia (Nakashipara LR block)	1 Jalkar	Rs. 5,417 Rs. 10,000	1987 and 1991 1992 and 1995	1.25	Due to non-execution of lease agreement with the lessee	The district authority stated (March 1998) that the said jalkar had been settled with the Chief Executive Officer, Nadia District Fishermen Co-operative Federation from 1987 to 1997.
4.	Nadia (Kaliganj LR block)	1 Jalkar	Rs. 5,000	1993 and 1996	0.37	Due to delay in taking decision for settlement with the highest bidder	The district authority stated (June 1998) that action for settlement was in process.
5.	Nadia (Krishnanagar-II LR block)	1 Jalkar	Rs. 6,300 Rs. 10,000 as per highest offer for 1995	1990 and 1994 1995	0.77	Due to delay in leasing out the interest	The district authority stated (June 1998) that the jalkar had already been settled with the NDFCF. The concerned Block Land and Land Reforms Officer had been reminded for realisation of arrear dues.

1	2	3	4	5	6	7	8
6.	Nadia (Haringhata LR block)	8 Jalkars	Varies from Rs. 55 to Rs. 5,720	1990 and 1995	0.69	Due to delay in initiation of proposal by the competent authority the interests remained unsettled	The district authority stated (June 1998) that in 6 cases arrear dues had been realised. Con- stant pursuance for realisation of the balance amount was being made.
Total		49 cases		6.05			

Government, to whom the cases were reported in January 1997 followed by reminders issued up to June 1998, endorsed (June 1998) the views of the department and stated that a sum of Rs. 8,555 had been realised in respect of serial 2.

3.07 Non-assessment of cesses on lease rent

Cesses are also realisable on lease rent from long/short term leases. Cesses on lease rent in respect of 2 lessees were not assessed and realised to the extent of Rs. 21.76 lakh including interest.

All lands belonging to Government, if not in direct use and occupation of the Government, shall be liable to the payment of different kinds of cesses, under the Cess Act, 1880, education cess under the West Bengal Primary Education Act, 1973 and rural employment cess and surcharge under the West Bengal Rural Employment and Production Act, 1976, in the cases where the Cess Act, 1880 is applicable. The total amount of cess is eightysix paise per rupee of rent fixed. Accordingly, Government land which had been transferred/settled on short/long term lease basis is subject to levy of different kinds of cesses and surcharge on the lease rent. Interest is also leviable at the prescribed rate for delayed payment of rent and cesses.

(a) During the course of audit in the office of the District Land and Land Reforms Officer, South 24-Parganas, it was noticed (August 1997) that 105.88 acres of *char*¹ land at Nikarighata, PS Canning, had been leased out on short term lease basis for 8 years from 4 November 1992 to M/s. Andrew Yule and Company Limited (a Government of India Undertaking) at an annual rent of Rs. 76,081. The department had realised lease rent at the rate of Rs. 76,081 per annum but cesses at the prescribed rate were not assessed and realised. This resulted in non-levy of cess and surcharge amounting to Rs. 4.01 lakh including interest.

Government, to whom the matter was reported in December 1997, stated (July 1998) that the District Land and Land Reforms Officer, South 24-Parganas had been instructed to initiate certificate case for realising cess and surcharge on lease rent. Report on further development has not been received (September 1998).

(b) In the course of audit in the Block Land and Land Reforms Office, Barasat, in the district of North 24-Parganas, it was noticed (January 1994) that Government land measuring 58.77 acres (non-municipal area) was transferred to M/s. Mother Dairy Benmilk Keventer Limited (company) on 2 April 1992 after execution of lease agreement for 99 years. At the time of execution of lease agreement, the quantum of rent payable by the lessee had not been mentioned in the said deed. On this irregularity being pointed out (between June 1994 and May 1995) the department raised demand for rent for the period from 1992 to 1996 at the rate of Rs. 3.67 lakh per annum and for non-payment of dues by the company the department referred (February 1997) the matter to the certificate officer for realisation without inclusion of cess due for the said periods. This resulted in non-assessment of cesses to the tune of Rs. 17.75 lakh including interest.

On this being pointed out (February 1996) in audit, the district authority stated (May 1998) that the case was being referred to the certificate officer for realisation.

Government, to whom the matter was reported between September 1996 and April 1998, stated (June 1998) that certificate officer had passed (September 1997) the final order directing the concerned company to pay all dues but the company filed an appeal petition in the Court of the Collector, North 24-Parganas. The case was under process. Report on further development has not been received (September 1998).

¹Char means a sand bank of island in the current of a river deposited by water.

3.08 Short levy of interest for non-payment of lease rent, cess and *salami*

*There was short levy of interest to the extent of Rs. 18.40 lakh for delayed payment of lease rent, cess and *salami* by the North Bengal State Transport Corporation.*

In terms of an order issued by Government in November 1992, the rate of interest for delayed payment of rent and *salami* in the case of long term/short term settlement or lease to local or other public bodies, statutory bodies, private individuals, other public undertakings etc was enhanced with effect from 24 September 1984 from six and a quarter per cent to nine per cent per annum for the first year and to fifteen per cent per annum thereafter till such payment is made from the time of taking over possession of such land. Interest on cess is leviable as per the Cess Acts.

During the course of audit in the office of the District Land and Land Reforms Officer, Murshidabad, it was noticed that 3 plots of land measuring 5.08 acres were settled with the North Bengal State Transport Corporation, Berhampore, on long term lease basis between 1976-77 and 1991-92 fixing annual rent of Rs. 8,712 (for 1.21 acres of land), Rs. 132844.70 (for 2 acres of land) and Rs. 1,31,932 (for 1.87 acres of land) besides *salami* of Rs. 26.47 lakh. The lessee had not paid the dues from 1986. The district office assessed arrear dues of Rs. 63.94 lakh including cesses and interests but rate of interest at the rate of 6.25 per cent on land rent and *salami* was taken into account instead of at the rate effective from September 1984 resulting in short levy of interest amounting to Rs. 18.40 lakh (interest leviable Rs. 31.58 lakh but levied Rs. 13.18 lakh).

On this being pointed out (March 1996) in audit, the district authority stated (December 1997) that concerned Block Land and Land Reforms Officer had been asked to realise the amount. Report on realisation of the amount has not been received (September 1998).

Government, to whom the case was reported in August 1996, endorsed (April 1998) the views of the department.

CHAPTER 4

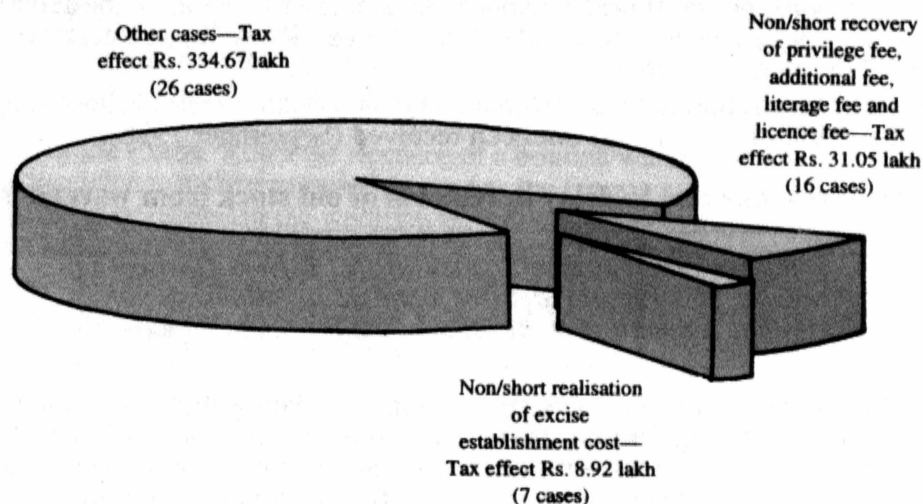
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STATE EXCISE

STATE EXCISE

4.01 Results of audit

Test check of records of State Excise revenue in district revenue wings, conducted in audit during the year 1997-98, revealed non/short realisation of Excise duty amounting to Rs. 374.64 lakh in 49 cases, which broadly fall under the following categories:



Total tax effect Rs. 374.64 lakh (49 cases)

During the course of the year 1997-98 the concerned department accepted under-assessments etc of Rs. 11.67 lakh involved in 14 cases of which 7 cases involving Rs. 2.30 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

A few illustrative cases involving Rs. 35.99 lakh highlighting important observations are given in the following paragraphs.

4.02 Non-realisation of additional fee in respect of liquor obtained through increased operation

Unintended benefit towards operational increase allowed to 2 manufacturers of country liquor resulted in non-realisation of additional fee amounting to Rs. 6.21 lakh.

Under the provisions of the Payment of Additional Fees (for the supply of spirit for the manufacture of country liquor) Rules, 1992 as amended from time to time, the additional fee payable for different kinds of spirit, with effect from 10 May 1994 shall be the difference between the ex-warehouse price in force and the ex-distillery price fixed by the competent authority. Accordingly, in the case of net increase in operation of country liquor in bottling plant-cum-warehouse, the ex-distillery price of alcohol is nil whereas the ex-warehouse price of country liquor is rupees twentyfive per London proof litre (LPL) attracting levy of additional fee at the same rate of rupees twentyfive per LPL.

(a) During test check of records of the Excise Officer posted in M/s EDCL and M/s Varas International Private Limited under the Collector of Excise, Calcutta, it was noticed (November 1997) that while processing country liquor from rectified spirit during 1996-97 there was a net operational increase of 21267.5 LPL of country liquor which was sold by the licensee at a price of Rs. 5.32 lakh, no additional fee was assessed and realised. Thus, allowance of such unintended benefit resulted in non-realisation of additional fee of Rs. 5.32 lakh.

(b) Test check of records of the Excise Officer posted in M/s Himalayan Endeavour under the Superintendent of Excise, Darjeeling, revealed (December 1997) that while processing country liquor from rectified spirit during 1996-97, there was a net operational increase of 4761.1 LPL of country liquor which was sold by the licensee at a price of Rs. 1.19 lakh calculated at the rate of Rs. 25 per LPL against payment of additional fee of Rs. 0.30 lakh instead of Rs. 1.19 lakh. Allowance of such unintended benefit resulted in short realisation of additional fee of Rs. 0.89 lakh.

On the cases being pointed out (November-December 1997) in audit, the department stated (July 1998) that the matter had been referred to Government. Report on further development has not been received (September 1998).

The matters were reported to Government (January-March 1998) followed by reminders issued up to June 1998; their reply has not been received (September 1998).

4.03 Blockage of revenue due to delay in removal of old stock from warehouse

Delay in removal of old stock of IMFL from 5 warehouses in Calcutta district resulted in blockage of revenue amounting to Rs. 25.34 lakh for about 8 years.

Under the provisions of the Rules (May 1940) regulating the compounding, blending, reduction and bottling of foreign liquor, India-made foreign liquor (IMFL) stored in a bond is required to be taken out within three months from the date of entry on payment of requisite duty. There is no such time limit in the case of storage of IMFL by bonders other than manufacturers.

In 5 bonded warehouses of IMFL under jurisdiction of the Collector of Excise, Calcutta, it was noticed (November 1997) that 22492.78 London proof litres (LPL) of whisky, brandy and gin and 666 LPL of rum were not taken out of the warehouses by the bonders from 1991. This resulted in blockage of revenue of Rs. 25.34 lakh.

On this being pointed out (November 1997) in audit, the department stated (July 1998) that an amendment was being proposed in the draft Foreign Liquor Rules submitted to Government to avoid delay on removal of stock from the warehouse. Report on further development has not been received (September 1998).

The matter was reported to Government in January 1998 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

4.04 Short realisation of brand registration fee in respect of India-made foreign liquor

In Darjeeling district brand registration fee amounting to Rs. 80,000 for change of brand name on the label of bottled liquor was short levied treating the change as renewal in 16 cases.

Under the Bengal Excise Act, 1909 as amended from time to time, the fee for registration of a new brand/label and renewal thereof in respect of India-made foreign liquor (IMFL) is rupees ten thousand and rupees five thousand per brand/label per annum. Application for registration of a new brand name for a liquor and label thereof is to be made to the competent authority at least two months prior to its sale but application for renewal of registration of the existing brands shall be made within the last day of February of the previous year.

Scrutiny of records of a bonded warehouse under the Superintendent of Excise, Darjeeling for the year 1997-98, revealed (December 1997) that in 9 cases the bonder had changed the brand name of the distillery in the label of the bottled liquor and in 7 cases renewal of the brand had been approved by the competent authority notwithstanding the fact that there was no previous registration or renewal of the same brand during 1996-97. The department had realised brand registration fee in all the 16 cases at the rate of Rs. 5,000 treating as renewal. This resulted in short realisation of brand registration fee of Rs. 80,000.

On this being pointed out (December 1997) in audit, the department confirmed (December 1997) the facts. Reports on further action taken has not been received (September 1998).

The matter was reported to Government in March 1998 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

4.05 Non-realisation of pension contribution and bonus towards establishment cost

Non-inclusion of the elements of pension contribution etc and bonus in the excise establishment cost resulted in non-realisation of Government revenue to the extent of Rs. 3.64 lakh in 2 districts.

(a) Under the Excise Rules the licensee of a bonded warehouse shall pay to Government a monthly fee in cash equivalent to monthly cost as the Commissioner may fix in respect of the excise establishment deployed in the warehouse, within seven days after the expiry of the month to which the fee relates. While computing the cost of the average pay of officers and establishment, the contribution towards leave salary and pension and compensatory allowance shall be included. The rates of pension contribution were revised (April 1997) with retrospective effect from January 1988.

It was noticed (November-December 1997) that in respect of 8 bonded warehouses under the Collector of Excise, Calcutta and 3 bonded warehouses under the Superintendent of Excise, Darjeeling, the arrears of pension contribution of Rs. 1.78 lakh for the various periods between January 1988 and November 1997 had not been realised in respect of excise establishment deployed in the warehouses during the period. This resulted in non-realisation of establishment cost amounting to Rs. 1.78 lakh.

On this being pointed out (November-December 1997) in audit, the department stated (July 1998) that the entire amount had been realised.

(b) Bonus being an additional expenditure incurred by the Government for the personnel posted in the bond shall be included in the gross sanctioned cost of the service and recovered from the licensee along with other establishment cost.

It was noticed (March 1997) that bonus paid by the department in respect of 48 constables posted in the warehouses/bonds under the Collector of Excise, Calcutta for the period between 1993-94 and 1995-96 had not been included in the demand for excise establishment cost and recovered from them. This resulted in non-recovery of establishment cost in the shape of bonus amounting to Rs. 1.86 lakh.

On this being pointed out (March 1997) in audit, the Commissioner of Excise, Calcutta stated (February 1998) that a specific provision was being included in the proposed Foreign Liquor Rules. Report on further action taken has not been received (September 1998).

Government, to whom the case was reported in May 1997, endorsed (February 1998) the views of the department.

CHAPTER 5

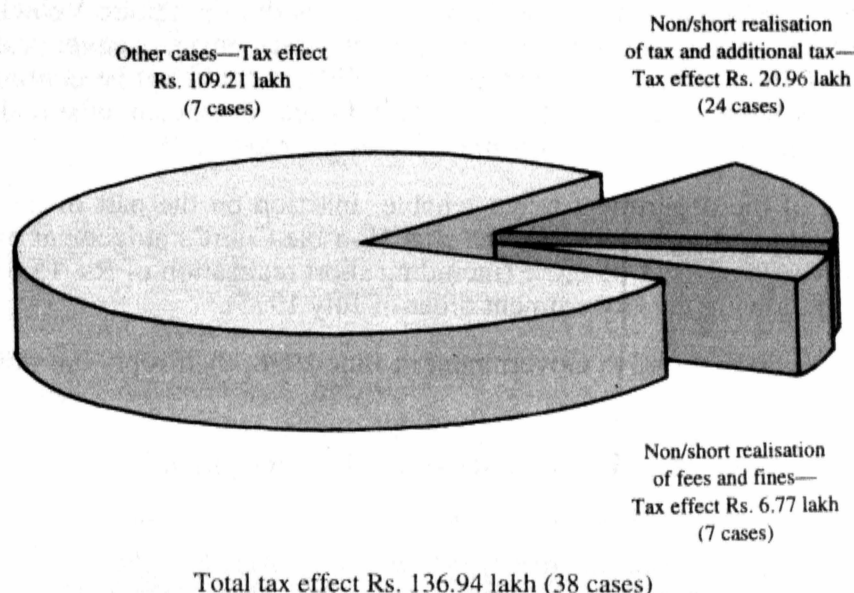
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MOTOR VEHICLES TAX

MOTOR VEHICLES TAX

5.01 Results of audit

Test check of records in the offices of the Transport department, conducted in audit during the year 1997-98, revealed non/short realisation of revenue amounting to Rs. 136.94 lakh in 38 cases, which broadly fall under the following categories:



During the course of the year 1997-98 the concerned department accepted underassessments etc of Rs. 241.01 lakh in 62 cases of which 39 cases involving Rs. 226.31 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

A few illustrative cases involving Rs. 157.54 lakh highlighting important observations are given in the following paragraphs.

5.02 Non-revision of seating capacity of Ambassador metered taxis

Failure to record the revised seating capacities on Ambassador taxis in Calcutta region in the Registration Certificates resulted in loss of revenue of Rs. 104.54 lakh.

Under the West Bengal Motor Vehicles Tax Act, 1979, motor vehicles tax on a public service vehicle carrying passengers on hire is leviable on its seating capacity, excluding driver's seat. With an amendment in the Act from 25 November 1991, tax is leviable on the total number of seats (including that of the driver) recorded in the registration certificate (RC). As prescribed under rule 230 of the West Bengal Motor Vehicles Rules, 1989, the total number of seats fitted in a public service vehicle is to be determined by providing a space of 38 cms square for each seat and the same is to be recorded in the RC. As per technical report furnished by the Public Vehicles Department, Calcutta (May 1998), the total number of seats in Ambassador metered taxis needed to be recorded at 6 (3 in front and 3 in back) calculated as per above norms. On the basis of the Union Government's order of July 1975, the State Government instructed all the authorities on 29 July 1975 for issue of authorisation allowing taxis on Ambassador car body to carry 5 passengers. Hereto total number of seats comes to 6 (5 passengers plus driver). Under the Tax Act, *ibid*, tax on a public service vehicle other than stage carriage was Rs. 470 and Rs. 545 annually for 5 and 6 seats respectively, which was subsequently revised to Rs. 800 and Rs. 900 respectively from 25 November 1991.

Motor Vehicles Tax

It was noticed (May 1998) that 16,105 metered taxis (all registered as contract carriages) on Ambassador car bodies had been registered in Calcutta region till June 1997 with initial seating capacities of 5 (4 passengers and driver), and tax on them was being realised at the rate of Rs. 800 annually since 25 November 1991 till date. Had the refixation/fixation of seating capacities of the vehicles been done as per norms prescribed in the Rules of 1989, tax on them could have been realised at the rate of Rs. 900 annually on 6 seats from 25 November 1991 onwards. But no such revision has been made till May 1998 resulting in loss of Rs. 88.91 lakh.

On these cases being pointed out (May 1998) in audit, the Public Vehicles Department stated (May 1998) that realisation of tax at enhanced rate based on 5 passengers vide Government of India's order of 29 July 1975 was started from 1979 but could not be continued in view of judgement* of Hon'ble High Court (May 1986) that enhanced tax cannot be realised unless the seating capacity both in RC and Permit is modified as per rule.

The reply of the department is not tenable. Inaction on the part of the department in endorsing the revised seating capacities even after Hon'ble Court's judgement of May 1986 led to total loss of revenue of Rs. 1.05 crore (including short realisation of Rs. 15.63 lakh up to 24 November 1991 following the Government order of July 1975).

The matter was reported to Government in June 1998; their reply has not been received (September 1998).

5.03 Short realisation of tax due to application of incorrect rate

Application of incorrect rate in respect of motor vehicles other than stage carriages resulted in short realisation of tax to the extent of Rs. 2.50 lakh in 4 regions.

Under the West Bengal Motor Vehicles Tax Act, 1979 as amended from time to time, tax on a motor vehicle used for carrying passengers on hire is leviable on its seating capacity at the rate applicable to (i) stage carriage and (ii) other than stage carriage. Tax on a vehicle other than stage carriage is higher than that on a 'stage carriage' having the same seating capacity. Contract carriage buses, taxis, idle buses fall under the category 'other than stage carriage'. Tax on this category was enhanced from 25 November 1991.

During the course of audit in 4 regional transport offices† it was noticed (between August 1995 and January 1997) that tax on 38 contract carriage buses, idle buses and 172 contract carriage omnibuses, taxis was being realised either at the rate applicable to stage carriage or at the pre-revised rate of other than stage carriage. This led to short realisation of tax of Rs. 2.50 lakh for the periods falling between 25 November 1991 and October 1996.

On the cases being pointed out (between August 1996 and January 1997) in audit, the taxing officer, Burdwan stated (March 1998) that demand notices had been issued, the taxing officer, Tamluk stated (September 1996) that action would be taken on verification of records, the taxing officer, Malda stated (August 1996) that the matter was being looked into, while the taxing officer, CoochBehar stated (January 1997) that necessary action would be taken for realisation of dues from the owners. Report on further action taken has not been received (September 1998).

All the cases were reported to Government between November 1995 and April 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

*Jaspan Singh & Ors. Vs. State of West Bengal & Ors. [C.R. No. 4174 (W) of 1979].

†Burdwan, CoochBehar, Malda and Tamluk.

5.04 Short realisation of tax due to irregular allowance of exemption on goods vehicles

Irregular allowance of exemption on 42 goods vehicles resulted in short realisation of tax to the extent of Rs. 1.36 lakh in 2 regions.

(a) The West Bengal Motor Vehicles Tax Act, 1979 empowers the Government to exempt any motor vehicle or class of motor vehicles from payment of motor vehicles tax either fully or partially. Government by a notification exempted from 1 April 1989, certain classes of motor vehicles from payment of tax. Any motor vehicle which was hitherto granted exemption by an earlier order and not covered by the notification of July 1989 was not eligible for further exemption from April 1989.

During the course of audit in the Regional Transport Office, Darjeeling, it was noticed (December 1996) that 15 per cent tax exemption, granted earlier by notification of 1977 on goods vehicles plying in the hilly portions of Darjeeling district, was being continued even after April 1989 although they were not covered by notification of July 1989. This led to short realisation of tax of Rs. 50,642 on 33 goods vehicles due to irregular exemption for the periods falling between April 1989 and November 1997.

Government, to whom the matter was reported in March 1997, stated (July 1997) that tax exemption was irregular and that the Regional Transport Officer, Darjeeling was being advised to collect full tax in such cases. Report on further development has not been received (September 1998).

(b) As per notification of July 1989, fire fighting vehicles owned by other than the Director of Fire Services, Government of West Bengal, and ambulances owned by other than those mentioned therein were not entitled for exemption from tax from April 1989.

During the course of audit in the Additional Regional Transport Office, Tamluk, it was noticed (September 1996) that exemption from tax was allowed on 2 fire fighting vehicles and 7 ambulances during the period from 1993-94 to 1995-96 although the owners were other than those mentioned in the notification entitled for such exemption. This resulted in short realisation of tax of Rs. 85,500.

On the cases being pointed out (September 1996) in audit, the taxing officer stated (September 1996) that action would be taken on verification of records. Report on further action taken has not been received (September 1998).

The matter was reported to Government in January 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

5.05 Short realisation of revenue due to non-revision of maximum safe laden weight

Non-revision of maximum safe laden weight in respect of minitrucks in Jalpaiguri region resulted in short realisation of tax to the extent of Rs. 59,325.

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax on goods vehicle is payable on the basis of its registered laden weight. On the basis of the notification of the Union Government dated 25 September 1982 the State Government issued instructions on 31 January 1983 to all registering authorities to fix/refix maximum safe laden weight and maximum safe axle weight of goods vehicles manufactured up to 31 March 1983 at 125 per cent of the ratings given by the manufacturers. Further, the maximum safe laden weight of a vehicle is to be restricted to the sum total of maximum safe axle weight of each axle of the vehicles, as specified in the schedule to the said notification.

Motor Vehicles Tax

In the Regional Transport Office, Jalpaiguri, it was noticed (December 1995) that front axle weight and rear axle weight of minitrucks manufactured by a company up to 31 March 1983 were 1,455 kgs and 1,820 kgs respectively. As per Union Government's notification of September 1982 maximum safe axle weight of both front and rear axles were required to be refixed at 1,819 kgs and 2,275 kgs respectively and maximum safe laden weight at 4,094 kgs. It was, however, noticed that maximum safe laden weight of the vehicles was not refixed as per above notification. This resulted in short realisation of tax of Rs. 59,325 in respect of 8 minitrucks for the periods falling between June 1985 and March 1996.

Government, to whom the matter was reported in February 1996, stated (April 1997) that demand notice had been issued to all registered owners to have the gross vehicles weights of the vehicles enhanced and difference of tax to be realised. Report on realisation has not been received (September 1998).

5.06 Loss of revenue due to non-issue of permits to trailers

Non-issue of permits to 112 trailers in Birbhum region resulted in loss of revenue amounting to Rs. 96,500.

The Motor Vehicles Act, 1988, effective from 1 July 1989, prohibits the owner of a transport vehicle to use or permit the use of the vehicle in public place without a valid permit granted by the appropriate authority for the purpose along with the conditions attached to it. No permit is necessary for any goods vehicle where gross vehicle weight does not exceed 3,000 kgs. Trailer being a goods vehicle requires a goods carriage permit for plying on road when its gross vehicles weight exceeds 3,000 kgs.

Scrutiny of records of the Regional Transport Officer, Birbhum, revealed (August 1995) that 112 trailers having gross vehicles weight above 3,000 kgs each, were registered in this region between April 1991 and December 1994. Although these vehicles came under the purview of permit, no permit either temporary or permanent was issued in respect of any one of them. This resulted in loss of revenue in the form of permit fee amounting to Rs. 96,500 calculated at the minimum rate of permanent permit fee of Rs. 150 per vehicle per year for one region up to March 1998.

On these cases being pointed out (August 1995) in audit, the taxing officer, Birbhum region stated (August 1998) that a clarification had been sought for from Government. The Government clarification had not been received (August 1998); however, temporary permits in respect of trailers (above 3,000 kgs) registered from August 1995 and onwards were being issued on realisation of requisite fee.

The case was reported to Government in November 1995 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

5.07 Non/short realisation of additional tax and penalty

Additional tax amounting to Rs. 11.18 lakh in respect of 198 vehicles in 9 regions was either not levied or levied short. Penalty of Rs. 5.59 lakh for non-payment of tax and additional tax in respect of 125 vehicles was not imposed in 6 regions.

(a) Under the provisions of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 as amended from 25 November 1991, additional tax is leviable on different classes of vehicles according to the seating capacity, nature of vehicles etc.

During test check of records of 9 Regional Transport Offices, it was noticed that additional tax amounting to Rs. 11.18 lakh in respect of 192 vehicles was not levied at all and in respect of 6 vehicles was levied short as detailed below:

Sl. No.	Name of the regional transport office	Number of vehicles and category	Rate of additional tax (Rupees)	Period for which tax due (Between)	Amount of tax short realised (Rupees in lakh)	Reasons for shortfall	Reply of the department
1	2	3	4	5	6	7	8
1.	Birbhum	17 Luxury Taxi	2,000 per annum [Seating capacity 6 (ID)]	25 November 1991 and July 1996	0.68	Non-realisation	The department stated (August 1996) that action was being taken to realise the shortfall amount.
2.	Malda	14 Motor Cabs	-do-	25 November 1991 and March 1996	0.88	-do-	The department stated (August 1996) that the matter was being looked into.
3.	Tamluk	14 Luxury Taxi	-do-	-do-	0.39	-do-	The department stated (September 1996) that necessary action would be taken.
4.	Purulia	5 Luxury Taxi	-do-	25 December 1991 and December 1996	0.40	-do-	The department stated (December 1996) that the matter was being looked into.
5.	CoochBehar	6 Motor Cabs	-do-	25 November 1991 and January 1997	0.62	-do-	The department stated (January 1997) that attempts would be made to recover the tax.
6.	Tamluk	7 Luxury Taxi	-do-	25 November 1991 and April 1994	0.46	-do-	The department stated (August 1995) that demand notices had been issued.
7.	Burdwan	11 Motor Cabs	-do-	-do-	0.56	-do-	The department stated (September 1995) that action was being taken for realisation of tax.
8.	Dakshin Dinajpur	10 Luxury Taxi	-do-	25 November 1991 and February 1995	0.57	-do-	The department stated (July 1995) that steps for recovery were being taken.

1	2	3	4	5	6	7	8
9.	Burdwan	13 Omnibuses used as contract carriage	4,000 per annum from 1 April 1989 and 6,000 per annum from 25 November 1991	April 1989 and July 1997	4.09	Non-realisation in 8 cases and short realisation in 5 cases	The department stated (March 1998) that a sum of Rs. 1,500 had been realised.
10.	Siliguri	6 Omnibuses used as contract carriage	-do-	March 1990 and January 1996	0.74	Non-realisation	The department stated (January 1998) that a sum of Rs. 6,000 had been realised and efforts were being made for realisation of the balance amount.
11.	Jalpaiguri	85 Trailers	50 per cent Motor Vehicle Tax payable on them	November 1994 and December 1996	1.01	-do-	The department stated (December 1996) that a sum of Rs. 7,594 had been realised.
12.	Jalpaiguri	2 Idle buses/ spare buses	4,000 up to 24 November 1991 and 6,000 thereafter	April 1989 and March 1995	0.37	Non-realisation in one case and short realisation in one case	The department stated (December 1996) that demand notice had been issued.
13.	Tamluk	8 Idle buses/ spare buses	-do-	April 1989 and October 1992	0.41	Non-realisation	The department stated (August 1995) that demand notices were being issued.
Total					11.18		

Government, to whom the cases were reported between November 1995 and January 1998, endorsed the views of the department in respect of Sl. Nos. 11 and 12; their reply in respect of the remaining cases has not been received (September 1998).

(b) Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979 and the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 as amended from 1 November 1994, motor vehicles tax as well as additional tax on motor vehicle is to be paid within fifteen days from the date from which such tax or additional tax becomes payable. On failure to pay tax or additional tax within the said prescribed period penalty is leviable at the rates from twentyfive per cent to one hundred per cent of total tax due depending upon the extent of delay in payment of tax from one day to more than sixty days after expiry of grace period.

During the course of audit of 5 regional transport offices* it was noticed (between September 1995 and December 1996) that in respect of 124 motor vehicles, tax was paid by the owners of the vehicles after delay ranging from 16 to 75 days from the dates of their becoming due and in respect of 49 motor vehicles, additional tax was paid by the owners of the vehicles after delay ranging from 46 to more than 75 days, but no penalty for delayed payment of tax and additional tax was realised. This resulted in non-realisation of penalty to the tune of Rs. 5.01 lakh.

On this being pointed out (between September 1995 and December 1996) in audit, the taxing officer, CoochBehar stated (January 1997) that action was being taken to realise the dues, the taxing officers, Jalpaiguri and Malda stated (October-December 1996) that demand notices were being issued and other taxing officer stated that necessary action would be taken. Report on further action taken has not been received (September 1998).

Government, to whom the cases were reported (between November 1995 and April 1997), endorsed the views of the taxing officers, CoochBehar and Malda; their reply in respect of other regions has not been received (September 1998).

(c) Under the provisions of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 as amended from time to time, a vehicle may be seized and detained by the authorised person if detected plying without payment of additional tax. The vehicle so seized may, however, be released if due tax with penalty is paid by the owner within thirty days of seizure. In the event of non-payment of Government dues within the said period, the vehicle may be sold in public auction if within a further period of fifteen days double the amount of total additional tax due including penalty is not paid by the owner.

Scrutiny of records of the Regional Transport Offices of Barasat and Howrah, it was noticed (July 1996) that one deluxe bus registered in Howrah, was seized in Barasat region on 9 November 1994 for plying without payment of additional tax since April 1989. Since the owner made no payment within 30 days of seizure, he became liable to pay Rs. 86,250 being double the amount of additional tax due including penalty after 8 December 1994. But the vehicle was released from Barasat after realisation of only due additional tax of Rs. 28,750 on 30 December 1996 at Howrah. This resulted in short realisation of Government dues of Rs. 57,500.

On this being pointed out (July 1996) in audit, the taxing officer, Howrah stated (July 1996) that arrangement had been made to realise dues. Report on further action taken has not been received (September 1998).

The matter was reported to Government in September 1996 followed by reminders issued up to June 1998; their reply has not been recieved (September 1998).

*RTO CoochBehar, Jalpaiguri, Malda, Murshidabad and ARTO Tamluk.

5.08 Short realisation of additional tax due to incorrect application of an interim order of Hon'ble High Court

Due to incorrect application of the interim order of the High Court, the department failed to collect additional tax amounting to Rs. 22.61 lakh from 98 vehicle owners in Jalpaiguri region.

Under the provisions of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 as amended from time to time, additional tax on omnibuses used under contract to carry different classes of passengers on hire is leviable at the rate of rupees four thousand per annum from April 1989 and at the rate of rupees six thousand per annum from 25 November 1991.

(a) During the course of audit in the Regional Transport Office, Jalpaiguri, it was noticed (December 1996) that a large number of omnibuses registered as contract carriage (called maxi taxi) to carry different classes of passengers on hire basis was not paying additional tax since the date of enactment. In order to collect the arrears of Government dues the taxing officer issued (4 January 1996) notices to owners of all maxi taxis for payment of arrear additional tax for one quarter only without penalty. Against this notice 109 registered owners moved (February 1996) the Hon'ble High Court, Calcutta and obtained an interim order (February 1996) staying the operation of realisation. However, on an appeal preferred by the department against the interim order, the appeal court in partial modification of the interim order directed (March 1996) the petitioners that the interim order earlier granted would continue for 3 months if the additional tax as demanded (4 January 1996) by the taxing officer is deposited within a week. It was also directed that this interim order would continue unless petitioners were heard and the case disposed of in the meantime upon deposit of further additional tax for one quarter as and when the same became due. According to the Hon'ble Court's judgement, the benefit of the aforesaid order was limited to the writ petitioners only.

On verification of 48 cases, it was noticed (December 1996) that instead of depositing Rs. 11.14 lakh being one quarter (25 per cent) of total arrear additional tax and subsequent quarterly dues thereafter, they had deposited Rs. 75,000 being one quarter of the annual additional tax of Rs. 6,000 (Rs. 1,500 each by 46 owners and Rs. 3,000 each by 2 owners). This resulted in short realisation of Rs. 10.39 lakh due to failure to collect 25 per cent of the arrear additional tax, despite the Hon'ble Court's direction.

On the cases being pointed out (December 1996) in audit, the taxing officer stated that the matter was being referred to Government to move the Hon'ble High Court for final disposal of the cases. Report on further action taken has not been received (September 1998).

The matter was reported to Government in March 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) In the same region it was also noticed (December 1996) that additional tax of Rs. 81,000 in respect of 50 other vehicles owners was realised instead of Rs. 13.03 lakh being total arrear additional tax due against them, though the said vehicles owners were not covered by the Court case. Due to failure on the part of the taxing officer to detect the owners not covered by the Court case, Government revenue to the extent of Rs. 12.22 lakh could not be realised.

On the cases being pointed out (December 1996) in audit, the taxing officer stated (December 1996) that demand notices were being issued for realisation of additional tax from the non-petitioners. Report on further action taken has not been received (September 1998).

The matter was reported to Government in March 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

5.09 Non/short realisation of fees and fines

Special fees amounting to Rs. 4.01 lakh for granting permission to ply certain types of vehicles were either not levied or levied short in 4 regions. Fines amounting to Rs. 3.72 lakh for violation of rules of regular registration were either not levied or levied short in the case of 176 vehicles in 4 regions.

(a) Fees

The West Bengal Motor Vehicles Rules, 1989 prohibit plying of any articulated vehicles or tractor-trailer combination or rigid chassis goods vehicles having gross vehicle weight above 22,542 kgs within the State of West Bengal provided that such restrictions may be relaxed, by order, on payment of such fees and on such condition as may be specified in that order. The Government vide their orders issued between 28 December 1990 and 5 June 1991 relaxed these restrictions and permitted the plying of such heavy vehicles on payment of special fees per annum at varying rates depending upon the gross vehicles weight of these vehicles and subject to fulfilment of prescribed condition laid down therein.

During the course of audit in the regional offices of South 24-Parganas (Alipore), Public Vehicles Department and Birbhum in the districts of Calcutta and Birbhum, it was noticed (between May and August 1996) that no special fee in respect of 39 heavy goods vehicles was realised during the period between December 1990 and August 1996 and in one case it was realised short during the said period. This resulted in non/short realisation of fees amounting to Rs. 4.01 lakh.

On this being pointed out (between May and August 1996) in audit, the taxing officer, Alipore and Birbhum stated (July-August 1996) that action was being taken for realisation of the fees while the taxing officer, Public Vehicles Department stated (May 1996) that the cases were being looked into. Report on further development has not been received (September 1998).

(b) Fines

The Motor Vehicles Act, 1988 prohibits driving of any motor vehicle in a public place or in any other place without its valid registration. Under the Central Motor Vehicles Rules, 1989, no dealer shall deliver a motor vehicle to the purchaser without its registration. Production of a vehicle to the registering authority for final registration without getting it temporarily registered after purchase from a dealer of other region, is an offence and is punishable with compounding fine at the rates for various categories prescribed by Government from time to time.

During the course of audit in the regional offices of the Public Vehicles Department, Alipore, Durgapur and Asansol in the districts of Calcutta, South 24-Parganas and Burdwan, it was noticed (between May and September 1996) that 176 motor vehicles of different categories were presented before the registering authorities of those regions between 5 July 1995 and March 1996 for registration after expiry of temporary registration or without any temporary registration from the dates of purchase from dealers. But fine payable for the offence was either not levied or levied at pre-revised rates. This resulted in non/short realisation of fine to the extent of Rs. 3.72 lakh.

On this being pointed out (between May and September 1996) in audit, the taxing officers, Durgapur and Asansol stated (September 1996) that steps would be taken for realisation of the amount, the taxing officer, Alipore stated that a sum of Rs. 24,800 had been realised while the taxing officer, Public Vehicles Department stated (May 1996) that action was being taken for realisation of the amount. Report on further action taken has not been received (September 1998).

Government, to whom the cases were reported between August 1996 and February 1997, endorsed the views of the taxing officer, Alipore regarding realisation of fines; their reply in respect of the remaining cases has not been received (September 1998).

CHAPTER 6

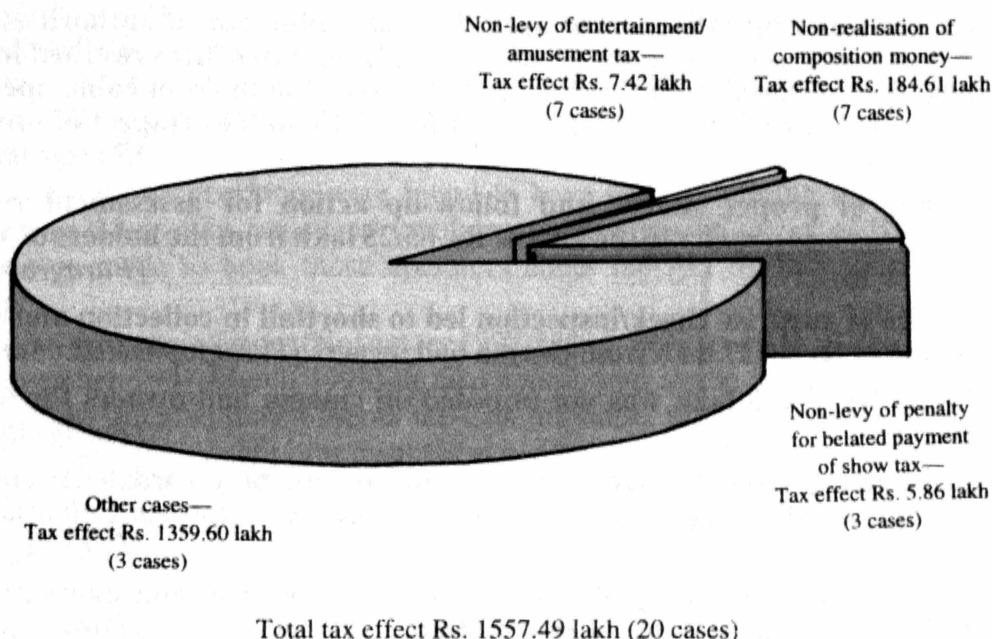
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AMUSEMENTS TAX

AMUSEMENTS TAX

6.01 Results of audit

Test check of records of amusements tax maintained at different district revenue wings, revealed underassessments etc of tax amounting to Rs. 1557.49 lakh in 20 cases, which broadly fall under the following categories:



During the course of the year 1997-98 the concerned department accepted underassessments etc of Rs. 899.62 lakh in 19 cases of which 14 cases involving Rs. 895.95 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

The results of a review on 'Assessment and collection of amusement tax' involving financial effect of Rs. 1422.28 lakh are given in the following paragraphs.

6.02 Assessment and collection of amusement tax**6.02.01 Introduction**

The levy and collection of amusement tax in West Bengal is regulated under the provisions of the Bengal Amusement Tax Act, 1922, the West Bengal Entertainment and Luxuries (Hotels and Restaurants) Tax Act, 1972 and the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the rules made thereunder. Revenue of the State under the amusement tax is derived from cinematograph exhibition, operation of cable television net work, video shows, luxury tax from the proprietors of hotels and restaurants, special shows and horse racing.

6.02.02 Organisational set up

The Commissioner of Agricultural Income Tax has been appointed as the Commissioner of Entertainment Tax, West Bengal with effect from April 1996 with the power of general superintendence over levy and collection of entertainment tax and show tax under the Acts throughout the State of West Bengal. Prior to that he was empowered to administer the Bengal Amusement Tax Act, 1922 in Calcutta and some adjoining municipalities. Collector of the district is in-charge of levy and collection of entertainment tax and show tax within the district under his jurisdiction. The Agricultural Income Tax Officer having jurisdiction in the district is the 'officer in-charge' of entertainment tax.

Amusements Tax

6.02.03 Scope of audit

Out of 18 offices, records of 11 district Collectors* and subordinate officers and the Commissioner of Agricultural Income Tax, West Bengal, Calcutta for the period from 1992-93 to 1996-97 were test checked during November 1997 to March 1998 with a view to ascertaining that the provisions of the Acts are being followed and implemented.

6.02.04 Highlights

- **Lack of proper initiative on the part of the tax enforcement authorities to collect the particulars of registered operators available with head post offices resulted in non-levy and non-realisation of revenue to the extent of Rs. 346.67 lakh from cable operators. In addition there was non-realisation of revenue of Rs. 12.18 lakh in respect of unregistered cable operators.** [Paragraph 6.02.06]

- **Absence of proper survey and follow-up action for assessment resulted in non/short levy of tax and penalty to the tune of Rs. 65.25 lakh from the holders of VCR/VCP sets.** [Paragraph 6.02.07]

- **Absence of surprise check/inspection led to shortfall in collection and evasion of entertainment tax of Rs. 80.27 lakh from cinema hall owners.** [Paragraphs 6.02.08 and 6.02.09]

- **Fine of Rs. 57.33 lakh was not imposed on cinema hall owners for offences of continuing nature.** [Paragraph 6.02.11]

- **Best judgement assessment, without reference to available records led to undercharge of entertainment tax to the tune of Rs. 9.99 lakh in respect of a hotel in Calcutta.** [Paragraph 6.02.13]

- **Tax of Rs. 11.34 lakh was not levied on the proceeds of special shows despite non-fulfilment of the conditions of grant of exemption.** [Paragraph 6.02.16]

6.02.05 Trend of revenue

Revenue realised during 5 years is shown below:

(Rupees in lakh)				
Year	Budget estimates	Actuals	Variation Excess (+)/ Shortfall (-)	Percentage of variation Excess (+)/ Shortfall (-)
1993-94	5,625	5,119	(-) 506	(-) 9
1994-95	5,550	5,944	(+) 394	(+) 7
1995-96	7,000	6,622	(-) 378	(-) 5
1996-97	8,100	9,750	(+) 1,650	(+) 20
1997-98	10,350	11,897	(+) 1,547	(+) 15

Collection of revenue compared to budget estimates for the 5 years from 1993-94 to 1997-98 showed variation in each year ranging between (-) 5 per cent and (+) 20 per cent.

Reasons for non-consonance of the actual receipts with those of the budget estimates have not been furnished by the department.

6.02.06 Non-levy of taxes on cable operators

The West Bengal Entertainment-cum-Amusement Tax Act, 1982 as amended from time to time, provides that cable operators who receive through dish antenna the signals of any performance, shall be liable to pay tax at the rate of rupees one thousand in the case of Calcutta and at the rate of rupees seven hundred fifty in places other than Calcutta per week per set of satellite transmission. Under the provisions of the Cable Television Network (Regulation) Act,

*Bankura, Burdwan, Calcutta, Darjeeling, Jalpaiguri, Midnapore, Malda, Nadia, North 24-Parganas, Purulia and South 24-Parganas.

1995 (a Central Act) which came into force from 29 September 1994, cable operators providing cable service through a cable television network or otherwise should get themselves registered with head post offices. The Act also provides for seizure or prosecution of the cable operators who contravene the provisions of the Act or operate unauthorisedly.

Cross-verification (between November 1997 and March 1998) of records of the district Collectors and Commissioner of Entertainment Tax with those of different head post offices in Calcutta and other districts and also scrutiny of the inspection reports of the Agricultural Income Tax Officers of the districts relating to cable operators revealed that no tax was levied and realised in 646 cases involving Rs. 346.67 lakh due to lack of initiative on the part of the departmental authorities to collect the particulars of persons already registered with the head post offices. This included cases of 299 cable operators who had not renewed their registration.

In addition, 63 operators were found to have been exhibiting films since 1995/1997 without getting themselves registered involving non-realisation of tax of Rs. 12.18 lakh. But no attempt was made to book those operators under the Act for unauthorised use of cable transmission.

On this being pointed out (November 1997-March 1998) in audit, all the assessing officers agreed (November 1997-March 1998) to take appropriate action to realise the tax. Regarding unauthorised use of cable transmission, the Commissioner of Entertainment Tax in respect of Calcutta stated that the system of transmission had changed from dish antenna and some cable operators were receiving signal through a master cable operator. The reply is not tenable since it was noticed that the proposal to Government was made only in January 1998 and the Government had amended the Act with effect from April 1998.

6.02.07 Non-levy of taxes and penalties from the holders of video cassette recorder/video cassette player sets

Under the provisions of the West Bengal Entertainment-cum-Amusement Tax Act, 1982, every holder of video cassette recorder (VCR) set or sets or video cassette player (VCP) set or sets is liable to pay tax at the rate of rupees two hundred and fifty for each year. While making provision in the Act to levy annual tax on VCR/VCP set no provision has been made in the Act/rules to make detailed survey and public notification for collection. The office of the Commissioner of Entertainment Tax stated (March 1998) that in Calcutta there were 5,451 VCR/VCP domestic set holders during 1997, but they had not paid the necessary tax resulting in non-realisation of tax of Rs. 27.26 lakh.

Scrutiny of records in respect of 5 districts* revealed that no annual tax was levied and realised in respect of 215 sets used by video hall owners involving Rs. 3.18 lakh pertaining to the period from 1990 to 1997. Further, in 83 cases there had been default in payment of annual tax within the prescribed date (on or before last day of February of the year) but penalty was not levied according to the provisions of the Act (at the rate of Rs. 10 per month or part thereof) which worked out to Rs. 2.78 lakh.

Under the provisions of the West Bengal Entertainment-cum-Amusement Tax Act, 1982, weekly tax at the rates prescribed in the Act is payable by the holders of VCR/VCP sets who make public performance or exhibition of films through these sets, on payments made by or to be made by the persons admitted. For Calcutta the rate of tax where the number of seats does not exceed 100 is Rs. 900 and where it exceeds 100 but does not exceed 200 is Rs. 1,200. If the number of seats exceeds 200, the rate of tax is Rs. 1,500 per week. For municipalities and notified areas other than Calcutta, corresponding rates of tax are Rs. 600, Rs. 900 and Rs. 1,250. For areas other than Calcutta and municipalities the rate is Rs. 600 per week. In the case of failure to pay such tax within 7 days from the end of such week, the exhibitor is liable to pay penalty at the rate of Rs. 10 per week.

*Bankura, Darjeeling, Malda, Nadia and Purulia.

Amusements Tax

It was noticed in Calcutta and 6 other districts* that no weekly tax amounting to Rs. 24.95 lakh was levied and realised from 65 holders during different periods from November 1993 and January 1998. In South 24-Parganas and Jalpaiguri districts, it was noticed that though the video halls were located within municipal areas, tax was levied at the rate of Rs. 600 per week applicable to areas other than municipality. This resulted in short levy of tax of Rs. 1.56 lakh in 6 cases. It was also noticed (between November 1997 and March 1998) in Calcutta and 4 other districts** that penalty for varying periods (between June 1991 and March 1998) of defaults of tax was not/short realised to the extent of Rs. 5.52 lakh in 54 cases.

On this being pointed out (between November 1997 and March 1998) in audit, the assessing officers agreed to realise the tax and penalty.

6.02.08 Inadequate inspection of cinema houses

Under the Amusement Tax Laws the Collector or any other officer authorised by him may enter place of entertainment while the entertainment is proceeding, at all reasonable times with a view to seeing that the provisions of the Acts and the rules made thereunder are being complied with. Such surprise checks have a salutary effect on augmentation of collection of tax which was evident from 2 cases where the Sub-Divisional Officers of Asansol and Kurseong inspected some cinema halls in December 1996/January 1997 in their respective sub-divisions (3 cinema halls in Asansol and one in Kurseong) as a result of which collection of entertainment tax was found to have been enhanced. The increase ranged between Rs. 16,377 and Rs. 32,877 per month.

Scrutiny of records in respect of 9 cinema halls as detailed below revealed that no surprise check/inspection was conducted by the competent authority to ensure due payment of tax by the hall owners:

Name of district	No. of cinema halls	No. of weekly returns checked and period (between)	Percentage of actual collection of tax in house full capacity	Target set by the competent authority (per cent)	Shortfall of revenue for non-achievement of target during 1992-93 to 1996-97 (Rupees in lakh)
Malda	4	70 (April 1993 and December 1995)	5.27 to 10.08	25 to 35	24.45
Jalpaiguri	3	90 (July 1995 and July 1996)	7 to 17	30***	29.47
North 24-Parganas	2	65 (April 1996 and September 1996)	13 to 19	30***	20.31
Total	9	225			74.23

*Bankura, Burdwan, Darjeeling, Jalpaiguri, Nadia and South 24-Parganas.

**Bankura, Darjeeling, Malda and North 24-Parganas.

***In absence of any target being set by the Collectors of Jalpaiguri and North 24-Parganas average norm of 30 per cent has been considered.

On this being pointed out in audit, the Collectors of Malda and Jalpaiguri districts stated (November-December 1997) that necessary action would be taken for inspection of cinema halls to increase revenue. As regards North 24-Parganas district Sub-Divisional Officer concerned stated (February 1998) that only routine inspection was done from time to time.

6.02.09 *Evasion of entertainment tax by cinema hall owners*

Under the provisions of the Bengal Amusement Tax Act, 1922, no person shall be admitted to any entertainment except with a ticket duly stamped with impressed, embossed, engraved or with an adhesive stamp issued by the State Government for the purpose of revenue and denoting that proper entertainment tax has been paid. Every proprietor of a cinema hall shall furnish to the assessing authority a weekly return in Form XX by Tuesday. If a proprietor or licensee defaults in payment of tax or contravenes the provisions of the Act, Collector or the licensing authority may cancel or impound the cinema hall licence.

(a) Scrutiny of the report of the Block Development Officer, Raipore II (Sarenga) under the Collector, Bankura district revealed that during a surprise inspection of Indra Narayan Chitra Mandir it was found that undated tickets without entertainment tax stamp enfacement were issued for the show on 24 January 1996. The proprietor admitted the fact of evasion and stated that he ran 3 shows daily. The tax evaded in the matinee show was found to be Rs. 144.50. It was apparent from the records that the hall owner had not been drawing stamps and affixing them on the tickets and not paying tax since 17 April 1995. He did not get the tickets embossed or engraved for payment of entertainment tax. It was further seen that although the hall was closed from 14 December 1997 to 5 January 1998, the licence was renewed up to 28 February 1998. Evasion of tax from 17 April 1995 to 13 December 1997 worked out to Rs. 4.21 lakh.

On the matter being pointed out (March 1998) in audit, the Collector stated that steps would be taken for assessment of evasion of tax.

(b) It was noticed from the case records that Plaza Theatre was raided by the Sub-Divisional Officer, Kurseong on 23 January 1997 and it was detected that the hall owner had collected entertainment tax for Rs. 26,387 during the period from 31 October 1996 to 22 January 1997 but had deposited tax of Rs. 14,980 for the said period. There was thus an evasion of tax of Rs. 11,407. In similar manner, the hall owner had collected a total amount of Rs. 3.55 lakh for the years 1993-94 and 1996-97 but had deposited tax amounting to Rs. 3.27 lakh in the years stated above. Total evasion of tax worked out to Rs. 38,404. No demand notice was issued.

On this being pointed out in audit, the Agricultural Income Tax Officer, Jalpaiguri agreed to issue revised demand notices, whereas the Sub-Divisional Officer, Kurseong stated that notice for realisation of tax would be issued.

(c) Government of West Bengal introduced (22 February 1979) the system of embossing of cinema tickets for entertainment tax stamp against advance deposit of tax in challans by cinema hall owners.

Scrutiny of records revealed that Mimi cinema, Krishnanagar under the Collector, Nadia district got cinema tickets embossed from the office of the Agricultural Income Tax Officer, Krishnanagar between 18 February 1997 and 29 May 1997 for Rs. 2.44 lakh without making advance payment of tax and the same was not also verified by the Agricultural Income Tax Officer. The proprietor deposited Rs. 99,421 against the embossed amount of Rs. 2.44 lakh and thus evaded payment of entertainment tax of Rs. 1.45 lakh as a result of non-verification of advance payment by the Agricultural Income Tax Officer.

On this being pointed out (December 1997) in audit, the Agricultural Income Tax Officer, Krishnanagar confirmed the facts.

Amusements Tax

6.02.10 Underassessment of entertainment tax of cinema hall

As per provisions of the rules issued under the West Bengal Amusement Tax Act, 1922, every proprietor in relation to a cinema hall shall submit a return in Form XX for each week by Tuesday immediately following the week to which the return relates and the assessing officer shall assess the amount of tax payable on the basis of the returns. Assessment of Ujjala cinema for the period from 26 March 1993 to 24 March 1994 was made as per provisions of the Act on the basis of the returns submitted by the hall owner.

Scrutiny of assessment records revealed that the hall owner had showed the rates for DC and 1st class tickets at Rs. 5.50 and Rs. 4.40 respectively in the return. The assessing officer while making assessment had, however, assessed tax on Rs. 5 and Rs. 3.75 for DC and 1st class tickets respectively. Assessment on lower value of ticket in each case resulted in short assessment of tax of Rs. 2.79 lakh.

On this being pointed out (January 1998) in audit, the Agricultural Income Tax Officer, Amusement Tax, Calcutta stated that the proprietor had reduced the admission fees of DC and 1st class tickets with effect from 5 March 1993. The reply is not tenable in audit, as the returns are the basic documents for assessment and the officer had completed the assessment on the basis of the same returns.

6.02.11 Non-imposition of daily fine for offence of continuous nature

Under the provisions of the Bengal Amusement Tax Act, 1922, if a proprietor of any entertainment admits any person except in compliance with the said provisions or fraudulently evades payment of entertainment tax or fails to furnish return or contravenes any other provision of the Act or rules he shall be punishable with imprisonment for a term which may extend up to two years or when the offence is of a continuing nature, with a daily fine not exceeding rupees one hundred during the period of continuance of the offence.

According to a judicial pronouncement* the provisions of penalty and the provisions of prosecution were in substance not alternative to each other but separate and independent. The prosecution under the provision was intended to vindicate justice and to punish the offender for deliberate infraction of the law, while the penalty was intended for the purpose of rendering the evasion of tax unprofitable and for securing to the State compensation or damage caused by attempted evasion.

It was noticed in audit that no daily fine was imposed on 4 cinema hall owners despite the fact that offence committed by them was of a continuing nature. The details are indicated in the following table:

(Rupees in lakh)				
Name of the hall with location	Nature of offence	Period of continuance of offence	Amount of tax involved/ period	Fine realisable
Sree Calcutta	Delayed payment of tax	842 to 1052 days	10.92 (August 1993 to March 1994)	26.57
Arati North 24-Parganas	Evasion by affixing less stamp	335 days	4.13 (June 1996 to May 1997)	0.33
Ujjala Calcutta	Default in payment of tax	516 to 1090 days	11.17 (July 1993 to February 1995)	19.70
Purabi Calcutta	Default in payment of tax	802 to 1030 days	3.56 (July 1993 to March 1994)	10.73
Total				57.33

*Woodcraft Enterprise Corporation vs. Sales Tax Officer, New Delhi [1972] 29 STC 315.

On this being pointed out (between January and February 1998), the office of the Commissioner of Entertainment Tax stated that no court should take cognizance of any offence under this chapter and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of first class should try such offence. The reply is not relevant to the audit observations, which is based on the judicial pronouncement cited earlier.

6.02.12 *Arrears in respect of cinema hall owners*

Based on the information submitted (June 1997) by the office of the Commissioner of Entertainment Tax, West Bengal, the total arrears of taxes of cinema halls were Rs. 356 lakh for the whole of West Bengal up to 1996-97 including arrears for Calcutta of Rs. 242.60 lakh (i.e. other than Calcutta Rs. 113.40 lakh). Verification in audit of the records of 14 cinema halls in Calcutta having arrears of over Rs. 2 lakh each revealed that the total non-recovery worked out to Rs. 356.86 lakh as against Rs. 242.60 lakh. On inquiry it was stated (May 1998) by the office of the Commissioner of Entertainment Tax that only the assessed dues of the financial year 1996-97 were taken into account.

Against the arrears of Rs. 470.26 lakh (Rs. 356.86 lakh plus Rs. 113.40 lakh) certificate proceedings were instituted (May 1998) for Rs. 44 lakh.

6.02.13 *Underassessment of entertainment tax of hotel*

Assessment of the Oberoi Grand for the period 1992-93 was completed (March 1995) on best judgment basis under the provisions of the West Bengal Entertainment and Luxuries (Hotels and Restaurants) Tax Act, 1972.

Scrutiny of the past and future assessment records of the restaurant viz. assessment records of 1991-92 and 1993-94 showed the collection of membership and admission fees was 65.9 per cent and 64.6 per cent of the sale value of food and beverage. While making the assessment on best judgment for the year 1992-93, the amount of membership and admission fees estimated was substantially short (Rs. 1.82 lakh calculated at the rate of 3.36 per cent) in place of Rs. 35.10 lakh calculated at the average rate of 65.25 per cent of the sale value of food and beverage of the year. Short determination of fees resulted in underassessment of entertainment tax of Rs. 9.99 lakh.

On this being pointed out (January 1998) in audit, the Agricultural Income Tax Officer, Amusement Tax, Calcutta stated that at the time of assessment, statements of 1991-92 and 1993-94 were not available. The reply is not tenable because the assessing officer has not given any reason for not obtaining relevant records while making best judgment assessment.

6.02.14 *Non-levy of luxury-cum-entertainment tax on proprietors of hotels*

Under the provisions of the West Bengal Entertainment-cum-Amusement Tax Act, 1982, every holder of a video cassette recorder set or sets or holder of a video cassette player set or sets shall pay a luxury-cum-entertainment and amusement tax at the rate of rupees ten thousand up to 31 March 1992 and rupees twelve thousand from 1 April 1992 per year per set where the holder makes any performance through such set or sets in a hotel having lodging facilities. Failure to pay tax within the prescribed date holds the hotel proprietor to pay penalty under the Act. Rate of penalty was rupees fifty per week prior to amendment of the rate under the West Bengal Amendment Act, 1992 and rate was reduced to rupees ten per week with effect from 1 April 1992.

Two hotels in Calcutta viz. Hotel A & U Inn Guest House and Lytton Hotel having lodging facilities and maintaining VCR/VCP sets in their hotels had been assessed to luxury tax for the period from 1990-91 onwards but no luxury-cum-entertainment and amusement tax had been assessed and levied for making performance of films through the VCR set leading to non-levy of luxury-cum-entertainment tax for Rs. 1.64 lakh during the period 1990-97. The proprietors of those hotels were also liable to pay penalty of Rs. 30,420 till the date of review (December 1997) for failure to pay tax within the prescribed date.

Amusements Tax

On this being pointed out (January 1998), the assessing officer stated that Lytton Hotel had stopped running their VCP/VCR sets since 1991 while the proprietor of Hotel A & U Inn Guest House had been asked to produce evidence in support of the claim that the set was out of order since it was purchased. The reply is not acceptable as there was nothing on record that the sets in question were out of order since 1991.

6.02.15 *Arrears in respect of hotels*

It was ascertained from the Commissioner of Entertainment Tax, West Bengal that outstanding dues from hotels in connection with luxury tax stood at Rs. 459.26 lakh as on 31 March 1997 and the amount related to 6 hotels under the Agricultural Income Tax Officer, Calcutta. Out of Rs. 459.26 lakh, Rs. 51 lakh was covered by certificate demand and the balance Rs. 408.26 lakh remained uncovered. In the absence of hotelwise and yearwise break-up of the outstanding dues, the agewise position of the outstanding revenue and realisation from time to time could not be ascertained in audit.

6.02.16 *Non-levy of tax despite non-fulfilment of conditions of exemption*

Under the provisions of the Bengal Amusement Tax Act, 1922, Government may for social, educational or scientific purposes by general or special order exempt fully or partly, the entertainment tax or show tax payable for any entertainment or any class of entertainment subject to such conditions as may be laid down in such order.

Scrutiny of records revealed that in respect of 3 'musical nites' held between April 1994 and August 1997 at Netaji Indoor Stadium organised by the Calcutta Police Family Welfare Centre, Government allowed exemption from liability of payment of entertainment tax on tickets, with the following conditions:

The total sale proceeds from the show, less usual expenses limited to 25 per cent of the total sale proceeds should be utilised for the vocational training of the wives, dependent daughters and sisters of the subordinate members of the police force and that audited accounts of the show along with utilisation certificate should be submitted to the Commissioner of Entertainment Tax, West Bengal and the Finance (Taxation) Department, Government of West Bengal, within one month from the date of receipt of the order.

Scrutiny in audit, however, revealed that on each occasion, the organiser did not adhere to the conditions of exemption and hence was liable to pay entertainment tax as indicated below:

Date of 'musical nite'	Total sale proceeds of tickets priced between Rs. 50 and Rs. 500 (Rupees in lakh)	Rate of tax	Tax leviable (Rupees in lakh)	Irregularities noticed
2 April 1994	14.50	20 per cent of sale value	2.90	(i) Sale proceeds were not utilised for the purposes stipulated in the condition. (ii) Audited accounts of the show along with utilisation certificate were submitted after lapse of 20 months from issue of Government order.

Amusements Tax

1	2	3	4	5
18 February 1996	18.98	20 per cent of sale value	3.80	(i) Sale proceeds were not utilised for the purposes stipulated in the condition. (ii) Audited accounts of the show along with utilisation certificate were submitted after lapse of 12 months from issue of Government order.
3 August 1997	23.22	20 per cent of sale value	4.64	No audited accounts and utilisation certificate were submitted so far (February 1998). Sale proceeds of Rs. 23.22 lakh were as per budget estimate submitted.

Thus, total non-levy of tax was found to be of Rs. 11.34 lakh.

On this being pointed out (January 1998) in audit, the office of the Commissioner of Entertainment Tax did not furnish any specific reply for the 'musical nites' held on 2 April 1994 and 18 February 1996. For 3 August 1997 it was stated that reminders had been issued for submission of audited accounts and utilisation certificate.

The foregoing points were reported to Government in June 1998; their reply has not been received (September 1998).

CHAPTER 7

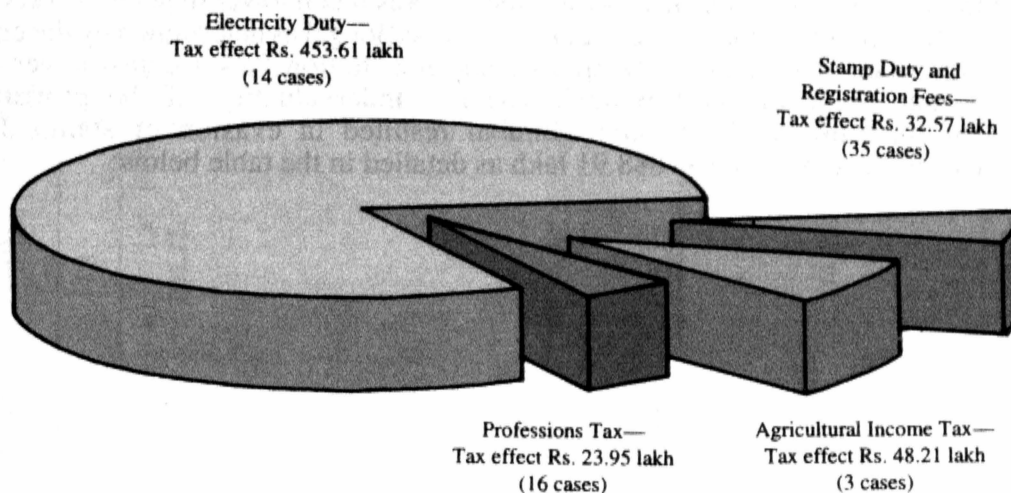
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OTHER TAX RECEIPTS

OTHER TAX RECEIPTS

7.01 Results of audit

Test check of records in the offices dealing with assessment, collection and realisation of other tax receipts, namely, Stamp Duty and Registration Fees, Agricultural Income Tax, Professions Tax and Electricity Duty, conducted in audit during the year 1997-98, revealed underassessments/short levy of revenue amounting to Rs. 558.34 lakh in 68 cases as indicated below:



Total tax effect Rs. 558.34 lakh (68 cases)

During the course of the year 1997-98 the concerned departments accepted under-assessments etc of Rs. 345.91 lakhs involved in 59 cases of which 32 cases involving Rs. 311.93 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

A few illustrative cases involving Rs. 1000 lakh highlighting important observations are given in the following paragraphs.

A—STAMP DUTY AND REGISTRATION FEES**7.02 Evasion of stamp duty and registration fees in sale of properties located in West Bengal but registered in Delhi and Mumbai**

There was evasion of stamp duty and registration fees amounting to Rs. 888.91 lakh in 562 cases of properties located in West Bengal but registered in Delhi and Mumbai.

Under the Indian Registration Act, 1908, the Registrar of a district in which a Presidency town is included and the Registrars of Delhi and Mumbai districts may receive and register any document without regard to the situation in any part of India of the property to which the document relates. A copy of such document and of the endorsements and certificates thereon shall be forwarded to every Registrar within whose district the property to which the instrument relates is situated.

Under the Indian Stamp Act, 1899, where any instrument has become chargeable in any part of India to which this Act applies, other than West Bengal, with duty under this Act or under any other law for the time being in force in any part of India and thereafter becomes chargeable with higher rate of duty in West Bengal, the amount of the duty, chargeable on such instrument, shall be the amount, chargeable on it at prescribed rates, less the amount of duty, if any, already paid on it in the State in which the instrument was registered. In terms of the West Bengal

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Other Tax Receipts

Stamp (Prevention of Undervaluation of Instruments) Rules, 1994, the market value in relation to any land shall be determined on the basis of the highest price for which sale of any land of similar nature and area, in a comparable locality has been settled during the five consecutive years, immediately preceding the date of execution of any instrument setting forth such market value.

In course of cross-verification of 562 transfer deeds registered in Delhi and Mumbai between October 1994 and December 1996 in respect of properties situated under the jurisdiction of the Registrar of Assurances, Calcutta and 3 other District Registrars* of West Bengal, it was noticed that the value of the properties set forth therein was much lower than the market value of properties of similar nature in the respective areas in West Bengal as determined by the concerned registering authorities. The rates of stamp duty and registration fees are also lower in Delhi and Mumbai than those of West Bengal. The net undervaluation of the properties and registration of the same in Delhi and Mumbai resulted in evasion of stamp duty and registration fees to the extent of Rs. 888.91 lakh as detailed in the table below:

*Howrah, North 24-Parganas and South 24-Parganas.

Sl. No.	No. of deeds verified	Place of registration	Period of registration (Between)	Name of the authority under whose jurisdiction the property situated	Name of the office where the deeds verified	Value of the property in West Bengal	Value set forth in the deeds	Evasion of stamp duty and registration fees including CIT surcharge	Reply of the department
1	2	3	4	5	6	7	8	9	10
						(Rupees in lakh)			
1.	192	Delhi	February 1995 and December 1996	Registrar of Assurances, Calcutta	Collector, Calcutta	5354.69	631.22	553.88	The department stated (June 1998) that copies of the documents received from the Registrars of Delhi/Mumbai were being sent to the respective Collectors for taking necessary action to realise the deficit stamp duty as per provisions contained in the Indian Stamp Act, 1899.
2.	40	Delhi	April 1995 and November 1996	District Registrar, Howrah	Collector, Howrah	147.51	46.98	13.36	
3.	201	Delhi	October 1994 and December 1996	District Registrar, North 24-Parganas, Barasat	Collector, North 24-Parganas	1438.49	281.12	144.12	
4.	129	Delhi and Mumbai	January 1995 and April 1996	District Registrar, South 24-Parganas, Alipore	District Registrar, South 24-Parganas, Alipore	1469.47	276.21	177.55	
Total	562					8410.16	1235.53	888.91	

Government, to whom the cases were reported between March and May 1998, endorsed (July 1998) the views of the department.

7.03 Evasion of stamp duty and registration fees due to undervaluation of properties

Undervaluation of properties in 26 cases registered in Hooghly district resulted in evasion of stamp duty and registration fees amounting to Rs. 5.95 lakh.

Under the Indian Stamp Act, 1899, as applicable in West Bengal, the consideration money, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty with which it is chargeable, shall be fully and truly set forth therein. The Act further provides that the registering authority will report to the Collector of the district any case of transfer of immovable property for an apparent consideration which is less than the fair market value or the consideration value which has not been truly stated in the instrument of transfer if such cases come to his notice. As per guidelines for valuation of flats issued on 10 January 1994 by the Chief Engineer, Public Works Department, Government of West Bengal, the average value of the flats on different floors of a multi-storeyed building in Calcutta Metropolitan Area (CMA) was fixed at Rs. 350 per square foot of plinth area.

During the course of audit of records of the District Registrar, Hooghly, it was noticed that in Uttarpara Municipality under the jurisdiction of CMA 26 deeds of conveyance of flats were registered on 17 January 1994 declaring the average value at Rs. 30 per square foot of the flats by the executants whereas the average value in the same locality was fixed by the Public Works Department at Rs. 350 per square foot. Such undervaluation resulted in evasion of stamp duty and registration fees of Rs. 5.95 lakh.

On this being pointed out (June 1997) in audit, the department while confirming the facts stated (June 1997) that the instant documents were registered prior to implementation of the West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules, 1994 effective from 31 January 1994. The reply is not tenable as the registering authority failed to detect the apparent gross undervaluation with an intent to defraud the Government of its due revenue and also failed to report the matter to the Collector for proper valuation as required under the provisions of the Act, *ibid*.

Government, to whom the matter was reported in September 1997, endorsed (July 1998) the views of the department.

B—ELECTRICITY DUTY

7.04 Irregular deduction of duty resulted in short realisation of revenue

Irregular deduction of electricity duty by a licensee resulted in short realisation of revenue to the extent of Rs. 96.79 lakh. The entire amount was realised subsequently.

Under the provisions of the Bengal Electricity Duty Act, 1935, every licensee is required to pay electricity duty at the prescribed rates on the net charge for energy consumed or the units of energy consumed, and to submit monthly returns in prescribed forms and in prescribed manner.

Scrutiny of records of the Chief Electrical Inspector, West Bengal revealed (June 1997) that the Dishergarh Power Supply Company Limited furnished returns for the months of February and March 1996 showing total irregular deduction of Rs. 96.79 lakh from gross amount of duty payable in those months on the plea that the amount had been deducted by the Eastern Coalfields Limited. Incorrect deduction of duty resulted in short realisation of revenue to the extent of Rs. 96.79 lakh.

On this being pointed out (June 1997) in audit, the department realised the entire amount in July 1997.

C—PROFESSIONS TAX

7.05 Non-realisation of profession tax due to non-enrolment

Non-enrolment of 517 different kinds of professional units resulted in non-realisation of professions tax amounting to Rs. 8.35 lakh in 5 districts.

Under the West Bengal State Tax on Professions, Trades, Callings and Employment Act, 1979 effective from 1 April 1979, every person engaged in any profession, trade, calling or employment shall be liable to be enrolled and pay tax at the prescribed rate.

During the course of audit in the offices of the Profession Tax Officers in 5 districts, non-realisation of tax of Rs. 8.35 lakh due to non-enrolment in 517 cases was noticed as detailed below:

Sl. No.	Name of the profession tax officer	Status of organisations	Number of cases involved	Period involved (between)	Non-realisation of tax (Rupees in lakh)	Reply of the department
1	2	3	4	5	6	7
1.	North Unit-III, West Bengal, Raiganj, Uttar Dinajpur	Nursing home and pathological laboratory owners, stamp vendors, video halls/parlours and cinema hall owners	74	1979-80 and 1985-86	3.38	The department stated (March-September 1998) that 24 out of 74 cases had been enrolled and due tax had been realised.
2.	North Unit-II, West Bengal, Jalpaiguri	Nursing home, pathological/X-ray clinic, cinema hall owners and registered dealers	55	1979-80 and 1994-95	1.66	The department stated (December 1997) that a sum of Rs. 23,329 had been realised. Report on realisation of the balance amount has not been received.
3.	North Unit-IV, West Bengal, CoochBehar	Money lenders, nursing home and pathological laboratory owners	23	1979-80 and 1993-94	1.25	The department stated (May 1998) that out of 23 cases 14 cases had been enrolled and that steps were being taken in respect of the remaining cases.
4.	South Unit-II, West Bengal, Midnapore	Registered dealers	343	1993-94 and 1994-95	0.86	The department stated (March 1998) that out of 343 dealers 219 had already been enrolled and 2 shops had been closed and action was being taken in respect of the remaining cases.
5.	North Unit-I, West Bengal, Siliguri, Darjeeling	Country spirit and foreign liquor vendors	17	1989-90 and 1995-96	0.70	The department stated (March 1998) that all the cases had been enrolled and Rs. 7,000 had been realised.
6.	North Unit-III, West Bengal, Raiganj, Uttar Dinajpur	Cable operators	5	1993-94 and 1996-97	0.50	The department accepted (between August 1996 and July 1997) the audit observations and agreed to look into the matter.
Total			517		8.35	

The above cases were reported to Government between February 1996 and September 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

CHAPTER 8

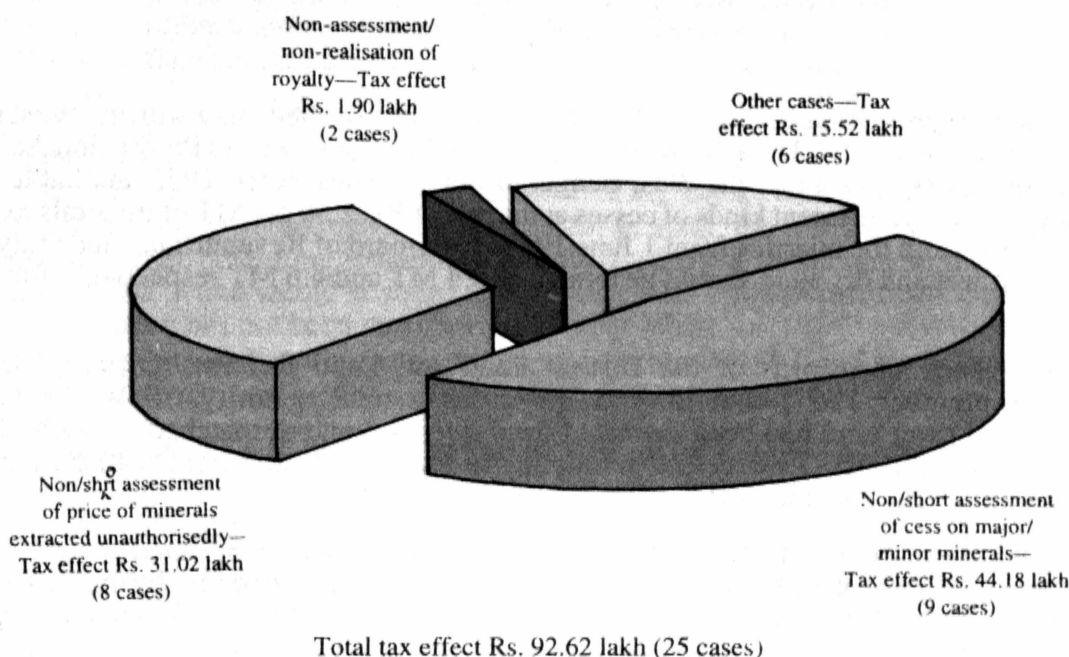
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MINES AND MINERALS

MINES AND MINERALS

8.01 Results of audit

Test check of records relating to mines and minerals under different land reforms block offices and offices of the Cess Deputy Collector, Chief Mining Officer and other mining officers conducted in audit during the year 1997-98, revealed underassessments, non/short realisation of revenue amounting to Rs. 92.62 lakh in 25 cases, which broadly fall under the following categories:



During the course of the year 1997-98 the concerned departments accepted under-assessments etc of Rs. 90.06 lakh in 22 cases of which 17 cases involving Rs. 77.46 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

A few illustrative cases involving Rs. 64.73 lakh highlighting important observations are given in the following paragraphs.

8.02 Non-assessment and non-realisation of price of minor minerals extracted unauthorisedly

Revenue amounting to Rs. 9.90 lakh on account of minor minerals extracted unauthorisedly in 83 cases in Purulia district was not assessed and realised.

Under the provisions of the Mineral Laws, no person is entitled to undertake any mining operation in any area except under the authority of a valid permit or lease. In the case of extraction without authority or removal of excess minerals both of which constitute unauthorised extraction, the State Government is empowered to recover either minerals raised unlawfully or where such minerals have been disposed of, the price thereof, in addition to other penal action.

During the course of audit in the office of the District Land and Land Reforms Officer, Purulia, it was noticed (January 1997) that in 83 cases 7.2 lakh cft of minor minerals (brickearth—5,79,358 cft, stone—75,000 cft, sand—36,000 cft and morrum—30,000 cft) were extracted unauthorisedly between 1994 and 1995 but no action for recovery of price thereof was initiated. This resulted in non-assessment and non-realisation of revenue amounting to Rs. 9.90 lakh.

On this being pointed out (January 1997) in audit, the district authority stated (June 1998) that concerned Block Land and Land Reforms Officer had been asked to realise the price of minerals. Report on further action taken has not been received (September 1998).

Government, to whom the matter was reported in March 1997, endorsed (September 1998) the views of the department regarding action taken for realisation of the dues.

8.03 Loss of revenue due to mis-classification of minerals

Treatment of wet sand as dry sand resulted in loss of cess revenue to the extent of Rs. 9.40 lakh in Burdwan district.

Under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, holders of quarry permits under the West Bengal Minor Minerals Rules, 1973, are liable to pay, in addition to royalty, different kinds of cesses at the rate of Rs. 2.50 per MT of minerals extracted and despatched from the quarries from 1 June 1987. The Board of Revenue clarified (July 1987) that weight of wet and dry sand should be treated as 5.4 MT and 4.6 MT respectively for 100 cft of sand.

Test check of records of the District Land and Land Reforms Officer, Burdwan, revealed (September 1997) that in 4,38,766 cases a total quantity of 940.13 lakh cft (50.77 lakh MT) wet sand had been extracted from river bed and despatched through different check posts during 1995-97 but cesses amounting to Rs. 117.51 lakh were realised instead of Rs. 126.91 lakh. This resulted in loss of revenue of Rs. 9.40 lakh.

Government, to whom the cases were reported in February 1998, stated (June 1998) that action was being taken for realisation of the amount of short realisation of cess by the District Land and Land Reforms Officer, Burdwan. Report on further action taken has not been received (September 1998).

8.04 Short assessment of cesses on minor minerals

Cess to the extent of Rs. 6.94 lakh on extraction of minor minerals was realised short in Purulia district.

Under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, holders of quarry permits or mining leases under the West Bengal Minor Minerals Rules, 1973, are liable to pay public works cess, road cess, education cess and rural employment cess at the rate of 50 paise, 50 paise, Re. 1 and 50 paise respectively per MT of minor minerals extracted and despatched from the quarries or mines from 1 June 1987. The standard weight per 100 cft of stone, *morrum* and brickearth has been fixed by the competent authority at 8.5, 5.6 and 5 MT respectively.

Test check of records of the District Land and Land Reforms Officer, Purulia, revealed (December 1996) that in 379 cases the quarry permit holders extracted and despatched 775616.26 MT of minor minerals (stone—270783.03 MT, *morrum*—270358.23 MT and brickearth—2,34,475 MT) during 1994 and 1995. Total cesses realisable worked out to Rs. 19.39 lakh at the prescribed rates but the department assessed and realised cesses amounting to Rs. 12.45 lakh. This resulted in short assessment of revenue amounting to Rs. 6.94 lakh.

Government, to whom the case was reported (March 1997), stated (May 1998) that the district authority had already served notices to the defaulters to deposit the amount of cesses. Report on realisation has not been received (September 1998).

8.05 Non-assessment and non-realisation of surface rent and cesses

Surface rent and cesses to the extent of Rs. 50,899 were not assessed and realised in respect of 9 lessees of minor minerals in Purulia district.

Under the provisions of the West Bengal Estates Acquisition Act, 1953 as amended in 1977, read with the Mineral Concession Rules, 1960 and as per the conditions for mining lease, a mining lessee shall pay surface rent at rupees fortyfive per acre per annum in respect of all parts of surface land used or occupied by him for the purpose of mining operation. Cesses at eightysix paise per rupee of rent are also leviable under different Cess Acts.

During the course of audit in the office of the District Land and Land Reforms Officer, Purulia, it was noticed (December 1996) that 9 lessees had been in occupation of 369.54 acres of land for mining operation. The assessing officer, however, did not assess surface rent and cesses on such land for the various periods from 30 October 1984 to 29 September 1996. This resulted in non-assessment and non-realisation of surface rent and cesses amounting to Rs. 50,899.

On this being pointed out (December 1996) in audit, the district authority stated (June 1998) that concerned defaulting lessees had been directed to pay the amount immediately, failing which appropriate action would be taken to realise the dues through certificate cases. Report on further action taken has not been received (September 1998).

Government, to whom the matter was reported in March 1997, endorsed (September 1998) the views of the department regarding action taken for realisation of the dues.

8.06 Non-assessment and non-realisation of interest for delayed payment of mining dues

Interest amounting to Rs. 33.44 lakh for delayed payment of mining dues was not imposed in respect of 3 lessees in Burdwan district.

(a) Under the West Bengal Minor Minerals Rules, 1973, extraction of sand is permissible on obtaining quarry permit or lease, as the case may be, issued by the Collector on payment of royalty and other dues at the prescribed rate in advance. Simple interest at the rate of ten per cent per annum shall be charged on any royalty, rent, fee and other dues due to the State Government after sixtieth day of the expiry of the due date of payment fixed by Government and until payment thereof is made. Interest at the rate of six and a quarter per cent per annum on cess is leviable as per Cess Laws.

In Burdwan district, it was noticed (September 1993) that the department raised (January 1991) a demand for Rs. 5.54 lakh (royalty—Rs. 2.66 lakh, cess—Rs. 2.22 lakh and interest on royalty—Rs. 0.66 lakh) on a lease for extraction of sand for the period from June 1987 to June 1988. But no interest on cess was assessed and demanded. This resulted in non-assessment of interest of Rs. 1.35 lakh up to March 1998.

On this being pointed out (September 1993) in audit, the district authority stated (April 1998) that a sum of Rs. 2.10 lakh had been realised as royalty, no interest on cesses had been assessed and realised, however, action was being taken to raise the demand. Report on further action taken has not been received (September 1998).

Government, to whom the case was reported in November 1993, stated (June 1998) that action was being taken by the District Land and Land Reforms Officer for realisation of interest on cess from the lessee by issuing certificate demand. Report on further action taken has not been received (September 1998).

(b) Under the provisions of the Mineral Concession Rules, 1960, mining dues from minerals other than minor minerals including royalty etc relating to the quarters ending March, June, September and December every year are required to be paid by the first day of the respective succeeding month. If the quarterly dues remain unpaid on the expiry of the sixtieth day from the due date, simple interest at twentyfour per cent per annum (from 1 April 1991) is chargeable till the date of payment.

(i) During test check of records of the Cess Deputy Collector, Asansol, it was noticed that the Eastern Coalfields Limited (company) paid royalty on coal for the period from March 1993 to December 1993 for Rs. 969.82 lakh after delay ranging from 30 to 62 days. The company was liable to pay interest for delayed payment of royalty. But the department had not assessed and realised interest from the company. This resulted in non-assessment of interest to the tune of Rs. 30.12 lakh.

On this being pointed out in audit (August 1994), the department stated (April 1998) that demand had been raised. Report on realisation has not been received (September 1998).

(ii) The Bharat Coking Coal Limited (company) in the same district made payment of royalty of Rs. 36.21 lakh for the period between March and June 1993 after delay ranging from 82 to 85 days. But interest was not assessed and realised from the company. This resulted in non-realisation of interest to the tune of Rs. 1.97 lakh.

On this being pointed out (August 1994) in audit, the department stated (April 1998) that demand notice had been issued. Report on realisation has not been received (September 1998).

Government, to whom the cases were reported in November 1994, endorsed (May 1998) the views of the department.

8.07 Loss of revenue due to non-inclusion of interest in certificate demand

Non-inclusion of interest in certificate demand against 5 persons in Burdwan district resulted in loss of revenue of Rs. 4.54 lakh.

Under the provisions of the West Bengal Minor Minerals Rules, 1973, any rent, royalty, tax, fee or other sums due to Government be recovered in the same manner as arrears of land revenue under the Public Demands Recovery Act, 1913. According to the instructions of the Board of Revenue, interest from the date when the debt became due to the date of filing the certificate is to be included by the certificate requiring officer in the certificate demand. The rate of interest on royalty is chargeable at ten per cent while that on cess it is six and a quarter per cent per annum. There was, however, no provision in the Act for revision of the certificate demand once made except upon the application made by the certificate holder.

(a) During the course of audit of records of the District Land and Land Reforms Officer, Burdwan, it was noticed (September 1997) that requisitions for certificates amounting to Rs. 8.37 lakh were made against 5 persons between January and December 1995 on account of arrear dues of royalty and cess determined by the department for unauthorised extraction of brickearth during the period from 1981-82 to 1993-94. But the element of interest for non-payment of dues was not included in the requisitions for certificate resulting in loss of revenue to the extent of Rs. 3.99 lakh.

(b) Similarly, it was noticed (September 1993) from the records of the Block Land and Land Reforms Officer, Sadar, Burdwan district that requisitions for certificate amounting to Rs. 6.17 lakh were made in February 1992 against 7 persons for non-payment of arrear dues on account of royalty and cess for the period from December 1989 to May 1991. But the element of interest for non-payment of dues was not included in the requisitions for certificate. Thus, non-inclusion of interest resulted in loss of revenue to the tune of Rs. 0.55 lakh.

Government, to whom the cases were reported between November 1993 and February 1998, stated (June 1998) that the district authority had directed all concerned officers for imposition of interest on certificate demand for arrear dues and realisation of the same. Report on further development has not been received (September 1998).

CHAPTER 9

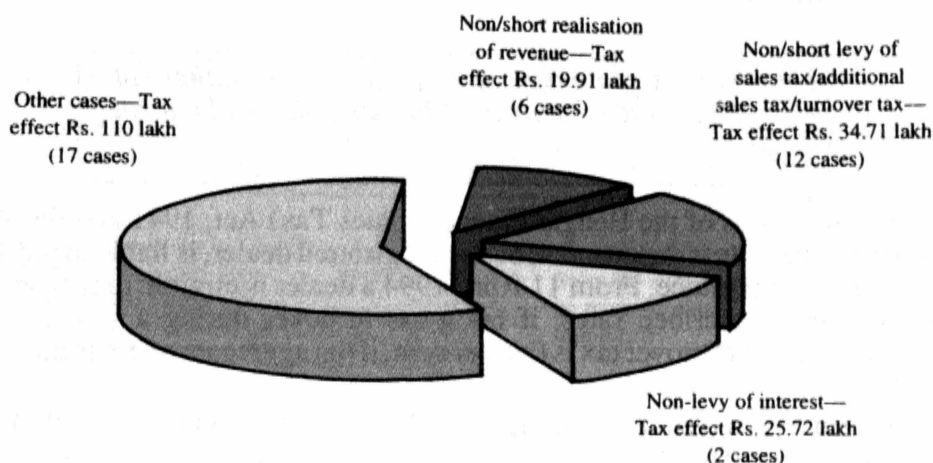
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FOREST RECEIPTS

FOREST RECEIPTS

9.01 Results of audit

Test check of records of forest receipts maintained at different divisional forest offices, conducted in audit during the year 1997-98, revealed non/short realisation of revenue amounting to Rs. 190.34 lakh in 37 cases which broadly fall under the following categories:



Total tax effect Rs. 190.34 lakh (37 cases)

During the course of the year 1997-98 the concerned department accepted underassessments etc of Rs. 26.46 lakh involved in 20 cases of which 11 cases involving Rs. 15.80 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years.

A few illustrative cases involving Rs. 137.50 lakh highlighting important observations are given in the following paragraphs.

9.02 Non-assessment and non-realisation of cess on boulders

Cesses to the extent of Rs. 5.39 lakh were not realised for extraction and removal of boulders from 2 forest divisions in north Bengal, treating royalty paid on forest produce to include elements of cess.

Under the Mines and Minerals (Regulation and Development) Act, 1957, sand, boulders and stones are classified as minor minerals. Road cess, public works cess, education cess and rural employment cess (total Rs. 2.50 per MT) shall be assessed and realised on boulders (minor minerals) despatched from quarries as per provisions of the Cess Acts.

(i) During the course of audit in the office of the Divisional Forest Officer (DFO), Cooch Behar, it was noticed (January 1997) that 55,828 cum (132312.36 MT) of boulders had been extracted and despatched by 2 ranges of the division during 1993-94 to 1995-96 on payment of royalty, but no cess was assessed and realised. This resulted in non-realisation of revenue of Rs. 3.31 lakh.

(ii) In another case under the Field Director, Buxa Tiger Reserve, Alipurduar, it was noticed (December 1996) that 35,099 cum (83184.63 MT) of boulders had been extracted and despatched by 5 ranges of the division during the year 1995-96 against payment of royalty, but no cess was assessed and realised. This resulted in non-realisation of revenue amounting to Rs. 2.08 lakh.

Forest Receipts

On this being pointed out (December 1996) in audit, the department stated (July 1998) that revenue was realised at the rate of Rs. 20 per cum of boulders i.e. more than what was realised by the District Land and Land Reforms Officer. The reply is not tenable inasmuch as cess is realisable in addition to price under the Cess Laws.

Government, to whom the cases were reported in February-March 1997, endorsed the views of the department.

9.03 Non/short realisation of turnover tax on forest produce

Turnover tax to the extent of Rs. 6.15 lakh was either not realised or realised short in 3 forest divisions in north Bengal.

Under the provisions of the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Forest Manual Part I, the Forest department, being a registered dealer, is liable to pay turnover tax on the sale price of forest produce. From 11 April 1994 a dealer is eligible to realise turnover tax from purchasers at the prescribed rates, if his gross turnover during a year exceeds rupees twentyfive lakh. The rate of turnover tax is two per cent, if the aggregate of gross turnover exceeds rupees one crore.

(a) In the course of scrutiny of records of the Divisional Forest Officers (DFOs), Kurseong and Malda, it was noticed that although the gross turnover had exceeded Rs. 1 crore during 1994-95, no turnover tax amounting to Rs. 5.25 lakh was realised at the prescribed rate on sale value of forest produce of Rs. 262.41 lakh from the purchasers. Further, in Kurseong Division, there had been short levy of turnover tax (Rs. 2928.20) on the sales made by the West Bengal Forest Development Corporation on behalf of the Forest division. Thus, total non/short realisation of revenue amounted to Rs. 5.28 lakh.

On this being pointed out (November 1996 and August 1997) in audit, the DFOs agreed (January 1998) to take action to realise the turnover tax. Report on further action taken has not been received (September 1998).

The matter was reported to Government in the case of Kurseong Division in March 1998 and in the case of Malda Division in October 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

(b) During the course of audit in the office of the Field Director, Buxa Tiger Reserve, Alipurduar, it was noticed (December 1996) that an auction sale of 89 depot lots valuing Rs. 43.58 lakh was made in February 1995 but the division had not realised turnover tax on the amount received after 30 April 1995. This resulted in non-realisation of turnover tax amounting to Rs. 0.87 lakh. Since realisation of turnover tax from purchasers was discontinued from 1 May 1995, it was realisable in full for all sales effected up to 30 April 1995.

Government, to whom the matter was reported in February 1997, stated (August 1998) that a sum of Rs. 20,734 had been realised and that action had been initiated by the Field Director, Buxa Tiger Reserve to realise the balance amount. Report on further action taken has not been received (September 1998).

9.04 Non/short levy of sales tax and penalty

In 4 forest divisions sales tax amounting to Rs. 4.81 lakh was either not levied or levied short.

(a) Under the Bengal Finance (Sales Tax) Act, 1941, sales of goods, unless otherwise exempted, are taxable at the prescribed rates. A sale when made to a registered dealer is taxable at concessional rate subject to production of declaration in prescribed form obtainable from the

purchasing dealer. Sales not covered by declaration forms are exigible to tax at the normal rate. Forest department being a registered dealer under the Act is liable to pay tax on its sale of forest produce and accordingly is required to realise such tax from the purchaser.

During the course of audit in the office of 3 Divisional Forest Officers (DFOs) in the districts of Midnapore, ~~Darjeeling~~ and Malda, it was noticed (between September 1996 and January 1998) that sales tax at the prescribed rate applicable from time to time was not assessed and realised from the dealers. This resulted in non/short levy of tax of Rs. 4.14 lakh as detailed below:

Sl. No.	Name of the division	Period involved (between)	Total sale value (Rupees in lakh)	Amount of non/short levy of tax	Reason for short levy	Reply of the department
1	2	3	4	5	6	7
1.	Kharagpur Social Forestry	September 1996 and March 1997	32.00	3.25	Sales not supported by return/declaration forms	The department stated (October 1997) that steps would be taken to recover the tax.
2.	Malda	July 1993	5.32	0.48	-do-	The department stated (August 1997) that concessional rate was allowed on production of registration certificate. The reply is not tenable in view of the provisions of the Act.
3.	Malda	May 1994 and May 1996	14.47	0.41	Non-levy of tax at enhanced rate	The department stated (August 1997) that action would be taken to realise the amount.
Total				4.14		

Government, to whom the cases were reported between October 1997 and March 1998, stated (August 1998) that a sum of Rs. 2.91 lakh had been realised in respect of serial 1 and 3 against sales to unregistered and registered dealers and declaration forms had been obtained in respect of serial 2.

Forest Receipts

(b) Under the provisions of the Bengal Finance (Sales Tax) Act, 1941, each drawing and disbursing officer of Central/State Government shall make deduction of sales tax at source at the rate of two per cent on the amount of payment made to any works contractor with effect from 1 February 1993 and shall comply with the procedures to be followed in respect of issue of deduction certificate and furnishing of returns along with receipted copies of challans in support of deposit of the amount deducted at source into the nearest treasury as provided under the Act. Failure to comply with the above provisions the officer concerned is personally liable to pay penalty not exceeding twice the amount required to be deducted.

In course of scrutiny of records of the Divisional Forest Officer, Burdwan, it was noticed (September 1996) that the division office failed to deduct sales tax at source amounting to Rs. 22,234 on total value of works bills of Rs. 11.12 lakh at the prescribed rate on the payment made during the period between March 1993 and March 1996 for the various works undertaken by the division. This resulted in non-levy of revenue amounting to Rs. 66,702 (sales tax Rs. 22,234 plus penalty Rs. 44,468).

Government, to whom the matter was reported in October 1996, stated (August 1998) that sales tax amounting to Rs. 22,234 had been realised from the contractors' bills and finally adjusted in the monthly accounts of June 1998 of the Divisional Forest Officer, Burdwan.

9.05 Short realisation of sale proceeds of timber

Demand for sale proceeds of timber amounting to Rs. 121.15 lakh against the WBFDC was not raised by the Kurseong Forest Division.

As per agreement approved in July 1987 between the Forest Directorate and the West Bengal Forest Development Corporation (WBFDC), the Forest divisions are required to hand over the marking list to the WBFDC, who functions as an agent of the Forest department. The revenue collected by the WBFDC after sale of the harvested forest produce through auction/allotment is to be remitted to the division after deduction of operational expenses and service charges at prescribed rates.

Scrutiny of records of the Divisional Forest Officer (DFO), Kurseong in Darjeeling district, revealed (November 1996) that the WBFDC had collected an amount of Rs. 149.91 lakh through auction sale of timber during the year 1995-96 but remitted Rs. 28.76 lakh to the division. The division had not raised any demand to realise the balance amount. This resulted in non-realisation of revenue amounting to Rs. 121.15 lakh.

Government, to whom the matter was reported in January 1997, stated (July 1998) that a sum of Rs. 89.07 lakh had been realised from the WBFDC and that action had been initiated by the division office to realise the balance amount. Report on further action taken has not been received (September 1998).

CHAPTER 10

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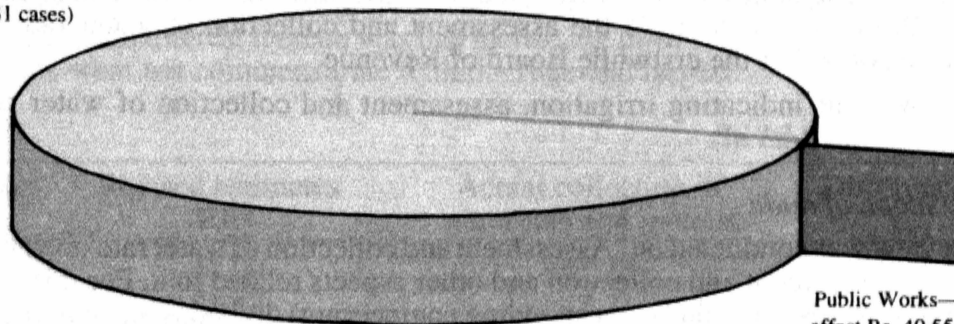
OTHER NON-TAX RECEIPTS

OTHER NON-TAX RECEIPTS

10.01 Results of audit

Test check of records relating to revenue of Irrigation and Waterways and Public Works departments conducted in audit during the year 1997-98 revealed non/short realisation of revenue amounting to Rs. 65775.93 lakh in 37 cases as detailed below:

Irrigation and
Waterways—Tax
effect Rs. 65735.38 lakh
(31 cases)



Public Works—Tax
effect Rs. 40.55 lakh
(6 cases)

Total tax effect Rs. 65775.93 lakh (37 cases)

During the course of the year 1997-98 the concerned departments accepted non-realisation/short realisation of revenue of Rs. 59542.86 lakh in 26 cases of which one case involving Rs. 59479.92 lakh was pointed out in audit during 1997-98 and the rest in earlier years.

The results of review on “Assessment and collection of water rate” and few illustrative cases of important observations involving financial effect of Rs. 62799.44 lakh are given in the following paragraphs.

A—IRRIGATION AND WATERWAYS

10.02 Assessment and collection of water rate

10.02.01 Introduction

Water rate is the charge levied by the Irrigation and Waterways Department of the State based on the land surface actually irrigated by canal water (flow water). The levy of water rates in areas where water is supplied from the irrigation works executed, maintained or controlled by the State Government is regulated by the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, while the levy of water rates in areas where water is supplied by the Damodar Valley Corporation (DVC), is regulated by the West Bengal Irrigation (Imposition of Water Rate for Damodar Valley Corporation Water) Act, 1958 and the relevant rules framed thereunder by the Government.

Under the provisions of the aforesaid Acts, the Irrigation and Waterways Department levies water rates at the prescribed rates on the beneficiaries of such land who receive the supply of ‘flow water’ through canals in each crop season, viz., *kharif*¹, *rabi*², and *boro*³. Assessment of water rate is made by the revenue divisions on the basis of test notes sent by the irrigation engineering divisions. Collection of water rate is made by Tahsildars. In the case of beneficiaries under the Act of 1958 demand notices are sent whereas under the Act of 1974 the beneficiaries are liable to pay water rate from the date of publication of final assessment lists. All arrears of water rate together with interest are recoverable as public demand under the Bengal Public Demands Recovery Act, 1913.

¹*Kharif* means the season of autumn, the autumnal harvest; here the part of the year from July to October.

²*Rabi* means the season of spring, the spring harvest; here the part of the year from November to February.

³*Boro* means summer season; here the part of the year from March to April.

Other Non-Tax Receipts

10.02.02 Organisational set up

The Secretary to the Government of West Bengal, Irrigation and Waterways Department is the administrative head exercising overall control in respect of the levy and collection of water rate in the State. The Office of the Chief Engineers (6) is at the administrative head of the Directorate. The Chief Engineer (I) exercises overall control of works and irrigation. The Directorate is assisted by the Superintending Engineers of the respective Irrigation Circles who act as the controlling officers. The Revenue Officer is the head of a revenue division working under the control of the Irrigation and Waterways Department and functions as the competent authority for the purpose of assessment and collection of water rates in the command areas within his jurisdiction. Prior to 1 April 1974 the assessment and collection of water rate was under the administrative control of the erstwhile Board of Revenue.

A flow chart indicating irrigation, assessment and collection of water rate is given in Annexure I.

10.02.03 Scope of audit

A review was conducted on 'Assessment and collection of water rate' to verify the position of revenue, its assessment and collection and other aspects related to it. For this purpose records of eight out of nine revenue (and corresponding engineering) divisions and two revenue units⁴ for years from 1992-93 to 1996-97, in addition to the circle offices of the Superintending Engineers of five⁵ major and 20 medium⁶ irrigation projects and the Irrigation and Waterways Directorate, were test checked during December 1997 to March 1998. Records of earlier years where necessary were also examined.

10.02.04 Highlights

- There was no fair balance between the expenditure incurred on maintenance of water sources, collection charges etc with the revenue collected from water rates, the difference being Rs. 361.09 crore during the period from 1992-93 to 1996-97.

[Paragraph 10.02.06]

- Non-utilisation of irrigation potential created resulted in loss of revenue to the extent of Rs. 49.93 crore.

[Paragraph 10.02.07]

- Non-utilisation of available water in DVB&IP involved revenue to the tune of Rs. 93.93 crore.

[Paragraph 10.02.08]

- Failure to issue notification, non-preparation/non-receipt of test notes, non-assessment and non-realisation etc contributed towards shortfall in revenue to the extent of Rs. 67.42 crore.

[Paragraph 10.02.09]

- Penalty to the tune of Rs. 5.79 crore was not imposed for diversion of normal flow of canal water besides non-realisation of water rate to the extent of Rs. 0.58 crore.

[Paragraph 10.02.11]

- Certificate proceedings to recover water rate amounting to Rs. 33.52 crore were not initiated.

[Paragraph 10.02.12]

- Incorrect determination resulted in diminution of arrear demand to the extent of Rs. 13.98 crore.

[Paragraph 10.02.14]

⁴(1) Damodar Canal Revenue Division (DCRD), (2) Damodar Irrigation Revenue Division I (DIRD I), (3) Damodar Irrigation Revenue Division II (DIRD II), (4) Damodar Irrigation Revenue Division III (DIRD III), (5) Mayurakshi Revenue Division I (MRD I), (6) Mayurakshi Revenue Division II (MRD II), (7) Kangsabati Revenue Division II (KRDII), (8) Canal Revenue Division, Midnapur (MCRD), (9) Purulia Revenue Unit (PRU) and (10) Jalpaiguri Revenue Unit (JRU).

⁵(1) Mayurakshi Reservoir Project (MRP), (2) Kangsabati Reservoir Project (KRP), (3) Damodar Valley Barrage and Irrigation Project (DVB&IP), (4) Teesta Barrage Project (TBP) and (5) Midnapur Canals (MC).

⁶According to criteria laid down (April 1978) by the Planning Commission all irrigation schemes having culturable command area (CCA) of 2,000 hectares or less are classified as minor irrigation schemes.

10.02.05 Non-observance of prescribed procedure in preparation of annual budget

According to the guidelines given in paragraph 355 of the Irrigation and Waterways Department Code, Volume I, the actuals of previous years and revised estimates of the current year ordinarily afford the best guide in framing the budget estimates of the ensuing year and in the absence of definite reasons to the contrary, it is ordinarily advisable to assume a continuance of any growth or decline which is revealed by these figures.

It would, however, appear from the following table that there was complete non-consonance inasmuch as the RE had a growth tendency whereas the actual receipts did not maintain a corresponding upward realisation. The gap between the RE and actual collection in respect of water rate and interest thereon was fast increasing from year to year except in 1994-95. The achievements were not commensurate with the financial targets.

(In lakh of rupees)			
Year	Revised estimates (RE)	Actual collection of water rate and interest	Difference
1992-93	142.00	117.73	24.27
1993-94	152.27	97.11	55.16
1994-95	161.69	134.82	26.87
1995-96	166.57	101.89	64.68
1996-97	173.22	104.78	68.44

On this being pointed out (March 1998) the Directorate stated (May 1998) that the Budget Estimates were prepared on the basis of reports received from local offices and that the Finance Department are competent authority to adopt the final figure. No specific reply as to the non-consonance of the Revised Estimates with the actual collection figures has been furnished.

10.02.06 Collection of water rate vis-a-vis expenditure therefor

The Committee on Public Accounts in its Seventeenth Report of 1988-89 had desired that proper modernisation of system of assessment and collection of water rates be undertaken so that there might be a fair balance between the expenditure incurred and collection made. The table below indicates the revenue realised by the Government from water rate, working expenses on maintenance and operation and cost of collection during the last 5 years ending March 1997.

(In lakh of rupees)					
Year	Revenue collected	Working expenses	Percentage of working expenses to revenue collection	Establishment cost	Percentage of establishment cost to revenue collection
1992-93	117.73	5662.85	4810	459.35	390
1993-94	97.11	6564.54	6760	559.43	576
1994-95	134.82	7151.07	5304	535.44	397
1995-96	101.89	7965.30	7818	613.41	602
1996-97	104.78	9321.98	8897	685.01	654

The above table shows that the actual cost of collection far exceeded the revenue realised. In fact the establishment cost of the revenue divisions set up only for collection of revenue was on an average 5 times the revenue collected by the divisions. Thus, the specific recommendation of the Public Accounts Committee has not been implemented all through the nine years since 1989.

Other Non-Tax Receipts

The shortfall of revenue collected during 1992-93 to 1996-97 *vis-a-vis* total working expenses (including cost of establishment) worked out to Rs. 361.09 crore.

It was also noticed in audit that the water rate fixed in terms of the Acts of 1958 and 1974 was last revised in the year 1977 and never thereafter.

10.02.07 Non-utilisation of irrigation potential created

With a view to providing maximum irrigation facilities to the cultivators, the Irrigation and Waterways Department has to ensure optimum utilisation of irrigation potential created.

It was noticed from the records of the 5 major irrigation projects/schemes that there was huge discrepancy between the figures of the irrigation potential utilized and the actual area irrigated in *Kharif* seasons during the period from 1992-93 to 1996-97. This resulted in loss of revenue to the extent of Rs. 527.01 lakh on the difference of 284.37 thousand hectares (702678.27 acres) as detailed below:

(In '000 hectares) (Average for 1992-97)					
Sl. No.	Name of the project/scheme	Irrigation potential created	Irrigation potential utilised	Area shown as irrigated by the circles	Discrepancy
1	DVB&IP	482.10	457.96	330.96	127.00
2	KRP	398.10	352.15	257.30	94.85
3	MRP	250.86	250.86	217.32	33.54
4	TBP	68.89	43.26	27.00	16.26
5	MC	49.37	40.00	27.28	12.72
Total		1249.32	1144.23	859.86	284.37

On this being pointed out (December 1997 to March 1998) in audit, the concerned engineering circles could not furnish any specific reasons for the discrepancy of the figures.

As regards shortfall of 'irrigation potential utilised' compared to 'irrigation potential created', the Directorate stated (May 1998) that the targetted potential could not be achieved mainly as the canal systems could not be kept in proper order due to paucity of fund. The Superintending Engineers of MRP, KRP and MC also stated that modernisation schemes of canals were under consideration.

Cross-verification of records of the Directorate, however, revealed that no modernisation scheme was proposed for MRP, DVP&IP and MC for the last 3 years (1995 to 1998) and in respect of KRP, the actual expenditure for modernisation of the project including canal system was Rs. 136.53 lakh during 1995 to 1998 against the budget allotment (based on departmental proposals) of Rs. 150 lakh. It was further noticed that whenever there was any excess expenditure over allotment of fund for maintenance of the projects (including canal system), the same was provided by the Government from savings of other heads.

Thus, the canal system could have been kept in proper order by timely planning and demanding the requisite funds from the Government. Non-utilisation of irrigation potential of 21,26,270 hectares (cumulative) resulted in loss of revenue in the form of water rate to the extent of Rs. 4465.90 lakh during the period from 1974-75 to 1996-97.

As regards Teesta Barrage Project, the reason for non-utilisation of potential was stated to be non-utilisation of water by the cultivators. No reasons were available as to how this vital aspect had not been assessed before taking up the irrigation scheme.

10.02.08 Non-utilisation of huge water supplied from a major irrigation project

Optimum utilisation of water for the purpose of cultivation indicates the quality of success of an irrigation scheme/project. Since the system of irrigation during *kharif* season is supplementary irrigation, any excess water supply would remain unutilised and tell upon the revenue potential of the State.

In course of scrutiny of records of irrigation and supply of water through canals and Durgapur Barrage (under DVB&IP) through 4 irrigation divisions in the districts of Burdwan, Bankura, Hooghly and Howrah under jurisdiction of 4 revenue divisions, it was, however, noticed that the rate of supply of water (in acft)⁷ was much higher than the rate required for irrigation during *kharif* season⁸ for the period from 1982-83 to 1996-97 as per norms used by the Directorate. This resulted in a quantity of 250 lakh acft of water remaining unutilised.

The Directorate stated that supply of additional water was necessary for ecological purposes and while admitting the loss of revenue also stated that a portion of excess water could have been utilised with a proper planning for storage in the village tanks and *dighis* during *rabi* and *boro* watering seasons. This non-utilisation of water involved water rate worth Rs. 9393.30 lakh.

On this being pointed out (March 1998) in audit, the Directorate reiterated (May 1998) the views expressed earlier.

10.02.09 Shortfall in collection of revenue

Apart from the non-revision of water rate and non-utilisation of irrigation potential etc as discussed in paragraphs 10.02.07 and 10.02.08 above, the other important contributing factors responsible for the shortfall in revenue are discussed in the succeeding sub-paragraphs.

(i) Loss of revenue due to failure to issue notification imposing water rate

Under the Water Rate Laws whenever the State Government are of opinion that lands in any area are benefited or likely to be benefited by irrigation during any crop season, they may by notification declare their intention to impose water rate in such area at the prescribed rate.

The Committee on Public Accounts in its Seventeenth Report of 1988-89 desired the department to keep the assessing as well as collecting machinery ever alert to render prompt services and to knock at the right time for realisation of the dues.

In 6 revenue divisions/units⁹ it was noticed (December 1997-March 1998) that an area of 13.26 lakh acres of land irrigated during *rabi* and *boro* seasons for various years between 1973-74 and 1996-97 was not assessed to water rate due to non-issue of necessary notification by Government. Non-implementation of recommendations of the Committee on Public Accounts regarding assessment and collection of revenue resulted in loss of potential revenue amounting to Rs. 332.07 lakh for a period of more than 20 years.

On this being pointed out (December 1997-March 1998) in audit, all the concerned revenue divisions and engineering divisions agreed (December 1997-March 1998) to take up the matter with higher authorities for issue of notification. The SE, DI Circle stated in respect of DIRD II that proper notification in respect of irrigation achieved in *kharif* and *boro* seasons had not been made as the schemes were not declared as complete.

(ii) Non-preparation of test notes by engineering divisions

Under the Water Rate Laws test notes form the basis of assessment of water rate and demand is raised on the basis of actual assessment. Thus, any delay in preparation of and sending the test notes by the engineering divisions to the revenue divisions will result in delay in assessment.

In course of scrutiny of records of different engineering divisions/circles¹⁰ it was noticed (December 1997-March 1998) that test notes for an area of 677978.92 acres (annually) for *kharif*, *rabi* and *boro* seasons were not prepared by the engineering divisions and sent to the revenue divisions for assessment of water rate for various periods between 1973-74 and 1996-97. This resulted in non-assessment and non-realisation of water rate to the extent of Rs. 2284.95 lakh. Loss of interest would be to the tune of Rs. 1577.19 lakh for non-assessment up to 1996-97.

⁷Acreefoot, denotes the amount of water necessary to cover an acre to a depth of one foot.

⁸(a) Irrigation Engineering and Hydraulic Structures by S. K. Garg (11th edition).

(b) Treatise on Irrigation Parts I-III by J. B. Ghosh.

⁹DIRD II, DIRD III, JRU, KRD II, MCRD, and PRU.

¹⁰Mayurakshi Headquarter, Purulia Irrigation, KRP, Damoder Irrigation Circle and Mahananda Link Canal.

Other Non-Tax Receipts

On this being pointed out (December 1997-March 1998) in audit, all the concerned engineering divisions/circle offices stated (December 1997-March 1998) that steps for timely preparation of the test notes would be taken while the revenue officers stated (December 1997-March 1998) that the matter would be taken up with the department. They maintained (May 1998) that attempts were being made for timely preparation of test notes by deploying more personnel and for collection of *mouza* maps from the office of the District Magistrates. Reply from the RO, MRD I has not been received (September 1998).

(iii) Non-receipt of test notes by revenue divisions

Assessment of water rate is made on receipt of test notes from the engineering divisions. Such test notes are required to be prepared by the engineering divisions and sent to the revenue divisions within two months from the end of a particular watering season.

In course of scrutiny of records of 4 revenue divisions/units¹¹ it was noticed (December 1997-January 1998) that the concerned engineering divisions did not send test notes for the *kharif*, *rabi* and *boro* seasons during the various periods from 1974-75 to 1996-97 in respect of an area of 51999.61 acres of land annually in respect of 9 zilla offices which resulted in non-assessment and non-realisation of water rate amounting to Rs. 188.58 lakh.

On this being pointed out (December 1997-January 1998) in audit, all the revenue officers stated (December 1997-January 1998) that steps were being taken to obtain test notes from the engineering divisions concerned.

(iv) Non-assessment and non-realisation of water rate

Under the Water Rate Laws, as soon as possible after notification imposing or revising water rate in any notified area is published, the revenue officer shall on the basis of test notes received from the engineering divisions prepare and publish in the prescribed manner an assessment list or issue demand notices containing the names of all persons liable to pay water rate.

In course of review, it came to notice that proper procedure of assessment was not followed by any revenue division. Instead, the practice as adopted was that test notes were being directly sent to zilladars and assessments were being done at tahasildars level in all the offices.

In course of scrutiny of records of 8 revenue divisions/units¹² it was noticed (December 1997-March 1998) that revenue to the extent of Rs. 1762.47 lakh remained unrealised due to non-assessment of water rate in respect of 33.27 lakh acres of land irrigated during *kharif*, *rabi* and *boro* seasons for various periods between 1974-75 and 1996-97.

On this being pointed out (December 1997-March 1998) in audit, almost all the concerned revenue officers stated (December 1997-March 1998) that the work of assessment was under process/progress.

(v) Non-realisation of water rate from the beneficiaries

The Water Rate Acts provide that notwithstanding anything to the contrary contained in any other law for the time being in force or in any custom, usage or contract, the liability for payment of water rate shall be on the occupiers of lands included in the notified area in which the water rate is imposed.

However, it was noticed in audit that water rates imposed could not be collected due to the following reasons:

(a) Non-realisation due to failure to investigate objections against payment

Under the Water Rate Laws the beneficiaries are liable to pay water rate on the issue of demand notices or soon after publication of the final assessment lists. Prior to the finalisation of the assessment lists they can prefer objections, if any, against the levy and assessment of water rates. The Canal Revenue Officer shall, after considering the objection, if any, publish in such manner as may be prescribed, a final assessment list indicating the amount of water rates assessed.

¹¹DIRD III, KRD I, MRD I and PRU.

¹²DCRD, DIRD I, DIRD II, DIRD III, KRD II, MRD I, MRD II and PRU.

In course of scrutiny of records of 8 revenue divisions/units¹³ it was noticed (December 1997-March 1998) that the beneficiaries did not pay water rate assessed in respect of 1.19 lakh acres of land situated in 982 *mouzas* (under 32 zilla offices) irrigated during 1974-75 to 1996-97 *kharif* seasons till March 1998 on the ground of non-receipt of irrigation water, damage by overflow, existence of non-irrigated land, silting up of canals etc. This resulted in non-realisation of water rate to the extent of Rs. 66.73 lakh from 1992-93 to 1996-97. The department did not investigate the matter and take recovery measure, and/or submit proposal for exemption from payment of water rate.

On this being pointed out (December 1997-March 1998) in audit, all the revenue officers agreed (December 1997-March 1998) to take up the matter with the concerned engineering divisions for joint verification and proper action. Reply from the RO, MCRD has not been received (September 1998).

(b) *Non-realisation of water rate in areas under other irrigation schemes within notified areas*

In course of scrutiny of records of 6 revenue divisions¹⁴ it was noticed that in a large number of cases the beneficiaries were not paying water rate in some areas on the ground that there was supply of water by other schemes or projects or agencies through deep tubewell, mini pumps, shallow pumps etc. Since the areas were covered under test notes for supply of water by the engineering divisions those beneficiaries were liable to pay water rate at prescribed rates as per provisions of the Acts and the Rules. Inaction, thus, on the part of the department resulted in non-realisation of water rate to the extent of Rs. 385.29 lakh during *kharif* seasons in respect of area of 74839.46 acres falling in 324 *mouzas* under 12 zilla offices from the year 1974-75 to 1996-97.

On this being pointed out (December 1997-March 1998) in audit, almost all the revenue divisions agreed to take up the matter with higher authorities for decision. Reply from the RO, MCRD has not been received (September 1998).

(c) *Non-realisation of water rate from owners of lands given to bargadars¹⁵*

Under the Water Rate Laws the liability for payment of water rate shall be on the occupiers of lands provided that where any such land is cultivated by a *bargadar*, the liability for payment of water rate shall be on the owners of the said lands.

In course of scrutiny of records of 5 revenue divisions¹⁶ it was noticed that an amount of Rs. 44.21 lakh representing water rate from the year 1974-75 to 1996-97 remained unrealised in an area of 22408.86 acres falling in 268 *mouzas* under 5 zilla offices from the owners of land given in *barga*.

On this being pointed out (December 1997-March 1998) in audit, all the revenue officers agreed to take up the matter with higher authorities for decision.

(d) *Non-assessment of water rate for want of details of holders of plots irrigated*

Under the Water Rate Laws the liability for payment of water rate shall be on the occupiers of lands included in the notified area in which water rate is imposed, provided that where any such land is cultivated by a *bargadar*, the liability for payment of the water rate shall be on the owner of such land.

¹³DCRD, DIRD II, DIRD III, KRD II, MCRD, MRD I, MRD II and PRU.

¹⁴DCRD, DIRD I, DIRD II, DIRD III, KRD II and MCRD.

¹⁵*Bargadar* means a person who under the system generally known as *adhi*, *barga* or *bhag* cultivates the land of another person on condition of delivery a share of the produce of such land to that person. *Kisani* is also included in *barga*.

¹⁶DIRD I, DIRD II, KRD II, MCRD and MRD II.

Other Non-Tax Receipts

In course of scrutiny of records of 2 revenue divisions¹⁷ it was noticed (December 1997-January 1998) that an area of 1590.68 acres of land situated in 27 *mouzas* under 5 zilla offices had not been assessed to water rate although the land was shown as irrigated by the engineering divisions from 1974-75 to 1996-97 during *kharif* seasons due to non-availability of records of plots irrigated or non-preparation of *khatianies*¹⁸ or records of rights. This resulted in non-assessment of water rate amounting to Rs. 7.24 lakh.

On this being pointed out (December 1997-January 1998) in audit, the revenue officers stated that the matter would be pursued to obtain the details of holders of plots irrigated from the concerned block land reforms offices.

(vi) *Delay in assessment*

The Water Rate Acts provide that as soon as possible after a notification under Section 6 imposing or revising a water rate in any notified area is published, the Canal Revenue Officer shall prepare and publish names of all persons and the amount of such water rate payable for the *kharif*, *rabi* or summer season, as the case may be. The Canal Revenue Officer shall, after considering the objection, if any, preferred by person on whom the water rate has been assessed, publish in such manner as may be prescribed a final assessment list indicating the amount of water rate.

Further, arrear of water rate shall bear interest at the rate of six and a quarter per cent (1958 Act) and six per cent (1974 Act) per annum.

In course of scrutiny of records of 5 revenue divisions/units¹⁹ it was noticed (December 1997-March 1998) that assessment of 707290.02 acres of land (in 236 *mouzas* of 9 zilla offices) to water rate during *kharif*, *rabi* and *boro* pertaining to the period from 1977-78 to 1996-97 was made during 1992-93 to 1996-97 the delay in assessment ranging between 2.5 and 21 years. This resulted in blockage of revenue to the extent of Rs. 38.55 lakh.

On this being pointed out (December 1997-March 1998) in audit, the revenue officers stated that the delay in assessment was due to delay in receipts of test notes from the engineering divisions and shortage of staff.

(vii) (a) *Failure to resolve contested demands*

In course of scrutiny of records in Sadar Zilla office under MCRD, it was noticed (February 1998) that water rates for the area irrigated from 7 irrigation schemes from the very dates of their inception from 1982-83 (one from 1990-91), could not be recovered due to the protest for non-supply of water lodged by the cultivators. The revenue division did not resolve the protests by adopting any manner nor referred the contesting of demands by beneficiaries to the engineering divisions for verification. This resulted in blocking of revenue to the extent of Rs. 10.84 lakh in respect of an area of 5467.60 acres for *kharif* seasons.

On this being pointed out (February 1998) in audit, the revenue officer stated that the matter would be taken up with the engineering division and other competent authority for necessary action.

(b) *Loss of revenue due to non-opening of lock-gates by engineering divisions*

Scrutiny of records revealed that on the ground of non-receipt of water for non-opening of the required lock-gates for irrigation during *kharif* season, water rate to the extent of Rs. 5.28 lakh up to 1996-97 could not be realised from the occupiers of land in 2 cases. In Magra zilla office under DIRD III an area of 1419.94 acres of land in 7 *mouzas* under Dhaniakhali and Polba PS was effected from the year 1977-78 involving water rate of Rs. 4.48 lakh. Similarly, in PRU an area of 312.05 acres in 3 *mouzas* under Jhalda PS was effected from the year 1980-81 involving water rate of Rs. 0.80 lakh. The revenue divisions did not investigate the matter at all.

On this being pointed out (December 1997-January 1998) in audit, the revenue officer agreed to take up the matter with the engineering divisions concerned.

¹⁷DIRD III and KRD II.

¹⁸*Khatianies* or *Khasras* are records (in book form) to contain details of irrigated land viz., name of the tenant, plot no., *khatian* no. *mouza* and area of land held by the tenants.

¹⁹DIRD I, DIRD III, KRD II, MRD II and PRU.

(viii) *Collection kept in abeyance*

Mention was made in paragraph 12.2.12 of the Audit Report (Revenue Receipts) for the year 1990-91 of keeping of collection of Rs. 9.72 lakh in abeyance for an indefinite period in 2 revenue divisions²⁰ due to non-receipt of approval of higher authorities on exemption proposal. The said approval was not received. This culminated in collection of revenue to the extent of Rs. 22.63 lakh payable during *kharif* irrigation years from 1978-79 to 1996-97 being kept in abeyance.

On this being pointed out (February-March 1998) in audit, the revenue officers stated that the matter was being taken up with higher authorities for decision.

(ix) *Loss of revenue due to diversion of flow canals in upper catchment areas*

Scrutiny of records revealed non-realisation of water rate of Rs. 15.17 lakh up to 1996-97 from the occupiers of land during *kharif* seasons on the ground of non-receipt of water owing to cross bundhs given in the upper catchment of river/canal in 2 cases.

In Boinchee zilla office under the DIRD III, a total area of 2376.00 acres of land in 4 *mouzas* of Pandua PS suffered due to cross bundh over Dhushi river (under DVC canal system) from the year 1977-78 involving water rate of Rs. 7.13 lakh.

Similarly, in Rampurhat zilla office under the MRD II, an area of 1340.63 acres of land in 3 *mouzas* in Rampurhat PS suffered from the year 1957-58 owing to a cross bundh in the upper catchment of a Mayurakshi sub-canal involving water rate of Rs. 8.04 lakh. The revenue division neither registered any case with the police against the cultivators nor investigated the matter and imposed penalty for blocking the water.

On this being pointed out (December 1997) in audit, the revenue officers agreed (December 1997) to take up the matter with the engineering divisions concerned.

10.02.10 *Inaction of the department to get stay orders vacated*

(a) In course of scrutiny of records of Kamarpukur zilla office under the RO, KRDI II it was noticed that water rate for *kharif* season of land measuring 18543.00 acres falling within 52 *mouzas* under Goghat PS could not be assessed from 1974-75 irrigation season on the plea that the area was covered by injunction obtained by the beneficiaries concerned in the year 1976. Inaction on the part of the department to get the injunction vacated for the last 21 years resulted in blocking up of revenue to the extent of Rs. 63.97 lakh.

(b) In course of scrutiny of records of the RO, DIRD II, it was noticed that water rate for *kharif* seasons of land measuring 698.11 acres in 7 *mouzas* under Indas PS was not assessed to water rate from the year 1978-79 to 1996-97 watering seasons on the plea that the area was covered by an injunction obtained by the beneficiaries in the year 1978. The interim order of injunction given by the Hon'ble High Court, Calcutta was only for giving effect to the demand notices (in Forms B and C) and not for keeping assessments in abeyance. This resulted in non-assessment of water rate to the extent of Rs. 2.09 lakh.

On this being pointed out (January-February 1998) in audit, the RO, KRDI II stated (May 1998) that steps were being taken to vacate the injunction while the RO, DIRD II admitted (March 1998) that there was no bar to assess water rate in the particular case and agreed to take up the matter with higher authorities for a decision.

10.02.11 *Non-imposition of penalty for diversion of normal flow of canal water*

Under the provisions of the West Bengal Irrigation (Imposition of Water Rate for DVC Water) Act, 1958 and the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, a penalty at ten times the water rate can be imposed for diversion of normal flow of canal water by obstruction.

²⁰DIRD I and DIRD II.

Other Non-Tax Receipts

(a) Scrutiny of records of Haripal, Boinchee and Magra zilla offices under DIRD III revealed 4 cases of unauthorised obstruction and diversion of normal flow of canal water where 2407.66 acres of land in 12 *mouzas* under Haripal, Pandua and Polba PS were receiving water unlawfully since 1977-78 (in one case from 1971-72). No action was taken to remove such obstructions nor any penalty was imposed for such unauthorised diversion. This resulted in a non-imposition of penalty to the tune of Rs. 409.30 lakh besides non-realisation of water rate to the extent of Rs. 40.93 lakh.

(b) Scrutiny of records of Margram tahsil office under Rampurhat zilla office of MRD II revealed case of unauthorised diversion of normal flow of canal water by obstruction within the notified area from the year 1957-58 by construction of a bundh in the upper catchment areas on a sub-canal and diversion of water therefrom by means of channels. About 500 acres of land in the *mouzas* of Brahmanigram, Joykrishnapur, Pabunia etc in Rampurhat PS received unauthorised benefits of irrigation. But no action was taken to remove such obstructions nor any penalty was imposed for such unauthorised diversion. Inaction thus resulted in non-imposition of penalty to the tune of Rs. 170 lakh besides non-realisation of water rate to the extent of Rs. 17 lakh.

On this being pointed out (December 1997) in audit, the RO, DIRD III stated that these were the primary jobs of the engineering wings and agreed to take up the matter with them while the RO, MRD II stated that this might be referred to the department. The replies are not tenable since the provisions of the Act empower the revenue officers to deal with such cases.

10.02.12 Non-initiation of certificate proceedings

Under the provisions of the Water Rate Acts, all arrears of water rate together with interest, if any, shall be recoverable as public demand i.e. under the provisions of the Bengal Public Demands Recovery Act, 1913 and an arrear of water rate shall bear interest at the rate of six per cent or six and a quarter per cent per annum as the case may be.

Scrutiny of records of all the revenue divisions revealed (December 1997-February 1998) that certificate proceedings had not been instituted on the arrears of water rate amounting to Rs. 3351.72 lakh (Rs. 1581.78 lakh in respect of divisions covered under the 1958 Act and Rs. 1769.94 lakh in respect of divisions covered under the 1974 Act) from 1974-75 to 1996-97.

10.02.13 Arrears of revenue pending collection

Under the provisions of the West Bengal Irrigation (Imposition of Water Rate for DVC Water) Act, 1958 and the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, arrears of water rates together with interest at prescribed rate are recoverable as public demand.

In a test check of records maintained in the revenue divisions it was noticed that water rate to the extent of Rs. 3917.66 lakh was remaining outstanding up to 1996-97. Of these recovery proceedings had been instituted for an amount of Rs. 84.54 lakh for various periods up to 1994-95.

On this being pointed out (March 1998) in audit, the Directorate attributed (May 1998) various reasons for non-realisation of arrear and current water rate from the beneficiaries. The reply is not tenable since the Committee on Public Accounts directed²¹ the department to keep the assessing as well as collecting machinery ever alert to render prompt services and knock at the door of the assessee at the right time for realisation of the dues.

10.02.14 Incorrect computation of arrear demands

In course of scrutiny of records of the following revenue divisions it was noticed that arrears of revenue in the revenue divisions were diminished either by the element of interest shown as recovery against annual demand or by not taking into account the amount not

²¹Seventeenth Report, 1988-89 dated May 1989.

Other Non-Tax Receipts

remitted or by showing less amount of demand therein. Total diminution thus amounted to the tune of Rs. 1398.03 lakh as shown below:

(In lakh of rupees)				
Name of the revenue division/unit	Outstanding revenue shown by the revenue division	Arrears after remission in 1983-84 not shown in opening balance	Diminution by interest	Diminution by demand not taken into account
DCRD	684.99	107.53	137.00	..
DIRD I	325.97	204.85	..	..
DIRD II	286.98	200.00	71.74	55.85
DIRD III	314.90	200.00	62.98	..
MRD I	821.31	..	..	..
MRD II	597.13	..	115.83	..
KRD I ²²	448.28	..	..	..
KRD II	321.60	..	64.32	..
MCRD	94.30	..	18.86	158.77
PRU	22.20	..	..	..
Total	3917.66	712.38	470.73	214.62

On this being pointed out, all the revenue officers stated (December 1997-March 1998) except RO, MCRD that action was to be taken to raise the demand ascertaining the actual position.

10.02.15 Documentation

(a) Non-reconciliation of departmental figures of collection with treasury

Under the revenue divisions collection of water rate including interest are deposited into treasury mainly in the form of bank drafts along with remittance challans for credit into Government account. In terms of the CPWA Code, a revenue division is required to reconcile regularly the monthly statements of remittances made into the treasury every month to see that the amounts deposited into the treasury and the amounts acknowledged by the treasury as per the consolidated treasury receipts signed by the Treasury Officer do not differ.

It was, however, noticed from the records of the AG (A&E), WB and also from the records of the revenue divisions that CTRs for the various periods from August 1978 to March 1998 were yet to be received in 7 out of 9 revenue divisions. As a result deposits of huge sum of money into the Public Account could not be reconciled. The large discrepancies are always fraught with the risks of defalcation. The discrepancies rose up to Rs. 8 lakh or more in some cases (MRD I 1994-95).

On this being pointed out (February 1998) in audit, the Directorate stated (May 1998) that all the superintending engineers and the revenue officers were asked to obtain the CTR from concerned treasury and complete the accounts up-to-date.

(b) Lack of monitoring and evaluation system

In course of scrutiny of records of both revenue and engineering wings under the Irrigation and Waterways Directorate it was noticed that there was no system of evaluation/study of the fulfilment of the target after implementation of projects/schemes in relation to availability of water and collection of water rate thereagainst in respect of the individual CCA. The Management Information System was not also introduced in any of the major fields of activities, viz. (a) Irrigation and preparation of test notes (b) Assessment and collection and (c) Follow-up action

²²As on 31st March 1996 (not reviewed this time).

Other Non-Tax Receipts

for recovery of arrears of water rate, to have an effective monitoring and evaluation system. In the different revenue divisions absence of effective maintenance of records/registers²³ at different levels was noticed in audit.

The Committee on Public Accounts already observed,²⁴ that particularly in regard to collection of revenues from the beneficiaries of different irrigation projects, the Management Information System will enable the department to keep themselves abreast with the up-to-date information like position of assessment, realisation and other allied particulars; this will ultimately enable the department to accelerate the assessment and realisation process.

On this being pointed out (February 1998) in audit, the Directorate stated (May 1998) that the Management Information System was in process.

Government to whom the foregoing points were reported (June 1998) stated (December 1998) that in view of very poor collection of water rates, proposals made by the Directorate to reduce the huge arrears and streamline the system of collection were under active consideration of the Government.

B—PUBLIC WORKS

10.03 Non-realisation of lease rent

Failure to raise demand for lease rent for more than 10 years by the PW Division, Jalpaiguri resulted in non-realisation of Rs. 5.27 lakh.

As per terms and conditions of the lease agreement executed (27 January 1982) between the Public Works Department (PWD) and the North Bengal State Transport Corporation for leasing out 2.27 acres of land including 7 structures of Jorai stockyard of PWD in Jalpaiguri district, the lessee is liable to pay lease rent with effect from 30 June 1981 at the rate of Rs. 1,640 per annum within 31st December each year and in default of payment of any instalment of rent, interest at the rate of six and a quarter per cent per annum is realisable. Besides rent, cesses as per cess laws are to be realised.

During the course of audit in the office of the Executive Engineer, Alipurduar Construction Division (PWD), it was noticed (January 1997) that total amount due from the lessee for the period from 1 July 1981 to 31 March 1996 worked out to Rs. 5.56 lakh including cesses and interest but the department had realised a sum of Rs. 29,520 in 2 occasions (21 June 1984 and 20 December 1987) for intervening periods (for the period from 1 July 1983 to 31 December 1983 and 1 January to 31 December 1986) without taking any action for realisation of the balance dues with cesses and interest thereon. This resulted in non-realisation of Government revenue of Rs. 5.27 lakh.

On this being pointed out (January 1997) in audit, the Executive Engineer stated (January 1997) that action for realisation as contemplated in the agreement would be taken. Report on further action taken has not been received (September 1998).

The matter was reported to Government in March 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).

C—POLICE

10.04 Non/short realisation of police cost

Incorrect exclusion of elements such as bonus, leave/pension contribution, cost of sanctioned strength etc while determining the cost of police guard provided to 5 banks resulted in non/short realisation of Rs. 30.71 lakh by the Calcutta Police.

Under the provisions of the Police Regulations of Bengal, 1943, the police establishment

²³E.g. Test Note Register, Assessment Register, Demand and Collection Register, Certificate Register etc.

²⁴Seventeenth Report, 1988-89 dated May 1989.

of each district is determined on the basis of number of officials required for duty, after keeping 'casualty reserve'. As per clarification issued in April 1987 on a Government order issued in November 1983 the casualty reserves are kept at the headquarters to provide for leave, sickness and training of the force on the effective duty. As such actual posting of number of force falls short of sanctioned strength and the establishment where force is permanently posted should pay charge not only for basic force but also for relief and casualty reserve.

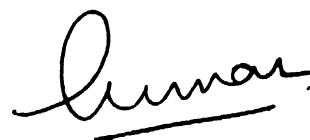
(a) In course of audit of the records of the Commissioner of Police, Calcutta, it was noticed (March 1997) that 10 police personnel had performed duty in a bank during the period from 1994-95 to 1996-97 against the sanctioned strength of posts of 18 police personnel and payment was made by the bank for the force actually posted instead of on the sanctioned strength. This resulted in short realisation of police cost amounting to Rs. 28.95 lakh.

On this being pointed out (March 1997) in audit, the department stated (April 1998) that the bank had agreed to pay the arrear in instalment. Report on realisation of police cost has not been received (September 1998).

(b) During the course of audit of the records of the Commissioner of Police, Calcutta, it was noticed (March 1997) that while assessing the demand of police cost from 4 banks the element of *ad hoc* bonus, leave compensation and pension contributions had not been included therein. This resulted in underassessment of police cost amounting to Rs. 1.76 lakh for the period ranging between 1993-94 and 1995-96.

On this being pointed out (March 1997) in audit, the department stated (July 1997) that demand had been raised. Report on realisation has not been received (September 1998).

The cases were reported to Government in May 1997 followed by reminders issued up to June 1998; their reply has not been received (September 1998).



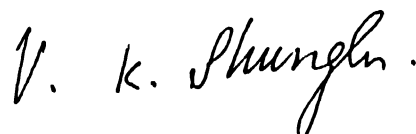
(M. NAVEEN KUMAR)

*Accountant General (Audit) II
West Bengal*

Calcutta,

The **28 JAN** 1999

Countersigned



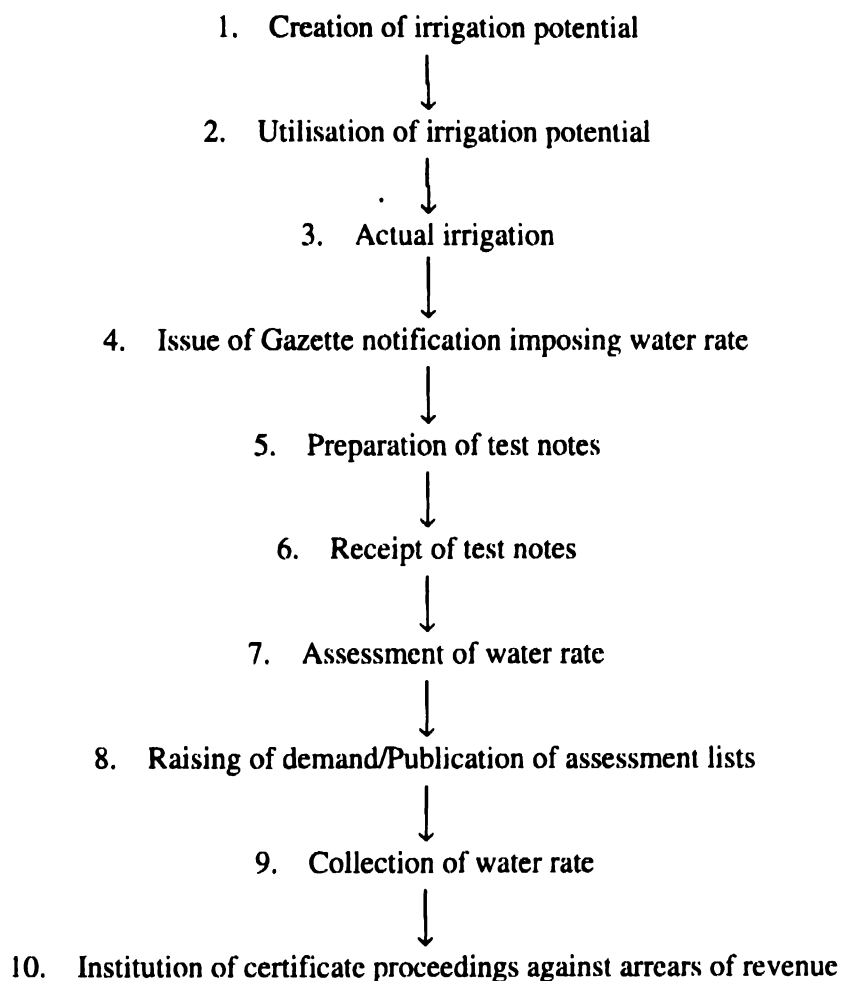
(V. K. SHUNGLU)

Comptroller and Auditor General of India

New Delhi,

The **9 FEB** 1999

ANNEXURE I

Flow chart of irrigation, assessment and collection of revenue*(Referred to in paragraph 10.02.02 of the Report)*

Functions at Sl. 1-3 and 5 are done by engineering divisions while that of Sl. 6-10 are done by revenue divisions. Notifications at Sl. 4 are issued by Government.

