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विधान सभा में पेश किया
Presented to the Legislature
on 26/5/94

REPORT

OF

THE COMPTROLLER

AND

AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 1993

No. 2

(REVENUE RECEIPTS)

GOVERNMENT OF KERALA

CONTENTS

PREFATORY REMARKS

This Report for the year ended 31 March 1993 has been prepared for submission to Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1992-93 as well as those noticed in the earlier years but could not be covered in previous Reports.

OVERVIEW

This Report contains 27 paragraphs including 2 reviews relating to non-levy, short levy of tax, interest, penalty etc. involving Rs 466 lakhs. Some of the major findings are mentioned below:

1. General

(i) During the year 1992-93, the Government of Kerala raised a total revenue of Rs 2166.36 crores comprising tax revenue of Rs 1886.96 crores and non-tax revenue of Rs 279.40 crores. The State Government received Rs 686.96 crores by way of State's share of divisible Union taxes and Rs 465.41 crores as grants-in-aid from the Government of India. Sales Tax (Rs 1305.59 crores) formed a major portion (69%) of the tax revenue of the State. Receipts from Forest and Wild Life (Rs 78.71 crores) formed a major portion (28%) of the non-tax revenue.

(Paragraph 1.1)

(ii) Test check of records of Agricultural Income Tax and Sales Tax Department, State Excise Department, Land Revenue Department, Forest Department, Stamps and Registration, Other Tax and non-Tax Receipts conducted during 1992-93, revealed under-assessments/short levy of revenue amounting to Rs 12.92 crores in 1926 cases. During the course of the year 1992-93, the concerned departments accepted under-assessments etc. of Rs 1.90 crores involved in 594 cases of which 334 cases involving Rs 1.37 crores had been pointed out in audit during 1992-93 and the rest in earlier years.

(Paragraph 1.8)

(iii) As at the end of June 1993, 2,563 inspection reports containing 10,797 audit paragraphs involving revenue effect of Rs 100.30 crores were outstanding for want of final replies from the departments.

(Paragraph 1.9)

2. Sales Tax

(i) In eleven cases, sales tax was short levied either due to application of incorrect rate of tax or due to turnover escaping assessment resulting in under-assessment of tax of Rs 43.71 lakhs.

(Paragraphs 2.2 and 2.3)

(ii) Irregular grant of exemption and concessions of tax resulted in short levy of tax of Rs 6.16 lakhs in 7 cases.

(Paragraphs 2.4, 2.6 and 2.7)

(iii) Mistake in computation of tax resulted in short levy of tax of Rs 7.99 lakhs in one case.

(Paragraph 2.9)

3. Agricultural Income Tax

(i) In ten cases agricultural income tax amounting to Rs 8.33 lakhs was short levied due to incorrect computation of the assessable income.

(Paragraph 3.2)

(ii) Failure to utilise available information and grant of inadmissible deductions resulted in short levy of agricultural income tax of Rs 5.40 lakhs in six cases.

(Paragraphs 3.3 and 3.4)

4. State Excise Duties

(i) In 24 excise offices compounding fee was levied short by Rs 6.18 lakhs in respect of 467 offences compounded between April 1991 and March 1992.

(Paragraph 4.2)

(ii) (a) The details of Abkari arrears for the years ended 31 March 1991, 31 March 1992 and 31 March 1993 were not available with the Board of Revenue. Even the available figures as on 31 March 1990 did not depict the correct position of arrears.

(b) There is no proper monitoring by higher authorities in regard to collection of arrears

(Paragraphs 4.3.2 and 4.3.3)

(c) In two cases recovery of arrears of Rs 23.75 lakhs could not be made due to the insolvency of the assessees.

(Paragraph 4.3.6)

(d) Lack of action by the Excise Department resulted in non-realisation of excise revenue amounting to Rs 87.65 lakhs in 56 cases.

(Paragraph 4.3.8)

5. Land Revenue

Review on "Internal controls in respect of basic tax on land" revealed the following:

(a) The realisation of basic tax depended heavily on voluntary compliance by land holders as no demand notices for payment were being issued by the department.

(Paragraph 5.2.6)

(b) Different procedures were being followed in different parts of the State and there was no uniformity in the maintenance of basic land revenue records. A unified Manual prescribing the procedures for the collection and accounting of land revenue in Taluks and Collectorates was yet to be prepared.

(Paragraph 5.2.8)

(c) As on 31st August 1992, 8.70 lakhs cases of transfer of registry were pending for effecting transfer with the result that Rs 87.00 lakhs towards fee for transfer of registry could not be realised.

(Paragraph 5.2.9)

(d) The annual inspections of Village and Taluk Offices were not being conducted regularly. The target fixed for inspection of Village Offices by the Tahsildars had not been achieved in several cases.

(Paragraph 5.2.10)

(e) The Internal Audit system is very weak. The average annual coverage of the Internal Audit of Taluks and Revenue Divisional Offices was 18 units against 81 offices during 1988 to 1992.

(Paragraph 5.2.11)

6. Other Tax Receipts

(i) Taxes on Vehicles

Application of incorrect rate of tax on eight motor vehicles plying for hire or reward resulted in short levy of tax of Rs37.23 lakhs up to 1991-92.

(Paragraph 6.2)

(ii) Electricity Duty

In seven Electrical Inspectorates periodical inspections and tests as required to fulfil statutory requirement in order to ensure the safety of the installations were not carried out during 1988-91. Inspection fees of Rs 33.74 lakhs was to be levied for such inspection.

(Paragraph 6.5)

7. Forest Receipts

A Review on "Accounting and disposal of forest offence cases" revealed the following:

(a) Absence of proper monitoring of forest offence cases resulted in 39,371 cases pending finalisation as on 31 March 1992. Of these 6,492 cases had become time-barred. Out of these in 497 cases the mahazar loss amounted to Rs 31.64 lakhs.

(Paragraph 7.2.5)

(b) Offence cases registers kept in ranges/divisions were not being maintained properly.

(Paragraph 7.2.7)

(c) Deterioration of seized vehicles due to delay in confiscation and disposal of offence cases resulted in loss of Rs 19.50 lakhs.

(Paragraph 7.2.8)

(d) Thondy articles worth Rs 25.89 lakhs were pending disposal for periods ranging from 6 months to 120 months.

(Paragraph 7.2.8)

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Kerala during the year 1992-93, the State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below and depicted in Chart I.

	(In crores of rupees)		
	1990-91	*1991-92*	*1992-93*
I. Revenue raised by the State Government			
(a) Tax revenue	1340.34	1673.94	1886.96
(b) Non-tax revenue	208.81	234.72	279.40
Total	1549.15	1908.66	2166.36
II. Receipts from Government of India			
(a) State's share of divisible Union taxes	486.26	576.42	686.96
(b) Grants-in-aid	367.51	367.04	465.41
Total	853.77	943.46	1152.37
III. Total receipts of the State Government (I and II)	2402.92	2852.12	3318.73
IV. Percentage of I to III	64.47	66.92	65.28

(i) The details of the tax revenue raised during the year 1992-93, alongwith the figures for the preceding two years, are given below and depicted in Chart II.

	(In crores of rupees)			*Percentage of increase(+)/ decrease(-) in 1992-93 over 1991-92*
	1990-91	*1991-92*	*1992-93**	
1. Sales Tax	897.43	1122.10	1305.59	(+) 16.35
2. State Excise	175.41	210.30	222.21	(+) 5.66
3. Stamps and Registration Fees				
(a) Stamps Judicial	8.79	5.87	10.86	(+) 85.00
(b) Stamps-Non-Juidicial	94.68	124.80	154.71	(+) 23.97
(c) Registration Fees	18.52	21.52	24.04	(+) 11.71
4. Taxes and Duties on Electricity	30.56	41.15	22.15	(-) 46.17
5. Taxes on Vehicles	74.14	94.76	111.89	(+) 18.08
6. Taxes on Agricultural Income	23.94	35.13	12.52	(-) 64.36
7. Land Revenue	11.12	11.44	11.85	(+) 3.58
8. Others	5.75	6.87	11.14	(+) 62.15
Total	1340.34	1673.94	1886.96	(+) 12.73

TOTAL RECEIPTS OF THE STATE

(In crores of rupees)

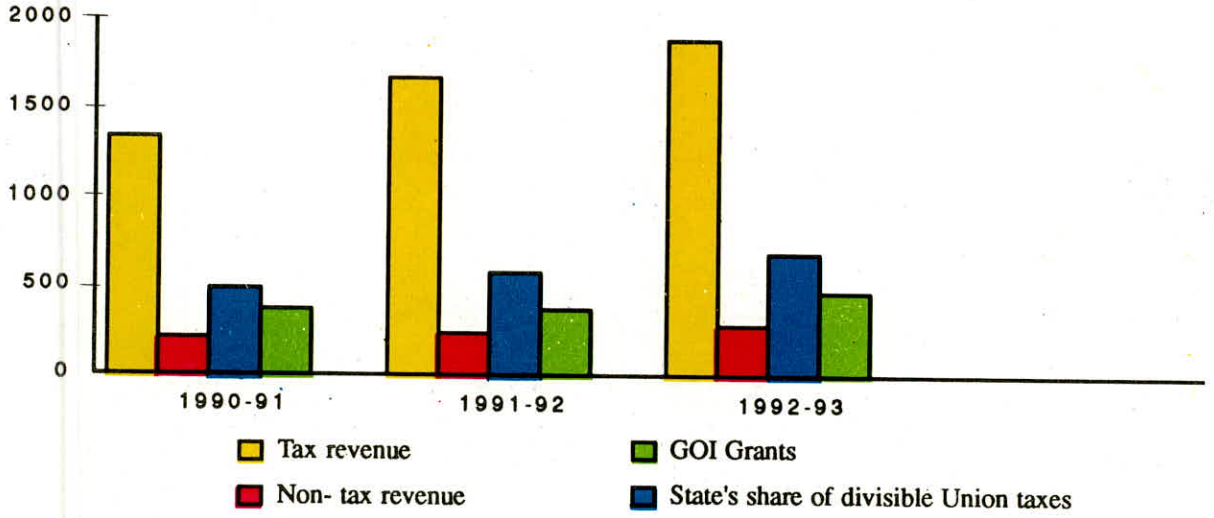

Chart I (Refer paragraph 1.1)

TAX REVENUE RAISED BY THE STATE DURING 1992-93

(In crores of rupees)

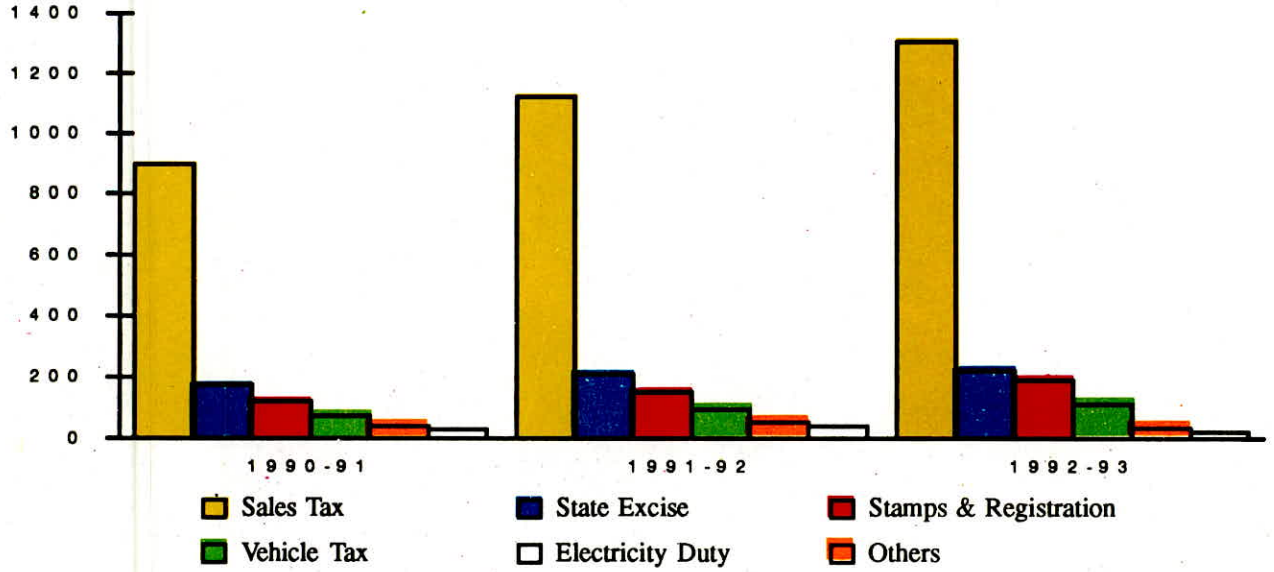

Chart II (Refer Paragraph 1.1(i))

The reasons for variations in receipts in 1992-93 as given by the departments concerned were as follows:-

(a) 'Stamps - Non-Judicial' - The increase (23.97%) was due to the annual incremental increase in the land value.

(b) 'Taxes and Duties on Electricity' - The decrease (46.17%) was due to non-receipt of surcharge, penal interest, inspection fee and part receipt of duty from the Kerala State Electricity Board.

Reasons for variations in respect of other departments, though called for, were not furnished by the concerned departments.

(ii) The details of non-tax revenue realised during the years 1990-91 to 1992-93 are given below and depicted in Chart III.

	(in crores of rupees)			Percentage of increase (+)/ decrease (-) in 1992-93 over 1991-92
	1990-91	1991-92	1992-93	
1. State Lotteries	51.40	53.87	57.28	(+) 6.33
2. Forestry and Wild Life	37.33	55.64	78.71	(+) 41.46
3. Interest Receipts	21.42	19.49	23.10	(+) 18.52
4. Education	18.47	15.05	17.11	(+) 13.69
5. Medical and Public Health	8.78	11.73	12.63	(+) 7.67
6. Crop Husbandry	4.83	4.28	5.41	(+) 26.40
7. Animal Husbandry	2.36	2.58	2.90	(+) 12.40
8. Stationery and Printing	3.65	2.42	2.98	(+) 23.14
9. Public Works	1.54	1.16	1.26	(+)8.62
10. Others	59.03	68.50	78.02	(+)13.90
Total	208.81	234.72	279.40	(+)19.04

The increase (41.46%) under the head 'Forestry and Wild Life' in 1992-93 over the receipts of 1991-92 was attributed by the department to the increase in the market price of timber and extraction of more timber.

The reasons of variations in respect of other departments, though called for, have not been received (January 1994).

NON-TAX REVENUE OF THE STATE

(In crores of rupees)

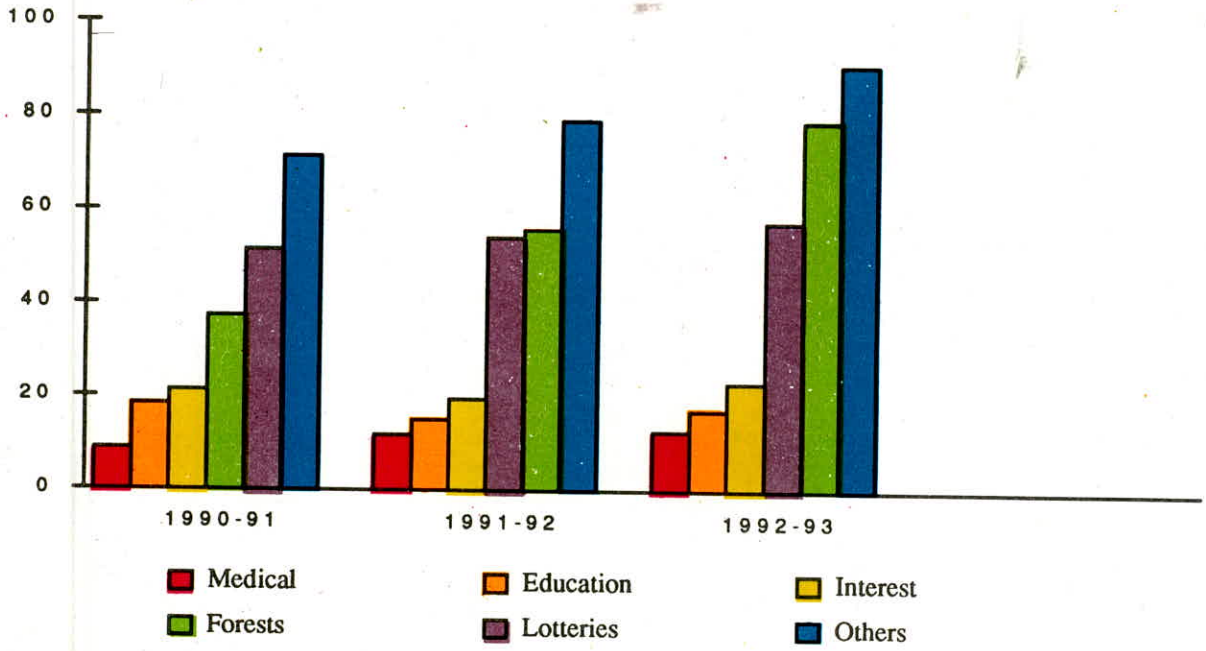

Chart III (Refer Paragraph 1.1(ii))

1.2. Variations between the Budget estimates and actuals

The variation between Budget estimates of revenue for the year 1992-93 and the actual receipts under the principal heads of revenue are given below:

Head of revenue	*(In crores of rupees)*			*Percentage of variation*
	Budget estimates	*Actual receipts*	*Variation increase (+) short-fall (-)*	
1. Sales Tax	1194.64	1305.59	(+)110.95	(+) 9.28
2. State Excise	204.95	222.21	(+) 17.26	(+) 8.42
3. Stamps and Registration fees				
(a) Stamps - Non judicial	102.16	154.71	(+) 52.55	(+) 51.44
(b) Registration fees	24.90	24.04	(-) 0.86	(-) 3.45
4. Land Revenue	11.51	11.85	(+)0.84	(+)2.95
5. Taxes on Vehicles	107.20	111.89	(+)4.69	(+)4.38
6. Taxes on Agricultural income	27.00	12.52	(-)14.48	(-)53.63
7. Forestry and Wild Life	54.20	78.71	(+)24.51	(+)45.22
8. Taxes and duties on Electricity	47.10	22.15	(-)24.95	(-)52.97

The reasons for variation between Budget estimates and the actuals as reported (January 1994) by the concerned departments were as under:-

(a) Under 'Forestry and Wild Life' the increase (45.22 per cent) was mainly due to the increase in the market price of timber and extraction of more timber from wind fallen trees and trees uprooted due to land slides.

(b) Under 'Stamps - Non - Judicial' the increase (51.44 per cent) was due to the annual incremental increase in the land value.

(c) Under 'Taxes and Duties on Electricity' the decrease (52.97 per cent) was due to non-receipt of surcharge, penal interest, inspection fee and part receipt of duty from the Kerala State Electricity Board.

The reasons for variations in respect of other heads, though called for from the concerned departments (December 1993), have not been received.

1.3. Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1990-91, 1991-92 and 1992-93 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1991-92 are given below:

Head of revenue	Year	(In crores of rupees)			All India average percentage for the year 1991-92
		Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	
1. Sales Tax	1990-91	897.43	12.75	1.42	
	1991-92	1122.10	13.49	1.20	1.50
	1992-93	1305.59	14.60	1.12	
2. Stamps (Non-judicial) and Registrtion Fees	1990-91	113.20	10.15	8.96	
	1991-92	146.32	11.67	7.98	5.00
	1992-93	178.75	9.82	5.49	
3. State Excise	1990-91	175.41	10.88	6.20	
	1991-92	210.30	11.43	7.81	2.50
	1992-93	222.21	12.28	5.53	
4. Taxes on Vehicles	1990-91	74.14	3.62	4.88	
	1991-92	94.76	3.83	4.04	3.00
	1992-93	111.89	4.15	3.71	
5. Taxes on Agricultural Income	1990-91	23.94	0.34	1.42	
	1991-92	35.13	0.42	1.16	
	1992-93	12.52	0.14	1.12	

It may be seen from the above that cost of collection in respect of 'Taxes on Vehicles' and 'State Excise' is more than all India Average.

1.4. Arrears in assessment of sales tax and agricultural income tax

The details of sales tax and agricultural income tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the

end of each year during 1989-90 to 1992-93, as furnished by the department, are given below:

	Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax	1989-90	79303	93870	173173	95862	77311	55.36
	1990-91	77311	122919	200232	106466	93766	53.17
	1991-92	93766	101525	200230	98705	101525	49.30
	1992-93	101525	123065	224590	107434	117156	47.84
Agricultural Income Tax	1989-90	28777	34513	63290	36689	30601	51.65
	1990-91	30601	34954	65555	37808	27747	57.67
	1991-92	27747	23677	51424	26629	24795	51.78
	1992-93	24795	20139	44934	28576	16358	63.60

The above table shows that the department was able to complete between forty eight to sixty four per cent of the assessments due for completion every year. The delay in finalisation of assessments hinders the timely realisation of the revenue involved in those cases. The reasons for the heavy arrears in assessments, though called for from the department (June 1993), have not been received (January 1994).

1.5. Write-off, waiver and remission

During the year 1992-93, excise revenue amounting to Rs 1.68 lakhs due from 6 persons was written off by the Board of Revenue as the defaulters had no property from which the Government dues could be recovered.

1.6. Uncollected revenue

As on 31st March 1993, arrears of revenue under principal heads of revenue, as reported by the departments were as under:-

Head of revenue	*Arrears (In crores of rupees)*	*Remarks*
1. Sales Tax	297.40	Out of Rs 297.40 crores, demands amounting to Rs 152.10 crores were covered by revenue recovery certificates. Recoveries of Rs 25.33 crores were stayed by judicial authorities and of Rs 49.03 crores by departmental authorities/Government. Demands for Rs 7.73 crores were likely to be written off. The balance amount was under other stages of action.
2. Agricultural Income Tax	40.50	Out of Rs 40.50 crores, recoveries of Rs 3.10 crores were stayed by judicial authorities and of Rs 6.87 crores by departmental authorities/ Government. Demands for Rs 15.30 lakhs were likely to be written off. The balance amount was covered by revenue recovery certificates or was under other stages of action.

Head of revenue	*Arrears (In crores of rupees)*	*Remarks*
3. Forests Receipts	34.28	Out of Rs 34.28 crores, demands amounting to Rs 1.33 crores were covered by revenue recovery certificates. Recoveries of Rs 98.85 lakhs were stayed by High Court and other judicial authorities.
4. Taxes on Vehicles	93.92	Out of Rs 93.92 crores, demands amounting to Rs 84.42 crores were due from the Kerala State Road Transport Corporation. Demands for Rs 2.66 crores were covered by revenue recovery certificates. Recovery of Rs 46.09 lakhs was stayed by High Court and other judicial authorities and Rs 3.66 lakhs by Government. Rs 3.52 lakhs were likely to be written off.
5. Electricity Duty	32.47	Out of Rs 32.47 crores, recovery of Rs 76.09 lakhs was stayed by Government. Rs 0.51 lakh was likely to be written off and the balance amount of Rs 31.70 crores was under other stages of recovery. Out of Rs 32.47 crores, a sum of Rs 31.98 crores was due from the Kerala State

Electricity Board and out of this Rs 38.68 lakhs represented inspection fee though collected by the Board from the consumers during 1986-91 but have not remitted to the Government and the balance amount represented duty/surcharge payable by the Board under Sections 3, 4 and 5A of the Kerala Electricity Duty Act, 1963.

1.7. Internal Audit

i) State Excise Department

The Internal Audit Wing of the department consists of one Senior Deputy Commissioner of Excise, two Superintendents, three Excise Inspectors, one Preventive Officer and two Lower Division Typists. According to the information furnished by the department (August 1993), audit of all the institutions due for audit during 1992-93 had been completed. However, the audit wing did not detect any defect having money value during the year.

ii) Chief Electrical Inspectorate

No Internal Audit Wing is functioning in the department. Government had turned down the proposal for the constitution of an independent Internal Audit Cell. However, out of the 15 offices due for audit during 1992-93, audit of 3 offices was completed by diverting staff from the Finance Wing of the Department.

iii) Transport Department

Internal Audit in Transport Department consisted of one Finance Officer, four Junior Accounts Officers, one Senior Superintendent, one Junior Superintendent, one Head Clerk, four Upper Division Clerks and one Lower Division Clerk.

Out of 79 offices due for audit during 1992-93, 41 offices were audited, leaving the audit of 38 offices in arrears as on 31 March 1993. Shortage of staff has been advanced as the reason by the department for not covering all the offices due for audit (December 1993).

During the period from 1990-91 to 1992-93, a total number of 4,081 audit objections involving money value of Rs 3.27 lakhs were raised. Of 4,081 objections raised, only 181 objections involving money value of Rs 5,300 could be settled during these years leaving 3,900 objections involving money value of Rs 3.22 lakhs yet to be settled as on 31 March 1993.

iv) Forest Department

As per the information furnished by the department in August 1993, Government had accorded (March 1968 and April 1981) sanction for three teams consisting of one Junior Superintendent and two Upper Division Clerks each for the North, South and Central Zone for the conduct of internal audit. However, only one team consisting of one Junior Superintendent, one Upper Division Clerk and one Lower Division Clerk has been conducting the audit from July 1993. The remaining officials have been diverted for other duties. 125 objections were raised by the wing during 1990-91 and 1991-92 out of which 90 cases are outstanding as on 31 March 1993. Audit of all the 96 offices due for audit in 1992-93 was in arrears.

Information regarding the organisational set up of the Internal Audit Wing and its functioning, called for (June 1993) from the Departments of Registration and Agricultural Income Tax and Sales Tax have not been received (January 1994).

1.8. Results of audit

Test check of the records of Sales Tax, Agricultural Income Tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 1992-93 revealed under-assessments/short levy/loss of revenue amounting to Rs 12.92 crores in 1,926 cases. During the course of the year 1992-93, the concerned Departments accepted under-assessments etc., of Rs 1.90 crores involved in 594 cases of which 334 cases involving Rs 1.37 crores had been pointed out in audit during 1992-93 and the rest in earlier years.

This report contains 27 paragraphs including 2 reviews relating to non-levy, short levy of tax, duty and interest, penalty etc., involving financial effect of Rs 4.66 crores. The departments/Government have so far accepted the audit observations involving Rs 1.90 crores and Rs 5.09 lakhs have been recovered. Audit observations with a total revenue effect of Rs 1.11 lakhs have not been accepted by the Government but their contentions have been found at variance with the facts or legal provisions and they have been appropriately commented upon in the relevant paragraphs. No final reply has been received in the remaining cases (January 1994).

1.9. Outstanding Inspection Reports and Audit Objections

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

As at the end of June 1993, 2,563 inspection reports containing 10,797 audit paragraphs having money value of Rs 100.30 crores issued up to December 1992 were outstanding as shown below. Figures for the preceding two years are also given.

	As at the end of June 1991	*As at the end of June 1992*	*As at the end of June 1993*
Number of inspection reports	2419	2621	2563
Number of audit paragraphs	9545	9844	10797
Money value involved *(in crores of rupees)*	63.17	89.85	100.30

An analysis of the outstanding inspection reports according to the revenue heads is given below:

Revenue Head	*(as at the end of June 1993)*		
	Number of inspection reports	*Number of audit paragraphs*	*Money value (in crores of rupees)*
1. Sales Tax	822	4890	66.57
2. Agricultural Income Tax	285	2170	14.02
3. State Excise	364	1022	0.75
4. Taxes on Vehicles	169	632	1.30
5. Land Revenue	144	550	1.24
6. Forest	162	478	11.16
7. Stamps and Registration Fees	585	955	3.48
8. Electricity Duty	29	89	1.78
9. State Lotteries	3	11	...
Total	2563	10797	100.30

Yearwise analysis of the outstanding inspection reports and audit objections is given below:

Year	*(as at the end of June 1993)*		
	Number of inspection reports	*Number of audit paragraphs*	*Money value (In crores of rupees)*
Up to 1987-88	478	1940	24.86
1988-89	233	690	6.96
1989-90	429	1679	12.61
1990-91	453	1866	19.72
1991-92	597	2307	24.11
1992-93	373	2315	12.04
Total	2563	10797	100.30

First replies to 249 inspection reports issued up to December 1992 were not furnished by the departments till the end of June 1993. The position was brought to the notice of the Chief Secretary to Government (August 1993).

CHAPTER 2

SALES TAX

2.1. Results of audit

Test check of Sales Tax assessments and refund cases and connected documents of Sales Tax Offices conducted in audit during the year 1992-93 revealed under-assessments of tax, non-levy of penalty etc, amounting to Rs 723.40 lakhs in 1,191 cases which may broadly be categorised as under:

	Number of of cases	*Amount (In lakhs of rupees)*
1. Turnover escaping assessment	301	193.39
2. Irregular exemption from tax	197	231.07
3. Application of incorrect rate of tax	211	96.26
4. Incorrect application of concessional rate of tax	124	70.85
5. Non-levy of penalty	42	30.60
6. Other irregularities	316	101.23
Total	1191	723.40

During the course of the year 1992-93, the Department accepted under-assessments etc., of Rs 20.82 lakhs involved in 377 cases of which 240 cases involving Rs 10.31 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years.

A few illustrative cases highlighting important irregularities involving Rs 60.88 lakhs are given in the following paragraphs.

2.2. Application of incorrect rate of tax

(i) During the course of audit of 3 Circles, it was noticed that tax was levied at incorrect rates in 3 cases, resulting in short levy of tax by Rs 4.14 lakhs as detailed below:

Sl. No.	Name of office	Commodity	Assessment year	(In per cent)		(in lakhs of rupees)	
				Correct rate	Actual rate levied	Turnover	Tax short levied
1.	Second Circle, Mattancherry	Spare parts of motor vessels	1985-86	15	8	18.93	1.70
2.	First Circle, Thiruvananthapuram	Television sets	1986-87	10 up to 11.9.86	4	17.17	1.32
3.	Sales Tax Office, Aluva	Tread rubber	1987-88	12 up to 30-6.87; 10 from 1.7.87	8	34.62	1.12
				Total			4.14

On this being pointed out (between April 1989 and November 1992) in audit, action for revision of assessment was initiated in respect of one case (Sl.No.3) and final replies in respect of other cases have not been received (January 1994).

These cases were reported to Government between May 1993 and July 1993; their reply has not been received (January 1994).

(ii) Under the Kerala General Sales Tax Act, 1963, on chemicals not elsewhere specified in the Schedule, tax is leviable at the rate of eight per cent at the point of first sale in the State. 'Water proofing compound' is a chemical coming under the above mentioned item. Government in the clarification issued in June 1990 stated that water proofing compound will be treated as an item coming under entry 42 of the First Schedule to the Act taxable at eight per cent at the point of first sale in the State. Again, on bitumen, tax is leviable at the rate of eight per cent at the point of first sale in the State. Tax is also leviable under Section 5A of the Act, on taxable goods purchased in circumstances in which no tax is payable under the Act and where such goods are used in the manufacture of other goods.

In Ernakulam First Circle, while finalising (May 1991 and February 1992) the assessment of an assessee-manufacturer of water proofing compound, for the years 1988-89 to 1990-91, on turnover of Rs 6.54 lakhs relating to sales turnover of water proofing compound and on turnover of Rs 2.73 lakhs relating to purchase of bitumen liable for levy of tax under Section 5A of the Act, tax was levied at the general rate of five per cent instead of the correct rate of eight per cent. This resulted in short levy of tax of Rs 36,139 (including additional sales tax and surcharge).

On this being pointed out (September 1992) in audit, the assessing authority stated that as there was no entry as 'proofing compound' in the First Schedule, the rate of tax applied was correct. The view taken by the department is not tenable as Government had clarified that water proofing compound would be treated as an item coming under entry 42 of the First

Schedule to the Act taxable at eight per cent at the point of first sale in the State.

The case was reported to Government in June 1993; their reply has not been received (January 1994)

2.3. Turnover escaping assessment

(i) Under Section 5A of the Kerala General Sales tax Act, 1963, sales tax is leviable on the taxable goods purchased in circumstances in which no tax is payable under Section 5 of the Act and when such goods are either consumed by the dealer in the manufacture of other goods for sale or disposed of in any manner other than by way of sale in the State; or despatched to any place outside the State except as a direct result of inter-State sale. By a Government notification issued in November 1984, 'carbon black' which was liable to tax at the rate of eight per cent at the point of first sale was exempted from levy of tax for a period of three years in respect of newly established manufacturing concern which commenced commercial production of 'carbon black' on or after 1st January 1984.

In Ernakulam Special Circle I, an assessee (manufacturer of tyres and tubes) purchased 'carbon black' for Rs 3.24 crores during the years 1984-85 and 1985-86 from a newly established manufacturing concern which was exempted from payment of tax on their sales of 'carbon black' for a period of three years from 28th February 1984 to 27th February 1987 and despatched the same to the factory of the purchaser situated outside the State. As the commodity was purchased in circumstances in which no tax was payable, the same was liable to purchase tax in the hands of the purchaser under Section 5A of the Act. However, the assessing authority while finalising (January 1986

and February 1988) the assessments of the purchasing dealer for the years 1984-85 and 1985-86 omitted to levy tax on the commodity at the rate of eight per cent applicable. This resulted in short levy of tax of Rs 33.08 lakhs (including additional sales tax and surcharge).

On this being pointed out (November 1989) in audit, the assessing authority revised the assessment for the year 1984-85 in February 1992 levying purchase tax on a turnover of Rs 32.37 lakhs and stated that the assessment for the year 1985-86 was pending revision for want of certain details from the assessee. Further reply has not been received (January 1994).

The case was reported to Government in April 1993; their reply has not been received (January 1994).

(ii) Under the Kerala General Sales Tax Act, 1963, 'goods' means all kinds of movable property (other than newspaper, actionable claims, electricity, stocks and shares and securities). Accordingly import replenishment licence (REP licence) are 'goods' taxable under the Act and tax is leviable at the rate of five per cent at all points of sale in the State. It has been held[1] by Karnataka High Court that REP licences are goods within the meaning of Sales Tax Act and the premium or price received by the transferor thereof was liable to sales tax.

In four Sales Tax Offices (Special Circle Mattancherry, Special Circle Alappuzha, First Circle Alappuzha and Special Circle III Ernakulam) in the case of four assessees, while making assessments relating to the period 1986-87 to 1990-91

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1. *Bharat Fritz Werner Limited Vs Commissioner of Commercial Taxes and another (1991 & 1992) Karnataka High Court 86 STC 170 and 175.*

(between November 1990 and February 1992), the assessing authority did not levy sales tax on an aggregate turnover of Rs 76.43 lakhs on sale of REP licences. This resulted in short levy of tax of Rs 5.06 lakhs including additional sales tax and surcharge.

On this being pointed out (September 1992 and February 1993) in audit, the assessing officer at First Circle Alappuzha reported (December 1992) that notice had been issued (November 1992) to the assessee for revision of the assessment. The assessing officer at Special Circle Alappuzha stated that the case would be examined. The assessing officer at Mattancherry stated that REP licences are not goods under the Kerala Sales Tax Act. The reply is not tenable in view of judicial decision referred to above. Final replies have not been received (January 1994).

The matter was reported to Government in June 1993; their reply has not been received (January 1994).

(iii) Under Entry 75, as it stood before 31st March 1992, of the First Schedule to the Kerala General Sales Tax Act, 1963, on foods, including preparations of birds' eggs, animal blood, prawns, crustaceans and mollouscs sold in airtight containers, tax is leviable at the rate of ten per cent at the point of first sale in the State.

In Second Circle, Kottayam, an assessee effected inter-State purchases of processed foods exigible to tax at the rate of ten per cent under the above mentioned entry for Rs 8.00 lakhs during the year 1988-89 and made purchase returns for Rs 2.97 lakhs. The assessing authority while finalising (February 1990) the assessment for the year 1988-89, however, reckoned purchase returns as Rs 7.50 lakhs and subjected the turnover

relating to the sales made out of the remaining purchases to tax at the rate of ten per cent. The omission resulted in escapement of turnover of Rs 4.98 lakhs relating to sales made out of the purchases for Rs 4.53 lakhs (7.50 - 2.97) at the average gross profit of ten per cent. Consequent short levy of tax works out to Rs 64,769 (including additional sales tax and surcharge).

On this being pointed out (December 1991) in audit, the assessing authority issued notice to revise the assessment. Further report has not been received (January 1994).

The case was reported to Government in July 1993; their reply has not been received (January 1994).

(iv) Under the Kerala General Sales Tax Act, 1963, tax is leviable on cashewnut with shell at the rate of five per cent at the point of last purchase in the State and on cashew kernels at the rate of five per cent at the point of first sale in the State.

In Special Circle, Kollam, the assessment of a dealer, engaged in local purchase and processing of raw cashewnut for the year 1985-86, was finalised in July 1991 fixing the taxable turnover at Rs 14.34 lakhs. The purchases of the assessee included, inter alia, local purchase of cashew kernels worth Rs 14.70 lakhs. An analysis of this purchase had shown that it included purchase amounting to Rs 9.78 lakhs made from two other assessees of the same circle. However, a cross verification revealed that of the two other assessees, one had got registration only from 1989-90 and the other had no local sales during 1985-86. Hence cashew kernels worth Rs 9.78 lakhs would have been processed from unaccounted local purchase of raw cashewnut, having purchase value of Rs 6.52 lakhs. The omission to assess

this unaccounted local purchase by the assessing authority resulted in short levy of tax of Rs 41,729 (including additional sales tax and surcharge).

On this being pointed out (August 1992) in audit, the assessing authority issued (August 1993) notice for revising the assessment.

The case was reported to Government in June 1993; their reply has not been received (January 1994).

2.4. Irregular grant of exemption from tax

(i) Under Entry 80 (as it stood prior to 1st July 1987) of the First Schedule to the Kerala General Sales Tax Act, 1963, tax was leviable at the rate of ten per cent at the point of first sale in the State on talcum powder, other perfumeries and cosmetics not falling under any other item of the Schedule. By a clarificatory order issued in May 1982 Government ordered that agarbathis would come under the above mentioned entry. However, the Kerala High Court held[2] (May 1986) that 'perfumeries and cosmetics' occurring in Entry 80 would not cover agarbathis and that tax on agarbathis was leviable only at the general rate. Through an ordinance promulgated on 29th August 1989, Government added 'agarbathis' and other scented sticks to entry 155 of the new Schedule effective from 1st July 1987 corresponding to entry 80 of the old Schedule and the order was given retrospective effect from 1st April 1984. The High Court of Kerala held[3] (November 1990) again that retrospective

2. *Deputy Commissioner of Sales Tax Vs KA Latheef reported in 69 STC 29, High Court of Kerala.*

3. *Mega Traders and others Vs State of Kerala and others reported in 83 STC 59, High Court of Kerala.*

taxation of agarbathis was invalid and that the ordinance would have prospective effect only. Hence on agarbathis tax was leviable at the general rate of five per cent up to 28th August 1989.

In two Sales Tax Offices (Ernakulam Special Circle II and Special Circle Alappuzha) while finalising (between August 1988 and January 1990), the assessments of two dealers for the year 1987-88, sales turnover of agarbathis amounting to Rs 43.70 lakhs was exempted from levy of tax treating it as second or subsequent sale of scheduled goods instead of levying tax at the general rate of five per cent. This resulted in short levy of tax of Rs 2.80 lakhs (including additional sales tax and surcharge).

On this being pointed out (between June 1989 and January 1992) in audit, the assessing authorities revised both the assessments. In Alappuzha an amount of Rs 5,329 over paid during previous year was adjusted against the additional demand of Rs 81,652 and the balance Rs 76,323 was advised for revenue recovery. The details of the additional demand worked out by the assessing authority of Ernakulam Special Circle have not been intimated (January 1994).

The cases were reported to Government in July 1993; their reply has not been received (January 1994).

(ii) Under the Kerala General Sales Tax Act, 1963, on cattle feed (including gingeli oil cake, groundnut oil cake, rice bran and poultry feeds) tax is leviable at the rate of five per cent at the point of first sale in the State. By a notification issued in February 1990 Government made an exemption in respect of the tax payable on the sale of certain items of goods specified therein for two years from 1st April 1989 to 31st

March 1991. Orid husk is not an item included in the above said notification. Hence tax on orid husk was leviable at the general rate of five per cent up to 31st March 1992 and at the rate of eight per cent at the point of first sale thereafter.

In Kunnamkulam, while finalising (November/December 1991) the assessments of two dealers for the year 1990-91, the aggregate turnover of Rs 7.24 lakhs relating to the sale of orid husk was irregularly exempted from levy of tax treating the commodity as an item coming under the aforesaid notification. This resulted in short levy of tax of Rs 48,152 (including additional sales tax and surcharge).

This was pointed out in March 1993 to department; their reply has not been received (January 1994).

The case was reported to Government in July 1993; their reply has not been received (January 1994).

2.5. Misclassification of goods

(i) Under the Kerala General Sales Tax Act, 1963, on 'glazed tiles, marble tiles, marble slabs and chips' tax is leviable at the rate of twenty per cent and on 'sanitary equipments and fittings' at the rate of ten per cent, at the point of first sale in the State.

In Special Circle II, Ernakulam, while finalising (September 1991) the assessment of a dealer dealing in sanitary wares and glazed tiles for the year 1990-91, the inter-State purchase turnover of glazed tiles amounting to Rs 10.14 lakhs was erroneously classified under sanitary wares and tax was levied on the corresponding sales turnover of Rs 11.15 lakhs at the rate of ten per cent instead of the correct rate of twenty per cent.

This resulted in short levy of tax of Rs 1.48 lakhs (including additional sales tax and surcharge).

On this being pointed out (January 1993) in audit, the assessing authority stated (April 1993) that notice to revise the assessment had been issued to the assessee. Further developments in the matter have not been reported (January 1994).

The case was reported to Government in June 1993; their reply has not been received (January 1994).

(ii) Under the Kerala General Sales Tax Act, 1963, on 'chemicals not elsewhere specified in the Schedule' tax is leviable at the rate of eight per cent at the point of first sale in the State. It had been judicially held[4] that 'yeast' is a chemical.

In Special Circle, Palakkad, while finalising (May 1991 and March 1992) the assessments of a dealer in food colours, essence and yeast, on sales turnover of yeast aggregating Rs 18.75 lakhs, tax was levied at the general rate of five per cent instead of the correct rate of eight per cent. This resulted in short levy of tax of Rs 74,811 (including additional sales tax and surcharge).

On this being pointed out (February/March 1993) in audit, the assessing authority stated that yeast cannot be regarded as a chemical. The reply of the department is not tenable in view of the judicial decision that yeast is a chemical.

The case was reported to Government in June 1993; their reply has not been received (January 1994).

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4. *State of Gujarat Vs Bhagavathi General Agency (Import) reported in 83 STC 347.*

(iii) Under Entry 3 (iii) of the Second Schedule of the Kerala General Sales Tax Act, 1963, on jute fibre tax is leviable at the rate of four per cent at the point of first sale in the State. However, jute twine is an unclassified item taxable at the rate of five per cent at all points of sale.

In Second Circle, Thiruvananthapuram, while finalising (December 1987) the assessment of an assessee for the years 1984-85 and 1985-86, tax on turnover of jute twine aggregating Rs 13.82 lakhs was levied at the rate of four per cent only instead of at the correct rate of five per cent. This resulted in short levy of tax of Rs 31,338 (including additional sales tax and surcharge).

On this being pointed out (September 1991) in audit, the assessing authority revised (November 1992) the assessments. Further progress in the matter has not been received (January 1994).

The case was reported to Government in June 1993; their reply has not been received (January 1994).

2.6. Irregular grant of concessional rate of tax

Under the Kerala General Sales Tax Act, 1963, on coconut oil, tax is leviable at the rate of five per cent at the point of first sale in the State. By a notification issued in March 1979, Government reduced the tax payable on the sale of coconut oil to manufacturers of soap within the State from five per cent to one per cent.

In Chathannoor, while finalising (July 1991) the assessments of an assessee for the year 1987-88 and of another assessee

for the year 1988-89 on an aggregate turnover of Rs 28.13 lakhs relating to the sales of coconut oil to dealers other than manufacturers of soap, tax was levied at the rate of one per cent only instead of the correct rate of five per cent. This resulted in short levy of tax of Rs 1.49 lakhs (including additional sales tax and surcharge).

This was brought to the notice of the department in April/May 1992. The Board of Revenue issued (January 1993) direction to the assessing authority to rectify the mistake. Further developments in the case have not been reported (January 1994).

The case was reported to Government in June 1993; their reply has not been received (January 1994).

2.7. Irregular adjustment of cumulative tax concession

By a notification issued (October 1980) under Section 10 of the Kerala General Sales Tax Act, 1963, Government exempted from payment, the tax due on goods produced and sold by new small scale industrial units for a period of five years from the date of commencement of sale of such goods, subject to certain conditions stipulated therein. The stipulation, inter-alia, provides that the unit shall produce to the assessing authority the proceedings of the General Manager of the concerned District Industries Centre declaring the eligibility of the unit for claiming exemption from sales tax and that the cumulative sales tax concession granted to a unit at any point of time shall not exceed 90 per cent of the gross fixed capital investment of the unit. Under Section 23(3) of the Act, if the tax or any other amount assessed or due under this Act is not paid by any dealer within the time prescribed in this Act or in any

rule made thereunder and in other cases within the time specified therefor in the notice of demand, the dealer shall pay penal interest in the manner prescribed, in addition to the amount due. The penal interest is payable at the rate of one per cent of tax due for the first three months of default and at two per cent for each month thereafter.

In two Sales Tax Offices, while finalising (August 1989 and May 1991) the assessments of two small scale industries eligible for tax concession, the assessing authorities allowed excess exemption of Rs 1,38,657 as detailed in the table below:

Sl. No.	Name of office	Period of tax exemption	Year of assessment	(In lakhs of rupees)		(In rupees)		Remarks
				Balance tax concession available	Tax concession allowed	Excess exemption	Penal interest leviable	
1.	STO, Kodungallor	August 1986 to August 1991	1986-87	4.01	4.96	95,056	63,688	Department collected the excess exemption without penal interest in February 1993. Reply of the Government not received.
2.	STO, Kalamassery	April 1984 to April 1989	1987-88	0.11	0.55	43,601	24,469	Additional demand for Rs 50,540 was raised (excluding penal interest). Assessee's appeal before the Sales Tax Appellate Tribunal is pending.

2.8. Non-forfeiture of excess tax collected

Under the Kerala General Sales Tax Act, 1963, if any person collects any sum by way of tax or purporting to be by way of tax on the sale of any goods in respect of which he is not liable to pay tax or at a rate exceeding a rate at which he is liable to pay tax, he shall be liable to pay penalty not exceeding five thousand rupees and any sum collected in excess shall be liable to be forfeited to Government by an order issued by the assessing authority. Government by a notification issued in March 1989 exempted from payment, tax payable on sales of cattle feed with effect from 1st April 1989.

In Sales Tax Office, Karunagappally, while finalising (July 1991) the assessment for the year 1989-90 of a dealer in cattle feed, grocery etc., the tax amounting to Rs 49,181 collected by the assessee on sale of cattle feed was adjusted by the assessing authority towards other tax dues of the assessee instead of forfeiting the amount to Government and imposing penalty for the offence as aforesaid.

On this being pointed out (May 1992) in audit, the assessing authority forfeited the amount and raised (May 1992) fresh demand for Rs.49,181. Further developments have not been reported (January 1994).

The case was reported to Government in June 1993; their reply has not been received (January 1994).

2.9. Short levy due to mistake in computation

Under Entry 68 of the First Schedule, effective from 1st July 1987, to the Kerala General Sales Tax Act, 1963, on electronic systems, instruments, apparatus and appliances other than

those specified elsewhere in the Schedule and spare parts and accessories thereof, tax is leviable at the rate of fifteen per cent at the point of first sale in the State. By a notification issued in May 1989, Government reduced the rate from fifteen per cent to four per cent.

In Kalamassery First Circle, while finalising (March 1992) the assessment of a dealer for the year 1988-89 tax at the rate of fifteen per cent on a turnover of Rs 44.48 lakhs was erroneously computed as Rs 66,722 instead of the correct amount of Rs.6,67,220. This resulted in short levy of Rs 7.99 lakhs including additional sales tax and surcharge.

The case was brought to the notice of the department in November 1992. Government to whom the case was reported confirmed (December 1993) the facts and stated that the assessment was revised (December 1992) and the mistake rectified. The amount was advised for revenue recovery and the High Court of Kerala stayed (March 1993) the collection of arrears till the disposal of appeal filed by the assessee before the Appellate Assistant Commissioner, Ernakulam. Further details have not been reported (January 1994).

CHAPTER 3

AGRICULTURAL INCOME TAX

3.1. Results of audit

Test check of the records of the Agricultural Income-tax Offices, conducted in audit during the year 1992-93, revealed under-assessments of tax amounting to Rs 182.30 lakhs in 379 cases which may broadly be categorised as under:-

	Number of of cases	*Amount (In lakhs of rupees)*
1. Income escaping assessment	132	44.84
2. Under-assessment due to assignment of incorrect status	7	6.22
3. Under-assessment due to incorrect computation of income	27	8.96
4. Under-assessment due to grant of inadmissible deduction	65	25.70
5. Application of incorrect rate of tax/incorrect computation of tax	17	2.74
6. Other irregularities	131	93.84
Total	379	182.30

During the course of the year 1992-93, the department accepted under-assessments etc. of Rs 31.81 lakhs involved in 119 cases of which 23 cases involving Rs 10.70 lakhs had been

pointed out in audit during 1992-93 and the rest in earlier years. A few illustrative cases involving Rs 20.69 lakhs highlighting important observations are given in the following paragraphs.

3.2. Income escaping assessment

(a) Under the provisions of the Agricultural Income-tax Act, 1950, agricultural income shall be computed in accordance with the method of accounting regularly employed by the assessee. Further, it was judicially held[1] that in the case of the assessees following mercantile system of accounting, the full value of coffee sold to the Coffee Board had to be treated as the income of the year in which the entry regarding the sale was made in the accounts of the assessee irrespective of the periods of actual receipts of the payments from the Coffee Board.

(i) In Kottayam, while finalising (May 1991) the assessment for the year 1986-87 of a domestic company following mercantile system of accounting, the assessing authority reckoned the value of coffee as Rs 10.75 per point instead of Rs 12.70 per point awarded by the Coffee Board for the 1985-86 season. This resulted in income of Rs 4.44 lakhs escaping tax and short levy of tax of Rs 3.31 lakhs.

On this being pointed out (December 1992) in audit, the assessing authority stated (January 1993) that the assessment would be revised. Further developments have not been reported (January 1994).

The case was reported to Government in June 1993; their reply has not been received (January 1994).

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1. *Bhavani Tea & Produce Company Limited Vs State of Kerala reported in 59 ITR 254.*

(ii) In Chittur, while revising (November 1988) the revised assessments for the years 1983-84 to 1985-86 of a domestic company following mercantile system of accounting, the assessing authority reckoned the income from coffee taking the payment actually received during the respective accounting periods instead of considering the full value of coffee sold to the Coffee Board during these years. The incorrect determination of income from coffee for the purpose of assessment resulted in net taxable income of Rs 3.19 lakhs escaping tax for the years 1983-84 to 1985-86 and consequent short levy of tax of Rs 1.11 lakhs.

On this being pointed out (January 1989) in audit, the assessing authority revised (March 1992) the assessments raising additional demand of Rs 1.11 lakhs.

Government to whom the case was reported in March 1993 confirmed the facts and stated (October 1993) that on the basis of appeals filed by the assessee against the revised assessment orders, the Appellate Assistant Commissioner had modified the assessment for 1983-84 and remanded the assessments for 1984-85 and 1985-86. The Department has filed second appeal against the above appellate orders which is pending disposal (January 1994).

(b) Under the provisions of the Kerala Agricultural Income-tax Act, 1950, certain deductions are to be made in computing the agricultural income of an assessee. Retrenchment compensation paid to employees is not an admissible category of deduction.

In Thaliparamba, while finalising (June 1990) the assessment for the year 1989-90 of an individual following cash basis

of accounting, the assessing officer erroneously made following concessions: (i) allowed a deduction of Rs 21,600 being retrenchment compensation paid by him to his employees from the gross income (ii) as against Rs 1.12 lakhs received as lease rent for leasing out rubber plantations for slaughter tapping Rs 46,270 only was considered for assessment on this account (iii) omitted the income of Rs 11,296 from coconut trees and (iv) instead of taking the income on account of sale of 645 kg rubber as Rs 12,900 as conceded by the assessee, estimated it at Rs 11,288. This resulted in income of Rs 1.01 lakhs escaping tax leading to short levy of tax of Rs 74,751.

On this being pointed out (January 1992) in audit, the assessing authority revised (May 1992) the assessment raising additional demand of Rs 74,751.

The case was reported to Government in April 1993; their reply has not been received (January 1994).

(c) Under the Agricultural Income-tax Act, 1950, the total agricultural income of an assessee comprises all agricultural income derived from land situated within the State and received by him.

(i) In Chavakkad, while computing (March 1992) the agricultural income derived by three co-tenants for the year 1986-87, the assessing authority instead of making use of the information regarding the yield of rubber gathered at the time of hearing, adopted the sale value of rubber conceded by the assessee. This resulted in under-assessment of income by Rs 1.81 lakhs and short levy of tax of Rs 57,899 in the hands of the three co-tenants.

On this being pointed out (May 1992) in audit, the department stated (July 1992) that action had been initiated for suo-motu revision of the assessments to make good the short levy. Further report has not been received (January 1994).

The case was reported to Government in March 1993; their reply has not been received (January 1994).

(ii) In Kumily, on the death of an assessee in May 1988, the property held by the individual came to be vested with his two sons being the legal heirs. However, no action was taken by the assessing authority to assess the income from the property in the hands of the two sons and the income remained unassessed. This resulted in short levy of tax of Rs 51,587 for the year 1989-90.

The case was pointed out in audit in February 1992 and reported to the Government in January 1993; their replies have not been received (January 1994).

(iii) In Kottarakkara, the assessments for the years 1985-86 and 1986-87 of an assessee were finalised (January 1990) reckoning income from 40 blocks of rubber and 21,240 coconuts. Subsequently, on finding from a report of the inspection of the agricultural holdings of the assessee conducted by the department in July 1984, that the assessee had been receiving income from another ten blocks of rubber and 5,760 coconuts, the assessment for the year 1986-87 was revised (February 1992) to levy tax on the income escaped as aforesaid. However, the assessing authority did not revise the assessment for the year 1985-86 on the same lines as was done for the year 1986-87. This resulted in income of Rs 87,780 escaping tax and short levy of tax of Rs 51,340.

On this being pointed out (May 1992) in audit, the department stated (September 1992) that action had been initiated to levy tax on the escaped income; final reply has not been received (January 1994).

The case was reported to Government in January 1993; their reply has not been received (January 1994).

(iv) In Kattappana and Alappuzha, in the case of two individuals, deriving agricultural income from two sets of properties each, the assessing authorities erroneously made separate assessments (between June 1986 and February 1992) for each of the properties for the years 1985-86 to 1987-88 in respect of the assessee at Kattappana and 1986-87 to 1988-89 in respect of the assessee at Alappuzha, instead of clubbing the income in each case for the purpose of assessment. This resulted in short levy of tax of Rs 77,369.

On this being pointed out in audit (February 1992/May 1992) the assessments in respect of the case at Alappuzha were revised (August 1992 and October 1993) raising additional demand for Rs 39,366. Report on action taken to revise the assessments in the other case and also details of action, if any, taken for the imposition of punishment under Section 51 of the Act for furnishing false statement in declaration in the two cases have not been received (January 1994).

The cases were reported to the Government (September 1992/March 1993); their replies have not been received (January 1994).

(d) Under the Agricultural Income-tax Act, 1950, any sum paid in the previous year in order to effect an insurance against loss or damage of crops or property from which the

agricultural income is derived or insurance against loss or damage in respect of building, machinery, plant and furniture necessary for the purpose of deriving agricultural income, is deducted from gross income provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purpose of the Act, and shall be liable to agricultural income tax after deducting the portion thereof, if any, which has been assessed to income tax under the Indian Income-tax Act, 1922.

In Ernakulam, while finalising (September 1991 and January 1992) the assessments for the year 1986-87 of two domestic companies 'A' and 'B' the assessing authority did not consider Rs 49,723 and Rs 73,810 respectively received by the companies as insurance money in computing the agricultural income. This resulted in short levy of tax of an aggregate amount of Rs 77,811.

On this being pointed out (January 1993) in audit, the department revised (January 1993) the assessment in respect of the company 'B' raising additional demand of Rs 47,977. In the other case, the assessing authority stated (April 1993) that notice had been issued to the assessee to revise the assessment. Further report has not been received (January 1994).

Government to whom the cases were reported in June 1993 confirmed the fact of revision of assessment in the case of company 'B' and stated (November 1993) that appeal filed by the assessee against the revised order is pending disposal. Further report has not been received (January 1994).

3.3. Under-assessment due to failure to utilise available information

With a view to enabling the assessing authorities to make proper assessments, the departmental procedures prescribe, inter alia, internal and external surveys on a regular basis for collecting necessary data. Internal survey consists of gathering useful information from the records of the assessing office whereas external survey consists of collection of necessary details from publications, reports, inspection of agricultural holdings etc.

(i) In Chittur, while finalising (November 1987) the assessment for the year 1987-88 of an individual, the assessing authority accepted a low yield of cardamom(27.8 kg per acre) as returned by the assessee as compared to yield of 57.70 kg per acre obtainable as per details available in the report of the inspection of the agricultural holdings of the assessee conducted by the department in November 1987 and allowed a deduction of Rs 43,469 towards interest charges which had not been paid by the assessee as seen from the accounts filed by him. This resulted in under-assessment of tax of Rs 59,320.

On this being pointed out (January 1990) in audit, the assessing authority revised (November 1992) the assessment and raised an additional demand of Rs 61,661.

Government to whom the case was reported in July 1993, while confirming the facts stated (November 1993) that the additional demand of Rs 61,661 had been advised for revenue recovery in July 1993 and that appeal filed against the revised assessment order was pending (January 1994).

(ii) In Hosdurg, an assessee possessed 19.59 acres of agricultural land containing rubber and coconut trees. His wife

also possessed 38.13 acres of similar land, and the income therefrom was assessed in his hands. They gifted (between 1978 and June 1986) 27 acres out of this land to their three sons. Although the income from the property so gifted was excluded from assessment in the hands of the assessee from 1986-87 onwards, the same was not assessed in the hands of the donees. The omission resulted in exclusion of an estimated income of Rs 4.63 lakhs and consequent non-levy of tax of Rs 49,348 for the years 1986-87 to 1990-91.

On this being pointed out (January 1992) in audit, the department stated (July 1992) that action had been initiated to assess the escaped income; further developments have not been reported (January 1994).

The case was reported to Government in June 1993; their reply has not been received (January 1994).

(iii) In Changanasserry, while finalising (January 1992) the assessments of a domestic company for the years 1986-87 and 1987-88, the assessing authority estimated the yield of rubber at 700 kg per block based on details gathered on inspection of the agricultural holdings of the assessee conducted in 1984, although the details available in the assessment records disclosed that the Agricultural Income Tax Officer, Hosdurg, on the basis of another inspection of the same plantation conducted in June 1986, fixed the yield of rubber at 900 kg per block. Similarly in Pathanapuram, while finalising (March 1990), the assessment for the year 1989-90 of an individual, the annual yield of rubber from one of his plantations was estimated as 850 kg per block by the assessing authority although the annual yield from the same plantation for the accounting years 1987-88 and 1988-89 was fixed at 902.70 kg per block by the department

after inspection of the plantation conducted in November 1988 and upheld in appeal (February 1989). The assessing authority reduced the yield without any inspection of the plantation on the ground that the assessee had objected to the yield fixed in November 1988. The adoption of lower yield resulted in under-assessment of income from rubber and consequent short levy of tax of Rs 2.22 lakhs.

On this being pointed out (August 1991 and May 1992) in audit, the assessing authority at Pathanapuram revised (March 1992) the assessment and raised additional demand of Rs 42,236. As regards the case at Changanasserry, the department stated (July 1992 and June 1993) that the assessment for the year 1987-88 had been revised (July 1992) raising an additional demand of Rs 88,392 and that revision of assessment for the year 1986-87 was barred by limitation of time. It was further stated (June 1993) that the original assessments for the years 1986-87 and 1987-88 were remanded (February 1993) for fresh disposal by the Appellate Assistant Commissioner and that the defects pointed out in audit would be set right while revising the assessment.

The cases were reported to Government (March/April 1993). Government confirmed the facts of the case at Changanasserry; reply in the other case has not been received (January 1994).

(iv) The inspection of the agricultural holdings of an assessee in Kottarakkara, conducted (September 1990) by the Agricultural Income Tax Officer revealed that the assessee was in possession of another five blocks of rubber which had started yielding from 1980, in addition to eight blocks of rubber, the income from which only was being assessed to tax up to

1988-89. However, even while revising (June 1991) the assessment for the year 1988-89, the assessing authority did not reckon the income from the five blocks of rubber for the purpose of assessment. The assessing authority also did not take any action to revise the assessment for the year 1987-88 finalised in January 1989 to assess the income from the five blocks of rubber though the information was available in the assessment records since September 1990. Revision of assessments for the periods prior to 1987-88 was barred by limitation of time. This resulted in an estimated income of Rs 61,250 escaping tax of Rs 39,272 for the assessment years 1987-88 and 1988-89.

On this being pointed out (May 1992) in audit, the assessing authority stated (August 1992) that action had been initiated to levy tax on the escaped income for the years 1987-88 and 1988-89. Further report has not been received (January 1994).

The case was reported to Government in January 1993; their reply also has not been received (January 1994).

3.4. Short levy of tax due to grant of inadmissible deduction

Under the Agricultural Income-tax Act, 1950, any interest paid in the previous year on any debt, whether secured or not, incurred for the purpose of acquiring the land from which agricultural income is derived is an admissible deduction in computing the agricultural income.

In Vadakara, while finalising (between March 1991 and December 1991) the assessments for the years 1987-88 to

1990-91 of an individual, the assessing authority allowed deduction of a total amount of Rs 3.19 lakhs representing the interest debited by a Bank on the loan account of two individuals from whom the assessee had purchased landed property and had undertaken the liability to repay the loan as part of consideration of the property so purchased. As the interest charged by the Bank was not against any debt incurred by the assessee for the purpose of acquiring land from which agricultural income was derived, the deduction allowed was inadmissible. The grant of inadmissible deduction resulted in short levy of tax of Rs 1.71 lakhs for the assessment years 1987-88 to 1990-91.

On this being pointed out (January 1993) in audit, the assessing authority revised (April 1993) the assessments raising additional demand of Rs 1.73 lakhs.

The case was reported to Government in June 1993; their reply has not been received (January 1994).

3.5. Under-assessment of income

In the system of management of rubber plantations, normally, rubber trees would be subjected to slaughter tapping prior to their cutting and removal. The production of latex from such slaughter tapping would be about double the normal yield in the first year, one and a half times in the second year and normal in the third year.

(i) In Pathanamthitta, an assessee deriving income from rubber had disclosed (September 1991) in the application filed for composition of tax for the year 1991-92 that the entire plantation of rubber was re-planted in March 1991. The assessing authority, however, while finalising (December 1991) the

assessment for the year 1989-90 reckoned only the normal yield of latex instead of reckoning one and a half times the normal yield for the second year of slaughter tapping. The assessing authority also did not take any action to revise the assessment for the year 1988-89 already finalised in April 1991, reckoning the yield of latex at double the normal yield for the first year of slaughter tapping. This resulted in under-assessment of income of Rs 1.09 lakhs and short levy of tax of Rs 75,367 for the assessment years 1989-90 and 1990-91.

On this being pointed out (July 1992) in audit, the department stated (December 1992) that the assessments had been revised (October 1992) and raised an additional demand of Rs 75,367.

Government to whom the case was reported in May 1993 confirmed (September 1993) the facts.

(ii) In Pathanapuram, while finalising (October 1988) the assessment for the year 1988-89 of an individual possessing 6 blocks of rubber under first year of slaughter tapping during 1987-88, the assessing authority reckoned only the normal yield of latex instead of reckoning double the normal yield for the first year of slaughter tapping. The mistake resulted in exclusion of income of Rs 48,000 and consequent short levy of tax of Rs 32,076.

On this being pointed out (August 1992) in audit, the department stated (January 1993) that action had been initiated to assess the escaped income.

Government to whom the case was reported in June 1993 stated (November 1993) that the assessment had been revised (July 1993) refixing the net income at Rs 74,100 after allowing

general expenses at Rs 1,700 per block and processing expenses at Rs 2 per kg for extra tapping of 6 blocks and an additional demand of Rs 23,067 had been raised. The reasons for raising of additional demand less than what was pointed out by Audit have not been intimated (January 1994).

3.6. Incorrect computation of income

(i) In Alappuzha, while finalising (January 1990) the assessments for the years 1984-85 and 1985-86 of a company deriving agricultural income from tea, rubber and cardamom, the assessing authority proposed to treat 40 per cent of the estate expenditure on rubber as inadmissible expenses as that pertained to immature area. However, the same was incorrectly computed as Rs 12.41 lakhs and Rs 12.64 lakhs respectively as against Rs 13.62 lakhs and Rs 13.50 lakhs for the years 1984-85 and 1985-86. This resulted in under-assessment of income of Rs 2.07 lakhs and consequent short levy of tax of Rs 1.35 lakhs.

The case was brought to the notice of the department in September 1991 and the Government in January 1992; their replies have not been received (January 1994).

(ii) In Nedumangad, while finalising (March 1992) the assessment for the year 1986-87 of an individual, the assessing authority erroneously deducted a sum of Rs 1.96 lakhs towards expenses from the gross income instead of deducting the admissible amount of Rs 1.46 lakhs. This resulted in under-assessment of income by Rs 49,920 and consequent short levy of tax of Rs 38,438.

On this being pointed out (April 1992) in audit, the assessing authority revised (May 1992) the assessment raising additional demand of Rs 38,438.

The case was reported to Government in August 1992; their reply has not been received (January 1994).

(iii) In Thiruvananthapuram, the assessment for the year 1989-90 of a registered firm was finalised (June 1991) by estimating the yield of rubber at 23,540 kg against 26,782 kg shown in the accounts rendered by the firm. This resulted in under-assessment of income of Rs 56,741 and short levy of tax of Rs 31,618.

On this being pointed out (July 1992) in audit, the assessing authority stated (July 1992) that the assessment would be revised; further report has not been received (January 1994).

The case was reported to the Government in December 1992; their reply also has not been received (January 1994).

3.7. Omission to club income

(i) Under the Agricultural Income-tax Act, 1950, in computing the total agricultural income of any individual for the purpose of assessment there shall be included so much of the agricultural income of a wife or minor child of such individual as arises directly or indirectly (i) from the membership of the wife in a firm of which her husband is a partner (ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner.

In Rajakkad, while finalising (April 1987, March 1990 and October 1991) the assessments for the years 1983-84, 1984-85 and 1988-89 of a registered firm having nine partners including a minor, the assessing authority omitted to allocate share income due to the minor child admitted to the benefits of the partnership and club the income with his guardian who was

also a partner of the firm and assessed the share income of the women partners separately in their hands instead of clubbing it with that of their husbands who were also partners of the same firm. This resulted in short levy of tax of Rs 1.13 lakhs for the assessment years 1983-84, 1984-85 and 1988-89.

This was pointed out in audit in March 1992; final reply of the department has not been received (January 1994).

The case was reported to Government in April 1993; their reply has not been received (January 1994).

(ii) Under the Agricultural Income-tax Act, 1950, income arising from assets transferred directly or indirectly to the wife or minor child, not being married daughter, by a person, otherwise than for adequate consideration, shall be clubbed with his individual income and the total income assessed in his hands.

In Perinthalmanna, while finalising (December 1989) the assessment of an individual for the assessment year 1989-90, the assessing authority omitted to club the income from 16.75 acres of rubber plantation gifted to his wife and a minor son with the income of the assessee. The omission resulted in short levy of tax of Rs 38,189 for the assessment year 1989-90.

On this being pointed out (August 1990) in audit, the assessing authority revised (April 1992) the assessment by raising additional demand.

Government to whom the case was reported in March 1993 confirmed the facts and stated (October 1993) that the assessee had filed appeal against the revised assessment order which is pending disposal (January 1994).

3.8. Short levy of tax due to grant of excess deduction

Under the Agricultural Income-tax Rules, 1951, any sum paid in the previous year as gratuity under the Payment of Gratuity Act, 1972, or any sum set apart for payment of such gratuity or any contribution or premium paid under any scheme including the Group Gratuity Scheme of the Life Insurance Corporation of India for the payment of gratuity under the said Act shall be deducted in computing the agricultural income of a person.

In Kozhikode, while computing (March 1992) the agricultural income for the year 1986-87 of a domestic company governed by the Group Gratuity Scheme of the Life Insurance Corporation of India for payment of gratuity to the employees, the assessing authority allowed deduction of the entire amount of Rs 6.10 lakhs claimed by the assessee under gratuity payment instead of limiting it to Rs 4.60 lakhs being the amount of annual premium payable by the company. This resulted in excess allowance of deduction of Rs 1.50 lakhs and consequent short levy of tax of Rs 97,260.

The case was reported to the department in January 1993 and the Government in June 1993; their replies have not been received (January 1994).

3.9. Omission to assess income from different sources

Under the Agricultural Income-tax Act, 1950, the total agricultural income of an assessee comprises all the agricultural income of any previous year derived from land situated within the State and received by him.

In Kumily, while finalising (February 1991) the assessments for the years 1987-88 and 1988-89 of an individual, income from 18 acres of cardamom land was left out of consideration. This resulted in an estimated income of Rs 1.52 lakhs escaping tax and short levy of tax of Rs 84,244 for the assessment years 1987-88 and 1988-89.

The case was brought to the notice of the department in February 1992 and the Government in August 1992; their replies have not been received (January 1994).

3.10. Application of incorrect rate of tax

The Schedule to the Kerala Agricultural Income-tax Act, 1950, specifies the rates at which agricultural income tax is to be charged. In the case of a domestic company, tax is leviable with effect from 1st April 1983, at the rate of sixty per cent of the total agricultural income where the total agricultural income exceeds Rs 3 lakhs but does not exceed Rs 10 lakhs.

In Adimali, while finalising (October 1992) the assessment for the year 1987-88 of a domestic company, on the income of Rs 5.05 lakhs tax was erroneously levied at the rate of fifty per cent instead of the correct rate of sixty per cent. This resulted in short levy of tax of Rs 50,466.

On this being pointed out (November 1992) in audit, the assessing authority stated (December 1992) that action had since been initiated to revise the assessment. Further developments have not been reported (January 1994).

The case was reported to Government in June 1993; their reply has not been received (January 1994).

CHAPTER 4

STATE EXCISE DUTIES

4.1. Results of audit

Test check of the accounts of offices of the State Excise Department conducted in audit during the year 1992-93 revealed under-assessments of tax/loss of revenue amounting to Rs 39.74 lakhs in 78 cases, which may broadly be categorised as under:-

	Number of of cases	*Amount (In lakhs of rupees)*
1. Irregular/excess allowance of wastage of spirit	3	0.60
2. Short collection of duty	4	0.32
3. Other irregularities	71	38.82
Total	78	39.74

During the course of the year 1992-93 the department accepted under assessments etc., of Rs 30.16 lakhs involved in 79 cases of which 63 cases involving Rs 11.59 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years. A few illustrative cases involving Rs 166.33 lakhs are given in the following paragraphs.

4.2. Short levy of compounding fee

In case of an offence under the provisions of the Abkari Act (I of 1077), the offender is either to be prosecuted or the

offence can be compounded by the Abkari Officer by accepting a sum of money by way of compensation for the offence. Government had been fixing the minimum and the maximum amount of compounding fee from time to time. The minimum and the maximum compounding fee fixed with effect from 1st April 1988 were Rs 1,000 and Rs 10,000 respectively. The general practice prevalent in the department was to collect such fees fixed by the department for each offence irrespective of the number of persons involved, instead of collecting such amount from each offender when the number of accused in the offence was more than one. The Government clarified (January 1991) that compounding fee had to be realised from each person accused in case the number of persons accused was more than one.

In twenty four excise offices in respect of 467 offences compounded between April 1991 and March 1992, each involving more than one person, compounding fee collected was not based on even the prescribed minimum fee of Rs 1,000 from each person leviable in such cases. This resulted in short levy of compounding fee of Rs 6.18 lakhs.

The cases were pointed out in audit between June 1992 and March 1993. Final replies have not been received (January 1994).

The case was reported to Government in July 1993; their reply has not been received (January 1994).

4.3. Abkari Arrears

4.3.1. The term Abkari revenue has been defined as revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of the Abkari Act (1 of 1077) and the Rules made thereunder. All the above dues are

payable to the Government, and if not paid, are recoverable as arrears of land revenue from the persons primarily liable to pay the same or from their sureties. The Government by a notification dated July 1970, appointed the Deputy Commissioners and Assistant Commissioners of Excise as Officers to exercise the powers and perform the functions of a Collector under the Kerala Revenue Recovery Act for collection of Abkari revenue, both current and in arrears.

A test check of records of Board of Revenue, 2 (Thiruvananthapuram and Ernakulam) out of 3 offices of Deputy Commissioners, 6 (Thiruvananthapuram, Kollam, Pathanamthitta, Alappuzha, Kottayam and Thrissur) out of 14 Divisions and 21 out of 114 Ranges conducted in audit (between July 1992 and October 1992) revealed the following.

4.3.2. Extent of Abkari Arrears

The figures relating to arrears due as at the end of the years 1990-91, 1991-92 and 1992-93 though called for were not furnished by the Board of Revenue. The Board of Revenue furnished the arrears as on 31st March 1990, the details of which are as under:-

Stage of action	*Amount of arrears (In crores of rupees)*
1. Demand covered by recovery certificates	17.24
2. Recoveries stayed by the High Court and other Judicial authorities	43.94
3. Recoveries stayed by Government	1.48
4. Recoveries held up due to rectification	0.01
5. Recoveries held up due to insolvency of assessees	0.08
6. Amount proposed to be written off	0.29
7. Other stages of recovery	11.47
Total	74.51

4.3.3. Correctness of amount of arrears

Under the provisions of the Excise Manual Vol II, the Assistant Excise Commissioners and District Collectors are required to send to the Board of Revenue (Excise) a quarterly statement showing the Demand, Collection and Balance of Abkari arrears. The Board of Revenue (Excise) is required to consolidate these statements and send a consolidated statement of excise arrears to Government every quarter.

Test check of records (July to October 1992) of the Board of Revenue revealed that:

(i) Quarterly statements of demand, collection and balance of Abkari revenue were not being received regularly from

the Assistant Excise Commissioners (Excise) and District Collectors and consequently the statements due from the Board of Revenue (Excise) were not being sent regularly to the Government.

(ii) The figures of demand, collection and balances of Abkari arrears collected by Divisions from Excise Ranges and reported to Board also differ considerably. Test check of records of a few divisions for the year 1989-90 revealed the following discrepancies.

Name of the Division	*(In lakhs of rupees)*	
	Figures received from Ranges	*Figures reported to Board of Revenue*
Alappuzha	109.59	119.62
Kollam	3.55	90.41
Kottayam	376.41	428.35

As there were wide variations between the figures of demand, collection and arrears of Abkari revenue as reported by Excise Ranges to the Assistant Commissioners/Deputy Commissioners (Excise) and as reported by these authorities to the Board of Revenue, the position of arrears as furnished by Board of Revenue to the Government did not represent the correct position. No steps have been taken to reconcile such discrepancies and arrive at the correct figure of arrears (January 1994).

4.3.4. Demand covered by revenue recovery certificates

Under the provisions of the Kerala Excise Manual, Volume II, wherever any amount of kist, duty, gallonage fee, tree tax etc.

is not paid on the due date and has fallen in arrears, immediately a demand notice specifying the amounts due, items under which they are payable, interest and demand notice fee payable has to be issued to the defaulter asking him to pay up the amounts. In the notice, it is also to be specifically mentioned that if he does not pay, action will be taken to get the amounts recovered as if they are arrears of land revenue under the Revenue Recovery Act. However, simply advising the arrears to Revenue Department for recovery does not absolve the Excise Department of the responsibility for collection of that amount. Officers of the Excise Department have to remain in close contact with Revenue Department and watch the progress of collection by the Revenue Department.

According to the information of arrears furnished by the Board of Revenue, demands amounting to Rs 17.24 crores were covered by revenue recovery certificate and were pending realisation as on 31 March 1990. As the records relating to the demands were not made available it could not be verified in audit whether the demand notices were issued promptly, whether the demand notices were worked out correctly by adding up all the dues and interest due thereon and whether any close contact was made by the Officers of Excise Department with those of Revenue Department to watch the progress made in recovery etc.

4.3.5. Recovery stayed by the High Court and other Judicial authorities

In Thiruvananthapuram and Alappuzha divisions several licensees defaulted in payment of kist amounts payable during 1980-81 and 1981-82. When the department initiated action for recovery, the licensees filed original petitions in the High Court on the plea that the department had failed to supply adequate quantities of arrack to the contractors during these years. The High Court

quashed (November 1983) the Revenue Recovery proceedings initiated by the department. The Government filed Special Leave Petition in the Supreme Court against the decision of the High Court. The Supreme Court allowed 42 (including similar petitions from other districts) Special Leave Petitions in August and November 1984 and granted stay against recovery of the arrears. All the cases were still (December 1993) pending in the Supreme Court.

The department had, however, not taken any action to get the stay vacated in the light of Supreme Court's decision in the case of Assistant Collector of Central Excise, West Bengal vs Dunlop India. In spite of the facts that the Supreme Court's verdict on the issue was pronounced as early as in October 1983, department has not moved the Supreme Court for vacation of stay orders resulting in blocking of Government revenue of Rs 24.19 lakhs.

4.3.6. Recovery of arrears held up due to insolvency of assessee

Under the provisions of Excise Manual, Volume II, when the defaulter is found to be insolvent, enquiry must be made whether he owns properties in any other Taluk of the State. It is possible that the defaulter would have made fraudulent conveyances of the property involved in the solvency certificate. The Revenue Recovery Act provides for issue of a warrant for the arrest of any such defaulter who has dishonestly transferred any part of the property or has been guilty of fraudulent transactions or has the means to pay but evades payments.

(a) According to the information about Abkari arrears furnished by the Board of Revenue, recoveries amounting to Rs 8.21 lakhs were held up due to insolvency of the assessees up to 31st March 1990. No attempt was made to find out whether these

insolvent assessees had disposed of the property covered under solvency certificate by fraudulent means nor was any action taken or enquiry made to ascertain whether they owned properties in other Taluks of the State so as to attach that property and to recover the Government dues.

(b) In another case in Thiruvananthapuram Division, a contractor for the contract period of 1981-82 had kist arrears of Rs 15.54 lakhs. When Revenue Recovery action was initiated, the Revenue authorities informed the Excise Department that the contractor had already sold the properties covered by the revenue recovery certificate. This resulted in non-recovery of abkari arrears amounting to Rs 15.54 lakhs since 1981-82.

As there is no provision either in the Abkari Act or Rules made thereunder to prevent the transfer of property covered by the solvency certificates without clearance of the Excise department, it is suggested that a suitable mechanism may be evolved in this respect for safeguarding the financial interest of the Government.

4.3.7. Amount proposed to be written off

Under the provisions of the Excise Manual, Volume II, an amount may be recommended for write off only if all possible measures to effect the recovery are exhausted. The write off should be ordered in rare cases only and the Excise Officers should exert their utmost to see that no arrears is allowed to accumulate.

According to the information furnished by the Board of Revenue, Abkari arrears amounting to Rs 28.22 lakhs as on 31st March 1990 are proposed to be written off. In the absence of records it could not be verified in audit whether all out efforts had been made to recover the arrears before proposing write off.

4.3.8. Arrears due to lack of action by Excise Department

(i) Test check of records of four divisions had revealed that in 47 cases Abkari arrears amounting to Rs 15.15 lakhs pertaining to period from 1986-87 to 1991-92 were pending recovery due to (i) return of revenue recovery certificate as the defaulters had become insolvent; (ii) arrear files were missing in Taluk Offices; (iii) non-receipt of revenue recovery certificates in Taluk Office and (iv) non-attachment of property as survey number was not known etc. as given in the table below:-

Name of division	*(Amount in lakhs of rupees)*									
	Return of RRC as the defaulter became insolvent		Missing files		Non-receipt of RRC in Taluk Office		Non-attachment of property as survey No. is not known		Recovery not effected though attachment made	
	No.	*Amount*	*No.*	*Amount*	*No.*	*Amount*	*No.*	*Amount*	*No.*	*Amount*
Thiruvananthapuram	16	1.14	4	0.32	1	0.42	1	0.05	1	0.09
Kollam	11	3.41	1	0.01	–	–	–	–	1	0.51
Pathanamthitta	6	0.35	3	0.25	–	–	–	–	–	–
Thrissur	–	–	–	–	2	8.60	–	–	–	–
Total	33	4.90	8	0.58	3	9.02	1	0.05	2	0.60

(ii) Further it was noticed that in 8 cases involving arrears of Rs 66.50 lakhs and falling under 5 Excise Divisions[1], though the High Court/Sub Court had either dismissed the original suits filed by the defaulters or had not issued any stay orders

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1. Excise Divisions Kollam, Alappuzha, Pathanamthitta, Kottayam and Idukki.

against the revenue recovery certificates issued by the Revenue Department during the period between November 1982 and April 1991, the department had not taken any action to recover the arrears.

(iii) Loss of revenue due to departmental lapses

In Thrissur division a contractor for the contract period of 1964-65 defaulted in payment of kist. The shops were resold. However, the second contractor also defaulted in payment of kist and the actual loss sustained by the department due to the resale amounted to Rs 2.30 lakhs as on 1st April 1964 plus interest at 6 per cent. The Revenue Recovery proceedings initiated by the department against the second contractor were challenged by him in the Sub Court and the court decided the case in favour of the second contractor. Subsequently as the original contractor expired, the department took Revenue Recovery action against his legal heirs. The legal heirs challenged this in Sub Court in 1986. The case was decided against the Government in February 1992, as the department could not plead the case as the original records such as original sale list, agreement executed by the contractor etc., were found missing. This resulted in loss of revenue of Rs 6 lakhs including interest.

4.3.9. Non-cancellation of licences

Under the Abkari Shops (Disposal in Auction) Rules, the rental due for the period from 1st April of the year to 31st March of the year following shall be payable in ten equal monthly instalments on or before 10th of each month beginning from 1st April. If the licensee fails to pay kist on or before 25th of the month, the licence shall be cancelled and shops shall be resold at the risk and cost of the defaulting contractor.

In Thiruvananthapuram division in one case in 1990-91 and in four cases in 1991-92 involving Rs 15.72 lakhs, the contractors defaulted in payment of kist from the very beginning of the contract year. However, their licences were not cancelled and the shops were not resold as stipulated under the Rules. Two licences involving Rs 4 lakhs were later cancelled in December 1991 and February 1992. The department has not taken (December 1993) any action so far to initiate Revenue Recovery proceedings.

4.3.10. Other Interesting Points

(i) Issue of Revenue Recovery Certificate against wrong person :

In Alappuzha division, for the contract period of 1987-88, the right to vend liquor through Foreign Liquor Wholesale (FLW) shops was bid in auction by the holder of Power of Attorney of a contractor. As the contractor defaulted in payment of kist, the department cancelled the licence in June 1987 and resold the shop at the risk and cost of the power of attorney holder in November 1987 and the loss amounting to Rs 4.12 lakhs plus interest at 18 per cent was proposed for recovery from him in February 1988. Against the Revenue Recovery proceedings, the power of attorney holder filed (1991) an original suit in Sub Court on the grounds that the solvency certificate produced at the time of auction was in favour of the properties held by the contractor and that power of attorney holder acted only as an agent of the contractor. The case was decided (January 1992) in favour of the power of attorney holder. The department has not taken any steps to issue Revenue Recovery Certificate against the original contractor so far (December 1993).

(ii) Participation in auction by two contractors on the strength of solvency certificate issued against same property

The Kerala Abkari Act and the Rules made thereunder do not contain any provision for the issue of stay order or grant of instalment facilities for the remittance of Abkari dues. However, Government had been allowing extension of time for the remittance of arrears and even for monthly kists due on 10th of every month.

A contractor in Pathanamthitta who got the licence by transfer from original bidder to run four arrack shops during 1987-88, defaulted in payment of kist amounting to Rs 4:60 lakhs. The Board of Revenue did not cancel the licence but gave extension of time up to 30th January 1988 and later up to 5th March 1988 to remit the arrears on condition of remitting fifty per cent of the arrears before 15th February 1988 and the balance by 5th March 1988. As the contractor did not remit any amount, the arrear amounting to Rs 4.88 lakhs (including interest) was advised for Revenue Recovery in April 1988. In August 1988, the Tahsildar reported that the property against which solvency certificate was issued to the contractor had been transferred to another person in March 1988 and that the purchaser had also obtained a solvency certificate against this property. The Tahsildar also wrote to the department for preventing the purchaser from obtaining licence using the solvency certificate obtained against this property. But the department did not take any action and the purchaser, utilising the solvency certificate, obtained licence for running arrack shops in another district (Wynad).

In November 1988, the Tahsildar cancelled the transfer of property and attached the same. But the amount of arrears has not so far been recovered. Details of arrears, if any, recoverable from

the second contractor in respect of licence for running arrack shops in Wynad district were not available (December 1993).

(iii) Participation of defaulters in auction

Under the Abkari Shops (Disposal in Auction) Rules, 1974, no defaulter in payment of Abkari dues shall be allowed to participate in auction unless he produces from the Excise Inspector concerned a certificate to the effect that he had remitted the prescribed percentage of arrears pending as on the date of auction.

In Thiruvananthapuram Division a defaulter was allowed to participate in auction for the contract years of 1983-84 and 1984-85 without remitting the prescribed percentage of arrears of Rs 8.83 lakhs outstanding as on the date of auction.

In Thiruvananthapuram Division a contractor who defaulted in payment of Rs 21.51 lakhs till 1st April 1982, participated in auction as holder of Power of Attorney for the contract years 1983-84, 1984-85, 1986-87 and 1987-88. In the same division another contractor who defaulted in payment of Rs 1.16 lakhs up to 1st April 1985, participated in auction for the contract years 1985-86 as holder of Power of Attorney of another contractor and again for the contract year 1987-88 as holder of Power of Attorney of yet another contractor. Again, in Alappuzha Division, a contractor who defaulted in payment of Rs 6.61 lakhs during the contract period 1988-89, participated in auction as holder of Power of Attorney of another contractor for the contract years 1989-90 to 1991-92. A scrutiny of the connected records showed that the contractors and the holders of Power of Attorney were close relatives like wife\husband, son or daughter. This could happen for want of provision in the Abkari (Disposal in Auction) Rules to prevent such participation in Abkari auctions.

(iv) ***Wrong accounting of arrears remitted and consequent short demand***

According to the instructions laid down in the Departmental Manual, when arrears are to be collected with interest and when remittances are made in instalments, interest portion should be liquidated first and then only adjustment against the principal be made.

A licensee of two ranges for the years 1980-81 and 1981-82 in Kottayam Division defaulted in payment of kist aggregating Rs 14.64 lakhs pertaining to these years. As regards the arrears relating to the year 1980-81, the litigation is in the Supreme Court. Regarding the arrears for the year 1981-82, the original suit filed by the licensee in Sub Court and the appeal petition filed in District Court were dismissed in October 1983 and August 1986 respectively. However, the department could issue the Revenue Recovery Certificate only in October 1992 i.e. after six years from the dismissal of the case. Meanwhile in March 1984 the licensee remitted a sum of Rs 3.30 lakhs towards twenty per cent of arrears. However, the entire amount of Rs 3.30 lakhs was given credit against the arrears of one range and a portion of principal amount of one account was cleared instead of liquidating first the outstanding interest in both the cases. This resulted in short demand of Rs 3.84 lakhs.

The above points were reported to the Board of Revenue and the Government in January 1993, their replies have not been received (January 1994).

CHAPTER 5

LAND REVENUE

5.1. Results of audit

Test check of the records of the Taluk Offices conducted in audit during 1992-93, revealed under-assessments of tax/or losses of revenue amounting to Rs 62.58 lakhs in 108 cases which may broadly be categorised as under:

	Number of of cases	*Amount (In lakhs of rupees)*
1. Under-assessment of building tax	60	17.67
2. Under-assessment of plantation tax	11	22.89
3. Other lapses	37	22.02
Total	108	62:58

During the course of the year 1992-93 the department accepted under-assessments etc. of Rs 77,195 involved in 6 cases of which 3 cases involving Rs 22,500 had been pointed out in audit during 1992-93 and the rest in earlier years. A few illustrative cases and results of, the review on 'Internal controls in respect of basic tax on land' involving Rs 88.12 lakhs are given below.

5.2. Internal controls in respect of Basic Tax on land

5.2.1. Introduction

Internal controls are intended to provide reasonable assurance for prompt and efficient service and for adequate safeguards against evasion of taxes and duties. They are meant to promote enforcement of compliance with laws, rules and departmental instructions and help in prevention and detection of frauds and other irregularities. They also help in creation of reliable financial and management information system.

It is, therefore, the responsibility of the department to ensure that a proper internal control structure is instituted, reviewed and up-dated to keep it effective.

'Basic Tax' on land means the tax imposed under the provisions of the Kerala Land Tax Act, 1961. It is levied on all lands except lands belonging to Government etc. Village office is the primary unit of land revenue administration and initial records relating to demand, collection, remittance and arrears are maintained in the village offices.

5.2.2. Organisational set-up

The Board of Revenue, Kerala, is in overall charge of the management and collection of land revenue. The Collector is in charge of the revenue administration of the district and is assisted by Tahsildars and Village Officers for collection of land revenue in his district. The State for the purpose of revenue administration is divided into 14 Revenue Districts, 61 Taluks and 1452 Villages.

5.2.3. Scope of Audit

A review on the 'Internal Controls' in Land Revenue Department in respect of assessment, levy, collection and remittance of the basic tax was conducted between January to March 1993 with reference to records available in Board of Revenue (Land Revenue), Thiruvananthapuram, five (Kollam, Alappuzha, Ernakulam, Thrissur and Kozhikode) out of 14 Collectorates, 11 out of 61 Taluk Offices (3 Taluks in Kollam District and 2 Taluks each in other four districts) and 41 Village Offices.

5.2.4. Highlights

(i) Collection of 'Basic tax' was based on voluntary compliance by land holders as no demand notices were issued by the department.

(ii) Different procedures were being followed in different parts of the State and there was no uniformity in the maintenance of basic land revenue records. A unified Manual prescribing the procedure for the collection and accounting of land revenue in Taluks and Collectorates had not been compiled.

(iii) 8,69,883 transfer of registry cases were pending for effecting transfer as on 31st August 1992 with the result that a sum of Rs 86.99 lakhs towards transfer of registry fee could not be realised.

(iv) (a) The annual inspection of Village and Taluk Offices were not being conducted regularly.

(b) The targets fixed for inspection of Village Offices by the Tahsildars had not been achieved in several cases.

(v) **The Internal Audit is very weak. The average annual coverage of the internal audit of Taluk and Revenue Divisional Offices was 18 units against 81 offices during 1988 to 1992.**

5.2.5. Arrears of 'Basic Tax'

According to the information furnished by the Board of Revenue, Land Revenue amounting to Rs 15.18 lakhs was pending realisation as on 31st March 1992 as follows:

Year	*(In lakhs of rupees)*				
	Amount under stay	*Not collectable pending reassessment*	*Remission or write off*	*Collectable balance*	*Total*
Upto and including 1990-91	9.36	0.06	1.12	3.31	13.85
1991-92	0.57	0.06	0.15	0.55	1.33
Total	9.93	0.12	1.27	3.86	15.18

The year-wise break up of the arrears up to 1991-92, details of action taken to realise the arrears and the details of amounts under stay though called for (May 1993) from the Board of Revenue, have not been received (January 1994).

5.2.6. Assessment of basic tax

The basic tax payable in respect of any land is to be assessed in the manner as provided in Sub-sections (2) to (4) of Section 6A of the Act and the procedure detailed in Rules 5 to

10 of the Kerala Land Tax Rules, 1972. The basic tax on surveyed lands is calculated at the prescribed rates on the area of each holding, as entered in the revenue records. In respect of unsurveyed lands, the Tahsildar shall serve on the land holder a provisional notice of demand in the prescribed form and the final notice of demand shall be served after 15 days from the date of service of the provisional notice after considering objections, if any, filed on the provisional assessments within 15 days from the date of receipt and the land holders have to pay the basic tax on or before 15th October of that financial year.

(i) Scrutiny of revenue records revealed that in all the Taluk Offices test checked, demands of basic tax were not being raised by the prescribed authority (Tahsildar) and basic tax was being collected on the basis of voluntary compliance. This had resulted in non-collection of basic tax amounting to Rs 3.86 lakhs up to 31st March 1992.

(ii) In 4 villages in Kanayannur Taluk and 2 villages in Aluva Taluk in Ernakulam District, 153.1684 hectares of land in the possession of Public Sector Undertakings/Boards even before 1988 were still being shown as Government land in the village records and basic tax has not been demanded. Tax realisable from 1988-89 to 1991-92 works out to Rs 66,061.

5.2.7. Procedure for collection and accounting of basic tax

The procedure for collection, accounting and remittance etc. of basic tax has been detailed in paragraph 93 to 103 of the Village Manual. The initial records of demand, collection and remittances are maintained in village offices. The land holders' account called 'Thandaper' account and the cash book called

'Nalvazhi' are to be written up with reference to the carbon copies of the receipts issued by the village officer for the amount received everyday.

The amount collected by the village officer is required to be remitted into the treasury twice a month or at once if the collection exceeds Rs 5000 and list of remittances, chalans, 'Nalvazhi' etc. are to be submitted to the Tahsildar concerned. The Tahsildar has to ensure that all amounts collected have been properly accounted for in the village accounts and no amount collected till that date has been kept in the village office. The Tahsildar is also required to reconcile the departmental figures with those of treasury.

The Tahsildar is required to prepare a consolidated demand, collection and balance statement from the demand, collection and balance statements received from the village officers. After verification of the remittances, the consolidated statement shall be sent to the District Collector. The District Collector consolidates the Taluk demand, collection and balance statements and sends the same to the Board of Revenue. The Board of Revenue consolidates the statements of demand, collection and balances received from all the districts and reviews monthly all the statements and sends the review remarks to the District Collector for compliance.

A test check of the records maintained in the village offices and in the taluk offices disclosed the following defects:

(i) In 11 taluks test checked, the collection registers were not up to date as the date of remittance and chalan numbers were not noted in several cases.

In one taluk (Kanayannur) the collection register contained remittance particulars of only 12 out of 23 villages in the taluk. In respect of the remaining 11 villages such remittance particulars were not available.

(ii) In all the taluks test checked, the chalans were being sent by the Tahsildar/Deputy Tahsildar to the concerned village officer instead of keeping them in taluk office.

(iii) In one taluk (Talappally) basic tax amounting to Rs 22,605 collected (March 1992) in excess of that due from 11 villages was shown in the consolidated demand, collection and balance register instead of showing the same in the "Excess Collection Register Account" meant for adjustment against future demand when it falls due.

(iv) Reconciliation of the tax remittances made by village officers was not done by the concerned taluk office except in one taluk (Ambalappuzha).

(v) In 41 villages as per the statement of demand, collection and balance as on 31st March 1992, no amount towards basic tax was pending realisation. However, on cross verification of the 'Thandaper' account (Land holders' account) with the duplicate copy of the receipt books, it was noticed in audit that basic tax had not been collected from 6,800 land holders for periods from 1977-78 to 1991-92. Out of 4,87,357 accounts, 71,491 accounts test checked revealed that basic tax amounting to Rs 2.09 lakhs was due on 31st March 1992 from 6,800 land holders. It was further seen from the copies of receipts that an amount of Rs 31,387 collected in 1992-93 as basic tax pertained to the previous years but were accounted for by the village officer as collection for the current year. This

shows that arrears were not brought forward in the demand, collection and balance register which may lead to non-realisation of arrears.

5.2.8. Maintenance of Records

The most important registers relating to basic tax maintained in village offices are the Basic Tax Register and the 'Thandaper Account'. Basic Tax Register is also required to be maintained in the taluk offices according to Kerala Land Tax Rules.

The Basic Tax Register contains the details of lands in the village or in taluk as the case may be, survey numberwise. It also contains details such as area of land under each survey number, rate of basic tax, name of the land holder and Thandaper number. The Thandaper account register shows the names of each land holder, basic tax payable by him, details of basic tax paid each year by the land holders.

A scrutiny of the Basic Tax Register and the Thandaper Accounts Register maintained in 41 village offices test checked in audit showed the following defects/omissions:

(i) In 36 village offices, entries were not up to date in the Thandaper Account.

In five village offices in Kozhikode District the Thandaper Account Register prescribed in the Village Manual had not been maintained. Instead, two registers, viz. Account No.14 for recording the collection of basic tax from the land holders and Form No.10/1 Register prepared at the time of resurvey settlement in 1933 based on the Malabar Village Manual were being maintained. However, subsequent changes have not been recorded.

(ii) In Ernakulam Village Office, the 'Thandaper account' contained only the names of original land holders and the extent of land held by them. Details of subsequent mutation due to transfer of registry were not entered in the register though the details of tax paid by the present land holders for the portion of land held by them were noted against the names of the original land holders. Here too the extent of land in respect of which tax was paid was not specified. Information collected from one village (Ernakulam) showed that there were 25,884 land holders in the village; but as per the 'Thandaper Register' the number of registered land holders were 3,246 only. Similarly in another village (Aluva) there were 17,952 land holders; but as per the 'Thandaper Register' the number of registered land holders was 9,446 only.

(iii) In 5 village offices in Thrissur district, separate 'Thandaper numbers' were allotted, when the land holders produced copies of title deeds to the village office. Again, no transfer of registry had been effected in such cases in the land revenue records by making proper entries in the original 'Thandaper account'.

(iv) It was seen that in 6 (Ambalappuzha, Kanayannur, Aluva, Thalappally, Kozhikode and Koilandy) out of 11 taluk offices covered by the review, no 'Basic Tax Register' had so far been maintained.

Thus there was no uniformity in the maintenance of basic land revenue records throughout the State.

5.2.9. Transfer of Registry Cases

As per Rule 2 of the Transfer of Registry Rules, 1966, transfer of Revenue registry takes place either (i) by voluntary action of the owners (ii) by virtue of decrees of Civil Courts or by revenue sales, or (iii) by succession. The procedures to be followed in effecting transfer of registry have been prescribed in Rules 3 to 29 of Transfer of Registry Rules. In all cases of absolute transfer of titles over a land, the party or parties concerned shall record in the application (Form 1) his/their consent for the transfer of registry of the survey numbers involved in the transfer. The applications with true copies of the documents are to be sent to the Tahsildar concerned by the Sub-Registry Office monthly. On receipt of the applications, the Tahsildar shall enter them in the 'Register for Transfer of Registry cases' maintained in his office. He shall forward the cases within 15 days to the village officer concerned for preparing a statement in Form A and for report. On receipt of transfer of registry applications in the village office these shall be recorded in the register required to be maintained in Form VI B. The Form A report shall be returned within 2 weeks to taluk offices where they are to be classified and disposed of. Ordinarily, no transfer of registry case shall be kept pending for more than 4 months.

Test check of records of transfer of registry revealed the following.

(i) Transfer of registry cases numbering 8.70 lakhs were pending finalisation in the various taluks of the State as on the 31st August 1992 for a period ranging between 6 months to 2 years as detailed below:

Period of pendency	*No.of items*
Above 2 years	2,68,170
Between 2 years and 1 year	1,71,214
Between 1 year and 6 months	97,042
Less than 6 months	3,33,457
Total	8,69,883

The number of cases pending in Kozhikode and Kannur Districts were 2,67,926 and 3,04,564 out of which 36,746 and 1,56,638 cases respectively were more than two years old. The reasons for the pendency though called for from the District Collectors have not been received (May 1993) except in one case (Thrissur) where it has been stated that a good amount of work is involved in each transfer of registry case and the staff engaged in village office is not sufficient even for the work allotted to them and hence the work of effecting transfer of registry was not being properly attended to. Incidentally the fee at the rate of Rs 10 in each case of transfer of registry imposed by Government in October 1991, amounting to Rs 87 lakhs on 8.70 lakhs cases also remained unrealised though in all these cases, the registration in Sub Registry Offices had already been completed.

(ii) In 4 (Ambalappuzha, Thrissur, Talappally and Koilandy) out of 11 taluks covered by the review, the register for transfer of registry cases were not being maintained. In the remaining 7 taluks, the entries in the registers maintained were not up to date. The register for recording the receipt of transfer of registry applications was not being maintained in one village (Wadakkanchery).

(iii) In respect of 8 taluks (Karthikappally, Ambalappuzha, Aluva, Kanayannur, Thrissur, Talappally, Kozhikode and Koilandy) the applications for transfer of registry with copy of deeds were not being received from the Sub-Registry Offices. Instead the applications for transfer of registry cases were being brought by the concerned parties from the Sub-Registry Offices and handed over to the village office and such applications alone were being entertained and transfer of registry effected. As a result of this,

(a) basic tax was not being demanded from the actual land holder and

(b) the possibility of issuing solvency certificates on the basis of village records to persons other than the actual holders of lands could not be ruled out.

5.2.10. Inspections

a) Jamabandy Inspection

The annual inspection of village offices and taluk offices conducted by the district collectors is known as 'jamabandy' inspection. The registers and accounts maintained in the village offices and taluk offices are scrutinised during the jamabandy inspection. The object of jamabandy inspection is to ascertain whether the land revenue is properly determined, collected and accounted for in Government accounts. For jamabandy inspection, a check memorandum is prescribed wherein the various checks to be exercised in respect of the registers and account records are indicated.

Defects/omissions noticed in the conduct of the jamabandy inspection are given below:

(i) The inspection for the year 1990-91 due for completion before September 1991, were not completed in any of the villages in two taluk offices of Kozhikode District (Vadakara and Koilandy) and 16 village offices in Mukundapuram (Thrissur District) Taluk. The inspections for the year 1991-92 have not been completed in Kozhikode and Thrissur Districts. The inspection was not conducted in the remaining 4 Districts.

(ii) No follow up action was taken by the Collectorates to rectify the defects pointed out in jamabandy inspections for the year 1989-90, 1990-91 and 1991-92.

(iii) Two different forms of check memorandum are in use in the State. These do not contain a number of items of tax and revenue such as building tax introduced in April 1975 and plantation tax introduced in 1960.

Thus the jamabandy inspections do not completely serve the purpose for which they are intended.

b) Inspection of Village Offices by Tahsildars

The Tahsildars are required to check the village accounts records during their quarterly inspection. It was, however, seen that out of the 11 taluks test checked in 6 taluks (Kollam, Pathanapuram, Kanayannur, Aluva, Thrissur, Thalappally), the target fixed for inspection of village offices was not achieved during the years 1989-90 to 1991-92. In one taluk (Kanayannur) no quarterly inspection was conducted during any of these years. In Thrissur, out of 38 villages, one inspection in only one village was conducted during the 3 years. In another taluk (Pathanapuram) the percentage of inspection was below 5 per cent during the years 1989-90 to 1991-92.

5.2.11. Internal Audit

Internal audit is described as control of controls and is an independent appraisal function established within an organisation to examine and evaluate its activities.

The Internal Audit Wing in the Land Revenue Department consists of one Junior Superintendent and three Clerks. It verifies the cash transactions in the Revenue Divisional Offices and Taluk Offices of the State and points out the defects/omissions in the maintenance of accounts and allied records to the officers concerned and keeps watch over their rectification. The number of Taluks and Revenue Divisional Offices covered by the Internal audit during the period 1988 to 1992 (calendar year) are as follows.

Category	*Total no. of offices*	*No. of offices covered by internal audit during the year*				
		1988	*1989*	*1990*	*1991*	*1992*
a. Taluk Offices	61	9	8	9	5	18
b. Revenue Divisional Offices	20	7	9	6	3	
Total	81	16	17	15	8	18

Thus the average annual coverage of internal audit in respect of Taluk and Revenue Divisional Offices was 18 units against 81 offices during 1988 to 1992.

The department attributed the arrears to the inadequacy of staff. The Estimates Committee in its 19th Report for the year 1990-91 recommended to strengthening of the Internal

Audit Wing of all the departments. Board of Revenue (Land Revenue) sent (May 1991) proposals to Government to sanction one more wing on the existing pattern, but Government sanction has not been received (January 1993).

The total number of internal audit notes pending settlement as on 31.3.92 and 31.3.93 were 88 and 76 respectively. The period of pendency is as follows.

	As on 31.3.92	*As on 31.3.93*
Under 6 months	14	13
Between 6 months and 1 year	18	10
Between 1 year and 2 years	26	13
Over 2 years	30	40*
Total	88	76

* *The oldest case relates to October 1985*

The department stated (September 1993) that Tahsildars and Revenue Divisional Officers had been reminded to rectify the defects.

The Internal Audit Wing of Revenue Department has not so far (January 1993) prepared any Internal Audit Manual for the guidance of the staff.

The above points were reported to the Board of Revenue (Land Revenue) and the Government in May 1993; their replies have not been received (January 1994).

5.3. Under-assessment of building tax

Under the Kerala Building Tax Act, 1975, building tax at the prescribed rate is leviable in respect of every building, the construction of which was completed on or after 1st April 1973 and the capital value of which exceeded seventy five thousand rupees. Capital value is determined at ten times the amount of annual value which is the gross annual rent at which the building may, at the time of completion, be expected to be let out from month to month or from year to year or at ten times the annual value fixed for the building in the assessment books of the local authority within whose jurisdiction the building is situated. However, if the assessing authority is of the opinion that the annual value fixed by the local authority is too low, it may fix the annual value independently. Tax is leviable at slab rates on capital value exceeding Rs 75,000 in respect of each building. Where a building consists of different apartments or flats owned by different persons and the cost of construction of the building was met by all persons jointly, each such apartment or flat shall be deemed to be separate building. When the capital value of a building which had already been taxed is subsequently increased by more than Rs 25,000 by new construction or additions or combinations or as a result of repairs or improvements, building tax shall be computed on the capital value of the building including that of new construction or additions or combinations or as the case maybe of the building as so repaired or improved and credit shall be given of the tax already levied.

(i) In Taluk Office, Muvattupuzha, the capital value of a three storeyed building was determined (January 1990) at Rs 5.03 lakhs and tax of Rs 24,075 was demanded without ascertaining the annual value fixed by the local authority.

On this being pointed out (October 1991) in audit, the department stated (April 1993) that the assessment had been revised (March 1993) fixing the capital value at Rs 7.41 lakhs based on the annual rental value fixed by the local authority.

The case was reported to Government in June 1993. Government stated (August 1993) that the assessment was again revised (May 1993) fixing the capital value at Rs 8.25 lakhs raising an additional demand for Rs 32,175 based on a revision of the annual value of the building by the local authority. The assessee filed (July 1993) an appeal before Revenue Divisional Officer and the collection was stayed till the disposal of appeal petition.

(ii) In Taluk Office, Nedumangad, the assessing authority determined (May 1987) the capital value of a three-storeyed building at Rs 2.80 lakhs and demanded tax accordingly. However, the Revenue Inspector in his report dated 21st March 1986 available in the Taluk Office had worked out the capital value as Rs 6.32 lakhs based on the rental value.

On this being pointed out (April 1988) in audit, the department stated that the assessment was revised (January 1993) refixing the capital value of the building at Rs 6.39 lakhs creating an additional demand of tax for Rs 30,664. The department stated (June 1993) that the assessee had filed an appeal before the Revenue Divisional Officer against the revised assessment order.

The case was reported to Government in April 1993. Government confirmed (July 1993) the facts.

(iii) In Taluk Office, Udumbanchola, the assessing authority (Tahsildar) assessed (February 1987) tax in respect of

a building on a capital value of Rs 3.66 lakhs based on actual rent received without ascertaining the annual value fixed by the local authority.

On this being pointed out in audit (March 1988), the department stated (January 1993) that the assessment had been revised (December 1992) fixing the capital value at Rs 6.40 lakhs and additional demand of Rs 25,630 had been raised.

The case was reported to Government in April 1993; their reply has not been received (January 1994).

(iv) In Taluk Office, Taliparamba, a commercial building assessed to tax (May 1984) on a capital value of Rs 3.60 lakhs, was increased by Rs 9.02 lakhs by new construction completed in 1989. The assessing authority while computing (February 1991) the building tax, treated the new construction as a separate building instead of treating the entire building as a single unit. This resulted in short levy of tax amounting to Rs 24,300.

On this being pointed out (November 1991) in audit, the department stated (April 1993) that the assessment had been revised (December 1992) treating the entire building as a single unit.

Government to whom the case was reported (June 1993) confirmed (November 1993) the facts and stated that out of the additional demand of Rs 24,300 to be paid in four quarterly instalments the first three instalments had been collected.

CHAPTER 6

OTHER TAX RECEIPTS

6.1. Results of audit

Test check of the records of departmental offices conducted in audit during the year 1992-93 revealed under-assessments of tax/loss of revenue amounting to Rs 28.29 lakhs in 143 cases as indicated below.

Name of tax revenue	*Number of cases*	*Amount (In lakhs of rupees)*
1. Taxes on vehicles	29	17.18
2. Stamp Duty and Registration Fees	114	11.11
Total	143	28.29

During the course of the year 1992-93 the department accepted under-assessments etc. of Rs 1.90 lakhs involved in 6 cases which had been pointed out in audit in the earlier years. A few illustrative cases of important irregularities involving a financial effect of Rs 75.30 lakhs are given in the following paragraphs.

TAXES ON MOTOR VEHICLES

6.2. Application of incorrect rate of tax

Under the Kerala Motor Vehicles Taxation Act, 1976, on motor vehicles plying for hire or reward and used for transport of passengers and in respect of which permits have been issued, tax is leviable at the rate specified at Sl.No.4 of the Schedule to the Act provided that in the case of a motor vehicle in respect of which a permit has not been issued, but which has been used for transport of passengers for hire or reward, tax is leviable at such rates as is specified for similar vehicles, as if a permit has been issued for the vehicles.

In Thrissur and Thiruvananthapuram in respect of 8 vehicles belonging to two autonomous institutions for transport of their employees for hire or reward, tax was levied at the rates applicable to motor vehicles other than those specifically mentioned in the Schedule instead of at the rate applicable to motor vehicles plying for hire or reward. This resulted in short levy of tax of Rs 37.23 lakhs till the end of 1991-92.

The short levy was pointed out to the department in October 1986 and August 1992 and to Government in April 1987 and June 1993. Government stated (October 1991) that instructions had been issued to collect the tax at the higher rates as pointed out in audit in respect of the vehicles at Thrissur. Details of action taken for realising tax at the higher rates in respect of the vehicles at Thiruvananthapuram have not been reported so far (January 1994).

6.3. Non-levy of tax

Under the Kerala Motor Vehicles Taxation Act, 1976, tax is leviable on every motor vehicle used or kept for use in the State at the rate specified for such vehicle in the Schedule to the Act. On dumpers having a laden weight of 9000 kg or more, tax is leviable per quarter at the rate of Rs 90 plus Rs 10 for every 1000 kg or part thereof in excess of 9000 kg up to 31st March 1991 and at the rate of Rs 110 plus Rs 10 for every 1000 kg or part thereof in excess of 9000 kg thereafter. In addition, surcharge at the rate of ten per cent is also leviable with effect from 1st April 1983.

A Government Company registered nine dumpers each having a laden weight of 42,180 kg with the Regional Transport Officer (Palakkad) in October 1990. The tax was endorsed at the rate of Rs 430 per quarter per vehicle from 29th March 1980. However, the Company did not make any payment of tax. The department also did not take any action to realise the tax. This resulted in non-realisation of tax and surcharge of Rs 2.02 lakhs for the period March 1980 to March 1992.

The case was brought to the notice of the department in August 1992 and the Government in June 1993; their replies have not been received (January 1994).

6.4. Short levy due to irregular grant of concessional rate of tax

Government allowed concessional rate of tax of Rs 60 per seat per quarter for every passenger other than the driver in respect of vehicles, irrespective of their seating capacity, owned by certain commercial public undertakings which

provided transport facilities to their employees. Government subsequently amended the Schedule to the Kerala Motor Vehicles Taxation Act, 1976, by dividing contract carriages into two categories according to their seating capacity and fixed different rate of tax for each category. Accordingly in supersession of all previous notifications issued allowing concessional rate to vehicles owned by such commercial public undertakings, Government issued in June 1987 a notification allowing the concessional rate of tax of Rs 60 per quarter for every passenger other than the driver in the case of contract carriages which carry more than 6 passengers but not more than 20 passengers and Rs 100 per quarter for every passenger other than the driver in the case of contract carriages which carry more than 20 passengers in respect of the vehicles owned by ten commercial public undertakings specified in this notification. The concessional rate of Rs 60 originally allowed or the concessional rate of Rs 60 or Rs 100, as the case may be, allowed as per the above notification was not admissible to vehicles other than those specified therein.

In Palakkad, in the case of a contract carriage of seating capacity of 50 in all owned by a Central Government Commercial Undertaking not specified in the aforesaid notification, tax continued to be collected at the rate of Rs 60 per seat per quarter for every passenger other than the driver. The irregular grant of concessional rate of tax resulted in short levy of tax of Rs 1.24 lakhs for the period from June 1987 to June 1991.

The case was reported to the department in August 1992 and to the Government in June 1993. Government stated (November 1993) that the name of the undertaking was not included in the notification due to oversight.

ELECTRICITY DUTY

6.5. Failure to conduct statutory inspections

Under the Indian Electricity Rules, 1956, where any composite electrical unit used for the purpose of generating, transforming, transmitting, converting, distributing or utilising electrical energy is already connected to the supply system of the supplier, every such installation shall be periodically inspected and tested at intervals not exceeding five years either by the Electrical Inspector or any other officer appointed to assist the Inspector or by the supplier as may be directed by the State Government in this behalf. The fee for such inspection and test shall be determined by the State Government in the case of each class of consumers and shall be payable by the consumers in advance. As per the notification issued by the Government in December 1984 under Rule 7 of the above said Rules, the testing and inspection of all MV installations has to be done once in two years and that of neon signs, X-rays, lifts and generators once in a year on realising the prescribed fees.

In seven Electrical Inspectorates, periodical inspections and tests which fell due during the periods 1988-89 to 1990-91 were not conducted in respect of 1,78,177 MV equipments below 6 KVA, 19,499 MV transformers below 251 KVA, 1,772 MV generators below 51 KVA, 158 X-rays, 86 neon signs and 127 lifts were not conducted during these periods resulting in the non-fulfilment of statutory responsibility of the department to inspect and ensure the safety of the installations. Incidentally, inspection fee of Rs 33.74 lakhs would have been levied for such inspections.

On this being pointed out (between January 1990 and January 1992), the department attributed the failure to conduct periodical inspection and tests to paucity of staff.

On this being pointed out (March 1993), Government stated (December 1993) that required target for inspection in MV Generator, X-rays, neon signs and lift installations could not be achieved during the period in question. It was further stated that instructions making the field officers accountable for completing MV inspections on a priority basis have since been issued and that the progress of inspection would be watched by the Chief Electrical Inspector during inspection of sub offices.

STAMP DUTY AND REGISTRATION FEES

6.6. Non-levy of enhanced duty on conveyance deeds

Under the provisions of Kerala Stamp Act, 1959, stamp duty leviable on conveyance of properties was enhanced from Rs 5 to Rs 6 for every Rs 100 or part thereof of the amount or value of the consideration for such conveyance set forth in the documents if the property is situated in Panchayat area and from Rs 7.50 to Rs 8.50 in areas within the jurisdiction of Municipal Corporation and Municipalities with effect from 1st August 1991.

On the recommendation contained in the 27th Report of the Committee on Public Accounts (1979), Government issued a circular (February 1980) directing that copies of the notifications were to be issued to the subordinate offices with utmost promptitude.

However, during the course of audit in 61 Sub Registry Offices relating to 12 Districts, it was noticed that the enhanced rate of stamp duty was not levied on 522 documents executed in August 1991 and September 1991. This resulted in under assessment of stamp duty amounting to Rs 1.07 lakhs.

On this being pointed out (between April 1992 and March 1993) the Sub Registrars attributed the non-levy of the enhanced rates to the delayed receipts of orders.

The case was reported to Government in June 1993; their reply has not been received (January 1994).

CHAPTER 7

FOREST RECEIPTS

7.1. Results of audit

Test check of the records of Forest Offices, conducted in audit during 1992-93 revealed non-levy or short realisation of revenue amounting to Rs 255.19 lakhs in 27 cases, which may broadly be categorised as under:

	Number of of cases	*Amount (In lakhs of rupees)*
1. Non/short realisation of value of forest produce	4	92.24
2. Lease rent/interest/penal interest not demanded	3	18.46
3. Loss in auction/re-auction	3	10.18
4. Other irregularities	17	134.31
Total	27	255.19

During the course of the year 1992-93 the department accepted under-assessment etc. of Rs 104.08 lakhs involved in 7 cases of which 5 cases involving Rs 104.05 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years.

The results of a review on "Accounting and disposal of forest offence cases" involving financial effect of Rs 54.64 lakhs are given in the succeeding paragraphs.

7.2. Accounting and disposal of forest offence cases

7.2.1. Introduction

The Kerala Forest Act, 1961, governs the law relating to the protection and the management of forests in the State. Under this Act, 'forest offence' means an offence punishable under this Act or any rule made thereunder.

Any person who commits an offence under the Act is punishable with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees in addition to such compensation for damage to the forest as the convicting court may direct to be paid. Any forest officer not below the rank of Assistant Conservator of Forests has the power to compound the offences under the Act. A time limit of one week from the date of occurrence of the offence has been fixed for filing an enquiry report by the Range Officer to the Divisional Forest Officer. No time limit has been fixed by the Chief Conservator of Forests for the finalisation of confiscation/ disposal of seized vehicles and articles.

7.2.2. Organisational set-up

The Principal Chief Conservator of Forests is the Head of Forest and Wild Life Department. He is assisted by one of the seven Chief Conservators of Forests to handle the forest offence cases. The department is divided into 6 Circles each under a Conservator of Forests. The Circles are sub-divided into Divisions each under the control of a Divisional Forest Officer. Offence cases are dealt with in all the 30 territorial Divisions. Each Division is further divided into Ranges which are under the control of Range Officers. Offence cases are booked in Range Offices.

7.2.3. Scope of Audit

With a view to ascertaining whether the accounting and disposal of the property seized in forest offence cases is in accordance with the statutory and codal provisions, the records for the year 1989-90 to 1991-92 of the Office of the Chief Conservator of Forests, Thiruvananthapuram, four Circle Offices (Kollam, Kottayam, Thrissur and Kozhikode) out of 6 Circle Offices, 12 Divisions out of 30 Divisions and two Ranges each under each Division were test checked during June to October 1992.

7.2.4. Highlights

(i) Absence of proper monitoring of forest offence cases resulted in huge pendency. Of these, 6,492 cases had become time barred. Out of these in 497 cases the mahazar loss amounted to Rs 31.64 lakhs.

(ii) Registers of offence cases in Ranges/ Divisions were not maintained properly.

(iii) Deterioration of seized vehicles due to delay in confiscation and disposal of offence cases resulted in loss of Rs 19.50 lakhs.

(iv) Thondy articles worth Rs 25.89 lakhs were pending disposal for periods ranging from 6 months to 120 months resulting in blocking of revenue.

7.2.5. Forest offence cases and their disposal

As per the annual Administration Reports of the Forest Department, offence cases pending disposal as on 31 March 1992 are detailed below:

Year	*Opening balance of pending cases*	*No. of cases booked during the year*	*Total*	*No. of cases disposed of during the year*	*Closing balance of pending cases*	*Percentage of disposal*	*Compunding fee collected (in lakhs of rupees)*
1987-88	42615	6338	48953	4979	43974	10.17	6.23
1988-89	43974	5450	49424	11096	38328	22.45	5.76
1989-90	38328	5607	43935	4786	39149	10.89	5.91
1990-91	39149	5312	44461	5254	39207	11.82	6.23
1991-92	39207	5094	44301	4930	39371	11.13	6.77

The year-wise details of the amount involved in offence cases though called for (October 1992) have not been received from the department (January 1994).

A scrutiny of the above table would reveal that in all the years except 1988-89, the number of cases disposed of was less than the number of cases booked resulting in huge accumulation of pending cases. Of 39,371 pending cases, 6,492 cases had become time barred. Out of these 6,492 cases, in 497 cases test checked in audit, the mahazar loss (estimated loss) amounted to Rs 31.64 lakhs.

Information regarding the number of cases pending with the department, the number of cases pending with the Courts and the total mahazar loss involved in respect of 39,371 cases stated to be pending for disposal as on 31 March 1992 though called for (November 1992) have not been received

(December 1993). The department stated (August 1993) that the slow disposal of offence cases was attributable mainly to delay in investigation and charging of cases and lack of effective monitoring at various levels. It was also stated (August 1993) that remedial measures introduced included like Forest Station System according to which a Deputy Ranger would be in charge of two or four stations in a range and would investigate all offences with loss less than Rs 2,500. The Deputy Ranger is being assisted by a number of Foresters and Forest Guards.

The details of the cases disposed of are given as under:

Year	*Total No. of cases disposed of during the year (a+b+c)*	*Disposed by court (a)*	*Compounded (b)*	*Withdrawn (c)*
1987-88	4,979	2,806	1,387	786
1988-89	11,096	5,146	1,408	4,542
1989-90	4,786	1,764	1,235	1,787
1990-91	5,254	1,851	1,590	1,813
1991-92	4,930	2,429	1,474	1,027
Total	31,045	13,996	7,094	9,955

Of the 31,045 cases disposed of during the years 1987-88 to 1991-92, 9955 cases (32 per cent) were withdrawn by the department. Of 13,996 cases disposed of by Courts, the department secured conviction in 6,549 cases (46 per cent). In the remaining 7,447 cases acquittal was due to non-production of the accused persons before the Court by the department.

The Government to whom the matter was reported in July 1993, stated (October 1993) that earlier, forest cases were used to be charged in the Judicial First Class Magistrate's Court. These Courts were handling other cases too. Since there is a physical limit for any court to handle and dispose of cases coming before it, it was not possible to charge all forest cases in time and get them taken to the files of the Court.

In order to overcome this difficulty, a Special Court was constituted at Thodupuzha for trial of forest cases alone (1980). Subsequently such courts started functioning in Punalur and Manjeri (1992). So far these three courts have disposed of 1147 forest cases. The Government further stated that there was a proposal for constituting three more courts, at Pathanamthitta, Palakkad and Thrissur for trial of forest cases alone and the proposal was actively being considered. This would considerably reduce the pendency of forest cases.

With the provision of additional clerical hands, authorising Range Officers to compound cases, delegation of powers to

Deputy Rangers authorising them to charge cases and opening of more courts for trial of forest cases alone, it was hoped that there would be substantial improvement in the matter of disposal of cases. It was also stated that in case of discharge of acquitted cases, scrutiny would be made to identify the reasons therefor. If possible the cases would be recharged or appeals filed as the case may be. If the acquittal or discharge was due to the wilful negligence or lapse on the part of any officer, appropriate disciplinary action would be taken against him.

7.2.6. Lack of proper monitoring

Under Section 61C of the Act, the Conservator of Forests is empowered to revise suo motu the confiscation orders issued by the Divisional Forest Officer. According to the Kerala Forest Code, Vol.I, the quarterly and annual returns of "treatment of breach of forest regulations" are to be submitted by the Divisional Forest Officer to the Conservator of Forests on the basis of quarterly returns received from the Range Officers. The Chief Conservator of Forests in November 1986 directed the Conservator of Forests to review the disposal of pending cases quarterly and send their reports to him.

It was, however, noticed that periodical returns and the review notes were not being sent by the Divisional Forest Officers to the Conservator of Forests. No review of the pending

cases seems to have been conducted by the Conservator of Forests. Lack of proper monitoring of offence cases by the Chief Conservator of Forests and Conservator of Forests resulted in huge pendency (39,371) of cases.

There was no centralised agency in the office of the Chief Conservator of Forests to co-ordinate matters relating to forest offences. A monitoring cell functioning in the Office of the Chief Conservator of Forests collects quarterly statements showing the details of forest offences from the ranges/divisions for the purpose of answering Legislative Assembly interpellations but follow up action for handling forest offence cases for their speedy disposal etc., was not being given importance by the monitoring cell. Information such as the number of cases in which confiscation orders were received from the Divisions, the number of cases in which action under Section 61C was taken etc. was not available in the Office of the Chief Conservator of Forests.

The Government to whom the matter was reported in July 1993 admitted (October 1993) that the quarterly and annual returns were not being sent by divisions regularly and that submission of returns as per provisions of the code would be insisted upon in future and registers showing details of confiscations made by forest officers also would be regularly maintained at Range, Division and Circle levels.

7.2.7. Improper maintenance of offence/thondy[1] registers

According to the Kerala Forest Code Vol.I, a register of forest offences is to be kept in every Range/Division to record details of forest offences booked and to watch their disposal. A monthly abstract of the offence cases is to be submitted by the Range Officer to the concerned Divisional Forest Officer. Another register is to be kept in every range office to record the particulars of forest produce and other properties seized and watch their disposal. Extract of the register is to be submitted to the Divisional Forest Officer by the Range Officers every month along with the monthly return of offence. Both the registers have to be closed and the balance is to be worked out at the end of every calendar year. According to Kerala Forest Code, Vol.II, the stock of timber and other produce in Government custody kept in the Ranges is to be verified by the Range Officer annually and a report with a certified list of stock balance submitted to the Divisional Forest Officer.

It was, however, noticed in audit that

(i) The registers maintained in the Range Offices/ Divisions test checked were not posted up to date.

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1. *Stolen property seized by the Police or other officers.*

(ii) The annual closings were not done and the balance of offences/thondy articles had not been worked out for the period test checked

(iii) The quarterly review of the offence cases was not being conducted by the Divisional Forest Officer

(iv) There was no evidence to show that physical verification of the stock balance of thondy articles was conducted as laid down in the Forest Code.

The Government admitted (October 1993) that there had been shortfalls in the maintenance of registers and regular review of offences, and further stated that these would be rectified soon.

7.2.8. Confiscation and disposal of seized articles

Under the Kerala Forest Act, 1961, when any person is convicted of forest offences, all timber or other forest produce in respect of which such offence has been committed and all articles used in committing such offences shall be liable, by order of the convicting magistrate, to confiscation. Timber, charcoal, firewood or ivory which are the properties of the Government together with the vehicles and articles involved, seized and produced before the authorised officer shall be confiscated. Conservator of Forests may, suo motu, revise the order of confisca-

tion before the expiry of 30 days from the date of order. Appeal can be preferred within two months from the date of order of conviction as provided in the Code of Criminal Procedure Act, 1973. In respect of confiscation orders passed, appeal may be preferred before the District Judge within 30 days from the date of communication of such orders to the party. Chief Conservator of Forests issued (March 1986) a circular to all Range Officers giving instructions to be followed while dealing with the offence cases. A time limit of one week from the date of occurrence of the offence was fixed for filing an enquiry report by the Range Officer to the Divisional Forest Officer. A maximum time limit of 14 days was allowed for hearing from the date of service of show cause notice on the party.

(i) Loss of revenue due to delay in confiscation and disposal of vehicles

No time limit has been fixed by the Chief Conservator of Forests for the finalisation of confiscation/disposal of seized vehicles and thondy articles. The Chief Conservator of Forests directed (March 1986) the Range Officers to keep the seized properties in safe custody and bestow due care and attention for keeping the properties/vehicles in such a manner so that no damage or deterioration to the property is caused by their exposure to sun, rain or other vagaries of nature. It was, however, observed (June 92 to October 92) that in 134 cases test checked

there was inordinate delay in the confiscation and disposal of seized vehicles. The delay ranged from 6 to 120 months.

Further, it was noticed (June 1992 to October 1992) that seized vehicles of the estimated value of Rs 36.60 lakhs were left exposed to the vagaries of nature and in Thiruvananthapuram Division, from two cars involved in two offence cases, valuable parts were found missing at the time of valuation, with the result the vehicles fetched Rs 17.10 lakhs only on disposal. Delayed disposal of confiscated vehicles between 1989-90 and 1991-92 in 134 cases relating to 12 Divisions resulted in loss of Rs 19.50 lakhs from sale of vehicles.

(ii) **Delay in finalisation of offence cases**

A test check of 122 offence cases pending disposal as on 31.8.92 in 12 Divisions revealed that in respect of thondy articles seized and valued at Rs 25.89 lakhs the period of pendency varied from 6 to 120 months.

Even enquiry reports were not furnished by the Range Officer to the Divisional Office in respect of 29 cases involving thondy articles worth Rs 8.35 lakhs. In 34 cases involving thondy articles valued at Rs 6.68 lakhs, confiscation orders were pending finalisation. In the remaining 59 cases involving thondy articles valued at Rs 10.86 lakhs, though confiscation orders had

been issued, these thondy articles had not been disposed of till date (October 1992). The delay in confiscation/disposal resulted in deterioration of the thondy articles and in fetching a lower value at the time of disposal.

(iii) Non disposal of thondy articles other than vehicles

Under the Kerala Forest Act, 1961, perishable articles seized may be sold with the permission of the Court. The Chief Conservator of Forests directed (February 1989) all the Divisional Forest Officers to dispose of the hardwood thondy with the permission of the Court. During the test check conducted in 12 Divisions it was noticed that thondy articles such as timber, firewood etc., deteriorated much resulting in considerable loss of revenue at the time of sale. Some instances are mentioned below:

(a) In 297 cases relating to seven Divisions (Thenmala, Punalur, Ranni, Kothamangalam, Chalakkudy, Thrissur and Kozhikode) thondy articles worth Rs 4.40 lakhs relating to the period September 1977 to July 1989 were not disposed of till date (December 1992).

(b) In one Division (Konni) 481 cu.m of timber of various varieties worth Rs 6.47 lakhs involved in 1,943 offence cases booked between the period 1953 and

1988 were not disposed of. According to the Divisional Forest Officer the articles could not be disposed of as most of the items were not in existence physically. In the absence of periodic physical verification of thondy articles in the remaining 11 Divisions the position could not be assessed in respect of them.

The Government to whom the matter was reported in December 1992 intimated (October 1993) that prescsribing time limit for finalisation of confiscation cases or disposal of confiscated vehicles may not be practical because disposal of cases at authorised officer's (Divisional Forest Officer) level depends on several factors like appearance of accused, time taken for personal hearing, examination of witnesses etc; however, all the officers had been directed to see that no delay was caused at any stage. The reply added that instructions were being issued to Divisional Forest Officers to see that disposal of confiscated vehicles was notified within 60 days from the date of expiry of appeal period or receipt of final court orders, as the case may be, and that instructions had already been issued for speedy disposal of thondy articles.

The above points were reported to the Department and Government in December 1992; replies received have been incorporated at appropriate places.

Thiruvananthapuram,
The 22 March 1994

(A. K. CHAKRABARTI)
Principal Accountant General (Audit)
Kerala

Countersigned

New Delhi,
The 12 April 1994

(C. G. SOMIAH)
Comptroller and Auditor General
of India