REPORT
OF THE
COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR
1986-87

REVENUE RECEIPTS

GOVERNMENT OF WEST BENGAL

TABLE OF CONTENTS

PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of West Bengal for the year 1986-87 is presented separately in this volume. The contents of this report are arranged in the following order:

(*i*) Chapter 1 contains an overview of the major points brought out in the Report;

(*ii*) Chapter 2 deals with the trend of receipts classifying them under tax and non-tax revenues raised by the State Government and the receipts from the Government of India. It also highlights variations between the budget estimates and the actuals under principal heads of revenue;

(*iii*) Chapters 3 to 11 bring out certain cases and points of interest that came to notice during audit of Sales Tax, Land Revenue, Mines and Minerals, Motor Vehicles Tax, State Excise, Entry Tax and Other Tax and Non-tax Receipts.

CHAPTER 1

OVERVIEW

An overview of the important points brought out in the Report is given below:

1.1 **Revenue position**

Total revenue receipts of the Government of West Bengal during 1986-87 amounted to Rs. 2510·17 crores. This comprised of Rs. 1218·92 crores tax revenue and Rs. 165·84 crores non-tax revenue. The balance Rs. 1125·41 crores was on account of share of Union Taxes (Rs. 678·26 crores) and grants-in-aid (Rs. 447·15 crores).

(*Para* 2.2)

1.2 **Results of audit**

Test check conducted during 1986-87 revealed under-assessment, non-realisation, short levy, etc. of sales tax, land revenue, mines and minerals fees, motor vehicle tax, state excise and entry tax amounting to Rs. 808 66 lakhs in 472 cases. The more significant and interesting findings contained in the Report are briefly mentioned in the following paragraphs.

(*Paras* 3.1, 4.1, 5.1, 6.1, 7.1 and 8.1)

1.3 **Sales Tax**

1.3.1 *Suppression of sales*

Cross verification by audit of the assessment records of purchasing and selling dealers revealed suppression of taxable sales of Rs. 47.61 lakhs. On these suppressed sales, tax of Rs. 4·23 lakhs was evaded by the selling dealer besides penalty leviable for suppression of sales.

(*Para* 3.4)

1.3.2 *Misclassification of goods*

In 8 assessment cases of 4 dealers, misclassification of goods resulted in short levy of tax by Rs. 11·75 lakhs.

(*Para* 3.5)

1.3.3 *Irregular exemption*

In 10 assessment cases grant of irregular exemption resulted in tax being under-assessed by Rs. 19.94 lakhs.

(*Para* 3.7)

1.3.4 *Under-assessment due to irregular concession to local corporate bodies*

In assessment cases of 3 dealers, grant of irregular concessions to local corporate bodies treating them as Government departments and levy of tax at concessional rate resulted in under-assessment of tax by Rs. 7·84 lakhs.

(*Para* 3.8)

1.3.5 *Under-assessment due to allowing irregular deductions*

In 16 assessment cases irregular deductions from assessable turnover resulted in tax being under-assessed by Rs. 7·30 lakhs.

(*Para* 3.10)

1.3.6 *Non-levy of turnover tax*

In cases of 16 dealers, the assessing officer omitted to levy turnover tax amounting to Rs. 29·89 lakhs.

[*Para* 3.13(i)]

1.4 **Land Revenue**

1.4.1 *Non-realisation or short realisation of rents of hats and markets*

Realisation of rents at lesser amounts than stipulated in respect of certain hats/markets transferred to certain local Regulated Market Committees and non-settlement of hat/market with Balarampur Regulated Market Committee resulted in revenue amounting to Rs. 2·29 lakhs not being realised.

(*Para* 4.2)

1.4.2 *Non-settlement of Government lands*

Failure to take timely action for settlement of non-agricultural Government lands measuring 4·1975 acres in accordance with rules resulted in non-realisation of revenue in the shape of lump sum *salami* of Rs. 2·84 lakhs and rent of Rs. 4·55 lakhs.

(*Para* 4.5)

1.5 **Mines and Minerals**

1.5.1 *Non-realisation of price of minor minerals unauthorisedly extracted*

Failure of the department to realise royalty at the prevailing market price of different kinds of minor minerals extracted un-

authorisedly in certain districts led to non-realisation of revenue amounting to Rs. 14·35 lakhs.

(*Para* 5.4)

1.5.2 *Non-realisation of cesses*

Failure of the department to assess and realise various types of cesses on minor minerals from permit holders resulted in non-realisation of revenue amounting to Rs. 27·11 lakhs.

(*Para* 5.5)

1.6 **Motor Vehicles Tax**

1.6.1 *Non-realisation of road tax*

Incorrect fixation of registered laden weight of certain transport vehicles, realisation of tax from the dates of registration instead of from dates of purchases and the incorrect application of the rates of tax led to non-realisation of road tax amounting to Rs. 5·20 lakhs.

(*Paras* 6.2, 6.3 and 6.4)

1.7 **State Excise**

1.7.1 *Non-levy of duty on transit wastage*

Excise duty amounting to Rs. 1·68 lakhs chargeable on transit wastages of 1,852 08 London proof litres of rectified spirit and 5,612 bottles of country spirit, was not levied and realised.

(*Para* 7.2)

1.8 **Entry Tax**

1.8.1 *Defalcation of Government money*

Failure to observe rules regarding handling and security of cash and strict compliance of the prescribed procedure at a check-post resulted in misappropriation of Government money amounting to Rs. 7·08 lakhs.

(*Para* 8.2)

1.8.2 *Irregular exemption on petroleum products*

Irregular exemption of entry tax on sale of taxable petroleum products to foreign aircrafts, treating the taxable products as non-taxable items and sale effected within the Calcutta metropolitan area as sale outside the Calcutta metropolitan area and

irregular allowance on excess operational loss led to under-assessment of tax amounting to Rs. 86·32 lakhs.

(*Paras* 8.7.6, 8.7.7 and 8.7.8)

1.9 **Agricultural Income Tax**

1.9.1 *Irregular deduction*

Grant of inadmissible deduction for computing total agricultural income resulted in short-levy of tax amounting to Rs. 1·58 lakhs.

(*Para* 9.1.7)

1.9.2 *Non-watching of acknowledgements of demand notices issued*

In the absence of a system to watch the acknowledgements of demand notices issued, there was delay of over one year in issuing fresh notices for demand amounting to Rs. 15·37 lakhs.

(*Para* 9.1.12)

1.10 **Other Tax Receipts**

1.10.1 *Non-realisation of surcharge*

In the case of an industrial unit, surcharge amounting to Rs. 1·47 lakhs was realisable on the electricity duty, but it was not realised.

(*Para* 10.4)

1.10.2 *Short levy due to misclassification*

In case of 5 instruments registered in Calcutta in 1984, there was short levy of stamp duty and registration fee by Rs. 7·47 lakhs due to misclassification.

(*Para* 10·7)

1.11 **Other Non-Tax Receipts**

1.11.1 *Loss of revenue due to non-observance of terms and conditions of contract*

In 3 forest divisions, failure to observe the terms and conditions of sale of forest produce resulted in loss of revenue to the extent of Rs. 1·85 lakhs.

(*Para* 11.1)

1.11.2 *Short assessment of water rate*

Absence of proper co-ordination between the Revenue and Engineering divisions of the same department resulted in water rate being assessed short by Rs. 3·13 lakhs.

(*Para* 11.3)

1.11.3 *Non-realisation of rent from unauthorised occupiers*

Inaction on the part of the department to realise compensation from the unauthorised occupiers of Government flats resulted in non-realisation of rent to the tune of Rs. 3·65 lakhs.

(*Para* 11.5)

1.11.4 *Loss of revenue*

Non-inclusion of a provision regarding recovery of service charges and water charges in deeds of agreement resulted in loss of Rs. 8·99 lakhs. Further, there was loss of Rs. 6·91 lakhs due to non-revision of water charges.

(*Paras* 11.7.10 and 11.7.11)

CHAPTER 2

GENERAL

2.1 **Revenue receipts**

During the year 1986-87, total receipts of the Government of West Bengal amounted to Rs. 2510·17 crores, comprising revenue raised by the State Government (Rs. 1384·76 crores) and receipts from Government of India towards State's share of divisible Union taxes and grants-in-aid (Rs. 1125·41 crores). The total receipts during the year 1986-87 showed an improvement of 7·12 per cent over those in the preceding year.

2.2 **Analysis of revenue receipts**

An analysis of the receipts during 1986-87, along with the corresponding figures for the preceding year 1985-86, is given below:

	1985-86		1986-87	
	Amount (in crores of rupees)	Percentage of total revenue raised by State Government/ receipts from Government of India	Amount (in crores of rupees)	Percentage of total revenue raised by State Government/ receipts from Government of India
I. Revenue raised by State Government:				
1. Tax revenue ..	1123·77	85·75	1218·92	88·02
2. Non-tax revenue ..	186·69	14·25	165·84	11·98
Total ..	1310·46	100·00	1384·76	100·00

	1985-86		1986-87	
	Amount (in crores of rupees)	Percentage of total revenue raised by State Government/ receipts from Government of India	Amount (in crores of rupees)	Percentage of total revenue raised by State Government/ receipts from Government of India
II. Receipts from Government of India:				
1. State's share of divisible Union taxes ..	623·52	60·37	678·26	60·27
2. Grants-in-aid ..	409·25	39·63	447·15*	39·73
Total ..	1032·77	100·00	1125·41	100·00
III. Total receipts (I+II) ..	2343·23		2510·17	
IV. (*a*) Percentage of State's own revenue to total receipts		55·93		55·17
(*b*) Percentage of receipts from Government of India to total receipts		44·07		44·83

*For details, refer to Statement No. 11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of West Bengal 1986-87.

2.3 **Tax revenue**

An analysis of tax receipts, which comprised 88·02 per cent of the total revenue raised by the State during 1986-87, is given below. The figures for the year 1985-86 have also been indicated for purposes of comparison.

Nature of tax revenue	Amount collected		Increase/** decrease in 1986-87 with reference to 1985-86
	1985-86	1986-87	
	(In crores of rupees)		
1. Taxes on Agricultural Income ..	18·92	6·09	(12·83)
2. Other Taxes on Income and Expenditure	30·48	35·45	4·97
3. Land Revenue	126·23	149·65	23·42
4. Stamps and Registration Fees ..	58·14	63·87	5·73
*5. Taxes on Immovable Property ..	0·48	0·54	0·06
6. State Excise	65·98	71·47	5·49
7. Sales Tax	630·19	695·75	65·56
8. Taxes on Vehicles	37·94	39·69	1·75
9. Taxes on Goods and Passengers ..	74·16	82·39	8·23
10. Taxes and Duties on Electricity ..	36·50	31·82	(4·68)
11. Other Taxes and Duties on Commodities and Services	44·75	42·20	(2·55)
Total	1123·77	1218·92	95·15

2.4 **Non-tax revenue**

The major sources of non-tax revenue collected by the State are interest, police, education, medical, social security and welfare, minor irrigation, soil conservation and area development, dairy development, forest, industries, mines and minerals and roads and bridges. Receipts of non-tax revenue during

*This head accommodates receipts under the West Bengal Multi-storeyed Building Tax Act, 1975.

**Figures in brackets indicate decrease.

1986-87 constituted 11·98 per cent of the total revenue raised by the State.

An analysis of non-tax revenue raised during 1986-87, along with the figures for the preceding year 1985-86, is given below:

Nature of non-tax revenue	Amount collected		Increase/ *decrease in 1986-87 with reference to 1985-86
	1985-86	1986-87	
	(In crores of rupees)		
1. Interest	29·83	47·97	18·14
2. Police	8·83	4·66	(4·17)
3. Education	3·06	3·77	0·71
4. Medical	8·21	12·75	4·52
5. Social Security and Welfare ..	40·96	8·06	(32·90)
6. Minor Irrigation, Soil Conservation and Area Development	3·70	3·34	(0·36)
7. Dairy Development	19·67	18·75	(0·92)
8. Forest	25·13	20·43	(4·70)
9. Industries	3·59	3·37	(0·22)
10. Mines and Minerals	3·64	7·07	3·43
11. Roads and Bridges	2·71	2·56	(0·15)
12. Others	37·36	33·11	(4·25)
Total	186·69	165·84	(20·85)

2.5 **Variation between budget estimates and actual receipts**

The table below compares the actual receipts with budget estimates for the year 1986-87:

*Figures in brackets indicate decrease.

Nature of receipts	Budget estimates	Actuals	Variation excess/ short-fall*	Percentage of variation*
		(In crores of rupees)		
(A) Total Receipts				
I. State's Own resources				
(*a*) Tax Revenue ..	1232·63	1218·92	(13·71)	(1·11)
(*b*) Non-tax revenue ..	171·28	165·84	(5·44)	(3·17)
II. Receipts from Government of India				
(*a*) Share of Union taxes	656·84	678·26	21·42	3·26
(*b*) Grants-in-aid ..	452·81	447·15	(5·66)	(1·24)
Total ..	2513·56	2510·17	(3·39)	(0·13)
(B) Tax Receipts				
1. Taxes on Agricultural Income ..	13·00	6·09	(6·91)	(53·15)
2. Other Taxes on Income and Expenditure	37·00	35·45	(1·55)	(4·18)
3. Land Revenue ..	120·38	149·65	29·27	24·31
4. Stamps and Registration Fees ..	55·23	63·87	8·64	15·64
5. Taxes on Immovable Property ..	0·74	0·54	(0·20)	(27·03)
6. State Excise ..	80·00	71·47	(8·53)	(10·66)
7. Sales Tax ..	736·38	695·75	(40·63)	(5·51)
8. Taxes on Vehicles ..	39·08	39·69	0·61	1·56
9. Taxes on Goods and Passengers ..	81·82	82·39	0·57	0·69
10. Taxes and Duties on Electricity ..	22·00	31·82	9·82	44·63
11. Other Taxes and Duties on Commodities and Services ..	47·00	42·20	(4·80)	(10·21)
Total ..	1232·63	1218·92	(13·71)	(1·11)

*Figures in brackets indicate shortfall.

Nature of receipts	Budget estimates	Actuals	Variation excess/ short-fall*	Percentage of varia-tion*
		(In crores of rupees)		
(C) Non-tax Receipts				
1. Interest ..	31·69	47·97	16·28	51·37
2. Police ..	6·65	4·66	(1·99)	(29·92)
3. Education ..	3·07	3·77	0·70	22·80
4. Medical ..	21·43	12·75	(8·68)	(40·50)
5. Social Security and Welfare ..	9·08	8·06	(1·02)	(11·23)
6. Minor Irrigation, Soil Conservation and Area Development ..	4·58	3·34	(1·24)	(27·07)
7. Dairy Development	23·08	18·75	(4·33)	(18·76)
8. Forest ..	23·13	20·43	(2·70)	(11·67)
9. Industries ..	3·95	3·37	(0·58)	(14·68)
10. Mines and Minerals	3·50	7·07	3·57	102·00
11 Roads and Bridges ..	2·07	2·56	0·49	23·67
12. Others ..	39·05	33·11	(5·94)	(15·21)
Total ..	171·28	165·84	(5·44)	(3·17)

2.6 **Cost of collection**

The expenditure incurred on collections under the principal heads of revenue and the percentages of cost of collection to gross collection during the years 1985-86 and 1986-87 are tabulated below:

*Figures in brackets indicate shortfall.

Receipt head	Gross collection		Expenditure on collection		Percentage of cost of collection to gross collection	
	1985-86	1986-87	1985-86	1986-87	1985-86	1986-87
			(In crores of rupees)			
1. Taxes on Agricultural Income ..	18·92	6·09	1·25	0·43	6·6	7·1
2. Other Taxes on Income and Expenditure ..	30·48	35·45	0·45	0·54	1·5	1·5
3. Land Revenue ..	126·23	149·65	8·63	9·45	6·8	6·3
4. Stamps and Registration Fees ..	58·14	63·87	5·45	6·39	9·4	10·0
5. State Excise ..	65·98	71·47	5·16	5·74	7·8	8·0
6. Sales Tax ..	630·19	695·75	5·79	7·07	0·9	1·0
7. Taxes on Vehicles	37·94	39·69	1·13	1·26	3·0	3·2
8. Taxes on Goods and Passengers ..	74·16	82·39	2·16	3·72	2·9	4·5
9. Taxes and Duties on Electricity ..	36·50	31·82	0·44	0·42	1·2	1·3
10. Other Taxes and Duties on Commodities and Services	44·75	42·20	0·27	0·52	0·6	1·2
11. Forest ..	25·13	20·43	2·84	3·20	11·3	15·7

2.7 **Uncollected revenue**

The arrears of revenue pending collection in respect of Sales tax, Entry tax and Agricultural Income tax as on 31st March, 1987 and Land Revenue as on 14th April, 1987 (as furnished by respective departments) amounted to Rs. 216·87 crores as indicated below:

Revenue heads	Opening balance as on 1st April/ 15th April 1986	Fresh demand raised during 1986-87	Amount collected during 1986-87	Amount remitted/ written off/reduced in appeal/ revision	Balance outstanding as on 31st March/ 14th April 1987
		(In crores of rupees)			
(*i*) Sales tax ..	187·29	114·17	45·31	62·80	193·35
(*ii*) Entry tax ..	0·87	79·97	80·04	—	0·80
(*iii*) Agricultural Income tax ..	13·32	2·50	1·70	0·01	14·11 (estimated)
(*iv*) Land revenue	8·38	2·29	2·06	—	8·61
Total ..					216·87

The departments concerned were requested (July 1987) to furnish information regarding arrears of revenue outstanding as on 31st March, 1987 in respect of other tax and non-tax receipts; but the same has not been received (February 1988).

2.8 **Outstanding inspection reports**

2.8.1 Audit observations on incorrect assessments, under-assessments, non-levy or short levy of taxes, duties, fees and other revenue receipts as well as on irregularities and deficiencies in initial accounts and records of assessments noticed during local audit, which are not settled on the spot, are communicated to heads of offices and to higher authorities through inspection reports for prompt settlement. The more important financial irregularities are also brought to the notice of heads of departments and the Government for taking prompt corrective measures. Govt. have prescribed that first replies to the inspection reports should be sent by heads of offices to heads of departments within three weeks from the date of receipt of the inspection report. The heads of departments, in turn are required to transmit the replies, along with their comments, to the Accountant General within two months from the date of receipt of the replies from their subordinate offices. Half-yearly statements of audit objections, awaiting settlements for want of final replies from the

departmental authorities, are also forwarded to Government in June and December every year for expediting clearance of outstanding objections.

2.8.2 The number of inspection reports and audit objections, with money values, issued up to March 1987 but not settled by the departments to the end of September 1987, together with corresponding figures for the preceding two years, are given below:

	Outstanding at the end of September		
	1985	1986	1987
Number of Inspection Reports ..	2,071	1,342	1,119
Number of audit objections ..	2,452	2,203	2,466
Money value of objections (in crores of rupees) ..	63·23	68·04	63·61

2.8.3 Receipt-wise break-up of the inspection reports and audit objections (with money values) issued up to March 1987 but remaining outstanding for settlement at the end of September 1987 is given below:

Head of receipt	Number of inspection reports	Number of audit objections	Amount (in crores of rupees)
1. Agricultural Income Tax ..	21	28	1·12
2. Land Revenue	67	400	12·42
3. Stamps and Registration Fees ..	88	126	0·36
4. Non-judicial Stamps	18	23	0·42
5. State Excise	29	47	5·39
6. Sales Tax	273	881	15·76
7. Professions Tax	37	63	0·32
8. Motor Vehicles Tax	145	386	2·92
9. Entry Tax	186	110	3·00
10. Electricity Duty	18	29	7·40
11. Amusement Tax	26	47	0·69
12. Departmental Receipts ..	211	326	13·81
Total	1,119	2,466	63·61

2.8.4 Out of 1,119 inspection reports awaiting settlement, even first round of replies had not been received (February

1988) in respect of 866 reports containing 1,786 audit objections with and without money values. Receipt-wise break-up of the objections is given below:

Head of receipt	Number of inspection reports	Number of audit objections	Earliest year to which reports relate
1. Agricultural Income Tax ..	9	7	1980-81
2. Land Revenue	67	400	1980-81
3. Stamps and Registration Fees ..	85	119	1979-80
4. Non-judicial Stamps	16	18	1979-80
5. State Excise	22	36	1981-82
6. Sales Tax	250	490	1979-80
7. Professions Tax	30	42	1984-85
8. Motor Vehicles Tax	75	195	1980-81
9. Entry Tax	78	110	1981-82
10. Amusement Tax	23	43	1980-81
11. Departmental Receipts ..	211	326	1981-82
Total	866	1,786	

2.8.5 In the following cases, where audit objections were raised five to seven years ago, upto 1981-82, no rectificatory action had been taken by the departments so far.

Head of receipt	Number of audit objections	Amount (In lakhs of rupees
1. State Excise	1	0·03
2. Land Revenue	27	163·00
3. Sales Tax	235	519·12
4. Motor Vehicles Tax	26	8·55
5. Stamps and Registration Fees	35	0·11
6. Non-judicial Stamps	3	0·12
7. Agricultural Income Tax	1	0·04
8. Entry Tax	4	1·88
9. Departmental Receipts	7	59·57
Total	339	752·42

CHAPTER 3

SALES TAX

3.1 **Results of Audit**

Test check of accounts of sales tax receipts in commercial tax offices, conducted in audit during 1986-87, revealed non-assessments/under-assessments of tax amounting to Rs. 262·91 lakhs in 201 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Irregular grant of exemption from tax ..	16	13·53
2. Incorrect determination of gross/taxable turnover	19	23·82
3. Non-levy or short levy of turnover tax ..	61	54·10
4. Short levy due to irregular and excess allowance of concessional rates	21	14·89
5. Non-levy or short levy of interest	11	3·47
6. Under-assessment due to irregular deduction ..	13	23·37
7. Under-assessment due to mistake in computation	10	11·08
8. Other cases	50	118·65
Total	201	262·91

Audit findings were reported to the Government between December 1986 and August 1987. While comments of the Government in respect of 31 cases had been received in August 1987, their replies in the remaining cases have not been received (February 1988).

Some of the important cases are mentioned in the following paragraphs.

3.2 **Incorrect determination of turnover**

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

(*a*) In the *ex-parte* assessment (December 1983) of a dealer in Calcutta for the assessment year ended December 1979, the dealer's gross turnover was determined by the assessing officer at Rs. 3,50,50,000. It was, however, observed that gross turnover of the dealer, as disclosed in his audited annual financial statements, worked out to Rs. 3,81,16,398. Thus gross turnover of the dealer was determined short by Rs. 30,66,398, resulting in short levy of tax of Rs. 2,27,527. Besides, turnover tax was also leviable on the dealer for the period from April to December 1979, which could not be ascertained in audit due to lack of relevant details.

On this being pointed out in audit (February and January 1986), Government stated in August 1987 that steps for revision of the assessment had been initiated. Further development is awaited (February 1988).

(*b*) In making *ex-parte* assessment (November 1985) of a dealer in Burdwan district for the assessment year ended March 1982, the assessing authority determined the gross turnover at Rs. 40 crores on the best judgement basis. Actually, the dealer himself had returned a gross turnover of Rs. 42·87 crores. Scrutiny of returns revealed that the assessing officer had omitted to include sales of Rs. 4·75 crores relating to June 1981 in the total gross turnover (Rs. 38·12 crores) worked out by him as per returns. The gross turnover was, thus, short determined at least by Rs. 2·87 crores leading to undercharge of tax amounting to Rs. 13,65,282.

On this being pointed out in audit (July 1986), the department admitted (August 1986) the error and proposed to refer the matter to the appellate authority for its consideration at the time of deciding the appeal petition filed by the assessee against the assessment. Further development is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

(*c*) While assessing (December 1984) a dealer of Calcutta for the year ended December 1980, the assessing officer erroneously determined the gross turnover at Rs. 21,65,211, instead of the correct figure of Rs. 31,65,211. The mistake resulted in short determination of sales by Rs. 10,00,000, with a tax effect of Rs. 74,200.

On this being pointed out in audit (March and August, 1986), Government stated in August 1987 that an amount of

Rs. 38,250 had been realised out of the fresh demand raised in consequence of revision of the assessment case. Report on realisation of the balance amount is awaited (February 1988).

(*ii*) Under the Bengal Sales Tax Rules, 1941, sale of tea in auction is exempt from tax provided the auctioneer pays the tax on behalf of his principal and furnishes a declaration in the prescribed form to this effect.

In assessing (December 1985) a dealer of Calcutta for the year ended December 1981, the assessing officer allowed deduction of Rs. 1,91,13,924 in respect of auction sales in Calcutta. The auction sales actually amounted to Rs. 1,85,53,758 as per statement of sales filed by the dealer. The excess deduction of Rs. 5,60,166 resulted in under-assessment of tax amounting to Rs. 41,564.

On this being pointed out in audit (October 1986 and January 1987), Government agreed (August 1987) to examine the case. Further report is awaited (February 1988).

(*iii*) Under the West Bengal Sales Tax Act, 1954, the term "sale-price" used in relation to a dealer means the amount of money consideration for sale of notified commodities manufactured by the dealer in West Bengal or brought by him into West Bengal from any place outside it for sale in West Bengal, according to trade practice. There is no provision in the Act like the Bengal Finance (Sales Tax) Act, 1941 which allows deduction of cost of freight or delivery charged separately. According to Supreme Court's judgement* also expenditure towards freight and delivery charges incurred prior to sale is a component of the price for which the goods are sold.

While assessing (April 1983 and October 1983) two dealers at Calcutta for assessment years ended April 1979 and June 1980, the dealers' realisations aggregating Rs. 54,30,852 from customers on account of delivery charges incurred by them prior to sale were irregularly excluded from the turnover of the dealers. This resulted in sales tax, surcharge including additional surcharge and turnover tax being levied short by Rs. 7,34,669.

On the cases being pointed out in audit (August 1985), the department maintained (August 1985 and October 1985) that delivery charges were not to be considered for determination of turnover in pursuance of a decision of the West Bengal Commercial Taxes Tribunal in revisional case No. 7/54 of 1984-85.

*Dyers Meakin Breweries Ltd., Vs. State of Kerala 26-STC. 248 (1970).

The contention of the department is not acceptable in audit since the decision of the Tribunal related to a case where delivery charges incurred after sale and not prior to sale as in the present case.

The matter was reported to Government in June 1986; their reply has not been received (February 1988).

3.3 **Incorrect determination of status of buyer**

Under the Bengal Finance (Sales Tax) Act, 1941, sales to Government are taxable, with effect from 1st April 1980, at the rate of 4 per cent as against the general rate of 8 per cent applicable otherwise. The department clarified in a trade circular issued in October 1983, that the expression "Government" would not cover local and other autonomous bodies etc.

While assessing (October 1984 and February 1986) a dealer in Calcutta for the assessment years ended October 1980 and October 1982, the assessing officer erroneously levied tax at the rate of 4 (instead of 8) per cent on his sales to Calcutta Municipal Corporation and Calcutta Metropolitan Development Authority aggregating Rs. 6,68,172, treating such sales as sales to Government. The incorrect determination of the buyers' status led to tax being levied short by Rs. 23,854.

On this being pointed out in audit (May 1986), the department admitted the mistake and agreed (July 1986) to look into the mater. Further development is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

3.4 **Suppression of sales**

With effect from 1st April, 1979, "Aluminium foiled paper" was declared as a notified commodity, taxable at 12 per cent under the West Bengal Sales Tax Act, 1954. The rate of tax was reduced to 9 per cent from 18th May, 1979. Manufacturers of notified commodities are liable to pay tax from the first day of sale of such commodities. A dealer who knowingly produces incorrect accounts or incorrect information shall be punished with simple imprisonment which may extend upto six months or fine or both.

A dealer in Calcutta, engaged in the manufacture, inter alia, of aluminium foiled paper, was granted certificate of registration under the Act on 19th May 1979. In May 1983 and December 1983 respectively, the assessing officer made two

assessments separately for the pre-registration period from 1st April to 18th May 1979 and the post-registration period from 19th May to 31st December 1979 and determined the dealer's gross turnover at Rs. 14·69 lakhs and Rs. 10·00 lakhs for the two periods respectively. Cross verification of the assessment records of another dealer of Calcutta, however, showed that he had purchased, during the period from 5th April to 10th June 1979, aluminium foiled paper from the assessee-dealer for a total consideration of Rs. 47·61 lakhs (including tax) on payment of full sales tax. These sales were not taken into account in either of two assessments of the dealer. This resulted in dealer's turnover amounting to Rs. 12·02 lakhs and Rs. 35·59 lakhs respectively escaping tax at the rate of 12 per cent and 9 per cent, involving tax effect of Rs. 4,22,583. Further, penalty was also leviable for suppression of sales.

On the omission being pointed out in audit (August 1985 and May 1986), Government stated in August 1987 that revision proceedings had been started. Further development is awaited (February 1988).

3.5 **Misclassification of goods**

(*i*) Under the West Bengal Sales Tax Act, 1954, mixture of powdered or condensed milk with other substances in which the milk content exceeds 50 per cent is a notified commodity, and is taxable at the prescribed rate. No tax is, however, leviable under the Act on the sale of any notified commodity, if purchased locally.

(*a*) Horlicks (a malted milk food), in which the milk content is less than 50 per cent, is not a notified commodity and is, therefore, taxable under the Bengal Finance (Sales Tax) Act, 1941 as general goods, at prescribed normal rate.

In five assessments of a dealer of Nadia district, for six years ending between 1973-74 and 1981-82, made between November 1980 and March 1986, his sales of locally purchased horlicks valuing Rs. 69·18 lakhs were exempted from levy of tax, treating the goods erroneously as a notified commodity. The misclassification resulted in under-charge of tax amounting to Rs. 4,98,003.

On this being pointed out in audit (January 1987), the department agreed (January 1987) to review the case. Further development is awaited (February 1988).

The matter was reported to Government in May 1987; their reply has not been received (February 1988).

(*b*) The mixture of powdered milk sold under the trade names "Bal Amul" and "Nutramul", having only 28 per cent milk content, are not notified commodity and as such are taxable under the Bengal Finance (Sales Tax) Act, 1941 at general rate of seven per cent.

In assessing (August 1982) a dealer of Calcutta for the year ended August 1978, sales of "Bal Amul" and "Nutramul" amounting to Rs. 4·40 lakhs and Rs. 19·21 lakhs respectively were wrongly charged to tax at six per cent (treating the same as notified commodities), instead of at seven per cent. The misclassification of the commodity led to undercharge of tax amounting to Rs. 24,224.

On this being pointed out in audit (August 1985), the department proposed (July 1986) revision of the assessment. Further development is awaited (February 1988).

The matter was reported to Government in June 1986; their reply has not been received (February 1988).

(*ii*) Under the Central Sales Tax Act, 1956, inter-State sale of declared goods to unregistered dealers are taxable at double the rate of tax leviable on inter-State sales. Inter-State sales of goods other than declared goods to unregistered dealer are taxable at 10 per cent or State rate, whichever is higher. Inter-State sales of refractories and ceramic materials to unregistered dealers, not being declared goods, are taxable at 10 per cent.

In assessing (January 1986) a dealer of Burdwan district, for the year ended March 1982, his inter-State sales of refractories and ceramic materials valuing Rs. 270 lakhs to unregistered dealers were erroneously taxed at 8 per cent treating the commodities as declared goods. The misclassification resulted in tax being levied short by Rs. 5,00,000.

On this being pointed out in audit (January 1987), the department stated (January 1987) that the matter was being looked into. Further development is awaited (February 1988).

The case was reported to Government in April 1987; their reply has not been received (February 1988).

(*iii*) "Non-cotton yarn (including rayon yarn) other than coir yarn and pure silk yarn" is a notified commodity and taxable at 2 per cent under the West Bengal Sales Tax Act, 1954. "Rayon yarn waste", which is by-product of rayon yarn and commercially a different commodity, is not, however, a notified commodity and is accordingly taxable at the normal rate under the Bengal Finance (Sales Tax) Act, 1941.

In assessing (March 1984) a dealer in Calcutta for the year ended March 1980, intra-State and inter-State sales of "rayon yarn waste" amounting to Rs. 4,44,565 and Rs. 16,37,650 respectively were taxed at the rate of 2 per cent, treating the same as a notified commodity, instead of at 8 per cent under the Bengal Finance (Sales Tax) Act, 1941 and 10 per cent under the Central Sales Tax Act, 1956. The misclassification resulted in tax being levied short by Rs. 1,52,716.

On this being pointed out in audit (May 1985), the department stated (June 1987) that 'rayon yarn' and 'rayon yarn waste' were the same commercial commodity and both were taxable under West Bengal Sales Tax Act, 1954.

The reply of the department is not acceptable in-as-much as in the process of coning, the yarn irregularly conned are taken out and sold in the market in lumps as rayon yarn waste which can no longer be used as rayon yarn for the purpose of weaving.

The matter was brought to the notice of Government in June 1986; their reply has not been received (February 1988).

3.6 **Turnover escaping assessment**

Under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than the declared goods) to unregistered dealers, tax is leviable at the rate of 10 per cent or at the rate of tax leviable on the sales or purchase of such goods inside the State under the State Act, whichever is higher. On inter-State sales of declared goods to unregistered dealers, tax is leviable at double the rate of tax under the State Act.

While assessing (March 1986) a dealer of Calcutta for the assessment year ended March 1982, his taxable inter-State sales were determined at Rs. 2,32,57,340 including sales of Rs. 14,00,783 made to unregistered dealers. While computing the tax, the assessing officer omitted to levy tax on the turnover of Rs. 14,00,783 at 10 per cent. The omission resulted in non-levy of tax of Rs. 1,27,344.

On this being pointed out in audit (October 1986 and January 1987), Government stated in August 1987 that notice for review had been issued to the dealer. Further development is awaited (February 1988).

3.7 **Irregular exemptions**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941, on

sales of rape-seed oil tax is leviable at two per cent from 1st April 1983 and on sales of wheat and rice at one per cent from 1st June 1983. Prior to these dates, the said commodities were exempt from tax.

In assessing (February 1985) a dealer in Darjeeling district for the year ended 8th C.S. 2041 (corresponding to 21st April 1983 to 9th April 1984), sales of wheat and rice aggregating Rs. 46,76,354 were exempted from tax considering the goods as tax-free. This resulted in under-assessment of sales tax and turnover tax amounting to Rs. 69,678.

On this being pointed out in audit (September and November 1985), Government stated in August 1987 that revision of the assessment was in process. Result of revision is awaited (February 1988).

(*ii*) Under the Bengal Finance (Sales Tax) Act, 1941 read with the rules made thereunder, all varieties of textile fabrics are tax-free. With effect from 7th April 1975, canvas cloth was included in the expression "textile fabrics". Canvas pipe, commercially a different commodity, is not canvas cloth and hence is taxable at the general rate.

In assessing (June 1985) a dealer in Calcutta, sales of canvas pipe amounting to Rs. 1,82,292 made during the assessment year ended June 1981 were exempted from tax considering the commodity as canvas cloth. The irregular exemption resulted in tax amounting to Rs. 13,526 being under-assessed.

On the mistake being pointed out in audit (June 1986), the department agreed (July 1986) to revise the assessment. Further development is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

(*iii*) The Central Sales Tax Act, 1956 empowers State Governments, to exempt from tax or to specify a lower rate of tax on any goods sold in the course of inter-State trade or commerce. By a notification issued by Government in June 1975, sales of all goods other than certain specified items made to Sikkim during 13th June to 31st October 1975 were exempted from tax. The exemption was extended, from time to time, upto 30th November 1980. By another notification issued in December 1980, sales of such goods were made chargeable to tax at concessional rate of four per cent from 9th December 1980. Accordingly, sales of such goods made to Sikkim during 1st to 8th December

1980 were taxable at the prescribed normal rates and thereafter at the concessional rate of 4 per cent.

(*a*) In assessing (January 1985) a dealer in Calcutta for the year ended March 1981, the dealer's inter-State sales of taxable goods to Sikkim up to 8th December 1980 amounting to Rs. 72,51,683 were exempted from tax, although sales amounting to Rs. 3,10,794 during 1st to 8th December 1980 were chargeable to tax at the full rate of 10 per cent. The irregular exemption resulted in undercharge of tax to the extent of Rs. 31,079.

On this being pointed out in audit (May 1986), the department admitted the mistake and agreed (July 1986) to take action in the matter. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

(*b*) In assessing (December 1984) another dealer in Calcutta for the year ended December 1981, the dealer's inter-State sales to Sikkim amounting to Rs. 2,20,180 for the period from 1st to 8th December 1980 were similarly exempted from tax. This irregular exemption resulted in undercharge of tax to the extent of Rs. 22,018.

On this being pointed out in audit (May 1986), the department admitted (August 1986) the mistake and agreed to review the case. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

(*c*) In the assessment (November 1984) of a dealer for the assessment year ended December 1980, the dealer's entire inter-State sales of taxable goods to Sikkim made during December 1980, amounting to Rs. 6,71,887 were exempted from tax, although sales amounting to Rs. 3,72,413 made during 1st to 8th December 1980 and those amounting to Rs. 2,99,474 made during 9th to 31st December 1980 were chargeable to tax at the prescribed normal rate of 8 per cent and at the concessional rate of 4 per cent respectively. The irregular exemption resulted in tax of Rs. 50,448 being assessed short.

On this being pointed out in audit (May 1986), the department agreed (June 1986) to look into the matter. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

(*iv*) Under the Central Sales Tax Act, 1956, sale of goods made in the course of export out of India is exempt from tax,

if such sale is supported by proper evidence of export. Last sale preceding the export is also exempt from tax provided such last sale is supported by declaration in Form XXXIII prescribed under the Bengal Sales Tax Rules, 1941, in addition to other evidences. Sales not so supported by necessary evidences are exigible to tax at the normal rate.

(*a*) In the assessment of a dealer in Calcutta for the assessment year ended March 1977, made in March 1981 and subsequently modified in November 1982, the assessing authority erroneously allowed exemption on account of export sales of the dealer, amongst others to Bhutan for an amount of Rs. 175·00 lakhs, instead of the correct amount of Rs. 1·75 lakhs for which related evidences of export were produced. The exemption granted in excess by Rs. 173·25 lakhs led to tax amounting to Rs. 15·75 lakhs being levied short.

On this being pointed out in audit (April 1986), the department agreed (April 1986) to revise the assessment. Report on revision is awaited (February 1988).

The case was reported to Government in June 1986; their reply has not been received (February 1988).

(*b*) While assessing (February 1984) a dealer of Calcutta for the assessment year ended March 1980, the assessing officer exempted the dealer's sales in the course of export amounting to Rs. 6·01 lakhs on the basis of statement of declaration forms filed by the dealer. Verification of the statements, however, showed that the dealer's claim stood overstated by Rs. 4,00,000. The grant of excessive exemptions led to undercharge of tax amounting to Rs. 33,680 (including turnover tax).

On the mistake being pointed out in audit (March 1985), the department accepted the mistake and stated (October 1985) that the assessment was being revised. The result of revision is awaited (February 1988)·

The case was reported to Government in June 1986; their reply has not been received (February 1988).

(*c*) In assessing (Jaunary 1985) a dealer of Calcutta for the assessment year ended March 1981, the assessing authority allowed exemption on export sales for Rs. 1049·71 lakhs, although the actual export as reflected in the dealer's certified accounts was Rs. 1009·97 lakhs. Thus the exemption was granted in excess on the turnover of Rs. 39·74 lakhs, which led to underassessment of tax to the extent of Rs. 1,53,006.

On this being pointed out in audit (March 1986), the

department agreed (April 1986) to take action in the matter. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

(*v*) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, sales of jute seeds and jute are exempted from levy of tax.

During the assessment year ended Chait Sudi 2041 (21.4.83 to 28.3.84), a dealer in Cooch Behar district dealing in resale of jute, jute seeds and hardwares claimed exemption for sale of jute seeds and jute aggregating Rs. 2·50 lakhs out of his returned gross turnover of Rs. 10·06 lakhs. While assessing (June 1985) the dealer on best judgement, the assessing officer determined gross turnover at Rs. 10·10 lakhs and allowed exemption for Rs. 6·15 lakhs on account of sale of jute and jute seeds against the dealer's claim of Rs. 2·50 lakhs. The excess allowance of exemption resulted in an undercharge of tax of Rs. 27,107.

On this being pointed out in audit (January 1987), the department agreed (January 1987) to review the assessment. Further development is awaited (February 1988).

The case was reported to Government in March 1987; their reply has not been received (February 1988).

(*vi*) Under the Bengal Finance (Sales Tax) Act, 1941, sales of "tuner amplifier with speaker" included in schedule II to the Act are exigible to tax at the rate of fifteen per cent with effect from 1st April, 1974. Sale of goods, which are notified under the West Bengal Sales Tax Act, 1954, are exempt from tax if they are purchased locally in West Bengal. 'Tuner amplifier with speaker' is, however, not a notified commodity under 1954 Act.

In assessment (March 1986) of a dealer of Burdwan district for the year ending March 1982, sale of 'tuner amplifier with speaker' valuing Rs. 1·45 lakhs was exempted from tax treating it a notified commodity under 1954 Act, purchased locally. The irregular exemption resulted in undercharge of tax amounting to Rs. 18,818.

On this being pointed out in audit (December 1986), the department agreed (January 1987) to look into the case. Further developments are awaited (February 1988).

The matter was reported to Government in April 1987; their reply has not been received (February 1988).

3.8 Under-assessment due to irregular concessions to local corporate bodies

Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales are taxable at the rate of 10 per cent and 8 per cent in case of general goods and declared goods respectively if they are not supported by the prescribed declarations/certificates obtained from purchasing dealers or purchasing Government department concerned. In case of such sales to Government departments, concessional rate of three per cent upto 30th June 1975 and four per cent thereafter, is applicable against certificates in the prescribed Form 'D' issued by authorised Government officers. Government undertakings and statutory bodies such as, Food Corporation of India, State Electricity Board, Dry Docks etc., which have separate legal entity, are not authorised to issue such certificates.

(*a*) In assessing (October 1984) a dealer of Calcutta for the year ended March 1976, sales to Government undertakings and statutory bodies, of non-declared goods for Rs. 8·88 lakhs for the period up to 30th June 1975 and non-declared and declared goods for Rs. 33·19 lakhs and Rs. 10·51 lakhs respectively for the period beyond 30th June 1975, were charged to tax at concessional rate of three and four per cent respectively against the certificates in Forms 'D' without examining the validity of such certificates. This resulted in an under-assessment of tax of Rs. 3·03 lakhs.

On this being pointed out in audit (June 1986), the department agreed (July 1986) to review the assessment. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

(*b*) In assessment (November 1982) of a dealer of Calcutta for the year ending March 1977, sales aggregating Rs. 72·04 lakhs to statutory local bodies and Government undertakings were assessed at the concessional rate of 4 per cent against certificates in Form 'D' furnished by them without examining the validity of the said certificates. This resulted in an under-assessment of tax of Rs. 4,15,622.

On this being pointed out in audit (April 1986), the department admitted (May 1986) the mistake and proposed (July 1986) revision of the assessment. Further development is awaited (February 1988).

The case was reported to Government in February 1987; their reply has not been received (February 1988).

(*c*) In assessing (March 1981) a dealer of Calcutta for the year ended March 1977, sales aggregating Rs. 11,29,444 to statutory local bodies were assessed at the concessional rate of 4 per cent against certificates in Form 'D' furnished by them without examining the validity of the certificates. This resulted in under-assessment of tax to the extent of Rs. 65,160.

On this being pointed out in audit (April 1986), the department admitted (June 1986) the mistake and agreed to take action in this regard. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

3.9 **Mistakes in computation of tax**

(*a*) In an assessment (March 1986) of a dealer of Calcutta under the Bengal Finance (Sales Tax) Act, 1941, for the year ended March 1982, tax leviable at the rate of 8 per cent on turnover of Rs. 85 lakhs was erroneously computed at Rs. 63,070, instead of at Rs. 6,30,700. The mistake resulted in under-assessment of tax of Rs. 5,67,630.

On this being pointed out in audit (November 1986), the department agreed (December 1986) to take necessary action. Further development is awaited (February 1988).

The matter was reported to Government in April 1987; their reply has not been received (February 1988).

(*b*) In the assessment (March 1981) of a dealer of Calcutta for the assessment year ended March 1977, his claim for deduction of Rs. 79,51,389 towards value of materials supplied in a works contract was disallowed by the assessing authority and charged to tax at the concessional rate of 2 per cent.

The appellate authority in his orders, passed in July 1982, directed the assessing authority to allow deduction of Rs. 79,51,389 from the taxable turnover treating the claim as forming part of an indivisible works contract. While modifying the assessment in July 1985 in pursuance of the appellate orders, the assessing authority erroneously deducted Rs. 79,51,389 from the turnover taxable at 6 per cent, instead of from the turnover initially taxed at 2 per cent. The mistake resulted in tax being levied short by Rs. 3,24,496.

On this being pointed out in audit (April 1986), the department admitted the mistake and agreed (May 1986) to take steps for revision of the assessment. Report on revision is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

3.10 **Irregular deductions**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941, "sale price" means the amount payable to a dealer as valuable consideration for the sale of any goods, including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof, other than the cost of freight or delivery or the cost of installation, when such cost is separately charged. Accordingly, brokerage/commission received from purchasers for services rendered by a dealer in connection with the sales forms a part of the sale price for the purpose of levy of sales tax.

In assessment (March 1986) of a dealer for the year ended March 1982, the dealer's gross turnover from sale of stone made to certain Public Works Divisions and to Calcutta Corporation was determined at Rs. 5,81,594 after allowing a deduction of Rs. 6,98,795 towards cost of delivery of the goods. A cross verification of payment certificates given by the purchasers, however, revealed that only a sum of Rs. 71,634 was separately charged towards cost of delivery. The excessive allowance of deduction of Rs. 6,27,161 led to tax amounting to Rs. 24,146 being underassessed.

On this being pointed out in audit (May 1986), the department agreed (June 1986) to review the assessment. The results of the review are awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

(*ii*) Under the Central Sales Tax Act, 1956, sales in the course of export outside the territory of India are exempt from tax provided such sales are supported by necessary evidence of export. Sales not supported by proper evidences are not eligible for exemption and, accordingly, attract tax at the prescribed rate.

In the assessment (December 1985) of a dealer of Calcutta for the assessment year ended December 1981, his entire gross turnover of Rs. 35,30,781 was allowed exemption from tax on the ground that the turnover was realised from export of tea out of India. Verification of the evidences of export, however, showed that the dealer's actual export sale was Rs. 33,59,165. The exemption allowed by the assessing officer was, thus, excessive by Rs. 1,71,616 and this resulted in tax of Rs. 17,162 being levied short.

On this being pointed out in audit (June 1986), the department agreed (July 1986) to take necessary action. Report on the action taken is awaited (February 1988).

The matter was reported to Government in December 1986; their reply has not been received (February 1988).

(*iii*) Under the Central Sales Tax Act, 1956, in determining the taxable turnover of a dealer, a deduction for the element of tax is allowable, according to a prescribed formula, from the aggregate of sale prices, provided the tax collected has not otherwise been deducted from the aggregate of sale prices. According to the formula, the amount of deduction varies directly with the rate of tax leviable. Inter-State sales made by a dealer to Government departments and registered dealers are taxable at the concessional rate of 4 per cent; while sales in the course of export out of India, subsequent sales during their movement to other States and transfer of goods to places outside the State are exempt from tax, if such sales or transfers are supported by prescribed declarations and evidence of despatch as the case may be.

(*a*) In three assessment cases of three dealers of Calcutta for the assessment years ended between March 1977 and March 1981 (completed between March 1981 and March 1985), the dealers' claims for deduction on account of (*i*) sales in the course of export and (*ii*) subsequent sales of goods during their movement from one State to other State, aggregating Rs. 285·57 lakhs were disallowed for lack of required documentary evidences and prescribed declarations and sales were subjected to tax at 10 per cent. However, while determining the taxable turnover, deductions aggregating Rs. 25·96 lakhs, computed on the basis of the said formula, were allowed. Since no tax was collected on the transactions in question, the grant of deductions was irregular and resulted in under-assessment of tax to the extent of Rs. 2·60 lakhs.

On this being pointed out in audit (June 1985 and April 1986), the department agreed (May 1986) to revise the assessments in two cases. In the remaining one case, they agreed (July 1986) to take action. Further report is awaited (February 1988).

(*b*) In nine assessment cases of eight dealers for the year ended between March 1977 and September 1981 (completed between March 1981 and February 1986), claims of the dealers on account of inter-State sales amounting to Rs. 208·08 lakhs, made at the concessional rate of 4 per cent to Government departments and registered dealers, were disallowed for non-production of prescribed certificates and declarations. The dis-

allowed turnover was charged to tax at 10 per cent or 8 per cent as the case may be. While determining the taxable turnover, deductions towards element of tax aggregating Rs. 18·03 lakhs, computed on the basis of the said formula, were wrongly allowed at the rate of 10 per cent and 8 per cent, instead of at the concessional rate of 4 per cent. The deduction allowable at the concessional rate of 4 per cent worked out to Rs. 8 lakhs only. Thus the incorrect allowance of deductions of Rs. 10 03 lakhs in these cases, resulted in under-assessment of tax to the tune of Rs. 96,476.

On these cases being pointed out in audit (April 1986 and July 1986), the department admitted the mistake and agreed (May 1986 and July 1986) to revise the assessments in all the cases except one case, in respect of which they agreed (May 1986) to refer the case to the appellate authority with whom the case was lying. Further report is awaited (February 1988).

The cases at (*a*) and (*b*) above were reported to Government between December 1986 and February 1987; their reply has not been received (February 1988).

(*c*) In assessing (March 1986) a dealer of Nadia district, for the year ended March 1982, his claim for deduction on account of consignment sales to a place outside West Bengal for Rs. 1·50 lakhs was disallowed for want of evidence. Further, a claim for concessional rate of tax of 4 per cent on account of inter-State sales amounting to Rs. 148·42 lakhs to registered dealers was disallowed due to non-production of prescribed declarations. The assessing authority decided to levy tax at 8 per cent on account of sales of declared goods amounting to Rs. 100 lakhs and at 10 per cent on Rs. 49·92 lakhs. However, while determining his taxable turnover, the deduction towards element of tax from gross turnover was allowed as per the prescribed formula on the basis of tax rate of 8 per cent and 10 per cent although no tax was collected on consignment sales and 4 per cent tax was collected on sales to registered dealers. The excessive allowance of deduction resulted in under-assessment of tax by Rs. 55,251.

On this being pointed out in audit (January 1987), the department stated (January 1987) that the matter would be brought to the notice of the appellate authority for consideration at the time of disposal of the appeal petition filed by the dealer. Further development is awaited (February 1988).

The matter was reported to Government in May 1987; their reply has not been received (February 1988).

(*d*) In assessing (June 1985) a dealer of Calcutta for the year ended June 1981, his claim for concessional rate of tax at 4 per cent on account of sales to registered dealers was disallowed due to rejection of declaration forms submitted by him and tax at the rate of 10 per cent was levied. But in determining the taxable turnover, deduction towards element of tax was allowed, based on the tax rate of 10 per cent, instead of 4 per cent at which tax was actually collected by the dealer. The excess deduction resulted in short levy of tax to the tune of Rs. 2,77,175.

On the mistake being pointed out in audit (November 1986), the department admitted (January 1987) the mistake and agreed to refer the matter to appellate authority with whom an appeal filed by the dealer against the assessment order was pending. Further development is awaited (February 1988).

The matter was reported to Government in June 1987; their reply has not been received (February 1988).

3.11 **Short levy due to application of lower rate of tax**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941, sale of lottery tickets is taxable at 20 per cent with effect from 1st May 1984.

In the assessment (March 1985) of a dealer in Calcutta, relating to the period from 1st April 1984 to 13th November 1984, his turnover from sale of lottery tickets amounting to Rs. 1,32,44,732 from May 1984 onwards was erroneously taxed at the general rate of 8 per cent, instead of at 20 per cent. The erroneous application of the lower rate led to the tax amounting to Rs. 1,22,489 being levied short.

On the mistake being pointed out in audit (July 1986), the department made a *suo motu* review and issued revised demand notice through process service (September 1986). Report on realisation is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

(*ii*) Jute goods namely, hessain, sacking and carpet backing made of jute were taxable at 4 per cent as notified commodities under the West Bengal Sales Tax Act, 1954 up to 31st March, 1984. From 1st April, 1984, the commodities were denotified and were taxable at the rate of 8 per cent under the Bengal Finance (Sales Tax) Act, 1941.

In assessing (February 1985) a dealer in Calcutta for the year ended July 1984, sales of hessian, sacking and carpet backing amounting to Rs. 5,00,000, effected between 1st April 1984 and 31st July 1984, were erroneously charged to tax at 4 per cent, instead of at 8 per cent. This resulted in short levy of tax by Rs. 17,850.

On this being pointed out in audit (March 1986), the department agreed (April 1986) to take action. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

3.12 **Irregular allowance of concessional rate of tax**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941, all declared goods when sold to registered dealers for resale in West Bengal were exempt from tax up to 31st May 1983. Further, sales of such goods to manufacturing dealers for use in the manufacture of taxable goods for sale in West Bengal, were taxable at the concessional rate of 1 per cent during the period from 1st April, 1981 to 30th September, 1982 (3 per cent during the period from 10th October 1977 to 31st March 1981). In either case, however, the claims for exemption or for concessional rate of tax were to be supported by declarations in prescribed forms. Sales not supported by prescribed declaration forms were exigible to tax at the normal rates.

(*a*) In the assessment (March 1985) of a dealer in Calcutta for the year ending March 1981, sales of declared goods to a registered dealer aggregating Rs. 543·26 lakhs were exempted from tax on the basis of statement of declaration forms filed by the dealer. Total in this statement was, however, overstated by Rs. 42·49 lakhs due to a totalling mistake. Non-detection of the totalling mistake resulted in under-assessment of tax of Rs. 1,63,587.

On this being pointed out in audit (July 1986), the department admitted (July 1986) the mistake and agreed to take necessary action. Further development is awaited (February 1988).

The case was reported to Government in February 1987; their reply has not been received (February 1988).

(*b*) In assessing (March 1986) a dealer in Calcutta for the assessment year ended March 1982, his sales of declared goods to reseller-dealers for Rs. 198·12 lakhs were exempted from tax and

his sale to manufacturer-dealers for Rs. 426·85 lakhs were taxed at the concessional rate of 1 per cent even though the dealer had produced prescribed declaration forms covering sales of Rs. 197·12 lakhs and Rs. 408·85 lakhs respectively only. Irregular allowance of exemption for sale of Rs. 1 lakh and concessional rate of tax for sales of Rs. 18 lakhs resulted in short levy of tax of Rs. 55,330.

On this being pointed out in audit (September 1986), the department realised the amount of short levy (Rs. 55,330) in September and November 1986.

Government confirmed the realisation in August 1987.

(*c*) In assessing (January 1985) a dealer in Calcutta for the assessment year ended Chait-Sudi 2038 (corresponding to 25th March 1980 to 11th April 1981), the assessing officer granted exemption and allowed concessional rate of tax on the dealer's turnover of declared goods amounting to Rs. 19,78,525 although actual sale of such goods, as reflected in the dealer's certified annual statements of account, aggregated Rs. 10,45,376. The irregular grant of exemption and concessional rate of tax on differential sale of Rs. 9,33,149 resulted in tax being undercharged by Rs. 69,240.

On this being pointed out in audit (July 1985), the assessing officer reviewed (August 1986) the assessment *suo motu*. During the course of review, the dealer's books of account were rejected and the gross turnover enhanced by Rs. 15 lakhs on the basis of best judgement. An additional demand for tax amounting to Rs. 87,888 was raised in August 1986; report on realisation is awaited (February 1988).

The matter was reported to the department and the Government in January 1986; Government stated in August 1987 that the demand was being pursued. Further development is awaited (February 1988).

(*ii*) Under the Bengal Finance (Sales Tax) Act, 1941, sales of goods to Government are taxable at the concessional rate of 4 per cent provided such sales are supported by evidences like purchase orders from Government departments, etc., otherwise, they are taxable at the general rate of tax.

In assessing (May 1984) a dealer in Jalpaiguri district for the assessment year ended March 1981, his sales to Government amounting to Rs. 8·44 lakhs were taxed at the concessional rate of 4 per cent even though the dealer could not produce any evidence in support of his claim for concessional rate of tax.

The irregular grant of the concessional rate of tax led to short levy of tax amounting to Rs. 30,134.

On this being pointed out in audit (February 1986), the department admitted (February 1986) the mistake and agreed to take necessary action. Further development is awaited (February 1988).

The case was reported to Government in July 1986; their reply has not been received (February 1988).

(*iii*) Under the Bengal Finance (Sales Tax) Act, 1941 and rules framed thereunder, sales of goods other than declared goods and Schedule II goods to registered dealer for resale or use by him directly in the manufacture of goods for sale, in West Bengal, are taxable at varying concessional rates subject to production of prescribed declaration forms obtained from the purchasing dealer. Sales, not supported by the prescribed declarations, are taxable at the normal rate.

(*a*) In the assessment (March 1986) of a dealer in Burdwan district for the year ended March 1982, his claim for concessional rate of tax at the rate of one per cent was allowed for Rs. 868·90 lakhs on the basis of the statement of declaration forms filed by the dealer. It was, however, noticed (July 1986) in audit that the total of these statements was overstated by Rs. 20·71 lakhs, which resulted in under-charge of tax amounting to Rs. 1,33,155.

On this being pointed out in audit (July 1986), the department admitted (August 1986) the mistake and agreed to refer the case to the appellate authority before whom the dealer had preferred an appeal. Further development is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

(*b*) In assessing (March 1984) a dealer of Calcutta for the year ended March 1980, concessional rate of tax on turnover amounting to Rs. 53,64,16,467 was allowed on the basis of statements of declaration forms filed by the dealer. In these statements, however, the actual turnover was over-stated by Rs. 12,46,973. The excess allowance of concessional rate resulted in under-charge of tax to the extent of Rs. 56,145.

On this being pointed out in audit (August 1985), the assessing authority reviewed the assessment *suo motu* (December 1985) and raised the demand. Report on recovery is awaited (February 1988).

The matter was reported to Government in May 1986; their reply has not been received (February 1988).

(*c*) In assessing (January 1984) a dealer of Calcutta for the year ended March 1980, the dealer's claim for concessional rate of tax was allowed for Rs. 33,51,486 on the basis of the total of the statements of declarations filed by the dealer. It was, however, noticed in audit that the total of the statements was overstated by Rs. 3,00,000 which led to under-assessment of tax to the extent of Rs. 19,290.

On this being pointed out in audit (March 1986), the department stated (May 1987) that the proposal for revision had been made. Further development is awaited (February 1988).

The matter was reported to Government in August 1986; their reply has not been received (February 1988).

(*d*) In the assessment (November 1984) of a dealer in Calcutta, for the year ending December 1980, his claim for sale at concessional rate was allowed for Rs. 277·01 lakhs on the basis of statement of declaration forms filed by the dealer. It was, however, noticed that total of these statements was overstated by Rs. 2·70 lakhs. Non-detection of the mistakes in totalling resulted in under-assessment of tax of Rs. 17,361.

On this being pointed out in audit (June 1986), the department admitted (July 1986) the mistake and agreed to take necessary action. Further development is awaited (February 1988).

The case was reported to Government in February 1987; their reply has not been received (February 1988).

(*e*) In assessing (October 1985 and March 1986) a dealer of Calcutta for the years ended May 1982 and May 1983, his turnovers to registered dealers were determined at Rs. 15,50,661 and Rs. 14,39,532 respectively and were taxed at the concessional rate of one per cent. But, as per the declaration forms submitted by the dealer, the actual turnovers qualifying for concessional rate of tax amounted to Rs. 14,75,661 and Rs. 12,80,532 for the year ended May 1982 and May 1983 respectively. Thus, sales aggregating Rs. 2,34,000, which were not covered by the prescribed declarations, would be taxable at the normal rate. The incorrect assessment resulted in under-charge of tax of Rs. 15,046.

On this being pointed out in audit (December 1986), the department admitted (December 1986) the mistake and agreed to take action in the matter. Further development is awaited (February 1988).

The matter was reported to Government in April 1987; their reply has not been received (February 1988).

(*iv*) Under the Central Sales Tax Act, 1956 and rules made thereunder, inter-State sales of goods other than declared goods to registered dealers are taxable at the concessional rate of 4 per cent, if such sales are supported by declarations in prescribed forms obtainable from the purchasing dealers; otherwise the tax is payable at the rate of 10 per cent or the rate of tax applicable under the State Act, whichever is higher. Under the rules made under the Act, no single declaration shall cover more than one transaction of sale, except where the total amount of sales made in a financial year covered by one declaration is equal to or less than Rs. 10,000.

(*a*) In the assessment (March 1986) of a dealer in Burdwan district for the year ended in March 1982, claim for concessional rate of tax at four per cent was allowed for Rs. 2259·30 lakhs on the basis of the statements of declaration forms filed by the dealer. It was, however, noticed (July 1986) in audit that the total of these statements was overstated by Rs. 44·73 lakhs. The inadmissible allowance of concessional rate on sales of Rs. 44·73 lakhs resulted in under-charge of tax of Rs. 2,34,597.

On this being pointed out in audit (July 1986), the department admitted (August 1986) the mistake and agreed to refer the case to the appellate authority. Further development is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

(*b*) In assessing (October 1983) a dealer of Calcutta for the year ended October 1979, the assessing officer allowed concessional rate of tax on turnover amounting to Rs. 2,55,25,793. In the sppporting statement of declarations, submitted by the dealers, the amount was overstated by Rs. 8,03,035. The excess allowance of concessional rate resulted in under-charge of tax of Rs. 46,329.

On this being pointed out in audit (October 1985), the department stated (May 1987) that a proposal had been sent (June 1986) for *suo motu* revision. Further development is awaited (February 1988).

The matter was reported to Government in May 1986; their reply has not been received (February 1988).

(*c*) In the assessment (March 1985) of a dealer of Calcutta for the year ending March 1981, his claim for concessional rate of tax on sales aggregating Rs. 230·11 lakhs was allowed on the basis of declarations produced by him. It was, however, noticed

that sale amounting to Rs. 92·58 lakhs was covered by declarations, where aggregate of transactions in a single declaration in a financial year exceeded Rs. 10,000. These declarations being invalid were not entitled to concessional rate of tax. This resulted in under-assessment of tax of Rs. 5,34,094.

On this being pointed out in audit (June 1986), the department admitted (July 1986) the mistake and agreed to take necessary action in the matter. Further development is awaited (February 1988).

The case was reported to Government in February 1987; their reply has not been received (February 1988).

3.13 **Non-levy or short levy of turnover tax**

A dealer, whose aggregate of gross turnovers under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 during the last year ended on or before 31st March 1979 exceeded rupees fifty lakhs, is liable to pay a turnover tax, from 1st April 1979, at the prescribed rates on that part of his turnover which remains after allowing the admissible deductions therefrom. Further, a dealer, whose aggregate of gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 during any year ending on or after 1st April 1979 exceeds rupees fifty lakhs, becomes liable to pay turnover tax from the first day of the year immediately following such year. Once a dealer becomes liable to pay turnover tax, he continues to be so liable until the expiry of three consecutive years irrespective of whether the aggregate of his gross turnover under both the Acts during these years exceeds rupees fifty lakhs or not. The rate of turnover tax is 1 per cent, if the aggregate of gross turnover exceeds rupees one crore and ½ per cent, if aggregate of gross turnover does not exceed rupees one crore.

(*i*) It was noticed in audit (between January 1985 and December 1986) that the gross turnover of 16 dealers for the years ending between April 1978 and December 1981 exceeded Rs. 50 lakhs in each case. The dealers, therefore, became liable to pay turnover tax on their turnover in the subsequent years. However, turnover tax, which amounted to Rs. 29,89,021, was omitted to be levied and recovered by the department as detailed below:

District/place to which dealer belonged	Year in which gross turnover had exceeded Rs. 50 lakhs	Subsequent year of assessment in which turnover tax was leviable and the month in which the assessment was completed	Turnover liable for turnover tax	Turnover tax leviable but not levied	Reply of the Government/ department
1	2	3	4	5	6
			Rs.	Rs.	
1. Calcutta	Year ended March 1979	Year ended March 1980 May 1983	4 crores	4,00,000	The department admitted (January 1985) the mistake and agreed to take necessary action.
2. Calcutta	Year ended December 1978	Year ended December 1979 December 1983	72,23,667	36,118	The department stated (July 1986) that the omission had been brought to the notice of the appellate authorities for consideration.
3. Calcutta	Year ended March 1979	Year ended March 1980 December 1983	1,88,00,000	1,88,000	The department agreed (January 1985) to take necessary action.
4. Calcutta	Year ended October 1978	Year ended October 1979 to October 1982 Between June 1982 and September 1983	91,15,988	45,585	The department raised (March 1985) the demand.

5.	Calcutta	Year ended December 1978	Year ended December 1979, 1980 and 1981 Between November 1983 and December 1985	12·25 crores	12,25,000	The department agreed (July 1986) to realise the demand.
6.	Calcutta	Year ended December 1978	Year ended December 1979 and 1980 July 1983 and September 1984	59,65,043	47,211	The department realised (August 1986) the escaped turnover tax.
7.	Calcutta	Year ended March 1979	Year ended March 1980 and 1931 March 1984 and February 1985	5·90 crores	5,90,000	The department agreed (February 1986) to make *suo motu* revision.
8.	Calcutta	Year ended October 1979	Year ended October 1980 and 1981 September 1984 and October 1985	159·67 lakhs	1,40,000	The department agreed (December 1986) to take action.
9.	Calcutta	Year ended April 1979	Year ended April 1981 November 1983	38,65,698		

District/place to which dealer belonged	Year in which gross turnover had exceeded Rs. 50 lakhs	Subsequent year of assessment in which turnover tax was leviable and the month in which the assessment was completed	Turnover liable for turnover tax	Turnover tax leviable but not levied	Reply of the Government/ department
1	2	3	4	5	6
			Rs.	Rs.	
	-do-	Year ended April 1983 December 1985	36,83,585	37,746	The department raised (August 1986) the demand.
10. Calcutta	Year ended December 1978	Year ended December 1979 December 1984	1 crore	1,00,000	Government stated (August 1987) that the omission would be brought to the notice of appellate authority.
11. Calcutta	Year ended April 1978	Year ended April 1979 November 1981 modified in January 1984	20,85,360	20,854	Government stated (August 1987) that amount of Rs. 20,854 had since been realised (October 1986).

12.	Midnapore	Year ended April 1981	Year ended April 1982 December 1985	60,00,000	30,000	Government stated in August 1987 that the cases were under appeal.
13.	Calcutta	Year ended December 1979	Year ended December 1980 November 1984	48,64,972	24,325	Government agreed (August 1987) to revise the assessment.
14.	Calcutta	Year ended December 1980	Year ended December 1981 December 1985	66,09,247	33,046	Government stated in August 1987 that the case was in the process of review.
15.	Calcutta	Year ended December 1981	Year ended December 1982 and 1983 Between May 1985 and January 1986	46,25,218 46,05,389	46,153	Government stated (August 1987) that the amount of Rs. 23,027 for the year 1983 had since been realised (March 1987) and appeal was pending for the year 1982.

1	2	3	4	5	6
			Rs.	Rs.	
16. Calcutta	Year ended December 1978	Year ended December 1980 to December 1984	24,98,339	24,983	Government stated (August 1987) that the case was in the process of revision.
		Total		29,89,021	

The cases at Sl. no. 1 to 9 were reported to Government between April 1985 and April 1987; their reply has not been received (February 1988).

(*ii*) In assessing (November 1984) a dealer of Calcutta for the assessment year ended December 1980, turnover tax at 1 per cent was levied on a taxable turnover of Rs. 1,48,34,938, instead of on the correct taxable turnover of Rs. 2,87,16,111. This led to turnover tax being levied short by Rs. 1,38,812.

On this being pointed out in audit (February and June 1986), Government stated in August 1987 that the case was under revision but the dealer appealed against the assessment order. Further development is awaited (February 1988).

(*iii*) In the assessment of a dealer in Calcutta for the year ended December 1981, made in November 1985, turnover tax was erroneously computed at Rs. 11,300 instead of at Rs. 1,50,000 on his taxable turnover of Rs. 1,50,00,000. This resulted in short levy of tax to the tune of Rs. 1,38,700.

On this being pointed out in audit (November 1986), the department agreed (December 1986) to take action in the matter. Further report is awaited (February 1988).

The matter was reported to Government in April 1987, their reply has not been received (February 1988).

(*iv*) While assessing (May 1986) a dealer in Calcutta for the year ended June 1980, the assessing officer computed turnover tax, on taxable turnover of Rs. 32,36,493, at Rs. 3,464, instead of Rs. 32,365. The mistake resulted in turnover tax amounting to Rs. 28,901 being levied short.

On the mistake being pointed out in audit (January and November 1986), Government stated (August 1987) that the case was in the process of revision. Report on revision is awaited (February 1988).

(*v*) While assessing (November 1983) a dealer of Calcutta for the assessment year ended December 1979 under the 1954 Act, turnover tax was erroneously levied at one half per cent, instead of at one per cent on the taxable turnover of Rs. 45,60,770 relating to the period from April to December 1979. The application of the lower rate resulted in under-charge of turnover tax amounting to Rs. 22,804.

On this being pointed out in audit in December 1985, the department stated (December 1986) that the assessment had since been revised and the amount realised (March 1986).

Government confirmed the realisation in August 1987.

(*vi*) In an assessment (March 1984) of a dealer for the year ended March 1980, the turnover tax was incorrectly levied at one half per cent, instead of one per cent on the dealer's taxable

turnover of Rs. 86,57,708. The application of the incorrect rate led to tax being levied short by Rs. 42,789.

On this being pointed out in audit (December 1985), the department stated (April 1987) that the amount had since been realised in April 1986. Government confirmed the realisation in August 1987.

(*vii*) In assessing (May 1985) a dealer of Calcutta for the assessment year ended June 1981, turnover tax was erroneously levied at one half per cent, even though the dealer's total gross turnover during the assessment year exceeded rupees one crore. The mistake resulted in short levy of turnover tax by Rs. 40,359.

On this being pointed out in audit (June 1986 and February 1987), Government agreed (August 1987) to consider the observation made by audit at the time of hearing of the case under appeal. Further development is awaited (February 1988).

(*viii*) Deduction on account of sale of goods, which are generally exempt from tax is admissible for arriving at the taxable turnover liable to turnover tax. But, sale of goods exempted against declarations, not being goods generally exempted from tax, does not qualify for deduction for the purpose of turnover tax.

In assessing (May 1983) a dealer of Calcutta for the year ended June 1980, deduction on account of goods sold to the holders of provisional certificates against declarations for Rs. 17,96,177 was allowed for the purpose of determination of turnover tax which was not admissible. This resulted in undercharge of turnover tax of Rs. 17,962.

On this being pointed out in audit (October 1985), the department admitted (November 1985) the mistake and agreed (April 1987) to send the assessment for revision. Further development is awaited (February 1988).

The matter was reported to Government in May 1986; their reply has not been received (February 1988).

3.14 **Short realisation due to affording excess credit**

Under the Sales Tax laws, the dealers are required to file the prescribed returns of their sales and pay tax according to these returns. These advance payments are adjusted against the tax due worked out on assessment.

(*i*) While completing (March 1984) the assessment of a dealer of Calcutta under the Central Sales Tax Act, 1956 for the assessment year ended March 1980, adjustment towards advance

payment of tax was erroneously made for an amount of of Rs. 12,96,796, instead of Rs. 10,41,796 actually paid by the dealer. The mistake resulted in tax being realised short by Rs. 2,55,000.

On the mistake being pointed out in audit (April 1985), the department stated (April 1985) that the matter was being looked into. Report on action taken is awaited (February 1988).

The case was reported to Government in June 1986; their reply has not been received (February 1988).

(*ii*) On completing (September 1985) the assessment of a dealer of Calcutta for the assessment year ended September 1981, the amount of tax due for recovery after adjustment of advance payments was determined at Rs. 1,36,457. However, tax of Rs. 36,457 only was erroneously demanded from the dealer. This resulted in the demand for tax being raised short by Rs. 1,00,000.

On this being pointed out in audit (June 1986 and February 1987), Government stated in August 1987 that the assessment case was under appeal and audit objection would be considered at the time of disposal of the case. Further report is awaited (February 1988).

3.15 **Evasion of tax**

Under the West Bengal Sales Tax Act, 1954, a dealer, who sells any commodity notified under the Act, is to compulsorily get himself registered and to pay tax on all such sales irrespective of the quantum of his turnover. Bricks (other than fire bricks) and roofing tiles were declared as commodities notified under the Act with effect from 1st September, 1977 and on their sale, tax was leviable at seven per cent since 1st April 1979.

(*i*) Cross verification of the records of the Sales Tax Department with those of the Land Revenue Department of Cooch Behar district revealed that 38 persons who manufactured and sold bricks or tiles during 1983 had not got themselves registered under the Act thereby evading payment of tax on said sales. Sale value of the bricks and tiles manufactured by them during 1983 computed on the basis of the then prevailing market value of the commodities amounted to Rs. 33·57 lakhs, as certified by the Land Revenue Department. Non-registration of the manufacturers resulted in evasion of tax amounting to Rs. 2,19,683.

On this being pointed out in audit (June 1984), the department promised (June 1984) to look into the matter. Further development is awaited (February 1988).

The case was reported to Government in February 1985; their reply has not been received (February 1988).

(*ii*) Similar cross verification of records of the Sales Tax Department with those of the Land Revenue Department o Purulia district revealed that 18 brick manufacturers who manufactured and sold bricks during 1981-82 had not got themselves registered under the Act and had, thus, evaded payment of tax leviable under the Act. Sale value of the bricks manufactured by these dealers, computed on the basis of average selling price of bricks as adopted by the assessing officer in the case of another registered manufacturer-dealer of the district, amounted to Rs. 4,22,339, involving tax effect of Rs. 27,642.

On this being pointed out in audit (September 1983), the department stated (May 1984) that necessary proceedings had been started against the dealers and taxes due would be realised. Report on realisation is awaited (February 1988).

The case was reported to Government in April 1984; their reply has not been received (February 1988).

3.16 **Non-levy or short levy of surcharge and additional surcharge**

Under the Bengal Finance (Sales Tax) Act, 1941, every dealer, whose gross turnover during a year exceeded rupees five lakhs, was liable to pay additional surcharge at the rate of eight per cent of the total amount of tax payable by him subject to certain limitation/provisions in the Act. The levy of surcharge and additional surcharge was abolished from 1st April, 1979.

(*i*) In re-assessment (October 1983) of a dealer in Calcutta, for the assessment period ending December 1975, the amount of additional surcharge leviable on total assessed tax of Rs. 23,24,967 was erroneously computed as Rs. 1,68,000, instead of Rs. 1,85,997. The mistake resulted in short levy of additional surcharge by Rs. 17,997.

On this being pointed out in audit (May 1986), the department admitted (July 1986) the mistake and agreed to review the case. Further development is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

(*ii*) While re-assessing (August 1985), a dealer of Calcutta for the assessment year ended Kartik Badi 2033 SY (corresponding to November 1975 to October 1976), in pursuance of an appellate order made in August 1981, the tax payable by

the dealer was determined by the assessing officer at Rs. 2,57,697. The surcharge and additional surcharge leviable thereon amounting to Rs. 25,682 (after giving relief for motor car sold) was, however, omitted to be levied.

On the omission being pointed out in audit (July 1986), the department admitted the mistake and started (August 1986) proceedings for a review of the re-assessment. Further development is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

3.17 **Non-levy of interest for delayed payment of tax**

Under the Sales Tax Laws of West Bengal, a dealer, who fails to make payment of any tax payable after assessment by the date specified in the demand notice, is liable to pay simple interest at two per cent for each English calendar month of default reckoned from the first day of the month next following the date specified in such notice up to the month preceding the month in which full payment of such tax is made. The same provision is also applicable in the case of assessment under the Central Sales Tax Act.

(*i*) On completion of assessments (June 1984 and June 1985) of a Calcutta-based dealer for two years ending June 1980 and 1981 under both the Bengal Finance (Sales Tax) Act, 1941 and the Central Sales Tax Act, 1956, demand notices were issued instructing the dealer to pay the additional amounts due for the year ending June 1980 by 5th September, 1984 and for the year ending June 1981 by 23rd August, 1985. As the amounts due were paid by the dealer after the lapse of seven to nine months, he was liable to pay interest amounting to Rs. 43,172, which was not assessed and demanded from him.

On this being pointed out in audit (November 1986), the department admitted (December 1986) the mistake and agreed to take action in the matter. Further development is awaited (February 1988).

The matter was reported to Government in April 1987; their reply has not been received (February 1988).

(*ii*) On the basis of assessment, made in January 1984 and April 1985, for two assessment years 1386 BS (corresponding to to 15th April 1979 to 13th April 1980) and 1387 BS (corresponding to 14th April, 1980 to 13th April, 1981), a dealer in Hooghly district was asked to pay the assessed tax of Rs. 1·29 lakhs and

Rs. 1·81 lakhs by 5th April 1984 and 25th June 1985 respectively. The dealer, however, failed to pay the tax by the specified dates and cleared the dues in instalments from time to time during June 1984 to October 1985. For belated payments of the dues, although the dealer was liable to pay interest amounting to Rs. 31,010, the same was not demanded and realised.

On this being pointed out in audit (October 1986), the department stated (December 1986) that a sum of Rs. 15,010 had been realised upto December 1986. Report on realisation of the balance amount is awaited (February 1988).

The case was reported to Government in October 1986; Government stated in August 1987 that a sum of Rs. 5,236 had been realised and steps were being taken to realise the balance amount. Report on realisation of the balance amount is awaited (February 1988).

3.18 **Non-imposition of penalty for suppression of sales**

Under section 20A of the Bengal Finance (Sales Tax) Act, 1941, where a dealer conceals any sales or furnishes an incorrect statement of his turnover or incorrect particulars of his sales with an intent to reduce the amount of tax payable by him, the prescribed authority may, after giving the dealer a reasonable opportunity of being heard, direct that he shall pay by way of penalty a sum not exceeding one and a half times the amount of tax intended to be avoided by him. The penalty is recoverable in addition to any tax or penalty already levied and payable by the dealer under the Act.

The departmental Bureau of Investigation noticed (July 1980) suppression of sales of raw rubber, by a dealer in Calcutta, amounting to Rs. 11,30,975 and Rs. 12,82,875 during two years ended March 1980 and March 1981 respectively. The suppressed sales were charged to usual tax amounting to Rs. 1,79,108 along with the turnovers returned for the respective years while completing the two assessments in January 1984 and March 1985 respectively. For the concealment of sales, although a penalty upto Rs. 2,68,662 could be imposed, the assessing officer did not levy any penalty.

On this being pointed out in audit (February 1986), the department stated (February 1986) that since an additional security of Rs. 50,000 had been demanded from the dealer under section 7(4*a*) (*i*) of the Act to resist him from demanding declaration forms in future, it would not have been fair to penalise him

again for a single cause. The contention of the department is far from convincing in as much as reasonable security demanded under section 7(4*a*)(*i*) of the Act for the proper payment of tax was by no means in lieu of penalty imposable under section 20A of the Act for concealment of sales.

The case was reported to Government in June 1986; Government agreed (August 1987) to examine the case. Further report is awaited (February 1988).

CHAPTER 4

LAND REVENUE

4.1 **Results of Audit**

Test check of accounts of land revenue in certain district land reforms offices, conducted in audit during 1986-87, revealed non-realisation and short realisation of revenue amounting to Rs. 257·32 lakhs in 73 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-settlement of Government land ..	22	86·53
2. Encroachment of Government land ..	21	127·87
3. Irregular settlement/non-settlement of *sairati* interests	12	8·98
4. Non-assessment and non-realisation of land revenue and cesses	4	13·15
5. Other irregularities	14	20·79
Total	73	257·32

Audit findings were reported to Government between December 1986 and August 1987; their reply has not been received (February 1988).

Some of the important cases are mentioned in the succeeding paragraphs.

4.2 **Short realisation/non-realisation of rents**

Under the provisions of the West Bengal Land Management Manual, 1977, *hats* and *bazars* vested in the State are to be managed departmentally by the district Collectors or settled by auction, with *ijaradars* upon realisation of annual lease rent. Board of Revenue issued direction in January and May 1980 that certain selected Government-managed *hats* and *bazars* in the districts should be settled with the local Regulated Market Committees (RMC) with effect from 15th April 1980 (1st Baisakh

1387 BS). Instructions were again issued in March 1981 to cover several other *hats* and *bazars* for similar settlement with Regulated Market Committees from 15th April 1981 (1st Baisakh 1388 BS). The settlement with the Regulated Market Committees was to be made for a period of 20 years. Lease rent to be determined on the basis of the average of last three years' rent, which was also subject to enhancement every three years, was to be realised from the RMCs annually in advance. In cases where any RMC was unable to pay the annual rent at a time, the district Collectors were permitted to accept the rent, for first three years of lease in the first instance, quarterly in advance. A formal lease agreement, containing all the related terms and conditions, was to be executed between the district Collector and the lessee and it was to be registered.

It was simultaneously directed that the *hats/bazars*, etc., other than the selected ones, should be transferred to the Panchayat bodies for management and control. For such transfer, the Panchayat bodies would not be required to pay any rent; and the legal title to the properties would continue to remain with the Government.

(*i*) In Cooch Behar district, 18 *hats/bazars* were handed over to the local RMCs, 2 from the commencement of 15th April 1980 (1387 BS) and 16 from the commencement of 15th April 1981 (1388 BS). The annual lease rent in respect of the 2 *hats/bazars* settled from 15th April 1980 was fixed at Rs. 51,101 and that in respect of the other 16 *hats/bazars* at Rs. 1,19,606. The Agriculture department approached the Board of Revenue (April 1981) to concede a 25 per cent rebate on the annual lease rent fixed for each market and, pending a final decision of the Board, advised the district Collectors in January 1983 to accept on account payment of 75 per cent of the rent due. The district administration of Cooch Behar, however, realised from the RMCs a total amount of Rs. 2·32 lakhs out of Rs. 4·10 lakhs due from them for the years 1980 to 1983 (1387 BS to 1390 BS). The actual realisation represented only 60 per cent in the case of 15 RMCs and between 48 and 56 per cent in the case of the remaining three RMCs of the amount due for those years. The acceptance of only 60 per cent or less of the rent due from the RMCs was, thus, clearly in contravention of Board's instructions, and amounted to undue concessions to the RMCs. This led to non-realisation of Government revenues amounting to Rs. 1·78 lakhs.

On this being pointed out in audit (July 1986), the department stated (July 1986) that action was being taken to recover from the RMCs further 15 per cent of the rent due. Even if a further 15 per cent of the rent was realised, an amount of Rs. 1·16 lakhs would be still left unrealised from the RMCs.

The matter was reported to Government in October 1986; their reply has not been received (February 1988).

(*ii*) Pursuant to the original instructions of January 1980, the weekly *hat* and daily market at Balarampur in Purulia district was transferred to the local Panchayat on 15th April 1980 for management and control. Instructions, issued subsequently in March 1981, required this particular *hat* and daily market to be transferred from the commencement of 15th April 1981 (1388 BS) to Balarampur RMC. It was, however, noticed (August 1986) in audit that the intended settlement of the property with Balarampur RMC by first resuming its possession back from the local Panchayat had not been effected till 14th April 1986 (the end of 1392 BS). On the basis of the actual lease rent realised from this estate during 1384 BS to 1386 BS, its economic rent for the years 1388 BS to 1390 BS was determinable at Rs. 10,233 per annum, which could be further revised upwards from 1391 BS. Failure to resume possession of the property from the Panchayat for its eventual settlement with the RMC led to non-realisation of rent amounting to Rs. 51,165 for five years from 1388 BS to 1392 BS (without considering the additional rent for the enhancement that could be enforced from 1391 BS).

The matter was reported to the department and Government in December 1986; their replies have not been received (February 1988).

4.3 **Non-realisation/short realisation of rents and cesses**

Under the West Bengal Land Reforms Act, 1955 read with the West Bengal Estates Acquisition Act, 1953, all holdings whether agriculture or non-agriculture are assessable to annual rent at the rate fixed by the Revenue Officer having regard to the rent generally paid for the land of similar classes and with similar advantages in the vicinity. Besides rent, various cesses viz. education cess, road cess, public works cess and rural employment cess and surcharge are also leviable at the prescribed rates under various cess Acts of the State. A tenant holding rent free lands is also liable to pay rent and cesses with effect from 1st November 1965.

(*i*) In 24-Parganas (South) district, two companies held a total area measuring 255·10 acres of rent-free lands; but rent and cesses were not assessed and realised by the department. The rent for the entire area of 255·10 acres, on the basis of average rate of rent of similar type and descriptions of land in the vicinity, worked out to Rs. 55,316 for the period from 1.11.1965 to 31.3.1985. In addition, an amount of Rs. 27,723 was leviable as cesses.

On this being pointed out in audit (December 1985), the department confirmed (December 1985) the fact of non-assessment of revenue and agreed to fix up and collect rent and cesses.

The matter was reported to Government in August 1986; their reply has not been received (February 1988).

(*ii*) In two land reforms circles in 24-Parganas (South) district, the owners of 281 holdings, recorded as '*chandina*', meaning a non-agricultural holding, were liable to pay both rent and cesses. The department had recovered rent in respect of all holdings, but the various cesses leviable in respect of these holdings were either not recovered or recovered short during the period between 1362 BS (1955-56) and 1392 BS (1985-86). This resulted in non-realisation/short realisation of cesses amounting to Rs. 47,681.

On this being pointed out in audit (December 1983 to February 1984), the district administration stated (March 1986) that since there was some confusion in the matter, instructions of the Board of Revenue had been solicited.

The matter was reported to Government in July 1984; their reply has not been received (February 1988).

4.4 **Non-levy of interest on belated payment of rent**

Under the provisions of the West Bengal Land Management Manual, 1977, 25 per cent of the rent for the first year of settlement of a fishery should be recovered at the time of settlement and the balance before the commencement of the year. Annual rents for successive years are to be deposited by the lessee in full before the commencement of each year. In terms of the conditions stipulated in the standard lease agreement form in such cases, arrears of rent attract interest at the rate of 6¼ per cent per annum.

In Murshidabad district, 13 fisheries were settled with the District Central Fishermen's Co-operative Society Limited for seven years, each year commencing on 1st Baisakh (14th/15th

April), from 1385 BS (1978-79) to 1391 BS (1984-85) at varying amounts of annual rent. Annual lease rents for the years 1390 BS and 1391 BS (1983-84 and 1984-85) in respect of the said 13 fisheries were due to be deposited by the lessee before the commencement of those years, but the lessee failed to deposit the rent in advance. Payment of lease rent for these years was in fact made belatedly and, in most cases, in instalments. For the belated payment of rent, the lessee was liable to pay interest at $6\frac{1}{4}$ per cent on the outstanding rent. The district authorities, however, did not proceed with the assessment and realisation of interest amounting to Rs. 11,231 leviable for the said period.

On this being pointed out in audit (March 1986), the district authorities stated (March 1986) that steps would be taken to realise the interest on the belated payment of rent. Report on realisation is awaited (February 1988).

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

4.5 **Encroachment of vested non-agricultural lands**

According to the West Bengal Land Management Manual, 1977, tenants holding non-agricultural lands without any lease for more than 12 years cannot ordinarily be ejected in view of the provisions contained in the West Bengal Non-agricultural Tenancy Act, 1949. Such tenants may be offered long term lease for 30 years with option to successive renewals for the same period subject to payment of annual rent and *salami* in lump. In giving long term settlement for the first time, rent should be fixed at 4 per cent of the market value of land and *salami* charged at ten times of annual rent.

In a circle office in Murshidabad district, non-agricultural lands measuring 4·1975 acres situated in a municipal area were vested in the State under the West Bengal Estates Acquisition Act, 1953. The lands so vested comprised dwelling houses and shops and were under possession of 75 persons. The department took over formal possession in 1969-70 but the encroachers were neither evicted nor were they offered long term leases as per rules. The matter of encroachment was brought to the notice of district authorities only in December 1983. The annual rent realisable from the unauthorised occupiers worked out to Rs. 4,54,560 for 16 years from 1970 to 1985 and *salami* in lump amounting to Rs. 2,84,100, computed on the basis of market value of land prevailing in 1969 as per the records in registration office.

On this being pointed out in audit (March 1986), the district authorities of Murshidabad agreed (March 1986) to take action and regularise the matter. Further development is awaited (February 1988).

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

4.6 **Loss of revenue due to irregular transfer/non-settlement of *sairati* interests**

(*i*) Under the West Bengal Land Management Manual, 1977, *sairati* interests, viz., river fisheries and other water-areas, e.g., *beels*, *boars*, tanks, closed *khals* and channels, vested in the State, are to be settled on lease terms on realisation of annual lease rent to be fixed by district Collectors. Board of Revenue, however, directed in March 1979 that certain *sairati* interests should be handed over to the Panchayat institutions for management and control without realising any rent from them. In a subsequent clarification issued in May 1979, the Board clarified that river fisheries and big water-areas were not to be handed over to the Panchayat bodies, instead, they were to be managed departmentally in the manner prescribed in the Manual, i.e., by settling them on lease basis. The district authorities of Cooch Behar decided in July 1979 to treat water-areas with ten acres or more as big water-areas.

In Sadar (South), Nishiganj and Toofanganj circles of Cooch Behar district, altogether 34 river fisheries and big water-areas with 10 acres or more were transferred to Panchayat institutions during 1386 BS (1979-80). Of them, possession was resumed back in respect of 18 *sairati* interests in 1387 BS (1980-81) and in respect of 6 in 1389 BS (1982-83) in Sadar (South) circle. Possession of the remaining 10 *sairati* interests in the other 2 circles was not taken back till the end of 1392 BS. Non-resumption of possession of the *sairati* interests immediately after receipt of the clarification issued in May 1979 and their non-settlement on lease basis resulted in loss of revenue of Rs. 16,812 (computed on the basis of lease rent prevailing in 1385 BS) for the various years falling between 1386 BS and 1392 BS.

On this being pointed out in audit (July 1986), the district administration stated (July 1986) that instructions for resumption of the *sairati* interests in respect of remaining cases were being issued to the circle offices. Further development is awaited (February 1988).

The matter was reported to Government in October 1986; their reply has not been received (February 1988).

(*ii*) Under the West Bengal Land Management Manual, 1977, *sairati* interests, viz., *Khutagari** rights are to be settled by public auction on realisation of rent to be fixed by the district Collector and on execution of a proper lease deed.

A *Khutagari* right on the Ajoy and Bhagirathi rivers within the jurisdiction of Katwa Municipality of Burdwan district was not leased out for the years 1387 BS and 1388 BS. This resulted in loss of revenue of Rs. 15,006, computed on the basis of the average of last three years' rent.

On this being pointed out in audit (January 1982), the Divisional Commissioner stated (April 1986) that proposals for settlement of the *sairati* interests for 1387 BS and 1388 BS were not initiated by the district administration.

The matter was reported to Government in June 1982; their reply has not been received (February 1988).

4.7 **Short-realisation of education cess**

Under the West Bengal Primary Education Act, 1973, education cess is leviable on the annual rent of land at the rate notified by Government from time to time. By a notification issued by Government in April 1981, the rate of education cess was enhanced from six paise to ten paise per rupee of rent with effect from 1st Baisakh 1388 BS (14th April 1981).

(*i*) In fourteen land reforms circles of Burdwan district (including Asansol and Durgapur Sub-divisions), education cess for the years 1390 BS and 1391 BS (1983-84 and 1984-85) was not realised at the enhanced rate, resulting in short-realisation of Rs. 33,021.

On this being pointed out in audit (September 1985 and March 1986), the district authorities stated (October 1985 and March 1986) that education cess at the revised rates could not be realised owing to non-receipt or belated receipt of the Government notification.

(*ii*) Similarly, in three land reforms circles in Murshidabad district, education cess for the years 1388 BS to 1391 BS (1981-82 to 1984-85) was not realised at the revised rate of 10 paise per rupee of rent. This resulted in short realisation of education cess amounting to Rs. 9,130.

**Khutagari* rights means mooring space rights of the vessels on the river bank.

The mistake was pointed out in audit in March 1986. The district administration was unable to state the reasons for non-realisation of education cess at the enhanced rate; however, they agreed (March 1986) to realise the arrears. Report on realisation is awaited (February 1988).

The cases at (*i*) and (*ii*) above were reported to Government in July and November 1986; their reply has not been received (February 1988).

Similar cases of short realisation of education cess for the years 1388 BS and 1389 BS were reported in paragraph 3.7 of the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year 1984-85.

4.8 **Non-realisation of compensation**

Under the West Bengal Estate Acquisition Act, 1953 and the rules framed thereunder, all estates and interests vested in the State are to be managed departmentally by the district Collectors. The West Bengal Land Management Manual, 1977 contains the procedure for settlement and collection of rent on *sairati* interests vested in the State. The rules also empower the district Collectors to realise compensation for unauthorised occupation of such interests from the persons concerned.

In Malda district, 34·09 acres of *jalkar* (fishery) stood vested in the State from 15th April 1955 (1st Baisakh 1362 BS) under the Act ibid. The department took no notice of the vesting until 1971, whereafter it was settled for the first time from 1379 BS (1972-73) onwards at an annual rent of Rs. 2,505. Prior to that, the *jalkar* was enjoyed by an ex-intermediary without any lawful authority. No action was taken by the department against the ex-intermediary for the unlawful possession of the interest and for enjoying the benefits from the *jalkar* from 1362 BS to 1378 BS (1955-56 to 1971-72). On the basis of the annual rent of Rs. 2,505 per annum, at which the *sairati* interest was settled from 1379 BS, the amount of revenue lost to Government was over Rs. 42,000.

Even after the matter was brought to the notice of the district authorities in January 1981, no tangible steps to realise an appropriate compensation for unauthorised occupation have been taken so far (February 1988) by the district administration.

The matter was reported to Government in July 1981; their reply has not been received (February 1988).

CHAPTER 5

MINES AND MINERALS

5.1 **Results of Audit**

Test check of accounts of revenue realised in respect of mines and minerals by different Land Reforms Circle Offices and the Offices of Cess Deputy Collectors and Chief Mining officer, conducted in audit during 1986-87, revealed non-assessment, non-realisation and short realisation of revenue amounting to Rs. 41·77 lakhs in 40 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy and non-realisation of cesses on minor minerals	19	17·60
2. Unauthorised extraction of minerals ..	10	12·76
3. Non-assessment/short assessment of royalty ..	7	4·09
4. Other cases	4	7·32
Total	40	41·77

Audit findings were reported to Government between December 1986 and August 1987; their reply has not been received (February 1988).

Some of the important cases are mentioned in the following paragraphs.

5.2 **Under-assessment/non-assessment of royalty**

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, a holder of a mining lease is liable to pay a royalty, at the prescribed rates, on all the minerals removed from the leased area or consumed by him or his agent, manager, employee, contractor or sub-lessee. The royalty is not, however, payable in respect of coal consumed by workman engaged in a colliery provided the quantity con-

sumed by a workman does not exceed one-third of a tonne per month.

(*a*) While assessing royalty in case of a lease holder for the year 1984-85, exemption on account of domestic consumption of coal by workmen engaged in its thirteen different collieries had been allowed in excess of the quantity permissible. The consumption allowed was based on the strength of the colliery workmen in 1983; in the case of two collieries consumption was allowed even without the strength of their workmen being available. This resulted in 5,671 tonnes of coal of different grades escaping assessment to royalty amounting to Rs. 33,860.

(*b*) In the returns for the quarter ended June 1984 submitted by the lease holder in respect of three other collieries, 10,519 tonnes of coal of different grades were shown as consumed under the head 'others'. The assessing officer exempted this quantity from assessment to royalty without recording any reasons. Since the Act does not allow any exemption for consumption of coal except that which is consumed by the workmen up to the prescribed limit, the exemption allowed was not in order. This resulted in under-assessment of royalty amounting to Rs. 59,124.

On the irregularities at (*a*) and (*b*) being pointed out in audit (November and December 1985), the assessing authority revised the assessments and advised the district authorities to recover the amounts. Report on realisation is awaited (February 1988).

(*c*) In the course of audit of records under the Mining Officer, Siliguri Zone, it was noticed that a dolomite mine at Jayanti in Jalpaiguri district was leased out to a private individual for 20 years with effect from 8th December 1961. On expiry of lease on 7th December 1981, the lessee did not renew the same. Returns submitted by the lessee revealed that he despatched 1,986·860 tonnes of dolomite during the period from 1st July 1981 to 7th December 1981 and there was a closing balance of 4,013·600 tonnes as on 7th December 1981. But no assessment of royalty was made in respect of 6,000·460 tonnes (1,986·860+4,013·600) of dolomite although the lease had expired on 7th December 1981. This resulted in non-assessment of royalty amounting to Rs. 28,843.

(*d*) Another company had raised 30,981·84 tonnes of dolomite from a dolomite mine at Hatipota in Jalpaiguri district during the period from 1st March 1984 to 31st March 1985 and despatched 28,869·29 tonnes during the same period leaving a

balance of 2,112·55 tonnes. But the department had not assessed royalty on the despatched quantity of 28,869·29 tonnes till September 1987. The royalty assessable on 28,869·29 tonnes worked out to Rs. 1,44,346, computed at Rs. 5 per tonne.

On the omissions at (*c*) and (*d*) being pointed out in audit (between September and November 1985), the department made (February 1986) assessment of royalty amounting to Rs. 1,44,346 in respect of dolomite raised from dolomite mine at Hatipota and sent the demands for realisation. Report on realisation is awaited (February 1988).

The above cases were reported to Government in May and July 1986; their reply has not been received (February 1988).

5.3 **Loss of revenue due to application of incorrect rates of royalty**

Under the provisions of the West Bengal Minor Minerals Rules, 1973, minor minerals, e.g., brick-earth, sand, etc. can be extracted only on the strength of valid quarry permits issued by district Collectors on advance payment of royalty at the rate prescribed from time to time. By a notification issued in March 1982, the rate of royalty in respect of all minor minerals was enhanced from Rs. 4·935 per 100 cft to Rs. 10 per 100 cft from 24th March 1982.

While granting thirty quarry permits for removal of minor minerals under the jurisdiction of various circle offices in Murshidabad district, during 24th March to 25th May 1982, the district authorities realised royalty at the old rate of Rs. 4·935 per 100 cft, instead of at the rate of Rs. 10 per 100 cft. This resulted in short realisation of royalty of Rs. 16,486.

On this being pointed out in audit (July 1983), the district administration stated (August 1983) that royalty at the enhanced rate could not be realised because of the late receipt of the notification in April 1982 and the time taken for its circulation to the circle offices level in May 1982.

The matter was reported to Government in February 1984; their reply has not been received (February 1988).

5.4 **Loss of revenue due to non-realisation of price of minor minerals extracted unauthorisedly**

Under the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972 and read with the West Bengal Minor Minerals Rules, 1973, no person shall undertake

any mining operation in any area except under and in accordance with the terms and conditions of a valid quarry permit issued under the rules. In the case of unauthorised extraction of minor minerals, besides imposition of penalty, the State Government is entitled to seize the minerals. Where the minerals have already been disposed of, its price is to be recovered. The Act also provides that an offence punishable under the Act may be compounded, before or after the institution of prosecution, on payment of such sum as may be specified by the prescribed authority.

It was clarified in August 1981 by the State Government that minor minerals extracted in excess of the quantity permitted should also be considered as unauthorised extraction. The district Collectors were empowered (May 1979) to fix the price of each kind of minor mineral for purposes of recovery.

(*a*) In Burdwan, Hooghly and West Dinajpur districts, in 46 cases, 7·57 lakh cft. of brick-earth and 0·43 lakh cft. of sand were unauthorisidely extracted during the years 1982-83 to 1984-85 without any valid quarry permits. In 40 other cases, 5·27 lakh cft. of brick-earth and 2·30 lakh cft. of sand were raised in excess of the quantities authorised under the permits during the years 1982-83 to 1985-86. Even though, price amounting to Rs. 5,41,110 was realisable for the unauthorised extraction of minerals in these cases, the district authorities demanded (and realised in some cases) revenue in the shape of royalty and fine amounting to Rs. 1,98,814 only. Failure of the district authorities to demand and realise the price of the minerals led to revenue amounting to Rs. 3,42,296 being lost to Government.

On the case being poined out (July 1985 to June 1986), the district authorities maintained that Government dues were realised in such cases on the basis of the terms and conditions of quarry permit issued under the West Bengal Minor Minerals Rules, 1973. The contention of the district authorities was not tenable in view of the clarifications issued by the Government in May 1979 and August 1981 under the 1957 Act. The district authorities, however, subsequently agreed to realise in future the price of minerals unauthorisedly extracted.

(*b*) In Darjeeling district, nine persons extracted 4·50 lakh cft. of brick-earth during 1982-83 without any valid permit issued to them. The district authorities imposed a fine of Rs. 19,260 on the offenders under the West Bengal Land Reforms Act, 1955, which, however, had no relevance to the cases. The recoverable price of minor minerals extracted unauthorisedly in these cases

amounted to Rs. 1,35,000. This resulted in loss of revenue amounting to Rs. 1,15,740.

On this being pointed out in audit (March 1986), the district authorities stated (March 1986) that the matter would be reviewed. Further development is awaited (February 1988).

(*c*) In Hooghly district, during 1981-82, 2·12 lakh cft. of brick-earth and 0·25 lakh cft. of sand were unauthorisedly extracted in 5 cases without any valid quarry permit. In 18 other cases, during the same year, 2·40 lakh cft. of brick-earth were also removed in excess of the quantity permitted. For the unauthorised extraction, although price of the minerals amounting to Rs. 1,44,475, computed on the basis of the price of the minerals fixed by the district administration, was realisable from the offenders, the district authorities made no realisation in one case and realised Rs. 47,854 in the remaining cases. This resulted in short realisation of revenue amounting to Rs. 96,621.

On the cases being pointed out in audit (January and February 1983), it was stated (February 1983) by the district authorities that while in 5 cases no fine could be imposed since quarry permits could not be issued pending completion of necessary enquiry, in the remaining 18 cases a reference was proposed to be made to Government for removal of the contradiction between terms and conditions of permit (condition No. 10 as per Schedule IV of the West Bengal Minor Minerals Rules, 1973) and the Government orders of August 1981. Further development is awaited (February 1988).

(*d*) In Durgapur and Asansol sub-divisions of Burdwan district and in Birbhum and Bankura districts, during 1983-84 to 1984-85, 22 lakh cft. or brick-earth, 0·57 lakh cft. of stone boulders, 0·36 lakh cft. of sand and 0·76 lakh cft. of *morrum* (a kind of hard soil) were unauthorisedly removed in 332 cases without any valid quarry permit. For the unauthorised removal of the minerals, even though price thereof amounting to Rs. 8,13,557, computed at the prices of the minerals fixed by the district administration, was realisable from the offenders, no realisation was made by the district authorities.

On this being pointed out in audit (October 1985 and February 1986), the district authorities stated (October 1985 and February 1986) that the cases were under scrutiny and further action would be taken to realise the amount due. Further progress is awaited (February 1988).

(*e*) In spite of the instructions issued by the Government to

the district Collectors in May 1979 to fix the price of each minor mineral for the purpose of recovery, the district authorities in Darjeeling took no action to fix the price of minor minerals till the end of 1985-86. Meanwhile, six contractors working under the Irrigation department removed unlawfully from April 1983 to February 1986, 0·52 lakh cft. of stone boulders and 0·46 lakh cft. of sand from the river bed of Bijanbari in Darjeeling district without having any quarry permit issued in their favour. For the unauthorised extraction of the minerals, the district administration took no steps to realise the price of the minerals. In the absence of fixation of prices of minor minerals in the district, the price realisable in these cases remained unrecovered.

On this being pointed out (March 1986) in audit, the district authorities stated (March 1986) that action was being taken to realise the price of the minerals determined at Rs. 66,980 on the basis of the prevailing market price of the minerals. Report on realisation is awaited (February 1988).

The above cases were reported to Government between July 1983 and October 1986; their reply has not been received (February 1988).

5.5 **Non-realisation/short realisation of cesses on minor minerals**

Under the provisions of the Cess Act, 1880, as amended in 1964, the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, public works cess, road cess, education cess and rural employment cess are recoverable, at rates prescribed from time to time, on the annual net profit from minor minerals, other than coal, extracted on the strength of quarry permits issued by district authorities. The Cess Act, 1880 empowers the district Collectors to issue notices to quarry permit-holders asking them to submit within two months annual returns of their net profits. In the event no return is submitted by a permit-holder within the stipulated period, the district Collector is empowered to determine the annual net profit at 6 per cent of the sale value of the minerals.

(*i*) In the districts of Cooch Behar, West Dinajpur, Malda, 24-Parganas (North), 24-Parganas (South), Nadia and Bankura, in 530 cases, the concerned quarry permit-holders did not submit to the district authorities annual returns of net profit earned from the brick-earth extracted by them during the period from 15th

April 1977 to 14th April 1985. The district administration also did not issue notices for submission of the annual returns nor did they proceed with the levy of different cesses recoverable from the permit-holders. From a cross verification of the returns submitted by 19 permit-holders to the commercial tax authorities in Cooch Behar and 24-Parganas (North) districts in connection with assessment of sales tax, it was noticed in audit that the annual net profit earned by the concerned permit-holders was Rs. 8·73 lakhs. In the remaining 511 cases, the amount of annual net profit at 6 per cent of the sale value of Rs. 11·51 crores for bricks and tiles manufactured by the concerned permit-holders worked out to Rs. 69·04 lakhs, computed on the basis of the production norms and the market prices of the commodities prevailing in the districts from year to year. On the aggregate amount of net profit (Rs. 77·77 lakhs), an amount of Rs. 23·33 lakhs was realisable from the permit-holders in these cases towards public works, road, education and rural employment cesses. The cesses were not, however, levied and realised by the district administration.

On the omissions being pointed out in audit (between June 1983 and October 1985), the district authorities of Cooch Behar, Malda and Bankura stated (between June 1984 and October 1985) that steps for assessment and realisation of the cesses were being taken. While the district authorities in 24-Parganas (North) stated (July 1985) that the cesses could not be levied and collected for lack of delegation of necessary powers of Cess Deputy Collector, those in 24-Parganas (South) promised (February 1984) to send a report on the matter. The district authorities of Nadia stated (September 1983) that the cesses were not realised for lack of clear Government instructions. West Dinajpur district authorities stated (July 1985) that since there were no permanent quarry fields in that district, cesses on minor minerals were not being realised. The contention of the district authorities of Nadia and West Dinajpur is not convincing since the Cess Act, 1880 empowers the district Collectors to issue notices and assess and collect the cesses on removal of all minor minerals.

Report on realisation of the cesses in the district of Cooch Behar, Malda and Bankura has not been received (February 1988). Further development of the matter in the other districts is also awaited (February 1988).

The cases were reported to Government between March

1984 and January 1986; their reply has not been received (February 1988).

(*ii*) Under the Cess Act, 1880, each road cess and public works cess was realisable at the rate of 6 paise per rupee of the annual net profit earned by quarry permit-holders. By an amendment to the Act in 1984, the rate of each cess was revised, with effect from 12th November 1984 (corresponding to 26th Kartik 1391 BS), upwards to 50 paise per tonne of minor minerals despatched. The Act empowers the Collectors of districts to serve notices upon the managers, agents and owners of quarries and mines except coal mines requiring them to submit returns of their annual despatch of minerals within two months.

In Nadia, Hooghly, Cooch Behar and Murshidabad districts, 2·87 lakh tonnes of brick-earth were extracted, in 189 cases, during the period from 12th November 1984 to 14th April 1986. While in Murshidabad district, the two cesses amounting to Rs. 16,701, leviable on the mineral, were assessed and realised at the pre-revised rates, the authorities in the other districts neither issued notices for obtaining the returns nor did they proceed with the assessment of the cesses as per revised provisions of the Act. This resulted in short realisation or non-realisation of revenue amounting to Rs. 2,69,903.

On these omissions being pointed out in audit (March to September 1986), the district authorities of Cooch Behar and Murshidabad agreed (March and July 1986) to assess and realise the cesses amounting to Rs. 1,24,191. Report on realisation is awaited (February 1988). The district authorities of Nadia and Hooghly, however, stated (June and September 1986) that steps would be taken to realise the cesses in future. The reply was silent as to what action was contemplated to recover the cesses in respect of past cases.

The cases were reported to Government between October 1986 and January 1987; their reply has not been received (February 1988).

(*iii*) The West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, respectively, provide for levy of education cess and rural employment cess at 12 paise and 6 paise per rupee of annual net profit from minor minerals, raised from quarries and mines other than coal mines.

During 1984-85 and 1985-86, seventeen brick-field owners in Cooch Behar district were granted quarry permits for extrac-

tion of 20·73 lakh cft. of brick-earth, which, according to normal standards of production, could be converted into 286·45 lakh bricks. The permit-holders did not submit the returns of annual net profit to the district authorities, neither did the latter serve notices upon them to submit the returns. Steps were also not taken to assess and realise the two cesses by determining the amount of annual net profit in the manner provided in the 1880 Act. The sale value of the manufactured bricks by the brick-field owners worked out to Rs. 100·26 lakhs, computed at the average selling price of Rs. 350 per 1,000 bricks prevailing in the district during the two years, as ascertained from the district commercial tax office. The amount of net profit determinable at 6 per cent thereon, thus, was Rs. 6,01.539. Thus, education and rural employment cesses amounting to Rs. 1,08,277 were realisable but were not realised.

On this being pointed out in audit (June 1986), the district authorities stated (July 1986) that steps were being initiated to issue notices to the brick-field owners for submission of profit and loss accounts, failing which assessment of the cesses would be made under the provisions of the 1880 Act. Further development is awaited (February 1988).

The matter was reported to Government in October 1986; their reply has not been received (February 1988).

5.6 **Non-raising of demand for royalty assessed**

Under the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, a holder of a mining lease is liable to pay royalty on minerals removed or consumed by him or his agent, manager, employee, contractor or sub-lessee at the prescribed rate.

On 6th March 1978, a State Government company was granted permission to extract dolomite from Hatipota dolomite mines in Jalpaiguri district. The company worked the mine up to 20th February 1981, when the working permission was transferred by the company to another Government company in the joint sector along with the ground stock of dolomite weighing 2,999·23 tonnes. The Government company (in the joint sector), to whom the permission to work the mines had been transferred by the former lessee, raised during 20th February 1981 to 29th February 1984 a total quantity of 60,095·12 tonnes of dolomite from the mines. In August 1984, the assessing authority assessed royalty amounting to Rs. 3,13,320 on this quantity plus 2,999·23

tonnes of stock taken over by it at the time of transfer. However, the district authorities did not raise the demand or take action to recover the same.

On this being pointed out in audit (November 1985), the district authorities lodged (December 1986) a demand for payment of the amount. Report on realisation is awaited (February 1988).

CHAPTER 6

MOTOR VEHICLES TAX

6.1 Results of Audit

Test audit of the accounts of motor vehicles tax in different offices under the Transport department, carried out during 1986-87, revealed non-realisation and short realisation of revenue amounting to Rs. 48·77 lakhs in 98 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation/non-payment of road tax, penalty and fees for countersignatures etc.	35	26·54
2. Irregularity in fixation of registered laden weight	10	2·67
3. Irregular remission of tax	6	1·67
4. Non-levy of tax from the date of possession or control of vehicles	10	4·62
5. Other cases	37	13·27
Total	98	48·77

Audit findings in this respect were reported to Government between April 1986 and March 1987; their reply has not been received (February 1988).

Some of the important cases are mentioned in the following paragraphs.

6.2 Short realisation of road tax due to non-revision of registered laden weight

Road tax on transport vehicles is payable with reference to their registered laden weight. With the concurrence of the Central Government, Government of West Bengal issued (November 1983) instructions to all registering authorities that registered laden weight of all two-axled rigid transport vehicles having front axle with two tyres and rear axle with four tyres

and registered during 1968 to March 1983, should be refixed at 16,200 kg. each. Road tax will be realised on the basis of revised registered laden weight.

(*a*) In Calcutta region, registered laden weight of 17 rigid transport vehicles, registered between September 1975 and January 1982, had not been refixed at 16,200 kg. each till October 1985. This resulted in road tax for the period from November 1983 to March 1985 being realised short by Rs. 56,741.

On this being pointed out in audit (October 1985), the department admitted (October 1985) the omission and stated that rectificatory action was being taken. Further development is awaited (February 1988).

The matter was reported to Government in May 1986; their reply has not been received (February 1988).

(*b*) In Howrah region, registered laden weight of 15 rigid transport vehicles, registered between 1969 and March 1983, had not been refixed at 16,200 kg. each till April 1986. This resulted in road tax for the period from November 1983 to March 1986 being realised short by Rs. 29,155.

On this being pointed out in audit (April 1986), the department admitted (April 1986) the omission and stated that rectificatory action was being taken. Further development is awaited (February 1988).

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

6.3 **Non-realisation of tax from the date of ownership, possession or control**

Under section 3(1) of the West Bengal Motor Vehicles Tax Act, 1979, every owner of a registered motor vehicle or every person, who owns or keeps in his possession or control any motor vehicle, is liable to pay road tax on such vehicle at the rate specified in the schedule. The Act empowers a taxing officer to remit tax in respect of any complete calendar month in which the vehicle had not been used or kept for use, subject to completion of prescribed formalities.

(*i*) In Calcutta region, road tax in respect of 58 vehicles, purchased between July 1982 and December 1984 but registered between January 1983 and March 1985, was realised from the dates of their respective registration, instead of from the dates of purchase. There was nothing on record to show that the vehicles had not been used during periods from their dates

of purchase to their dates of registration. This led to short realisation of tax amounting to Rs. 1,34,728.

On this being pointed out in audit (October 1985), the department contended (October 1985) that the provisions of section 3 of the West Bengal Motor Vehicles Tax Act, 1979 infringed the provisions of section 22 of the Motor Vehicles Act, 1939. The contention of the department is not acceptable. Section 3 of the West Bengal Motor Vehicles Tax Act, 1979 is the charging section and section 22 of Motor Vehicles Act, 1939 prohibits a vehicle to be driven in any place unless the vehicle is registered, and the provisions of the two Acts referred to by the department deal with different aspects.

The matter was reported to Government in May 1986; their reply has not been received (February 1988).

(*ii*) In 3 regions viz. Durgapur, Howrah and Calcutta, road tax in respect of thirtyfive military-disposal vehicles, purchased in auction between various periods ranging from February 1968 to September 1985, was realised from the respective dates of their registration, made between January 1984 and January 1986, instead of from the dates of their purchase in auction as per clarifications issued by Government (March 1984) that tax in respect of such vehicles should be collected from the dates of their purchase in auction. The auction purchaser may, however, get tax remissions upon proving non-use of the vehicle to the satisfaction of the taxing officer for any period of non-use. There was nothing on record to establish the fact of non-use of these vehicles during the periods intervening the dates of auction purchase and registration. This led to short realisation of tax amounting to Rs. 2,38,900.

On this being pointed out in audit (between October 1985 and April 1986), the department agreed (December 1985) to take action for recovery in respect of 11 vehicles in Durgapur region and to refer the remaining cases to Government for its instructions. Further development is awaited (February 1988).

The matter was reported to Government between May and November 1986; their reply has not been received (February 1988).

6.4 **Application of incorrect rates of road tax**

In exercise of the powers vested in it under the West Bengal Motor Vehicles Tax Act, 1979, Government enhanced, with

effect from 1st April 1984, the rates of road tax in respect of all kinds of motor vehicles.

(*i*) In Jalpaiguri region, while realising road tax for different periods from April 1984 to March 1985, the taxing officer realised it at the pre-revised rates which led to short realisation of tax amounting to Rs. 40,891.

On this being pointed out in audit (February 1986), the department agreed (February 1986) to realise the amount. Report on recovery is awaited (February 1988).

The matter was reported to Government in June 1986; their reply has not been received (February 1988).

(*ii*) In Calcutta region, the taxing officer erroneously realised road tax in respect of 21 transport vehicles and 4 stage carriages for different periods falling between April 1984 and March 1985 at the pre-revised rates. This resulted in short realisation of road tax amounting to Rs. 19,882.

On this being pointed out in audit (October 1985), the department agreed (October 1985) to look into the cases. Further progress is awaited (February 1988).

The matter was reported to Government in May 1986; their reply has not been received (February 1988).

6.5 **Non-realisation or short realisation of permit fee**

(*i*) The Motor Vehicles Act, 1939 prohibits the use of a transport vehicle at any public place without a valid permit granted by a competent authority. A permit is granted usually for a period ranging from three to five years, depending on the use to which a transport vehicle is put. The holder of a public carrier's permit is required to apply for its renewal not less than 120 days before the date of its expiry accompanied by an application and renewal fees prescribed under the Bengal Motor Vehicles Rules, 1940. The rules required a regional transport authority to post, at least five months before the expiry of a permit, a notice on the official notice board indicating the date of expiry of a permit.

In Burdwan, Jalpaiguri and Hooghly regions, holders of public carrier's permits in respect of 71 transport vehicles did not apply for renewal of the permits even after expiry of the permits on different dates during November 1976 to August 1982, even though road tax in respect of the vehicles relating to the periods beyond the dates of expiry of the permits had been

paid. Permit fees and application fees realisable in these cases amounted to Rs. 53,680.

On this being pointed out in audit, (between July 1983 and January 1984), the transport authorities of the regions admitted (between July 1983 and January 1984) that the provisions of the Bengal Motor Vehicles Rules for posting of notices on the notice boards were not being followed. Further development is awaited (February 1988).

(*ii*) The Motor Vehicles Act, 1939 also authorises the prescribed authority to entertain an application for renewal of a permit after the last date referred to above if the application is made within a grace period of fifteen days after the last date. In such cases, fees for renewal of permit are payable at 150 per cent of the normal rate.

In Jalpaiguri and Hooghly regions, applications for renewal of permits in respect of 82 transport vehicles were made between January 1975 and November 1983 after the expiry of the grace period of fifteen days and permits were issued on realisation of normal fees, instead of at the penal rate of 150 per cent thereof. Short realisation of revenue on this account amounted to Rs. 28,070.

On this being pointed out in audit (between July 1983 and January 1984), the Regional Transport Authorities agreed (July 1983 and January 1984) to recover the amount. Report on realisation is awaited (February 1988).

The cases at (*i*) and (*ii*) above were reported to Government between November 1983 and May 1984; their reply has not been received (February 1988).

(*iii*) Under the Bengal Motor Vehicles Rules, 1940, fees for grant or renewal of permits, other than temporary and special permits, are leviable as under:

(*i*) *In respect of stage carriages*
- (*a*) rupees fifty per region per vehicle per annum for the regions of Calcutta and Howrah, and
- (*b*) rupees forty per region per vehicle per annum for other regions;

(*ii*) *In respect of contract carriages*
- (*a*) rupees thirty per region per vehicle per annum for the regions of Calcutta and Howrah, and
- (*b*) rupees twenty per region per vehicle per annum for other regions.

As per explanation under clause (V) of Rule 65 of the Rules ibid, the regions of Calcutta and Howrah are to be treated as one region for the purpose of levy of permit fee in respect of public carriers only and not in respect of any other category of vehicles.

In Calcutta region, permit fees for all categories of vehicles were realised by treating the regions of Calcutta and Howrah as one region, instead of restricting the concession to public carriers.

This led to short realisation of permit fee amounting to Rs. 2,47,750 for issue of permits each for five years, to 151 stage carriages during 19th October 1981 to 21st February 1984 and to 1,400 contract carriages during 18th May 1981 to 29th May 1982.

On this being pointed in audit (September 1984), the department stated (December 1984) that the practice had been followed by them for years together taking Calcutta and Howrah as one region. The reply was not tenable as practice followed was not in conformity with the provisions of the Rules.

The matter was reported to Government in January 1986; their reply has not been received (February 1988).

6.6 **Non-realisation of licence fee and security deposit from transport agents**

Under the Motor Vehicles Act, 1939 and the rules made thereunder, no person shall engage himself as an agent of the business of collecting, forwarding or distributing goods carried by road save under and in accordance with a licence granted by the respective Regional Transport Authority of the region authorising the carrying on of such business. A licence issued or renewed shall be effective for a period of three years from the date of its issue or renewal. A licence fee at prescribed annual rates shall be payable in cash in one instalment before the licence is granted or renewed. Security deposit at prescribed rates shall also be payable by the licensee.

In three regions (Bankura, Purulia and Burdwan), 37 transport agents were operating their business without obtaining valid licence from the concerned transport authorities. This resulted in non-realisation of licence fee of Rs. 14,800 covering a period of 3 years from 1983-84 to 1985-86. Security deposit amounting to Rs. 37,000 was also not realised from them.

On this being pointed out in audit (July 1986 to February 1987), two regional offices (Purulia and Burdwan) agreed

(between September 1986 and February 1987) to take necessary action. The other regional office (Bankura) stated (July 1986) that the matter was referred to Government in September 1985 and their instructions were awaited.

The matter was reported to Government between November 1986 and March 1987; their reply has not been received (February 1988).

6.7 **Irregular remission of tax**

Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979 read with the West Bengal Motor Vehicles Tax Rules, 1957, a registered owner of either a transport vehicle or a stage carriage claiming refund or remission of tax on grounds of non-use of the vehicle is required to present a declaration in the prescribed form and to surrender to the taxing officer the certificate of registration, tax token and parta A and B of the permit concerning the vehicle to the taxing officer on or about the date on which the vehicle goes off the road as a satisfactory evidence of the fact of non-use.

(*a*) Remission of tax amounting to Rs. 92,232 in respect of 6 and 18 transport vehicles in Calcutta and Purulia regions, respectively and 1 transport vehicle and 2 stage carriages in Cooch Behar region was allowed by the taxing officers on the ground of non-use for various periods between September 1979 and August 1985, even though there was no evidence on record to indicate the surrender of the prescribed documents by the owners during the period of remission.

On this being pointed out in audit (between October 1985 and March 1986), the regional offices at Calcutta and Cooch Behar agreed (October 1985 and January 1986) to examine the cases; the regional office at Purulia noted (March 1986) the audit findings for future guidance.

The cases were reported to Government between May 1986 and July 1986; their reply has not been received (February 1988).

(*b*) In Birbhum and Nadia regions, registered owners of 20 (Birbhum: 17 and Nadia: 3) transport vehicles claimed and were allowed remission of road tax on the ground of non-use of their vehicles for various periods falling between November 1983 and July 1986 although prescribed documents were not surrendered. This resulted in irregular remission of tax amounting to Rs. 52,080.

On this being pointed out in audit (July and September

1986), Taxing Officer of one region (Nadia) agreed (September 1986) to take action. The Taxing Officer of the other region (Birbhum) admitted (July 1986) the omission in respect of 15 cases. While in respect of two other cases, he mentioned that the exemption was duly granted after satisfying himself on enquiry about the non-use of the vehicles. These views are not tenable because of clear provisions of law providing for surrender of documents by owners which was not done in these cases. The department had also clarified in December 1981 that surrender of all documents, as prescribed in the rules, was obligatory before any claim for refund or remission of tax on grounds of non-use of vehicles could be entertained.

The cases were reported to Government in February and March 1987; their reply has not been received (February 1988).

6.8 **Short levy due to irregular fixation of seating capacity of stage carriages**

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax in respect of public service vehicles is assessed at the prescribed rates on the basis of their seating capacity. The Bengal Motor Vehicles Rules, 1940 lay down the norms of minimum seating space of each passenger. Government had instructed the registering authorities in January 1974 that the minimum seating capacity in respect of each vehicle should be fixed in accordance with the prescribed norms so that variations in seating capacity in respect of vehicles of the same make, model and wheel base should not occur.

In Midnapore and Burdwan regions, the minimum seating capacity was not prescribed beforehand in respect of public service vehicles having the same make, model and wheel base. As a result, tax at different rates was levied, based on different seating capacities allotted to the vehicles. Out of 68 cases checked in audit, the seating capacity was found to have varied between 39 and 49 in 24 cases in respect of one category of vehicle and between 47 and 50 in 44 cases in other category of vehicles.

On the omission being pointed out in audit (April and August 1986), the two registering authorities stated (May and August 1986) that the matter had been referred (September 1984) to Government for issuance of guidelines.

The matter was reported to Government in January and Marce 1987; their reply has not been received (February 1988).

6.9 **Short realisation of road tax**

Under the West Bengal Motor Vehicles Tax Act, 1979, the registered owner of a motor vehicle is required to pay road tax within the prescribed period, including a grace period of 15 days. In the event of delay in making the payment, penalty is leviable at varying rates, ranging from 25 per cent to 100 per cent of the amount of tax due, depending upon the period of delay in payment. Under the provisions, a vehicle may be seized and detained by the authorised officer, if it plies on the road without payment of road tax. The vehicle so seized may be released, if payment of the tax due, together with the prescribed penalty, is made by the vehicle owner to the taxing officer within 30 days of the detention of the vehicle. In the event of non-payment of tax and the penalty, the vehicle may be sold, unless, within a further period of 15 days, five times the annual tax due is paid by the vehicle owner.

In South 24 Parganas region, a transport vehicle was seized on 9th October 1985 for non-payment of tax for the period from 1st March 1982 to 31st December 1982 and from 1st August 1985 to 31st October 1985. The vehicle was detained upto 3rd February 1986. As the period of detention exceeded 45 days, the vehicle owner was liable to pay Rs. 31,568 being five times the amount of tax due. But a sum of Rs. 12,627 (tax plus cent per cent amount of tax as penalty) was only realised between 22nd January 1986 and 12th December 1986 for release of the vehicle. This resulted in short levy of penalty to the extent of Rs. 18,941.

On this being pointed out in audit (July 1986), the local office stated (August 1986) that the matter was being taken up with the department. A further report is awaited (February 1988).

The matter was reported to Government in April 1987; their reply has not been received (February 1988).

6.10 **Inter-State movement of goods vehicles**

6.10.1 *Introductory*

Inter-State movement of goods vehicles between West Bengal and other States are regulated by (*i*) bilateral agreements between West Bengal and 8 States and one Union Territory viz. Bihar, Uttar Pradesh, Punjab, Orissa, Maharastra, Madhya Pradesh, Assam and Andhra Pradesh and the Union Territory of Delhi (*ii*) Zonal permit schemes for three zones, in which the Government of West Bengal is a participant and (*iii*) National Permit Scheme framed by the Government of India under the provisions

of the Motor Vehicles Act, 1939. West Bengal was a participant of Central Zone and Eastern Zone permit schemes from 1st October 1975 and 1st May 1976, respectively, but subsequently withdrew from the above two zonal schemes (June 1986). Thereafter the agreements were not renewed. North Zone permit scheme was, however, renewed upto 31st March 1989 by no permit under the scheme was issued beyond December 1984. Government of India requested the State Government (March 1986) to abolish the zonal permit schemes and to initiate the process of converting the existing zonal permits into national permits. Necessary conversions are in process (July 1987).

6.10.2 *Highlights*

The review brings out the following important points:—

(*a*) Non-realisation/short realisation of composite fee amounting to Rs. 1·80 lakhs.

(*b*) Under-assessment of tax in respect of temporary permits under bilateral agreement amounting to Rs. 1·03 lakhs.

(*c*) Short realisation of fee for counter-signature of permits amounting to Rs. 0·32 lakh.

6.10.3 *Salient features of schemes*

The salient features of the bilateral agreements vis-a-vis the National Permit scheme are given below:

Bilateral Agreements	*National Permit Scheme*
(*i*) *Nature of Permits*	
(*a*) Substantive Permits issued by one State are countersigned by the reciprocating State. While road tax is payable for the home State, a counter-signature fee is payable for the reciprocating State.	The owner of a vehicle may opt for five or more contiguous States in India. Single point collection to be made in the home State includes road tax and an authorisation fee for the home State and in addition a composite fee for each State of choice.
(*b*) Temporary permits are issued for a maximum period of 30 days at one time. Double point road tax is levied, all the other taxes for the reciprocating State are also to be paid.	The composite fee payable for other States are collected by the home State for onward transmission to the States concerned.

Bilateral Agreements	*National Permit Scheme*
(*ii*) *Period of validity*	
Valid for the period for which it is granted.	Valid for a period not exceeding one year and has to be co-terminus with the financial year. Authorisation need be given in March/September.
(*iii*) *Quota fixed for issue*	
Different quotas are fixed for different bilateral agreements.	The quota system for the issue of National permits has been abolished (January 1986).
(*iv*) *Fees payable in West Bengal*	
(*a*) Counter-signature fee for substantive permits issued is payable at the rate of Rs. 300 per annum or part thereof upto 31st March 1985, Rs. 400 per annum from 1st April 1985 to 31st May 1986 and thereafter at the rate of Rs. 300 per annum.	Composite fee in lieu of tax is payable at the rate of Rs. 1,000 per year upto 1985-86 and Rs. 1,500 per year thereafter.
(*b*) In respect of temporary permits issued, road tax at the rate of $\frac{1}{52}$nd part of annual tax of the vehicle concerned for every week, or part thereof, based on its registered laden weight.	

Bilateral Agreements	*National Permit Scheme*
(*v*) *Mode of payment*	
Payment is to be made advance through bank drafts.	Payment is to be made annually in advance before 15th March of the preceding financial year. But it may also be made in two equal instalments through bank drafts before 15th March and 15th September each year, for the following six monthly periods.
(*vi*) *Choice of area of operation*	
Restricted to States signing the bilateral agreement concerned.	Not less than five States including the home State.
(*vii*) *The age of the vehicle*	
No age restriction.	Should not be more than 9 years old at any point of operation.

6.10.4 *Non-realisation of instalments of composite fee*

In respect of the vehicles registered in the States of Madras, Madhya Pradesh, Gujarat, Andhra Pradesh and Bihar and authorised to ply in the State of West Bengal under national permit scheme during 1985-86, fee for the period from April 1985 to September 1985 in 65 cases and that from October 1985 to March 1986 in 165 cases was not realised by the respective State Transport Authorities and remitted to their counterpart in West Bengal. This resulted in non-realisation of composite fee amounting to Rs. 1·15 lakhs.

On this being pointed out in audit (between June 1986 and January 1987), the department agreed (between June 1986 and January 1987) to take action. Further development is awaited (February 1988).

6.10.5 *Realisation of composite fee not made on pro-rata basis*

Under the national permit scheme if the authorisation of a national permit is granted at any time after the first quarter of

the financial year, the composite fee shall be charged on *pro-rata* basis for the remaining quarter of the financial year, including the quarter in which such authorisation is granted.

While realising composite fee during the period from 1984-85 to 1986-87, the State Transport Authority of Madhya Pradesh in 40 cases and that of Nagaland in 36 cases did neither make the permit co-terminus with the financial year, nor, calculate the composite fee on *pro rata* basis. This led to short realisation of composite fee amounting to Rs. 0 29 lakh.

On this being pointed out in audit (June 1986 and January 1987), the department agreed (June 1986 and January 1987) to take up the matter with the concerned State Transport Authorities. Further development is awaited (February 1988).

6.10.6 *Short realisation of composite fee*

The rate of composite fee, payable in respect of a public carrier goods vehicle authorised to ply in West Bengal under National Permit Scheme, was enhanced, with effect from 1st April 1980, from Rs. 700 to Rs. 1,000 per annum.

The State Transport Authority of Meghalaya recovered and remitted composite fee at the rate of Rs. 700, instead of Rs. 1,000 per annum per vehicle in respect of vehicles registered there and authorised to ply in West Bengal during the year 1985-86. This resulted in short realisation of comospite fee amounting to Rs. 0·36 lakh in 120 cases.

On this being pointed out in audit (June 1986), the department agreed (June 1986) to take action. Further development is awaited (February 1988).

6.10.7 *Non-imposition of penalty due to delayed payment of composite fee*

Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979, a permit holder who is authorised to operate in the State of West Bengal, by virtue of a national permit, shall be liable to pay penalty at the rate of Rs. 100 per vehicle per month for delay in making payment of composite fee. Between March 1985 and October 1985, composite fee in 28 cases was accepted by three State Transport Authorities without imposing any penalty, even though there was delay in payment varying from 1 month to 36 months. Penalty imposable in these cases amounted to Rs. 0 39 lakh.

On this being pointed out in audit (January 1987), the department agreed (February 1987) to take up the matter with

the concerned authorities. Further development is awaited (February 1988).

6.10.8 *Under-assessment of tax in respect of temporary permits under bilateral agreement*

Road taxes remitted in respect of 761 temporary permits, issued between March 1984 and April 1986 to registered owners of vehicles of other States, were less than the amounts actually payable, due to application of incorrect rate of tax and wrong determination of the period of week or part thereof. The under-assessment amounted to Rs. 1·03 lakhs as shown below:

Year	No. of permits issued	Amount realised short (In lakhs of rupees)
1983-84	17	0·05
1984-85	128	0·30
1985-86	602	0·66
1986-87	14	0·02
	761	1·03

On this being pointed out in audit (October 1985 and December 1986), the department agreed (October 1985 and January 1987) to take action. Further development is awaited (February 1988).

6.10.9 *Short-realisation of countersignature fees on permits*

Under the provisions of the Motor Vehicles Act, 1939, and the Bengal Motor Vehicles Rules, 1940, fees for renewal of countersignature of permit relating to public carrier vehicles shall be 150 per cent of the amount of fees prescribed for the purpose, if the application for its renewal is not made on a date not less than 120 days before the date of expiry of the permit.

In respect of 32 cases of renewal of countersignature of permit under bilateral agreement made between April 1985 and April 1986, fees at normal rate, instead of at 150 per cent thereof, were realised, though the applications for renewal in

all these cases were not made within the prescribed period. This led to short realisation of countersignature fees amounting to Rs. 0·32 lakh, as detailed below:

Name of the State	No. of permits counter-signed	Amount of short realisation (In lakhs of rupees)
Bihar	6	0·06
Uttar Pradesh	10	0·10
Orissa	16	0·16
	32	0·32

On this being pointed out in audit (June 1986), the department agreed (June 1986) to take action. Further development is awaited (February 1988).

6.10.10 *Bank drafts became invalid for want of timely encashment*

(*i*) The State Transport Authority, West Bengal and the Public Vehicles Department, Calcutta received 1,748 bank drafts for Rs. 8·83 lakhs from other States between January 1985 and February 1986, relating to periods between 1982-83 and 1985-86, on account of vehicles of those States plying in West Bengal under bilateral agreements and National Permit Scheme. 292 such drafts for Rs. 0·32 lakh had become time barred on the dates of their receipts. The remaining 1,456 drafts for Rs. 8·51 lakhs, though received within the periods of their currencies, were not sent to the bank for credit to Government account. 1,088 of them for Rs. 7·35 lakhs were returned to the issuing banks through the State Transport Authorities concerned between January and April 1986 and the remaining 368 of them for Rs. 1·16 lakhs remained unattended (May 1987).

(*ii*) 95 bank drafts for Rs. 0·29 lakh relating to road tax on temporary permits for various periods falling between 1983-84 and 1984-85 were received by the Director, Public Vehicles Department from States concerned from time to time. The drafts were not encashed within the period of their validity and returned to the States for revalidation between May 1985 and January 1986. The drafts have not been received back (May 1987).

6.10.11 *Non-maintenance/irregular maintenance of records*

For watching the total number of permits issued by other States to vehicles of those States for plying in West Bengal as well as the receipt of bank drafts on account of composite fee, countersignature fee and road tax due to this State, the State Transport Authority, West Bengal and the Public Vehicles Department, Calcutta are required to maintain the following records, in addition to cash book prescribed under the Treasury Rules:

(1) Permit countersignature register.

(2) Register of temporary permits issued by the Regional Transport Authority of other States in respect of vehicles coming from those States showing the validity periods of permits and the names of the parties.

(3) Register of bank drafts showing the position of receipts, disposals and encashment of bank drafts received from the Regional Transport Authorities of other States in respect of their vehicles coming into this State.

(4) Inter-State vehicle movement register for vehicles registered in other States coming into West Bengal on the basis of temporary permits, issued by other States or permits countersigned by the respective Regional Transport Authorities.

But such records were either not maintained, or, where maintained were incomplete. This led to non-realisation of revenues as no effective watch was possible. There was no scope for reconciliation of figures of revenue realised and credited to Government, or, withheld in the shape of invalid or defective bank drafts.

On this being pointed out in audit (between June 1986 and May 1987), the State Transport Authority agreed (June 1986) to maintain the relevant registers properly and the Public Vehicles Department, Calcutta agreed (May 1987) to look into the matter. Further development is awaited (February 1988).

The above points were reported to Government between February and July 1987; their reply has not been received (February 1988).

CHAPTER 7

STATE EXCISE

7.1 **Results of Audit**

Test audit of the accounts of State Excise revenue maintained at different district revenue wings, conducted during 1986-87, revealed non-realisation or short realisation of excise duty (including fees) amounting to Rs. 36.26 lakhs in 18 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/short levy of duty on chargeable wastage of spirit	10	2·69
2. Non-recovery/short recovery of privilege fee ..	4	0·88
3. Non-levy of tree tax	1	0·25
4. Other cases	3	32·44
Total	18	36·26

Audit findings were reported to the Government between September 1986 and May 1987; their reply has not been received (February 1988).

Some of the important cases are mentioned in the following paragraphs.

7.2 **Non-levy of duty on transit loss**

(*i*) Under the State Excise Rules, transit loss of rectified country spirit, in excess of the permissible ceiling is chargeable to duty. The ceiling of the transit loss prescribed by Government takes into account duration of transit of the spirit as also the kind of containers used for the purpose.

(*a*) During 1985-86, in the course of transportation of rectified spirit from one distillery in Hooghly district to its unit, 896·31 London-proof litres of rectified spirit were lost in transit in excess of the prescribed ceiling. Excise duty amounting to Rs. 67,223, at the rate of Rs. 75 per London-proof litre, was chargeable on this quantity, but it was not levied.

On this being pointed out in audit (July 1986), a demand notice was served by the department in July 1986. Report on recovery is awaited (February 1988).

(*b*) In the case of another distillery in Hooghly district, transit loss of 955·77 London-proof litres of rectified spirit, in excess of the prescribed ceiling, occurred in course of their transportation from the distillery to different parties' premises during the year 1985-86. Excise duty amounting to Rs. 71,683 was leviable on this quantity, but it was not levied.

On this being pointed out in audit (July 1986), the department stated (July 1986) that a proposal for raising the demand on the distillery was under process. Further development is awaited (February 1988).

The omissions were reported to Government in December 1986; their reply has not been received (February 1988).

(*ii*) Under the State Excise Rules, transit loss of bottled country spirit, in excess of the permissible ceiling, is chargeable to duty at Rs. 6·33, Rs. 3·19 and Rs. 2·13 per bottle of 600 ml., 300 ml. and 200 ml. capacity respectively on the despatching distillery.

In the course of transportation of country spirit during 1985-86 in bottles of different capacities by a distillery in Hooghly district to a warehouse within the same district at a distance of 30 kms. and to another warehouse in Midnapore district over 70 kms. away, there was transit loss of 5,612 bottles in excess of the permissible ceiling. On this quantity of country spirit in bottles, excise duty amounting to Rs. 28,671 was chargeable on the distillery, but was not levied and realised.

On this being pointed out in audit (July 1986), the department stated (March 1987) that a demand notice for payment of duty on chargeable wastage in transit in respect of Hooghly district had been issued in December 1986 and the Excise authority in Midnapore district had been instructed to issue demand notice for the chargeable wastage relating to the warehouse of that district. Further development is awaited (February 1988).

The case was reported to Government in December 1986; their reply has not been received (February 1988).

7.3 **Short levy of duty**

With effect from 1st April 1985, the rate of excise duty on rectified spirit was enhanced from Rs. 67 per London-proof litre to Rs. 75 per London-proof litre.

In the case of a bonded warehouse in 24 Parganas (South) district, the chargeable storage wastage of rectified spirit (4,132·6 London-proof litres) during 1985-86 was erroneously charged to duty at the old rate of Rs. 67 per London-proof litre, instead of Rs. 75 per London-proof litre. This led to short levy of excise duty amounting to Rs. 33,061.

The short levy was pointed out to the department in April 1986; their reply has not been received (February 1988).

The case was reported to Government in July 1986; their reply has also not been received (February 1988).

7.4 **Non-realisation/short realisation of annual licence fee**

The Bengal Excise (Foreign Liquor Licence Fee) Rules, 1942 require a licensee dealing in India-made foreign liquor to pay in advance an annual licence fee at the prescribed rate, depending upon the volume of his sales during the preceding 12 months. In the case of a new licence, however, the licence fee is imposed on the quantity, estimated to be sold as determined by the Collector.

In Hooghly district, a new licensee was granted India-made foreign liquor trade licence for the period from 18th October 1984 to 31st March 1985 without realising, in advance, the licence fee as required under Rules. Subsequently, in March 1985, licence fee amounting to Rs. 26,334 determined on the basis of the licensee's sales up to 28th February 1985 was realised. Licence fee in respect of estimated or actual sales made in March 1985 was not realised till the date of audit (July 1985). This led to short realisation of the fees amounting to Rs. 10,710. Further, licence fee for the year 1985-86, which was required to be recovered in advance, was also not recovered by the department till the date of audit (July 1985).

On this being pointed out in audit (July 1985), the department adjusted Rs. 900 against the licensee's deposits and realised the balance (Rs. 9,810) in August 1985 in respect of the period from 18th October 1984 to 31st March 1985. A demand notice for licence fee for the year 1985-86, estimated at Rs. 60,534, was also issued by the department in July 1985. Report on recovery is awaited (February 1988).

The matter was reported to Government in March 1986; their reply has not been received (February 1988).

7.5 Short realisation of privilege fee on import of India-made foreign liquor

Under the Bengal Excise Act, 1909, India-made foreign liquor other than beer can be imported into West Bengal on the strength of permits obtained on advance payment of privilege fee at the prescribed rate. By a notification issued by Government in March 1985, the rate of privilege fee was enhanced from Re. 1·00 per bulk litre to Rs. 1·50 per bulk litre with effect from 1st April 1985.

Four licensees in Calcutta imported (on different dates between 1st April 1985 and 13th May 1985) 35,415 bulk litres of India-made foreign liquor into West Bengal against permits issued to them by the department before April 1985 on advance payment of privilege fee at the rate of Re. 1·00 per bulk litre. As the actual import of liquor took place on or after 1st April, 1985, when the rate of privilege fee was revised, differential fee at the rate of 50 paise per bulk litre was recoverable from the licensees, but it was not recovered. The failure resulted in short realisation of fee by Rs. 17,707.

On this being pointed out in audit (November and December 1986), the department realised the full amount between June 1985 and May 1987.

Government confirmed the realisation in February 1988.

7.6 Non-levy of tree tax

The Rules regulating the manufacture and sale of tari, 1939 prohibit collection of tari by tapping tari-producing trees and its sale without a valid licence in the areas specified by Government. Licence for retail sale of fermented tari in the specified areas is settled by the District Collector at a fee fixed in auction. In addition to the licence fee, a minimum tree tax, determined by the District Collector with the approval of the State Excise Commissioner, is also payable by the licensee. By a notification issued in September 1970, as subsequently amended in May 1971, the areas within the jurisdiction of four police stations in Sadar sub-division of Burdwan district were notified as specified areas for purpose of manufacture and sale of fermented tari with effect from 1st April 1972. Accordingly, for collection of tari and its sale (in those areas) from that date, licensees were liable to pay, besides the licence fee for the respective licensing periods, a tree tax at the rate fixed by the District Collector with approval of the Commissioner of Excise.

It was noticed from registers and other records that licences for retail sale of fermented tari in the said specified areas were settled by auction on 4th March 1986 for 1986-87 with fifteen licensees at a total licence fee of Rs. 33,000. But no tree tax was recovered from the licensees. In the neighbouring districts of Hooghly and Howrah tree tax from the licensees was being realised at 75 per cent of the licence fee. Based on this rate, tree tax amounting to Rs. 24,750 was realisable for 1986-87 from the said licensees.

On this being pointed out in audit (December 1986), the department stated (December 1986) that the matter had been referred to the Commissioner of Excise. Further development is awaited (February 1988).

The matter was reported to Government in March 1987; their reply has not been received (February 1988).

CHAPTER 8

ENTRY TAX

8.1 **Results of audit**

Test audit of the accounts of entry tax maintained at different entry tax checkposts, conducted during 1986-87, revealed non-realisation, short realisation and under-assessment of tax amounting to Rs. 161·63 lakhs in 42 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation, short realisation and under-assessment of entry tax	28	110·83
2. Irregular exemption	2	0·37
3. Transport passes not returned	6	10·45
4. Defalcation of Government money ..	1	7·08
5. Other cases	5	32·90
Total	42	161·63

Audit findings were reported to the department and Government between January and September 1987; their replies have not been received (February 1988).

Some of the important cases are mentioned in the following paragraphs.

8.2 **Misappropriation of Government funds**

At a road checkpost, the assessed entry tax is collected by the cashiers at the counters and recorded in their respective daily scrolls. Thereafter, all such amounts are received by the collecting cashier by putting his signature on the daily scrolls, amounts are then entered in the cash book and the cash is kept in iron chests with double lock system, till its deposit into treasury through the zonal office.

Ample provisions exist in the West Bengal Treasury Rules for securing and proper accounting of Government money. The

Directorate of Entry Tax had also issued (April 1975) instructions to officers-in-charge of checkposts and officers of the Internal Audit Organisation to make periodical physical verification of the cash balances at the checkposts and for strict compliance of the prescribed procedure for handling and safe custody of Government money by the departmental staff. As these instructions were not being scrupulously followed in different checkposts, another circular was issued by the Directorate in July 1984 on the basis of remarks of the Public Accounts Committee in their report of 1984-85, enjoining strict observance of the provisions laid down in the West Bengal Treasury Rules for the accounting and safe custody of Government money.

In a road checkpost in Hooghly district, due to non-observance of the provisions of Treasury Rules and departmental instructions by the officer-in-charge of the checkpost, a sub-inspector, who was acting as the collecting cashier, misappropriated a total sum of Rs. 7,07,697 out of the tax collected on 46 occasions between 21st July 1985 and 9th May 1986. In addition, another sum of Rs. 100 was misappropriated on 11th June 1985 by the same cashier. On 27 occasions, out of 46, the amounts collected from the counter cashiers against proper receipts on their daily scrolls were not entered in full in the cash book; in 5 cases the amounts collected were not posted at all; in the remaining 14 cases mistakes were committed in the totals of the receipt side of the cash book; while the totals in 13 cases were less than what they should be, in one case there was excess totalling.

The fact of misappropriation was first detected by the Internal Audit Organisation of the department in June 1986 even though accounts for the month of June 1985 were verified by them in September 1985. The collecting cashier remained absent from duty from 10th May 1986 without any intimation and without depositing the keys of the chest which were lying with him. On the date immediately prior to his absence from office, the total amount lying in the said iron chest was shown in the cash book as Rs. 17,074.

The officer-in-charge of the checkpost, however, was not aware of the actual location of those keys. As a result, the chest could not be opened and the balance lying therein was not ascertainable.

The matter was reported to Government from time to time commencing from 3rd July 1986. The Accountant-General was intimated about the defalcation of a sum of Rs. 6,75,009 in

September 1986, although the total sum misappropriated was Rs. 7,07,697.

Had the instructions contained in the Treasury Rules and enjoined in the circulars of April 1975 and July 1984 scrupulously observed, the misappropriation of such a large amount spreading over a long period could have been avoided.

On this being pointed out in audit (February 1987), the local office confirmed (March 1987) the defalcation and stated that the case was under the investigation of the police; the sub-inspector was suspended in absentia. No information about the prospect of recovery was, however, made available. Further report is awaited (February 1988).

The matter was reported to Government in April 1987; their reply has not been received (February 1988).

8.3 **Irregular exemption due to misclassification**

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, baby food is exempted from tax. The department, however, clarified in March 1984 that non-milk based baby food shall be liable to tax at seven per cent advalorem.

At a checkpost in Howrah district, non-milk based baby food under the trade name "Vijaya Spray" valuing Rs. 15,12,000 brought into Calcutta metropolitan area by a dealer between 27th July 1984 and 3rd December 1984 was exempted from payment of tax by treating the commodity as milk based. The misclassification resulted in non-realisation of tax amounting to Rs. 1,05,840.

On this being pointed out in audit (December 1985), the department stated (March 1987) that notices for recovery of tax had been issued. Report on recovery is awaited (February 1988).

The cases was reported to Government in June 1986; their reply has not been received (February 1988).

8.4 **Short levy of tax on wireless goods**

Under the West Bengal Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, "wireless goods" are taxable at 4 per cent advalorem. Radar and Radio Telephones fall within the category of wireless goods and accordingly their entry into Calcutta metropolitan area attract tax at 4 per cent.

At a dock checkpost in Calcutta, import of Radar and Radio Telephones (valuing Rs. 5·43 lakhs) into Calcutta metropolitan area was assessed (July 1985) to tax at the rate of 2 per cent

treating the goods as 'Machinery', instead of at the rate of 4 per cent applicable to wireless goods. This resulted in short levy of entry tax to the extent of Rs. 10,861.

On this being pointed out in audit (July 1986), the department admitted (July 1986) the mistake and realised (October 1986) the tax levied short.

The case was reported to Government in February 1987; their reply has not been received (February 1988).

8.5 **Short levy due to error in computation**

In November 1985, a dealer brought into Calcutta metropolitan area, through a dock checkpost at Calcutta, certain specified goods valuing Rs. 10,98,414. Entry tax leviable at 2 per cent advalorem on these goods actually worked out to Rs. 21,968. However, the assessing authority erroneously worked out the amount of tax as Rs. 2,197. The mistake resulted in short realisation of tax of Rs. 19,771.

On this being pointed out in audit (August 1986), the department initiated (August 1986) steps for realisation of the amount of Rs. 19,771. Report on realisation is awaited (February 1988).

The case was reported to Government in January 1987; their reply has not been received (February 1988).

8.6 **Non-levy of entry tax on goods brought for repair but not taken out subsequently**

On all goods specified in the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, brought into Calcutta metropolitan area for purposes of consumption, use or sale, entry tax is leviable at rates prescribed in the Act. In so far as the specified goods which are brought into the area for the sole purpose of repairs (and not for consumption, use or sale) and are subsequently sent back after repair to the consignors outside the area are concerned, it was decided by Government in August 1972 that such goods were not to be taxed. This was subject to the conditions that (*i*) the principal of the business or the owner of the goods causing their entry should submit, at the time of their entry, a certificate that the goods were for repairs and not for sale, use or consumption; and (*ii*) the goods would be taken out of the area through the same checkpost normally within one month, or, in special circumstances, within such extended time, which should in no case exceed 6 months, as may be allowed.

(*a*) At a checkpost in Hooghly district, 78 consignments of machinery, electrical equipment, etc., valuing Rs. 90·70 lakhs, were brought into Calcutta metropolitan area between April 1984 and March 1985 for purposes of repairs. Even though most of the consignments were to be taken out of the area within one month and in a few cases, within an extended period beyond one month, the goods were not actually taken out of the area till November 1985, even after expiry of 6 months or more. The goods, were, therefore, to be treated as have been consumed, used or sold within the Calcutta metropolitan area and, hence, chargeable to tax at the rates applicable. However, tax amounting to Rs. 1,81,391 leviable in these cases was not demanded and realised.

On this being pointed out in audit (November 1985), the entry tax authorities at the checkpost agreed (November 1985) to pursue the matter. Further development is awaited (February 1988).

The matter was reported to Government in September 1986; their reply has not been received (February 1988).

(*b*) At another checkpost in 24-Parganas (N) district, 11 consignments of machinery and electrical equipments valuing Rs. 72,73,100 were brought into Calcutta metropolitan area between May 1984 and December 1984. But the said consignments were not taken out of metropolitan area till October 1986. The goods were, therefore, to be considered as have been consumed, used or sold within Calcutta metropolitan area and hence chargeable to tax at the rates applicable. However, tax amounting to Rs. 1,45,462 leviable in these cases, was not demanded and realised.

On this being pointed out in audit (July 1985 and October 1986), the entry tax authorities at the checkpost level agreed (August 1985 and October 1986) to take action. Further development is awaited (February 1988).

The matter was reported to Government in February 1986; their reply has not been received (February 1988).

8.7 **Assessment and collection of entry tax on petroleum products**

8.7.1 *Introductory*

Tax on entry of specified goods into the Calcutta metropolitan area for consumption, use, or, sale therein, from any

place outside that area, was introduced with effect from 16th November 1970, with the enactment of the Taxes on Entry of Goods into the Calcutta Metropolitan Area Act, 1970. This Act was subsequently repealed and replaced by the Taxes on Entry of Goods into the Calcutta Metropolitan Area Act, 1972, which came into force with retrospective effect from 16th November 1970.

Since the commencement of the Act in November 1970, entry tax became leviable on petroleum and petroleum products, other than kerosene, brought into the area, for consumption, use, of sale, either by road in tank-trucks, tank-lorries, or by sea-going tankers/vessels, by railway tank-wagons and by pipelines, installed at Mourigram by the Indian Oil Corporation. For the purpose of regulating the assessment and collection of entry tax on petroleum and petroleum products, an order was issued by the Government in March 1973, which was subsequently revised in April 1978. Both these orders were made effective from the date of commencement of the Act, in November 1970.

In terms of the above orders, five checkposts were set up at Budge Budge, Paharpur and Dum Dum Airport in 24-Parganas district and at Shibur Char and Mourigram in Howrah district, exclusively for the assessment and collection of tax on petroleum and petroleum products. All the above checkposts were under the direct supervision of the zonal officer, Calcutta zone, under the Director of Entry Tax.

8.7.2 *Collection of revenue*

Entry tax on petroleum/petroleum products, collected at the above checkposts, except the checkpost at Dum Dum airport, during the three years, commencing from 1984-85 was as below:

Year	Amount (In lakhs of rupees)
1984-85	180·90
1985-86	198·04
1986-87	183·07

Figures for collection of tax at the Dum Dum airport checkpost were not made available (June 1987).

8.7.3 *Highlights*

The review highlights the following major irregularities:

(*a*) Irregular assessment of entry tax on the quantity of petroleum product sold within the Calcutta metropolitan area instead of on the quantity brought into the said area for consumption, use, or sale therein.

(*b*) Irregular exemption of tax amounting to Rs. 86·32 lakhs (*i*) on sale of petroleum products to foreign aircrafts, (*ii*) on sale of taxable petroleum product as a non-taxable item, (*iii*) on sale within the Calcutta metropolitan area by irregularly treating it as sale outside the area and (*iv*) on excess operational loss.

8.7.4 *Mode of assessment*

In terms of the order, issued in April 1978, tax on petroleum/petroleum products, brought into the Calcutta metropolitan area by road for consumption, use, or sale therein is assessed and collected immediately on their arrival at the road checkpost, without allowing any exemption. But, tax on those goods, brought by sea, rail, or pipeline is assessable at the five checkposts, referred to above, after the expiry of a month, on the basis of total receipt during the month, less the quantity either transferred, or sold and despatched outside the Calcuta metropolitan area and/or quantity transferred, or sold to any other dealer, either within, or, outside the said area during the period and where the recipient is liable to pay tax on such transfer. Besides, operational loss or gains due to variation in temperature and transit losses up to the prescribed limit, occurring within a month, are also allowed to be adjusted against the total receipt at the time of making assessments. For this purpose, every importer of petroleum and petroleum products is required to submit at the checkpost nearest to his place of operation, (*i*) a statement of receipt, immediately after the entry of such goods, and (*ii*) a monthly statement within 7 days after the expiry of the concerned month, indicating therein total receipt of goods brought by road, on which, tax was already paid as well as goods brought by sea, rail, or pipeline, total sale and despatch within the Calcutta metropolitan area as well as outside it, total stock transfer and total transit and operational losses. Besides, every importer or a dealer receiving stock from an importer is required to submit a statement of sale and despatch outside the Calcutta metropolitan area within 24 hours of such despatch. No exemption on such sale is allowed, unless a certificate of sale and despatch

outside the Calcutta metropolitan area is furnished for each such sale, in the prescribed form.

8.7.5 *Irregular assessment*

In terms of the order issued in April 1978, tax is leviable on the entire quantity of petroleum and petroleum products, brought within the Calcutta metropolitan area during a month, except the quantity exempted from tax as provided for in the order. It was, however, noticed in audit (between June 1986 and May 1987) that tax was being assessed and levied on the actual quantity of such goods sold within the area, thereby leaving the balance quantity in hand every month unassessed. This resulted in blockage of revenue amounting to Rs. 23·04 lakhs and Rs. 24·48 lakhs, during 1985-86 and 1986-87 respectively, calculated on the basis of average monthly closing stock of three dealers at three checkposts, alone.

On this being pointed out (between June 1986 and May 1987) in audit, the local office stated (June 1987) that the assessments were being made according to instructions of the Director of Entry Tax; the Directorate had referred the matter to Government for clarification in February 1987. Further development is awaited (February 1988).

8.7.6 *Non-levy of tax*

Aviation turbine fuel is a petroleum product, on which entry tax is leviable under the Act. In the assessments of aviation turbine fuel at the Dum Dum airport checkpost, sales to foreign aircrafts were irregularly exempted from tax, although such exemption was not provided for in the Act and the Rules, or, in the Government order. This resulted in non-levy of tax, on 2,040·10 lakh litres of fuel issued to foreign aircrafts between March 1981 and March 1987, amounting to Rs. 63·74 lakhs.

On this being pointed out (May 1987) in audit, the local office agreed (June 1987) to take action in this regard. Further development is awaited (February 1988).

8.7.7 *Sales within Calcutta metropolitan area treated as sales outside the area*

In terms of the Government order of April 1978, sale of petroleum and petroleum products outside the Calcutta metropolitan area is deductible from the total quantity received during a month, for the purpose of assessment of tax. If, however, such sale

is completed and the goods are delivered within the Calcutta metropolitan area to a purchaser, or his agent, or, to a transporter, authorised by the purchaser, for despatch outside the area, no deduction is reasonably allowable.

(*a*) Three dealers sold petroleum products from their places of operation near Budge Budge and Mourigram checkposts and delivered the goods to the purchasers, or their transporters on the spot, for despatch to their places outside the Calcutta metropolitan area, but showed the transactions as sales outside the area in their monthly statements. At the time of making assessments of tax, such sales were irregularly allowed deduction, resulting in under-assessment of tax amounting to Rs. 5·07 lakhs during 1986-87.

On this being pointed out in audit (May 1987), the local office admitted (June 1987) the mistake and agreed to look into the matter. Further development is awaited (February 1988).

(*b*) Sales of petroleum and petroleum products by a dealer at Budge Budge to the Defence department of the Government of India, for onward transmission by ship to different places outside the Calcutta metropolitan area, were erroneously treated as sales outside the area, resulting in under-assessment of tax, on 23·78 lakh litres of petroleum products, amounting to Rs. 0·55 lakh in 8 cases during 1986-87.

On this being pointed out in audit (May 1987), the local office agreed (June 1987) to look into the matter. Further development is awaited (February 1988).

(*c*) Sales of petroleum products within the Calcutta metropolitan area by a dealer at Budge Budge between April 1985 and March 1987 were shown in his monthly statements as sales outside the area. Due to irregular exemption of the above sales from the levy of tax, there was under-assessment of tax amounting to Rs. 0·16 lakh.

On this being pointed out in audit (May 1987), the local office agreed (June 1987) to investigate the matter. Further development is awaited (February 1988).

(*d*) Any quantity of a petroleum product, sold outside the Calcutta metropolitan area, is exempted from levy of tax. But no such exemption is allowable on any petroleum product, imported into the Calcutta metropolitan area and used therein for preparation of some other product for sale outside the area.

A dealer at Budge Budge brought into the Calcutta metro-

politan area jute batching oil. A portion of it was used for preparation of wash oil within the said area and the new product was sold outside the area. At the time of making assessments for the period from April 1984 to March 1987, such sales were irregularly exempted from tax, treating them as sales outside the Calcutta metropolitan area, resulting in under-assessment amounting to Rs. 0·32 lakh.

On this being pointed out in audit (between June 1986 and May 1987), the local office admitted (June 1987) the mistake and agreed to look into the matter. Further development is awaited (February 1988).

8.7.8 *Non-assessment of taxable petroleum product*

Under the Taxes on Entry of Goods into the Calcutta Metropolitan Area Act, 1972, petroleum and petroleum products, other than kerosene, brought into the Calcutta metropolitan area, for consumption, use or sale, are specified goods on which entry tax is leviable.

A dealer of petroleum product brought into the Calcutta metropolitan area, aviation turbine fuel, by sea through Budge Budge checkpost and by pipeline through Mourigram checkpost. Due to defective storing, 4·93 lakh litres became unfit for use as such and was sold as superior kerosene oil between April 1983 and March 1987. The dealer's claims for exemption from tax were irregularly granted, resulting in non-levy of tax amounting to Rs. 16·48 lakhs.

On this being pointed out in audit (between June 1986 and May 1987), the zonal officer, Calcutta zone stated (June 1987) that the matter had been referred to Government in February 1987. Further development is awaited (February 1988).

8.7.9 *Irregular exemption*

In terms of the Government order issued in April 1978, operational loss of a particular petroleum product due to temperature variation should be set off against operation gain due to similar reason during a month, and the excess loss, if any, would be allowed to be deducted up to the prescribed limit from the total receipt of the same product for the month. Loss in excess of such prescribed limit is chargeable to tax.

In 30 assessment cases of two dealers between May 1984 and March 1987 at the Dum Dum airport checkpost, operational losses in petroleum products (2,73,823 litres) in excess of the

allowable limits were not assessed to tax. This resulted in short levy of tax amounting to Rs. 0·12 lakh.

On this being pointed out in audit (May 1987), the zonal officer, Calcutta zone admited (June 1987) the mistake and agreed to issue necessary instructions to the assessing officers. Further development is awaited (February 1988).

8.7.10 *Deductions claimed twice due to defective system*

While tax on petrolcum and petroleum products, brought by road into the Calcutta metropolitan area, is levied immediately on arrival at the checkpost, tax on such products, brought by other modes of transport, is assessed and levied after the expiry of the month. Separate stock accounts need, therefore, be maintained for goods on which tax has been paid and those on which tax is yet to be paid.

In practice, however, only one stock account for the entire quantity of a petroleum product including the total receipt by whatever mode of transport and the total issues thereof is maintained by the dealers. As a result, assessment is made on the quantity remaining after deduction of the quantity brought by road on pre-payment of tax, as shown in the monthly statements, submitted by the dealer along with the proof of payment of tax. This system was not foolproof, as was evident from two assessments of a dealer for the months of February and December 1986 made at the Dum Dum airport checkpost in which a dealer claimed and was allowed deduction twice for the quantity of petroleum product brought by road from time to time between 8th December 1985 and 22nd February 1986. The irregular deduction resulted in short realisation of tax amounting to Rs. 0 55 lakh.

On this being pointed out in audit (June 1987), the local office admitted (June 1987) the mistake and agreed to recover the amount. Further development is awaited (February 1988).

8.7.11 *Non-submission/delay in submission of statements*

In terms of orders of April 1984, every oil company is required to submit a statement of receipt to the checkpost, immediatcly on the entry of petroleum products into the Calcutta metropolitan area but such statement for 1986-87 had not been submitted by any company. Similarly, statements of sale and despatch of petroleum products outside the Calcutta metropolitan area, which are required to be submitted within 24 hours of

such despatch, were submitted only with monthly statements. Submission of monthly statements, required to be made within 7 days after the expiry of a month, was also delayed by 21 to 57 days during 1986-87, by an importer both at Budge Budge and at Paharpur checkposts. Submission of monthly statements for the period from March 1986 to March 1987 by the same dealer at Dum Dum airport checkpost was noticed to have been made in June 1987. In the absence of any penal provision against such default no action could be taken against the errant dealer.

On this being pointed out in audit (May 1987), the zonal officer, Calcutta zone stated (June 1987) that all concerned were being instructed to follow the instructions of the Government order. Further development is awaited (February 1988).

8.7.12 *Delay in collection of tax*

In terms of the Government order issued in April 1978, a dealer is liable to make payment of tax due, immediately on receipt of a demand notice after completion of assessment. In 15 assessment cases of a dealer, made at three checkposts during 1986-87, payment of tax amounts ranging between Rs. 1·67 lakhs and Rs. 3·15 lakhs was delayed by 25 days to 61 days after the issue of demand notice. No action could be taken against the defaulting dealer in absence of any specific provision in the Act in this regard.

On this being pointed out in audit (May 1987), this zonal officer, Calcutta zone stated (June 1987) that necessary instructions were being issued for prompt payment of tax after the receipt of demand notice. Further development is awaited (February 1988).

The above points were reported to Government (between January and July 1987); their reply has not been received (February 1988).

CHAPTER 9

AGRICULTURAL INCOME TAX

9.1 Assessment and collection of Agricultural Income Tax

9.1.1 *Introductory*

The Bengal Agricultural Income Tax Act, 1944, which came into effect from 1st April 1944, was enacted for the purpose of augmenting the revenue of the State by way of imposition of a tax on agricultural income derived from land situated within the State.

Agricultural income includes any income derived from agricultural land situated in the State and used for agricultural purpose by a cultivator, by an agricultural landholder, or, by a receiver of rent-in-kind in the process of agriculture or any work incidental thereto. Prior to an amendment of the Act in 1980, the total income of a tea garden owner, who was also manufacturing and selling processed tea in the market, used to be considered as mixed income, 60 per cent of which was assessable to tax under the Bengal Agricultural Income Tax Act, 1944 and the balance amount of 40 per cent was chargeable to tax under the Income Tax Act, 1961. But after the amendment of 1980, the entire income derived from a tea industry was assessable to tax as agricultural income.

9.1.2 *Highlights*

The review brings out the following points:

(*a*) Under-charge of tax amounting to Rs. 1·58 lakhs due to irregular deduction.

(*b*) Non-levy/short levy of interest amounting to Rs. 1·33 lakhs for delay in payment of tax.

(*c*) No action taken to realise the assessed tax amounting to Rs. 0·58 lakh.

(*d*) Absence of procedure for watching the acknowledgements for demand notices to assessees.

9.1.3 *Trend of revenue*

Revenue realised during five years from 1981-82 to 1985-86 vis-a-vis the budget estimates were as shown below:

Year	Budget estimate	Actuals	Variations (+)Excess (−)Short-fall
	(In crores of rupees)		
1981-82	9·00	1·22	(−)7·78
1982-83	1·50	1·35	(−)0·15
1983-84	1·33	5·76	(+)4·43
1984-85	5·50	9·63	(+)4·13
1985-86	10·00	19·63	(+)9·63

While the collection of revenue, compared to budget estimates, for the year 1981-82 showed a steep fall, the collection figures for the three years, 1983-84 to 1985-86 indicated steep increases of which the increase in 1985-86 was notable. The department stated (between March 1985 and June 1987) that the major source of revenue under Agricultural Income Tax was the collection of tax from tea company assessees.

9.1.4 *Arrears of revenue*

The outstanding revenue, realisable as on 31st March 1986, stood at Rs. 13·32 crores, out of which a sum of Rs. 3·60 crores was covered by certificate proceedings. Revenue collected through certificate proceedings during 1983-84 to 1985-86 and the amount outstanding at the end of those three years, as furnished by the department, were as shown below:

Year	Collection through certificate proceedings	Balance covered by certificate proceedings outstanding at the end of the year (including fresh demand covered by certificate proceedings during the year)
	(In crores of rupees)	
1983-84	0·06	3·03
1984-85	0·03	3·31
1985-86	0·40	3·60

Compared to the position of outstanding revenue covered by certificate proceedings, realisation was very small. On this being pointed out in audit (June 1987), the department stated (June 1987) that expeditious recovery through certificate proceedings was being vigorously pursued.

9.1.5 *Arrears in assessment*

Under the Bengal Agricultural Income Tax Act, 1944, normal assessment of tax in respect of assessees other than those having mixed income (e.g. tea industry) is to be completed within four years from the end of the year in which the agricultural income was first assessable. But in case of persons, having mixed income, or in cases where in consequence of definite information which has come into his possession, the Agricultural Income Tax Officer discovers that agricultural income chargeable to tax has escaped assessment in any year due to concealment of particulars of agricultural income by any person, assessment shall be completed within six years from the end of the year in which the agricultural income was first assessable.

Number of assessments completed and assessments in arrears during 1984-85 and 1985-86, as furnished by the department, were as below:

Year	Number of assessments for disposal	Assessments completed during the year	Assessments pending at the end of each year	Percentage of pendency
1984-85	1,35,992	32,894	1,03,098	75·81
1985-86	1,33,420	32,979	1,00,441	75·28

On the huge pendency being pointed out in audit (between April and June 1987), the local offices attributed the reason for delay to shortage of assessing officers. Besides, one range office at Calcutta stated (June 1987) that the assessments of tea companies could not be taken up as the amendment of the Act in 1980 had been challenged by the assessees in Court.

9.1.6 *Agricultural income escaping assessment*

A person, having annual agricultural income exceeding

Rs. 3,000, was liable to pay agricultural income tax upto the assessment year 1982-83. A test check of assessments of agricultural income tax relating to the assessment year 1982-83 in some range office revealed that the persons, having seven acres of agricultural land in a non-irrigated area, were liable to pay tax on their income up to that year. From a report of Agricultural Census conducted in this State during 1980-81 jointly by the Board of Revenue and the Directorate of Agriculture, it appeared that the number of persons having ten acres of more agricultural land during that year was 1,13,267. But the number of assessees. liable to pay agricultural income tax, as registered by the department, was 27,655 for 1980-81 and 27,253 for 1981-82. It, therefore, indicated that even on the basis of agricultural holdings of 10 acres or more, only 24 per cent of the prospective assessees could be brought under the ambit of agricultural income tax.

A cross-verification of a few rent rolls of the Land Revenue Department for 1392 B.S. (1985-86) with the lists of assessees, registered in the range offices of the Agricultural Income Tax in the districts of Malda, Nadia and Purulia, revealed that 154 raiyats, having more than 10 acres of land, were not assessed to tax upto the assessment year 1982-83.

On this being pointed out in audit (between January and May 1987), the local office agreed (between January and May 1987) to look into the cases.

9.1.7 *Irregular deduction*

Under the Bengal Agricultural Income Tax Act, 1944, any sum paid during the previous year on account of land revenue or rent, local rate or cess, mortgage rent, interest on borrowed capital for acquiring, reclaiming or improving the land, interest on agricultural loan, premium for insurance against loss or damage to land, or, crops, or cattle reared for agriculture, cost of maintenance of irrigation and embankments, cost of collection of rent including maintenance of other capital assets for that purpose, cost incurred for processing and transporting the agricultural produce to the market are admissible deducltions, either in full, or, in part, from the local agricultural income, for the purpose of computing the net taxable income of the assessment year.

While assessing (November 1985) the net agricultural income of a tea company of Jalpaiguri district, for the assessment year 1979-80, a sum of Rs. 28,857 was disallowed as inadmissible

deduction on an ad hoc basis, instead of disallowing the entire amount of Rs. 2,39,139, paid during the previous year, on account of advance tax (Rs. 82,188) and construction of a permanent labour shed (Rs. 1,56,951), which were not allowable deduction from the total agricultural income. This resulted in an under-charge of tax amounting to Rs. 1,57,711.

On this being pointed out in audit (January 1987), the local office admitted (January 1987) the mistake and agreed to take action. Further development is awaited (February 1988).

9.1.8 *Mistake in computation of tax*

In the assessment of a tea company of Jalpaiguri district for the assessment year 1979-80, made in March 1986, tax payable on net agricultural income of Rs. 42,318 was incorrectly calculated as Rs. 11,334, instead of Rs. 27,507. The mistake resulted in short realisation of tax amounting to Rs. 16,173.

On this being pointed out in audit (January 1987), the local office admitted (January 1987) the mistake and agreed to take action. Further development is awaited (February 1988).

9.1.9 *Non-levy/short levy of interest for delay in payment of tax*

Under the Act, an assessee is liable to pay the assessed tax within the date specified in the demand notice. For default in payment of tax in due time, he is liable to pay interest at 2 per cent on the amount due, for each month following the month in which the demand is payable upto the month prior to the month in which such demand is paid. If an assessee makes an application within the time mentioned in the demand notice, praying for being allowed to pay the tax in instalments, the assessing officer may, at his discretion, allow such instalments, not exceeding four. The permission granted, however, does not exempt the assessee from paying interest due.

(*i*) On completion of assessment (March 1985) of a tea company, registered in a range office at Calcutta, for the assessment year 1978-79 and upon adjustment of the advance tax paid, a demand notice was served on the assessee, instructing him to pay a further sum of Rs. 12·09 lakhs by June 1985. On a prayer for payment of the sum in instalments, the assessee was allowed to pay the sum in three equal instalments of Rs. 3 lakhs each in July, August and November 1985 and the balance amount of Rs. 3·09 lakhs in December 1985 along with interest of Rs. 60,900 chargeable on the assessee. The assessee

paid the first and the second instalments of Rs. 3 lakhs each within the due time and paid the last instalment of Rs. 3·09 lakhs along with the amount of interest in January 1986, although these were due in December 1985. The third instalment of Rs. 3 lakhs was not, however, paid in November 1985, specified in the notice. On a further application, the assessee company was allowed (5th August 1986) to pay the third instalment of Rs. 3 lakhs by 20th August 1986. The assessee company paid the amount of Rs. 3 lakhs on 14th August 1986. But interest chargeable for further delay in payment of the third instalment of tax, amounting to Rs. 60,180, was not levied.

On this being pointed out in audit (June 1987), the local office stated (June 1987) that action was being taken to raise the demand. Further development is awaited (February 1988).

(*ii*) Additional amount of tax payable by a tea company assessee, registered at Calcutta, for the year 1979-80 was assessed (March 1984) at Rs. 11·70 lakhs and a demand notice was issued instructing the assessee to pay the amount by August 1984. As the acknowledgement in support of the receipt of demand notice by the assessee was not received back, a fresh demand notice was issued in May 1985, fixing the date for payment in July 1985. On an application made by the assessee, praying for payment of tax in instalments, the assessing officer allowed (February 1986) payment of tax in four instalments between February and May 1986 and levied an interest amounting to Rs. 1,51,258, calculated up to January 1986, instead of April 1986. As a result, there was short levy of interest amounting to Rs. 23,408.

On this being pointed out in audit (October 1986), the local office stated (October 1986) that the mistake would be rectified. On further enquiry in audit (June 1987) the local office stated (June 1987) that the assessee had paid Rs. 3 lakhs out of the total demand in February 1987 and proposed to clear the entire balance by July 1987 and that revised demand for interest due would be raised after the completion of payment of tax. Further development is awaited (February 1988).

(*iii*) In 267 cases, in seven range offices interest for delay in payment of tax was not levied, resulting in non-realisation of interest amounting to Rs. 49,309.

On this being pointed out in audit (between October 1986 and May 1987), the assessing officers of the range offices agreed (between October 1986 and May 1987) to look into the matter. Further development is awaited (February 1988).

9.1.10 *Non-imposition of penalty for delay in payment of advance tax*

Under the Act every assessee, with effect from April 1975, is required to pay, as advance tax, an amount equal to the agricultural income tax, calculated on his total agricultural income of the latest previous year in respect of which he has been assessed, in three equal instalments on the 15th day of June, September and December of each financial year. Where an assessee is in default in making payment of agricultural income tax, a sum not exceeding half the amount of tax due is required to be recovered, by way of penalty.

A tea company, registered as an assessee under the Agricultural Income Tax Act, in the range office of Nadia district, paid between September 1985 and January 1986 a sum of Rs. 61,387 as advance tax for the assessment year 1979-80, although the entire amount was due for payment by 15th December 1979. For this delay, the assessee was liable to pay a sum not exceeding Rs. 30,694 by way of penalty. Although the assessment for the year was made in March 1986, no penalty was imposed, nor any reason for non-imposition of penalty was recorded.

On this being pointed out in audit (March 1987), the assessing officer agreed (March 1987) to take action. Further development is awaited (February 1988).

9.1.11 *Demands not pursued*

Under the Act, no proceeding for recovery of tax can be initiated aganst a defaulter, after the expiry of three years after

(*i*) the last day in which the tax is payable without the assessee being deemed to be in default, or

(*ii*) the date on which the last instalment fixed for payment, on a prayer by the assessee, falls due, or

(*iii*) the date on which any appeal relating to the payment of tax has been disposed of, whichever is later.

The above period of three years is exclusive of the time during which the recovery has been stayed by an order of the Court.

In 73 cases, in two range offices in Calcutta and in one range office in each of the districts of Cooch Behar and Murshidabad, no action was taken for realisation of assessed tax amounting to Rs. 58,247 although assessments of the above cases were completed between April 1980 and October 1983.

On this being pointed out in audit (between November 1986 and May 1987), the assessing officers of those offices stated (between November 1986 and May 1987) that the cases could not be pursued through oversight and due to various other administrative reasons. Further development is awaited (February 1988).

9.1.12 *Other points of interest*

On completion of assessments of tax due after adjustment of advance tax paid, demand notices are sent to the assessees by registered post and the acknowledgement cards received back from the Postal Department bear the proof of serving of those notices to the assessees. As such, the return of these acknowledgement cards from the Postal Department need be closely watched.

In Calcutta, assessments of three tea company assessees relating to the year 1977-78 and one assessee relating to 1979-80 were made in March 1984 and a total additional demand of Rs. 15·37 lakhs was raised. In the demand notices issued by post, the assessees were instructed to pay the entire amount by August 1984. Acknowledgement cards in support of delivery of the notices were not received back. But in the absence of any procedure for watching the return of acknowledgement cards from the Postal Department, the fact of non-serving of notices was detected long after the last date of payment, specified in the demand notices, and, as a result, fresh notices were issued between March and November 1985 for payment between May and November 1985.

On this being pointed out in audit (May 1987), the assessing officer stated (June 1987) that arrangement for serving of demand notices to tea company assessees by special messenger had since been made.

The above points were brought to the notice of Government in July 1987; their reply has not been received (February 1988).

CHAPTER 10

OTHER TAX RECEIPTS

A—Multi-Storeyed Building Tax

10.1 Under-assessment due to adoption of incorrect annual value

Under the West Bengal Multi-storeyed Building Tax Act, 1979, which came into force from 1st July 1975, an annual tax is payable by an owner of a multi-storeyed building consisting of five or more storeys in any urban areas in West Bengal. The tax is levied on the covered space of the building or any part thereof. The rate of tax per square metre is determined with reference to the proportionate annual value per square metre determined for municipal purposes. In cases where any covered space is used for any commercial or industrial purposes, the rate of tax is enhanced by 50 per cent.

Annual value of two multi-storeyed buildings in Calcutta with covered areas of 1,370 square metres (including 274 square metres used for commercial purposes) and 1,360 square metres was determined in July 1975 and January 1979 by the Corporation of Calcutta at Rs. 82,414 and Rs. 81,996 respectively. The proportionate annual value per square metre of the covered areas of the buildings accordingly worked out to Rs. 60.16 and Rs. 60·29 respectively; for which tax was leviable at the rate of Rs. 2 per square metre per annum. Besides, for the covered area of 274 square metres in case of first building used for commercial purposes, additional tax at Re. 1 per square metre per annum was also leviable. The department, however, levied tax on these buildings for the period from July 1975 to 1983-84 at a lower rate adopting annual value of the covered areas at the rate of Rs. 60 per square metre, instead of at the rate of Rs. 60.16 and Rs. 60.29, respectively. This resulted in undercharge of tax of Rs. 18,966.

On this being pointed out in audit (April 1986), Government admitted the undercharge and agreed (August 1987) to re-open the case for re-assessment. Report on re-assessment is awaited (February 1988).

B—Professions Tax

10.2 **Non-realisation of profession tax due to non-enrolment of cinema house owners**

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

In Jalpaiguri district, proprietors of 14 cinema houses who were running their business from periods prior to 1979 became liable to pay profession tax from 1st April 1979, but no action was taken by the department to enrol them under the Act and realise tax from them. This resulted in non-realisation of tax amounting to Rs. 24,500 (for the period from 1979 to 1986).

On this being pointed out in audit (March 1986), Government stated (August 1987) that eleven out of fourteen cinema houses had since been enrolled and the proceedings started against the remaining three to get them enrolled. Further development is awaited (February 1988).

10.3 **Non-realisation of interest from enrolled persons**

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, an enrolled person defaulting in payment of tax by the prescribed due date is liable to pay simple interest at two per cent of the amount of tax due for each month or part thereof for the period for which the tax remained unpaid.

Verification of the challan registers in respect of enrolled persons in Durgapur and Burdwan sub-divisions of Burdwan district showed that 155 enrolled persons defaulted in paying the profession tax for the years 1979-80 to 1984-85, delays ranging from 2 to 71 months. The amount of interest not realised worked out to Rs. 13,087.

On this being pointed out in audit (August 1986), the department admitted the omission and stated (January 1987) that interest amounting to Rs. 1,600 had since been realised, and recovery of the balance was being pursued.

The case was reported to Government in December 1986; their reply has not been received (February 1988).

C —Electricity Duty

10.4 **Non-realisation of surcharge**

Under the Bengal Electricity Duty Act, 1935, a surcharge computed at 20 per cent of the electricity duty payable on the total quantity of energy consumed is leviable, in addition to duty, where the energy consumed in any permises for lights and fans and for any other purposes connected with industrial or manufacturing process is not recorded by separate meters.

An industrial unit in Hooghly district consumed in its factory premises electrical energy for lights and fans as well as for manufacturing process without installing separate meters. Though electricity duty payable on the energy consumed was assessed and realised, the prescribed surcharge was not levied, resulting in under-charge of Rs. 1,47,016 during March 1980 to November 1982 and June 1983 to March 1985. The under-charge, if any, for the period from December 1982 to May 1983 could not be determined in audit for want of related returns.

On this being pointed out in audit (November 1985), the department agreed (July 1987) that the surcharge was payable, but stated that upon fixing the date of hearing for determination of the amount of surcharge, the assessee preferred an appeal before the Calcutta High Court against the order. Further development is awaited (February 1988).

The matter was reported to Government in August 1986; their reply has not been received (February 1988).

D —Amusements Tax

10.5 **Non-assessment of tax**

Under Section 8 of the Bengal Amusements Tax Act, 1922, any entertainment held for social, educational or scientific purposes may be exempted in full, or in part from payment of entertainments tax and show tax due, by issue of a general or special order by the Government, subject to such conditions as may be laid down in such order. Further, in terms of Section 9 ibid if the Government is satisfied that the whole of the net proceeds, after deduction of a sum not exceeding 25 per cent of the gross proceeds on account of the expenses of the entertainments, are devoted to philanthropic, religious or charitable purposes, the amount of entertainment tax and show tax, paid in respect of the entertainment, shall be refunded to the organisers.

In December 1985, Government issued an order granting exemption from payment of entertainments tax and show tax to an organisation for holding one film show daily for eight days in December 1985 in aid of Cine-Co-Artists Society in a theatre hall at Calcutta, on condition that not more than 25 per cent of the total collection be spent for meeting the usual expenses and audited accounts alongwith a certificate of proper utilisation of the sale proceeds be submitted to the assessing authority within one month from the date of completion of the shows. Although the shows were held in December 1985, neither the organisation submitted any audited accounts alongwith the utilisation certificate, nor any action was taken by the department to assess and collect the tax due. On the basis of full seating capacity of one show daily for eight days, tax realisable amounted to Rs. 31,679.

On this being pointed out in audit (October 1986), the local office stated (November 1986) that the matter was being taken up with the Government. Further report is awaited (February 1988).

The matter was reported to Government in February 1987; their reply has not been received (February 1988).

E—Paddy Purchase Tax

10.6 **Turnover escaping levy of paddy purchase tax**

Under the West Bengal Paddy Purchase Act, 1970 and rules framed thereunder, tax at the rate of two per cent is leviable on all purchases of paddy made by the owners of rice mills within West Bengal. Further, a penalty equivalent upto the amount of tax so determined is leviable for furnishing incorrect or incomplete returns.

Assessments of turnover of paddy purchased by four rice mill owners in Burdwan district, during the different years ended between December 1971 and December 1981, were made between January 1973 and February 1986 on the basis of turnover disclosed by the owners in the returns submitted by them. A cross verification in audit of the return figures with those disclosed in the certified accounts filed by four owners in connection with sales tax assessments, revealed (August 1986) that the purchase price of paddy in the returns was shown less by Rs. 33·89 lakhs than that shown in the sales tax returns. This resulted in non-levy of tax amounting to Rs. 67,793. In

addition, a penalty upto the amount of Rs. 67,793 could be levied.

On this being pointed out in audit (August 1986), the department realised (November and December 1986) an amount of Rs. 21,556 in the case of two rice mill owners and agreed (July 1987) to revise the assessments in the other two cases of mill owners. Further report on revision is awaited (February 1988).

Government confirmed this in August 1987.

F—Stamps and Registration

10.7 **Short levy due to mis-classification of instruments**

(*i*) Under the Indian Stamp Act, 1899, mortgage deed includes any instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, one person transfers, or creates to, or in favour of, another a right over or in respect of a specified property. It has been judicially held (*) that an instrument evidencing an agreement to secure the payment of a loan upon the deposit of title deeds and to give the mortgagee a right to call upon the mortgagor at any time to execute a mortage in favour of the mortgagee was a mortgage deed.

According to the recitals in three separate instruments registered in Calcutta between December 1984 and January 1985 as "powers of attorney", the West Bengal Financial Corporation agreed to advance to three parties loans of Rs. 30 lakhs each. The loanees (three private limited companies) agreed to execute first legal mortgages in English form of all their properties in favour of the Corporation as security for the loans together with interest and other dues. The loanees also agreed to deposit with the Corporation title deeds of all their fixed assets, plant and machinery. They further agreed to execute irrevocable powers of attorney to the Corporation authorising it (the Corporation) to execute for and, on their behalf, the mortgages in the event of their default.

The loanees, thus, created, through these instruments, mortgages by deposit of title deeds of fixed assets including plant and machinery in favour of the Corporation. The Corporation was also appointed their true and lawful attorney to execute the first legal mortgages in English form of all their movable and

*Kamal Ranjan Roy, Inre. ILR (1937) 2 Cal 486: 41 CWN 961 (FB).

immovable properties and to appoint receivers of all their undertakings with the right to sell the properties for the purpose of securing the moneys due without intervention of the Court. From the very nature of recitals, the instruments were to be classified as "mortgages" and not "power of attorney". Mis-classification of the deeds resulted in short levy of stamp duty and registration fees amounting to Rs. 3,48,952.

On this being pointed out in audit (February-March 1986), the department stated (March 1986) that the cases had been referred to the Collector for decision. Further development is awaited (February 1988).

The cases were reported to Government in August 1986 and June 1987; their final reply has not been received (February 1988).

(*ii*) Under the Indian Stamp Act, 1899, a document executed by a surety to secure the due discharge of a liability falls under the category of security bond. But the scope of the word "surety" should not be extended to the cases of principals, who are parties to the proceedings and on whose behalf the deed is executed. It has been judicially held (*) that if the principal himself makes the hypothecation or mortgage, the deed cannot be classified as a security bond.

In Calcutta, a proprietory firm was granted two loans of Rs. 65·50 lakhs and Rs. 37 lakhs by a nationalised bank. The loans were secured by execution of two deeds registered in September 1984 and December 1984. In both the deeds, a person, who happened to be the sole proprietor of the firm offered himself as guarantor and security for the firm and mortgaged his own immovable properties. Since both the deeds were executed by the sole proprietor of the firm (as evidenced from another deed registered by the firm in 1983 in connection with another loan from the same bank), the deeds were classifiable as mortgage deeds in view of the judicial pronouncement referred to above. The department, however, registered the two deeds as 'security bonds' and levied stamp duty accordingly. The mis-classification resulted in short realisation of stamp duty and registration fee amounting to Rs. 3,97,607.

On this being pointed out in audit (February 1986), the department stated (March 1986) that the borrower and the guarantor were different in the above two cases. But the depart-

*Krishna Katha Industries (Pvt) Ltd., Vs. Board of Revenue, 1964: All by 19, by 20; 1964 AIR 592 (SB).

ment's contention is not tenable as the guarantor was the proprietor (principal) himself who mortgaged his own property for obtaining the loans.

The matter was reported to Government in August 1986; their reply has not been received (February 1988).

10.8 **Short realisation of probate duty**

Under the West Bengal Court-fees Act, 1970, a petitioner applying for the grant of probate is required to file a statement of valuation of the property involved and to pay fees appropriate to that valuation. Board of Revenue had issued instructions in January 1921 (which were reiterated in June 1964) that, for purposes of determining the court fees payable under the Court-fees Act, 1870 (since repealed by the West Bengal Court Fees Act 1970), the municipal valuation of residential houses situated in Calcutta should be accepted. In terms of these instructions, value of an immovable property situated in Calcutta is to be assessed at 20 times its annual value, as assessed by the Corporation of Calcutta.

In an assessment of probate duty, made in December 1981, at the Collectorate of Calcutta, the immovable properties left by a deceased person in Calcutta were, for purposes of assessment of probate duty valued at Rs. 3,43,588, instead of at Rs. 6,04,280, i.e., 20 times the annual value of Rs. 30,214 assessed by the Corporation of Calcutta in respect of these properties. The undervaluation of the property, due to non-observance of the departmental instructions, resulted in short realisation of probate duty amounting to Rs. 17,317.

On this being pointed out in audit (April 1982), the department agreed (April 1982) to review the matter. Further development is awaited (February 1988).

The matter was reported to Government in April 1983 and again in April 1987; their reply has not been received (February 1988).

CHAPTER 11

OTHER NON-TAX RECEIPTS

A—Forest receipts

11.1 Loss of revenue due to non-observance of terms and conditions of contract

According to the provisions laid down in the West Bengal Forest Manual Vol. II for sale of forest produce, if a purchaser fails to pay any of the instalments due as per agreement, the department may resell the lot/balance lot of forest produce and forfeit the amount of security deposit paid by the purchaser. In case the amount of instalments paid and the amount fetched on resale together with the amount of security deposit forfeited falls short of original sale price, the difference is recoverable from the original purchaser through certificate process.

(*a*) In a Forest Division in Midnapore district, during 1981-82, 14 lots of forest produce were sold in auction for Rs. 4,99,875. Instalments of Rs. 67,302 and security deposits of Rs. 49,990 were paid by the bidders. The original bidders having defaulted in making the balance payments, the lots were subsequently resold (during 1984-85) by auction for Rs. 2,71,200. As a result, Government suffered loss of revenue of Rs. 1,11,383. No action was, however, taken against the original bidders to recoup the loss by initiation of certificate proceedings.

On this being pointed out in audit (February 1986), the department agreed to take action in the matter (March 1986). Further development is awaited (February 1988).

The matter was reported to Government in September 1986; their reply has not been received (February 1988).

(*b*) In a Forest Division in Purulia district, 19 lots pertaining to the years 1982-85 were sold in auction for Rs. 95,285 and security deposits of Rs. 7,102 were realised. The original purchasers, however, did not make any payment. The lots were subsequently resold on a later date in August 1986 for Rs. 41,100 only. As a result, Government suffered loss of revenue of Rs. 47,083 after forfeiting security deposits of Rs. 7,102. No action was, however, taken against the original bidders to recoup the loss by initiating certificate proceedings.

On this being pointed out in audit (March 1987), the department stated in June 1987 that due to deterioration in the quality of timber by passage of time, the produce when finally sold fetched less price and this had to be disposed of to avoid further loss. Report on action taken against the original buyers is awaited (February 1988).

The matter was reported to Government in May 1987; their reply has not been received (February 1988).

(*c*) In a Forest Division in Bankura district, 5 lots of forest produce were sold during 1981-82 for Rs. 76,500 and security deposits of Rs. 7,990 were realised. The purchasers did not make any payment towards the instalments due. On resale (during 1983-84) of the lots by auction, an amount of Rs. 41,700 was realised by the department. Thus, Government suffered a loss of revenue of Rs. 26,810 after forfeiting security deposits. The department, however, did not take any action to recoup the loss from the original purchasers by initiating certificate proceedings.

On this being pointed out in audit (April 1986), the department admitted the facts (April 1986) and agreed to recover the difference of the sale value by certificate proceedings against the purchasers. Further development is awaited (February 1988).

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

11.2 **Loss of revenue due to delay in disposal of cashewnut seeds**

In Midnapore district, the Divisional Forest Officer, Silvicultural Division procured 9,100 Kg. of improved quality of cashewnut seeds from a Forest Range during March-April 1984. Out of this, 770 Kg. seeds were sold to 3 Forest Divisions and 330 Kg. were kept for its own plantation. The balance 8,000 Kg. seeds which could not be distributed to other divisions for plantation purpose was kept in stock till July 1984. In August 1984, the division made an attempt to sell this stock by inviting quotations in open market and the highest rate obtained was Rs. 10·50 per Kg. But this offer was not accepted and the stock remained unsold for unknown reasons till February 1985. The division called fresh tenders on 14th February 1985 and disposed of the seeds in March 1985 at the highest offered rate of Rs. 7·51 per Kg. Due to delay in disposal of the balance 8,000 Kg. cashewnut seeds (which lost its potency with the lapse of time) Government suffered loss of revenue at least to the tune of Rs. 23,920.

On this being pointed out in audit (June 1986), the division accepted (June 1986) the loss of revenue.

The matter was reported to Government in December 1986; their reply has not been received (February 1988).

B—Other Departmental Receipts

11.3 **Short assessment of water rates in respect of *kharif* crops**

Under the West Bengal Irrigation (Imposition of Water Rate for Damodar Valley Corporation Water) Act, 1958, occupiers of land receiving benefit of irrigation from D.V.C. canals in different crop seasons are required to pay water rates at the rate prescribed by Government from time to time. The revenue officers of the irrigation revenue divisions are required to assess the water rate on the basis of test notes received from the engineering divisions of the Irrigation and Waterways Department showing the areas covered by irrigation.

In a Revenue Division of Burdwan district, which started functioning from July 1976 after being bifurcated from the main division, assessment of water rates for *kharif* crops in 3 zilla offices during 1984-85 and 1985-86 was made on 17,049·66 acres of land on the basis of records of Land Reforms Officer and main revenue division although the actual irrigated area as per test notes of Engineering Divisions was 27,496·37 acres. Thus, water rates on 10,446·71 acres of irrigated land remained unassessed leading to short assessment of water rates to the tune of Rs. 3,13,401.

On this being pointed out in audit (September 1986), the department admitted the variation and stated (September 1986) that in the absence of plot lists in the test notes, they had to depend on '*khatiani*' records inherited from parent office for completion of assessments. Further development is awaited (February 1988).

The matter was reported to Government in March 1987; their reply has not been received (February 1988).

11.4 **Non-recovery of cost of audit establishment on deposit works**

Under the provisions of the West Bengal Public Works Department Code, Vol. I, cost of audit and accounts establishment is to be recovered at one per cent of the works expenditure

incurred on all deposit works undertaken by Government.

An expenditure of Rs. 43,11,310 was incurred on various deposit works on behalf of North Bengal University by a Public Works Construction Division during 1985-86. Cost of audit and accounts establishment amounting to Rs. 43,113, recoverable at one per cent of Rs. 43,11,310, was, however, not recovered.

On this being pointed out in audit (June 1986 and February 1987), Government stated in August 1987 that the amount of Rs. 43,110 had since been adjusted and incorporated in the accounts for June 1987.

11.5 Non-realisation of rent from the unauthorised occupiers of Government flats

Under the West Bengal Government Premises (Regulation and Occupancy) Act, 1984, no person shall occupy or remain in occupation of any Government premises except on authority of a valid licence issued in his favour by the competent authority. An unauthorised occupant of Government flat is liable to pay a compensation of an amount not exceeding the market rental value of the premises assessed in the prescribed manner.

In a Housing Construction Division in Calcutta, 62 Government flats in 4 housing estates were under unauthorised occupation of Government employees during the period from 1st April 1982 to 31st March 1985. But no action was taken by the department to realise the compensation from them in the shape of economic rent of the flats assessed by the department. This resulted in non-realisation of rent to the tune of Rs. 3·65 lakhs.

On this being pointed out in audit (December 1985), the department agreed (February 1986) to scrutinise the cases. Further development is awaited (February 1988).

The matter was reported to Government in March 1987; their reply has not been received (February 1988).

11.6 Short realisation of rent from officials provided with Government accommodation

An employee of the State Government, residing in a Government-owned building, is liable to pay rent fixed by the Government. The rent is recovered through deduction from salary bills. As per notification issued in March 1982, Government employees, occupying accommodation in Government-owned residences, were allowed to opt (with retrospective effect from 1st February 1977) either to pay the "assessed rent" to be fixed in accordance with

the accepted principles and draw house rent allowance as admissible under the rules, or, to pay as rent, a fixed percentage of pay as provided under the existing rules, foregoing claims to house rent allowance.

In Malda district, six officers, occupying Government-owned residences, opted to pay assessed rent and draw house rent allowance as admissible under the rules. Accordingly, rents payable by them for their accommodation were assessed between January 1984 and May 1985 and those officers started drawing house rent allowance admissible to them. But the rent rolls issued by the Executive Engineer to the drawing and disbursing officers were for lesser amounts than the assessed rent, approved by the competent authorithy. As a result, the rent was realised short by Rs. 38,550 for the period from January 1983 to March 1986.

On this being pointed out in audit (June 1986), the local office agreed (June 1986) to examine the cases. Further development is awaited (February 1988).

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

11.7 **Housing receipts**

11.7.1 *Introductory*

In order to mitigate the hardship in getting suitable accommodation by its own employees as well as the public and other industrial workers, the Government of West Bengal undertook construction of residential premises in urban areas under different schemes, viz., rental housing schemes, middle income group housing scheme, lower income group housing scheme, subsidised industrial housing-estates and slum clearance project. The premises were intended to be allotted to eligible persons on payment of monthly rent, to be determined according to the prescribed formula. Receipt on account of rent from such Government premises is a major source of non-tax revenue to the State.

11.7.2 *Highlights*

The review brought out the following irregularities:

(*a*) Non-realisation of arrear rent amounting to Rs. 6·29 lakhs.

(*b*) Non-realisation of interest amounting to Rs. 0·27 lakh for delay in payment of rent.

(*c*) Non-realisation of service charges and water charges amounting to Rs. 15·90 lakhs.

11.7.3 *Administration*

Housing (Engineering) Directorate, under the Housing Department of the State, is responsible for construction of all flats/houses in the State including those constructed under the rental housing scheme, meant for State Government employees only. While the Housing Directorate manages the entire function including the collection of rent in respect of the premises under the rental housing scheme from the Government employees, all other flats/houses, constructed under different schemes, are handed over, on completion, to the Estate Directorate under the Housing Department. The Estate Directorate headed by the Estate Manager and ex-officio Deputy Secretary, Housing Department is entrusted with the task of management and collection of rent in respect of premises handed over to it. The West Bengal Government Premises (Tenancy Regulation) Act, 1976 regulates the tenancy in respect of premises handed over to the Estate Directorate.

11.7.4 *Procedures of allotment*

There are at present 19,631 flats in Calcutta and Durgapur under different housing schemes, other than rental housing scheme, which are being controlled by the Estate Directorate. By publication of advertisements in leading newspapers of the State, applications are invited for allotment of flats under different categories. After receipt of the applications, these are scrutinised by a screening committee and the allotments are finally approved. In pursuance of the approval of the committee, the flats are allotted to the persons concerned, but before taking possession of the flats the allottees are required to execute agreement in prescribed form. In the case of subsidised industrial housing estates, the employer, whose worker is allotted any flat, is also required to sign the agreement.

11.7.5 *Collection of rent*

Under the deed of agreement, a tenant is liable to pay rent of his flat either to the Caretaker-cum-Rent Collector or directly to the circle/unit/head office in cash or by cheque against rent receipts issued by the collecting office, within 12th day of the month following the month in respect of which the

rent is due, without any demand for rent being issued by the Estate Directorate. Similarly, an employer is authorised to collect the rent payable by his employee who is a tenant of a flat under the industrial housing estate and remit the same to Government by the 10th of the month following the month to which the rent relates.

11.7.6 *Position of demand and collection of rent*

Rent roll registers, required to be maintained for the purpose of watching the demand and collection of rent as well as for pursuing of arrears for both Calcutta and Durgapur under different housing schemes, were found to be incomplete and were not susceptible of verification in audit. Rent roll registers of one housing estate for 1982-83 and of another for 1983-84 containing details of 316 flats in Calcutta region could not be produced to audit. However, the demand and collection of rent for three years commencing from 1983-84, as furnished by the Directorate, were as follows:

	Year	Demand	Collection
		(In lakhs of rupees)	
Calcutta	1983-84	121·52	124·40 (including arrears)
	1984-85	122·44	118·78
	1985-86	122·44	111·43
Durgapur	1983-84	26·56	24·23
	1984-85	26·56	27·85 (including arrears)
	1985-86	26·56	22·68

Figures for the year 1986-87 were not made available to audit. The arrear of rent at the end of the year 1985-86 for the Calcutta area was stated by the Directorate to be Rs. 105·30 lakhs.

Under the Act, a tenancy in respect of a Government premises stands automatically terminated without any notice

to quit, where the tenant has made default in payment of rent for three consecutive months, upon which he is required to vacate the premises. Similarly, in the case of a tripartite agreement where an employer is authorised to collect rent payable by his employee, he shall be liable to pay on conviction for default in making deposit of collected rent to the Government, in time, a fine not exceeding five thousand rupees and in case of a continuing offence to a further fine, not exceeding one hundred rupees for each day of such continuation. Besides, any claim for arrears of rent is recoverable as a public demand under the Public Demands Recovery Act, 1913.

A test check of entries, so far made in the rent registers of Calcutta, revealed that 134 individuals and 6 employers on behalf of their employees, occupying 805 flat under different housing schemes, did not pay rent consecutively for more than three months during the period, June 1984 to March 1986, resulting in arrears of rent amounting to Rs. 17·41 lakhs. While termination notices were served on the inviduals, demand notices were served upon the six employers asking them to deposit the rent. No further action was found to have been taken during 1986-87.

Similarly, a test check of subsidiary registers maintained for the Durgapur area revealed that a sum of Rs. 66·92 lakhs on account of rent payable by the employees of 11 employers was long overdue from these employers but not paid till the end of 1985-86. No action was found to have been taken for realisation of arrear rent, or, for imposition of penalty during 1986-87.

Three circle offices, out of 16 circles in Calcutta, instituted certificate cases against 32 defaulters between 1983-84 and 1985-86 for arrears of rent of Rs. 1·03 lakhs only. No such action was found to have been taken by the Durgapur unit.

11.7.7 *Delay in taking action in case of unauthorised occupation*

Under the West Bengal Government Premises (Tenancy Regulation) Act, 1976, the tenancy terminated due to default in payment of rent may be renewed, on the defaulter making a prayer to the competent authority and agreeing to deposit at least 25 per cent of the arrear rent together with interest and to pay the balance amount in instalments, being not less than twelve but not more than thirty-six. Otherwise, the defaulter should be evicted, if necessary by application of force. In six unit offices, tenancy of 309 flats was terminated between 1966 and 1983 for

default in payment of rent, but neither the occupiers had prayed for renewal of their tenancy nor they were evicted by the department. The total arrears on account of rent amounting to Rs. 5·06 lakhs remained unrealised.

On this being pointed out in audit (February 1987), one unit office stated (February 1987) that in respect of 6 flats, unauthorisedly occupied since 1980 to 1982, efforts were being made for renewal of their tenancy. The remaining offices only confirmed the position (February 1987).

11.7.8 *Arrears of rent deemed irrecoverable*

(*i*) In seven unit offices, 34 tenants were evicted between 12th March 1976 and 9th July 1986 for non-payment of rent, without realisation of the rent for the period of tenancy and the *mesne* profits (rent for the period of occupation after the expiry of the tenancy) for the period of unauthorised occupation, amounting to Rs. 0·86 lakh.

On this being pointed out in audit (February 1987), the unit offices stated (February 1987) that whereabouts of ex-tenants in 10 cases were not known; one case was sub-judice; in another case certificate proceeding had been initiated. But in 22 out of 34 cases, no action had yet been taken.

(*ii*) In one unit office, twelve tenants vacated their flats between 22nd November 1966 and 14th February 1979 without proper intimation and payment of arrear rent to the competent authority. No action was taken either to realise the arrear rent amounting to Rs. 0·37 lakh, or to allot the flats to other tenants.

On this being pointed out in audit (February 1987), the local office stated (February 1987) that certificate proceedings were being initiated for realisation of arrears and that all those 12 flats were under unauthorised occupation and that efforts were being made to evict the unauthorised occupiers.

11.7.9 *Non-realisation of interest for delay in payment of rent*

Under the West Bengal Government Premises (Tenancy Regulation) Rules, 1976, a tenant making default in payment of rent shall be charged with an interest on the arrears rent at 10 per cent per annum.

A test check of records revealed that for delay in payment of rent in respect of 474 flats under three unit offices, for periods

ranging between 2 months and 58 months, no interest was realised. Interest realisable in the above cases worked out to Rs. 0·27 lakh.

On this being pointed out in audit (February 1987), the unit offices stated (February 1987) that necessary action was being taken to realise the amount of interest.

11.7.10 *Non-realisation of service charges and water charges from employers*

Under the terms and conditions of the deed of agreement, to be executed by a tenant, he is required to pay a provisional rent per month, which is exclusive of electricity charges.

In March 1977, Government issued an order directing the levy of service charge at Rs. 8 per month on certain types of flat at Durgapur. It was also stated in the said order that the existing external service charge of Rs. 2 per month, which was a part of the existing rent, should be deducted and the balance amount of Rs. 6 per month would have to be realised since April 1977. In July 1977 another order was issued by the Government, making an upward revision of water charge, in the Durgapur region, to Rs. 8·15 per month uniformly on every flat with retrospective effect from April 1976. All employers, in respect of persons employed under them and occupying Government premises, were, therefore, required to collect service charge and water charge from the employees, while collecting rent and deposit the same to the Government. Two companies, situated in the Durgapur region, however, refused to pay the above sums on the ground that there was no mention in the deed of agreement for payment of those additional sums. Had the department revised the deed of agreement in time by inclusion of service charge and water charge in provisional rent, the additional sum of Rs. 8·99 lakhs due from those two employers up to March 1986 could have been realised without any difficulty.

On this being pointed out in audit (August 1985), the local office stated (August 1985) that action was being taken to revise the agreement with those two employers.

11.7.11 *Loss of revenue due to non-revision of water charges*

Water charges realisable from each tenant at Durgapur were fixed at Rs. 8·15 per month per flat with effect from April 1976 due to upward revision of water rate from Rs. 1·75 to

Rs. 1·90 per 1,000 gallons of water supplied by the Durgapur Projects Limited and the Asansol-Durgapur Area Development Authority. Water rate was again enhanced to Rs. 2·50 from June 1983 and to Rs. 4·00 per 1,000 gallons from January 1986 by the Durgapur Projects Limited. Similarly, the water rate charged by the Asansol-Durgapur Area Development Authority was enhanced to Rs. 5·60 per 1,000 gallons. But the water charges, realisable from the tenants, were not revised any more. Consequently, while the Government was liable to pay Rs. 20·53 lakhs as water rate for three years from 1983-84 to 1985-86, water charge, realisable from 4,450 flats in Durgapur area at Rs. 8·15 per month per flat for the corresponding period worked out to Rs. 13·62 lakhs approximately, with the resultant loss to Government to the tune of Rs. 6·91 lakhs for three years.

11.7.12 *Clearance report regarding cheques deposited in Bank wanting*

Cheques for rent are deposited in Bank for clearance and credit to Government account. During the period, between 6th May 1982 and 16th November 1985, cheques amounting to Rs. 14·27 lakhs, comprised in 35 challans, were deposited to the Reserve Bank of India. But no report of their clearance and credit to Government account was found to have been received.

On this being pointed out in audit (February 1987), the Directorate stated (May 1987) that the matter had been referred to the Reserve Bank of India.

11.7.13 *Non-realisation of electricity charges from individual tenants*

On completion of a housing estate in the district of 24 Parganas, in 1970, due to unwillingness of the licensee for supply of electricity to individual tenants, an arrangement was made for receiving supply of electricity by installation of one meter in favour of the Housing Directorate as the bulk consumer. Although separate meters were installed in the premises of the tenants by the Directorate for recording the consumption of electricity and recovering the electricity charges from individual tenants, no amount was actually realised from them till December 1984. While an amount of Rs. 9·28 lakhs was due from the Directorate on account of electricity charges of the entire housing estate up to August 1985, actual amount recoverable from individual tenants up to December 1984 was not ascertainable.

The foregoing points were reported to Government in June 1987; their reply has not been received (February 1988).

A. Ahluwalia

CALCUTTA
The 29 JUL 1988

(SMT. A. P. AHLUWALIA)
Accountant General (Audit) II, West Bengal

Countersigned

T. N. Chaturvedi

NEW DELHI
The 8 AUG 1988

(T. N. CHATURVEDI)
Comptroller and Auditor General of India

ERRATA

Sl. No.	Page	Para	Line	For	Read
1.	1	1.3.1	7th from bottom	Rs. 423 lakhs	Rs. 4·23 lakhs
2.	3	1.7.1	15th from bottom	185208 London proo litres	1852·08 London proof litres
3.	4	1.11.1	2nd from bottom	Rs. 185 lakhs	Rs. 1·85 lakhs
4.	22	3.5 (*ii*)	20th	on inter-State sales	on intra-State sales
5.	33	3.11 (*ii*)	6th from bottom	hessain	hessian
6.	48	3.15 (*ii*)	4th	o	of
7.	49	3.17 (*ii*)	4th from bottom		Omit 'to' after the word corresponding
8.	64	5.4 (*d*)	14th from bottom	or	of
9.	76	6.7	15th	parta	parts
10.	78	6.10.1	5th from bottom	Maharastra	Maharashtra
11.	79	6.10.1	6th	by	but
12.	81	6.10.3 (*v*)	3rd	made	made in
13.	93	8.3	11th from bottom	cases	case
	93	8.4	4th from bottom	attract	attracts
	96	8.7.1	11th	of	or
	101	8.7.9	4th	admited	admitted
17.	102	8.7.12	8th from bottom	this	the
18.	104	9.1.4	last line	0·40	0·04
19.	106	9.1.6	4th	office	offices
20.	106	9.1.6	9th	of	or
21.	106	9.1.7	7th from bottom	deducltions	deductions
	111	10.1	9th	areas	area
	113	10.5	2nd from bottom	entertainment tax	entertainments tax
	114	10.6	17th from bottom	Purchase Act, 1970	Purchase Tax Act, 19[illegible]
25.	122	11.6	3rd	foregoing	[illegible]
26.	125	11.7.6	14th	flat	flats
27.	127	11.7.10	14th	flat	[illegible]