



REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
for the year 1986-87

(REVENUE RECEIPTS)

GOVERNMENT OF UTTAR PRADESH

OL 106 1691

UNIVERSITY OF MICHIGAN

COMMITTEE

RECORDS



TABLE OF CONTENTS

	<u>Reference to</u> <u>Paragraph</u>	<u>Page</u>
Prefatory Remarks		(ix)
CHAPTER 1 OVERVIEW		1
CHAPTER 2 GENERAL		
Trend of revenue receipts	2.1	14
Analysis of revenue receipts	2.2	14
Variations between Budget estimates and actuals	2.3	18
Cost of collection	2.4	20
Arrears in assessment, appeal and revision cases	2.5	22
Uncollected revenue	2.6	26
Frauds and evasions	2.7	33
Writes off and remissions of revenue	2.8	35
Outstanding audit inspection reports	2.9	35
CHAPTER 3 SALES TAX		
Results of Audit	3.1	40

(ii)

	Paragraph	Page
Non-levy of interest, additional tax and purchase tax	3.2	41
Non-imposition of penalty	3.3	46
Underassessment of Central sales tax	3.4	53
Short levy of tax due to misclassification of goods	3.5	56
Irregular grant of con- cession of tax-free purchases	3.6	59
Purchase of raw material tax-free beyond the pres- cribed period	3.7	68
Irregular grant of con- cession, recognition cer- tificates and exemptions	3.8	69
Turnover escaping assess- ment	3.9	76
Suppression of purchases	3.10	79
Misappropriation of Government money	3.11	81
Other lapses	3.12	82
CHAPTER 4 STATE EXCISE		
Results of Audit	4.1	92
Non-realisation of interest on delayed payment of instalments	4.2	93

(iii)

	Paragraph	Page
Non-realisation of excise duty in respect of transit losses	4.3	94
Loss of ad valorem duty	4.4	96
CHAPTER 5 TAXES ON VEHICLES, GOODS AND PASSENGERS		
Results of Audit	5.1	99
Working of National and Zonal Permit Schemes and Bilateral Agreements	5.2	100
Evasion of passenger tax on enhanced fare	5.3	120
Incorrect calculation of passenger tax	5.4	124
Incorrect assessment of passenger tax	5.5	127
Loss due to non-calculation of passenger tax on approved trips	5.6	128
Loss due to computation of incorrect load factor	5.7	131
Non-levy of passenger tax on private stage carriages	5.8	132
Short assessment of passenger tax and non-imposition of penalty	5.9	135

(iv)

	Paragraph	Page
Issue of 'no objection certificate' without realising passenger tax and penalty	5.10	142
Passenger tax escaping assessment	5.11	144
Short assessment of passenger tax due to non-verification of relevant records	5.12	146
Non-assessment or short assessment of passenger tax and road tax in respect of contract carriages plying on temporary permits	5.13	147
Irregular conversion of mini buses into motor cabs	5.14	151
Loss of revenue due to delay in the reclassification of routes	5.15	153
Non-assessment or short assessment of road tax	5.16	156
Irregular grant of exemption from payment of road tax and goods tax	5.17	158
Non-levy of road tax and goods tax on cranes	5.18	160

	Paragraph	Page
Non-recovery or short recovery of goods tax	5.19	161
Non-assessment of goods tax on the vehicles of other States plying in Uttar Pradesh	5.20	162
Non-levy of goods tax on vehicles plying without valid fitness certificates and permits	5.21	163
Short realisation of compounding fees	5.22	165
Short levy of <u>path-kar</u> due to late receipt of Government notification	5.23	166

CHAPTER 6 STAMP DUTIES AND REGISTRATION FEES

Results of Audit	6.1	168
Short levy due to under-valuation of properties	6.2	169
Loss of stamp duty due to non-pursuance of case in time	6.3	173
Misclassification of a fresh mortgage deed as correction of first deed	6.4	175

Paragraph Page

CHAPTER 7 TAX ON PURCHASE
OF SUGARCANE

Results of Audit	7.1	177
Non-levy of penalty for default in payment of tax	7.2	178
Incorrect fixation of rate resulting in accu- mulation of arrears	7.3	179

CHAPTER 8 OTHER TAX
RECEIPTS

A- LAND REVENUE

Results of Audit	8.1	182
Non-recovery of fee for supply of <u>jot bahis</u>	8.2	183
Non-recovery of collec- tion charges	8.3	184

B- ELECTRICITY DUTY

Results of Audit	8.4	186
Short levy of electri- city duty	8.5	186

CHAPTER 9 FOREST
RECEIPTS

General	9.1	189
Results of Audit	9.2	190
Extraction and sale of resin	9.3	191

(vii)

	Paragraph	Page
Non-levy of launching fee	9.4	199
Loss of revenue due to non-levy of transit fee	9.5	200
Loss of revenue due to non-levy/short levy of stamp duty	9.6	201
Loss due to failure to detect illicit felling of trees	9.7	203
Loss of revenue due to delay in exploitation of lots marked for sale	9.8	204
Loss of revenue due to delay in approval of sale	9.9	206
Short realisation of royalty due to application of incorrect rates	9.10	208
Non-recovery of fine for short supply of sleepers	9.11	209

CHAPTER 10 OTHER DEPARTMENTAL RECEIPTS

PUBLIC WORKS DEPARTMENT

Results of Audit	10.1	211
Loss of revenue due to delay in implementation of Government orders	10.2	212

(viii)

	Paragraph	Page
Non-realisation of stamp duty on agreements	10.3	213
Misutilisation of departmental receipts	10.4	214
Non-recovery / short recovery of rent	10.5	215
AGRICULTURE DEPARTMENT		
Results of Audit	10.6	220
Sale of fertilizers	10.7	221
IRRIGATION DEPARTMENT		
Results of Audit	10.8	224
Non-realisation or short realisation of stamp duty on lease agreements	10.9	225
Mis-utilisation of departmental receipts	10.10	225
FOOD AND CIVIL SUPPLIES DEPARTMENT		
Results of Audit	10.11	227
CO-OPERATION DEPARTMENT		
Results of Audit	10.12	228
GENERAL ADMINISTRATION DEPARTMENT		
Loss of revenue due to non-fixation of dead rent at enhanced rates	10.13	229

	Paragraph	Page
LABOUR DEPARTMENT		
Non-renewal of registration of shops and commercial establishments	10.14	230

PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Uttar Pradesh for the year 1986-87 is presented in this separate volume. The material in the Report has been arranged in the following order:

(i) Chapter 1 gives an OVERVIEW of the important points contained in this Report.

(ii) Chapter 2 deals with trends of revenue receipts, classifying them broadly under tax revenue and non-tax revenue. The variations between the Budget estimates and actuals in respect of the principal heads of revenue, the position of arrears of revenue etc. are also discussed in this chapter.

(iii) Chapters 3 to 10 set out certain cases and points of interest which came to notice during the audit of Sales Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duties and Registration Fees, Tax on Purchase of Sugarcane, Land Revenue, Electricity Duty and Non-Tax Receipts.

CHAPTER 1

OVERVIEW

An OVERVIEW of the important and interesting points included in the Report is given below:

1.1. General

1.1.1. The total revenue receipts of the Government of Uttar Pradesh for the year 1986-87 were Rs.4,171.64 crores as against the budget estimates of Rs.4,003.16 crores. The receipts during the year registered an increase of 13 per cent over the receipts of 1985-86 (Rs.3,876.86 crores) and increase of 32 per cent over those of 1984-85 (Rs.3,144.94 crores). Of the total receipts of Rs.4,171.64 crores, revenue raised by the State Government amounted to Rs.2030.71 crores (Tax revenue: Rs.1528.60 crores and Non-tax revenue: Rs.502.11 crores) and receipts from Government of India were Rs. 2140.93 crores (State's share of divisible Union taxes : Rs.1,427.61 crores and grants-in-aid: Rs.713.32 crores). (Paras 2.1 and 2.2)

1.1.2. At the end of 1986-87, 6,97,581 Sales Tax cases were pending for assessment. Of the 2,64,058 cases assessed during

(2)

1986-87, assessment of 1,37,184 cases (52 per cent) was made during the last quarter of the year. (Para 2.5(i))

1.1.3. The uncollected revenue at the end of 1986-87 amounted to Rs.635.91 crores under Sales Tax (as against Rs.499.08 crores at the end of 1985-86), Rs.50.67 crores under Electricity Duty and Rs.28.28 crores under Land Revenue. (Para 2.6)

1.1.4. At the end of September 1987, 2,111 inspection reports (issued upto March 1987), containing 5,177 audit objections involving amount of Rs.55.14 crores, were outstanding. In respect of 429 inspection reports, even first replies had not been received from the departments. (Para 2.9)

1.2. Sales Tax

1.2.1. Test check of records in the Sales Tax Offices revealed under-assessments of tax and non-levy or short levy of interest and penalty amounting to Rs.145.95 lakhs in 838 cases. (Para 3.1)

1.2.2. In Sales Tax Circle, Ghazipur, the amount of tax was not deposited on due date by an assessee. While completing assessment, the assessing authority failed to charge interest for belated payment. On the failure being pointed out in audit (July 1984), the assessing officer levied (September 1987) interest of Rs.15.84 lakhs. (Para 3.2(i))

1.2.3. In Sales Tax Circle, Agra, a dealer purchased ingots, billets etc. (Rs.70.65 lakhs) against declarations in Form III-B and availed himself of special relief in sales tax admissible on purchase of materials for manufacture of goods for sale. He, however, transferred the manufactured goods (Rs.105.85 lakhs) on consignment basis outside the State, instead of selling the same. For breach of the condition the dealer was liable to pay a minimum penalty of Rs.4.23 lakhs, but it was omitted to be levied. (Para 3.3.(i)(a))

1.2.4. In Sales Tax Circle, Lucknow, application of incorrect rate of tax on inter-State sales of Rs. 211.90 lakhs, made by a public sector undertaking, resulted in under-assessment of tax of Rs. 4.24 lakhs. (Para 3.4(i))

1.2.5. In case of a dealer of Sales Tax Circle, Ghaziabad, on inter-State sales of cotton yarn made during 1980-

81 (Rs.61.12 lakhs) and 1981-82 (Rs.82.97 lakhs), which were not supported by prescribed declarations (Form C), tax was incorrectly levied at the rate of 2.5 per cent and 2 per cent, instead of 5 per cent and 4 per cent. On the omission being pointed out in audit (October 1986), additional demands for Rs.3.58 lakhs were raised (April 1987). (Para 3.4(ii))

1.2.6. In case of a dealer of Sales Tax Circle, Agra, stainless steel plates were sold for Rs. 293.64 lakhs in the course of inter-State trade during 1981-82. Sales were, however, not supported by declaration forms. Tax was levied at 8 per cent treating the goods as declared goods, instead of at 10 per cent. Misclassification of goods resulted in short levy of tax amounting to Rs.5.87 lakhs. (Para 3.5(i))

1.2.7. In the case of a dealer of Sales Tax Circle, Kanpur, on sales of Indian made foreign liquor, tax was incorrectly levied at the rate of 8 per cent, instead of 26 per cent (including one per cent additional tax) upto 6th September 1981 and 25 per cent thereafter. On the omission being pointed out in audit (November 1986), additional demand for Rs.2.16 lakhs was raised in January 1987. (Para 3.12(a)(ii))

1.3. State Excise

1.3.1. Test check of State Excise Offices revealed non-levy or short levy of duties and fees amounting to Rs.29.99 lakhs in 81 cases. (Para 4.1)

1.3.2. In the District Excise Offices at Basti, Muzaffarnagar and Jhansi, interest amounting to Rs. 2.29 lakhs was leviable on belated payments (ranging from 3 months to 22 months) of Rs.7.78 lakhs, but it was not levied and realised. (Para 4.2)

1.4. Taxes on Vehicles, Goods and Passengers

1.4.1. Test check of records in Transport Department offices revealed short levy or non-levy of taxes and penalty amounting to Rs.86.16 lakhs in 223 cases. (Para 5.1)

1.4.2. Review on the working of National and Zonal Permit Schemes and Bilateral agreements revealed the following:

- (i) Non-utilisation and/or delay in utilisation of quota permits under National and Zonal Permit Schemes resulted in loss of authorisation fee to the tune of Rs.6.72 lakhs. (Para 5.2.6.1(i) and (ii))

(ii) No effective control existed to watch the timely receipts and transmission of bank drafts in respect of composite fee. 2,487 demand drafts amounting to Rs.18.22 lakhs due to this State were received 4 to 52 months after the date of their issue. Similarly, 611 bank drafts for Rs. 6.18 lakhs in respect of composite fee due to other States/Union Territories were sent after a time lag of 6 to 21 months. (Para 5.2.6.3(iii) and (iv))

(iii) On belated payments of composite fee, a penalty of Rs.100 per month or part thereof was leviable. Penalty amounting to Rs.1.88 lakhs leviable on belated payments was not levied by other States/Union Territories. Similarly, penalty of Rs.1.84 lakhs leviable on belated payments in respect of composite fee due to other States/Union Territories was not levied by this State. (Para 5.2.6.5)

(iv) In respect of vehicles of other States/Union Territories, plying in Uttar Pradesh on countersigned permits passenger tax and goods tax short realised or not realised amounted to Rs. 8.40 lakhs. (Para 5.2.7.2)

(v) In respect of 85,668 bank drafts for Rs.214.29 lakhs, sent by

the Naubatpur check-post to the Regional Transport Officer, Varanasi, the correctness of remittance into Government account could not be verified in audit as proper records had not been kept. (Para 5.2.8.3)

(vi) 502 bank drafts for Rs. 2.01 lakhs, pertaining to the period September 1979 to March 1984, were misappropriated in the Regional Transport Office, Moradabad. (Para 5.2.8.4)

1.4.3. In Ghaziabad sub-region, computation of lump sum tax on incorrect fare basis (adopting Rs. 1.25 instead of Rs.1.85) resulted in short levy of passenger tax amounting to Rs.1.67 lakhs during the period July 1985 to May 1986. (Para 5.4(a))

1.4.4. In respect of 142 vehicles, compounding fee levied during February 1985 to January 1987 was short realised by Rs.1.59lakhs.(Para 5.22)

1.4.5. At check-post, Naubatpur, due to late receipt of Government notification, pathkar was realised short by Rs.1.25 lakhs during the period 16th April 1985 to 22nd April 1985. (Para 5.23)

1.5. Stamp Duty and Registration Fee

1.5.1. Test check of records of

District Registrars and Sub-Registrars revealed short levy of stamp duty and registration fees amounting to Rs.10.42 lakhs in 101 cases. (Para 6.1)

1.6. Tax on Purchase of Sugarcane

1.6.1. Test check of records of sugar factories and khandsari units revealed non-levy or short levy of tax and penalty amounting to Rs.111.64 lakhs in 33 cases. (Para 7.1)

1.6.2. A sugar factory in Ghazipur district defaulted in payment of purchase tax on sugarcane amounting to Rs.11.30 lakhs for the years 1983-84 and 1984-85, but no penal proceedings were initiated against the factory for non-payment of tax. (Para 7.2)

1.7. Other Tax Receipts

1.7.1. Test check of records in the Revenue Department revealed underassessments of land revenue, development tax and short realisation of collection charges amounting to Rs. 47.21 lakhs in 251 cases. (Para 8.1)

1.7.2. In three Land Record Offices and eleven Tehsils, during the years 1970 to 1984, 16,52,588 jot bahis (pass books) were distributed to cultivators, in respect of their holdings of land. Out of the prescribed fees of Rs.20.03 lakhs recoverable as arrears of land

revenue for supply of these jot bahis, Rs.12.62 lakhs only were recovered upto February 1987. The balance of Rs.7.41 lakhs still remains to be realised. (Para 8.2)

1.8. Forest Receipts

1.8.1. Test check of the records of the divisions revealed irregularities involving revenue of Rs.1200.73 lakhs in 122 cases. (Para 9.2)

1.8.2. Review on extraction and sale of resin revealed the following irregularities:

(i) The number of channels tapped declined from 99.22 lakhs in 1980-81 to 73.98 lakhs in 1985-86 and production of resin also declined from 1.71 lakh quintals to 1.37 lakh quintals. (Para 9.3.4)

(ii) Introduction of new implement (Joshi Bashula) for resin crop 1986 led to fall in production of resin valuing Rs.417.34 lakhs. (Para 9.3.5)

(iii) Sale of resin to a government company, cooperative societies and other small industrial units at lower rates involved concessions amounting to Rs.3053.81 lakhs over a period of 7 years, ending 1986-87. (Para. 9.3:6)

(iv) From the store accounts of resin maintained by the department, it was noticed that, 1,449.33 quintals of resin (valuing Rs.8.93 lakhs) were lost due to theft, fire or pilferage during the period between 1980-81 and 1985-86. (Para 9.3.7)

(v) In 4 divisions, 39 coupes having an estimated yield of 1,478 quintals (valuing Rs. 7.82 lakhs) remained untapped. (Para 9.3.8)

1.8.3. In respect of two divisions alone (West Almora and Nainital), launching fee for transport of timber through forest waterway, amounting to Rs. 6.92 lakhs was recoverable under the Uttar Pradesh Timber and Other Forest Produce Transit Rules, 1978, but it was not realised. (Para 9.4)

1.8.4. Transit fee amounting to Rs. 273.96 lakhs for transporting of boulders, bajri and lime-stone (54.79 tonnes) during the period from July 1980 to June 1985 was not realised from the allottees. Government stated (November 1987) that in view of the financial position of allottees, there was hardly any possibility of recovery. (Para 9.5)

1.8.5. In three forest divisions, in respect of 277 resin lots, for which

agreements were executed during the years 1984-85 and 1985-86, stamp duty not paid or paid short on agreements amounted to Rs.19.07 lakhs. (Para 9.6)

1.8.6. There was illicit felling of 25,929 trees between January 1984 and January 1985, involving loss of Rs.12.40 lakhs, which came to notice of the department through complaints by public. This could not be detected by the department despite regular inspection by various departmental officials during this period. Government stated (November 1987) that fixing of responsibility of various officials and consequent action on that basis was under consideration. (Para 9.7)

1.8.7. In three divisions, for short supply of railway sleepers during 1983-84 and 1984-85 fines amounting to Rs. 9.91 lakhs were recoverable from the Uttar Pradesh Forest Corporation, but these were not recovered. On this being pointed out, the amount had since been paid by the Corporation under protest. (Para 9.11)

1.9. Other Departmental Receipts

1.9.1. Public Works Department failed to circulate Government orders of 31st August 1982 revising rates of tender

fee. On this being pointed out in audit (October 1985), the department circulated the orders in December 1985. Delay in circulation of the orders resulted in loss of Rs.4.03 lakhs in 23 Public Works Divisions alone test checked during 1985-86 and 1986-87. (Para 10.2)

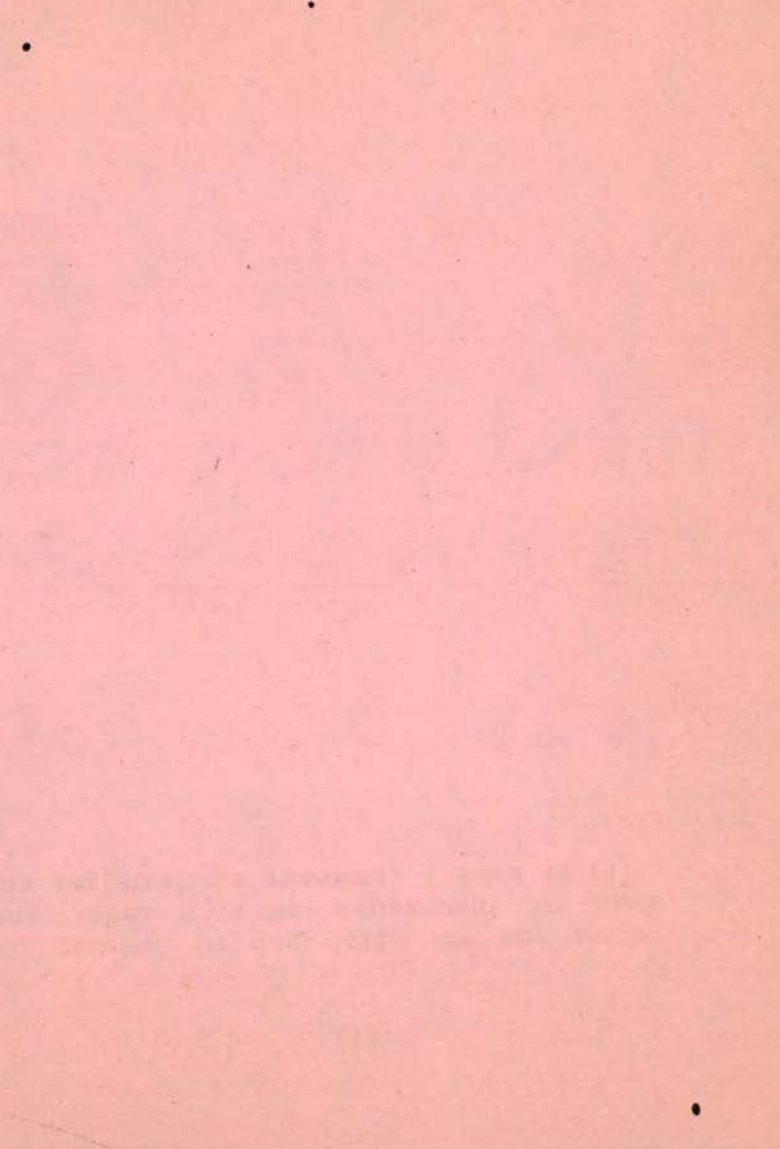
1.9.2. In 6 Public Works Divisions, enhanced rate for stay in excess of 6 months had not been charged from 203 officers who had occupied the hostel accommodation between November 1984 and December 1986. This resulted in short realisation of rent amounting to Rs. 5.89 lakhs. On this being pointed out in audit (between August 1985 and March 1987), the Divisional Officers issued notices for payment of differential rate. (Para 10.5(i))

1.9.3. Failure of District Authorities to communicate the revised rates of dead rent to the lessees, as provided in the relevant form appended to the Rules, resulted in loss of revenue of Rs. 3.95 lakhs. (Para 10.13)

1.9.4. Information collected (January 1988) from the Labour Commissioner, U.P., Kanpur showed that 95,736 shops and commercial establishments, where registration became due for renewal by March 1987 (involving renewal fee of Rs. 34.50 lakhs) had not applied

(13)

for renewal on due dates nor any action was taken by the department to have the registrations renewed. (Para 10.14)



CHAPTER 2

GENERAL

2.1. Trend of revenue receipts

The total revenue receipts of the Government of Uttar Pradesh for the year 1986-87 were Rs. 4171.64 crores, against the anticipated receipts of Rs.4003.16 crores. The total receipts during the year registered an increase of 13 per cent over the receipts of 1985-86 (Rs.3876.86 crores) and an increase of 32 per cent over those of 1984-85 (Rs.3144.94 crores). Of the total receipts of Rs. 4171.64 crores, revenue raised by the State Government amounted to Rs. 2030.71 crores, of which Rs.1528.60 crores represented tax revenue and the balance Rs.502.11 crores non-tax revenue. Receipts from the Government of India amounted to Rs. 2140.93 crores.

2.2. Analysis of revenue receipts

(a) General analysis

An analysis of the revenue receipts for the year 1986-87, alongside those for the preceding two years, is given below:

(15)

1984-85 1985-86 1986-87
(In crores of rupees)

I. Revenue
raised by the
State Govern-
ment -

(a) Tax revenue	1140.17	1291.41	1528.60
(b) Non-tax revenue	384.39	523.90	502.11
TOTAL	<u>1524.56</u>	<u>1815.31</u>	<u>2030.71</u>

II. Receipts
from the
Government of
India -

(a) State's share of divisible Union taxes	961.66	1234.59	1427.61
(b) Grants-in- aid	658.72	826.96	713.32*
TOTAL	<u>1620.38</u>	<u>2061.55</u>	<u>2140.93</u>

III. Total
receipts of
the State
(I+II)

3144.94 3876.86 4171.64

IV. Percentage
of I to III

48 47 49

* For details, please see Statement
No.11-Detailed Accounts of Revenue
by Minor Heads in the Finance
Accounts of Government of Uttar
Pradesh 1986-87.

(b) Tax revenue raised by the State Government

Receipts from tax revenue during the year (Rs.1528.60 crores) constituted 75 per cent of the State's own revenue receipts (Rs.2030.71 crores), as compared to the corresponding figure of 71 per cent during 1985-86. There was an overall increase of 18 per cent over the receipts of the previous year (Rs.1291.41 crores). Increases to the tune of Rs.33.25 crores (2.6 per cent) were attributed to taxation changes introduced during the year.

Break-up under various heads of tax revenue for the year 1986-87 and for the preceding two years is given below:

	1984-85	1985-86	1986-87	Increase(+) in 1986-87 with reference to 1985-86	
	(In crores of rupees)				
1. Land Revenue	24.11	27.92	29.48	(+)1.56	(6)
2. Stamps and Re- gistration fees	118.72	149.98	174.11	(+) 24.13	(16)
3. State Excise	180.80	173.67	228.11	(+)54.44	(31)
4. Sales Tax	527.23	628.23	716.28	(+)88.05	(14)
5. Tax on Purchase of Sugarcane	30.45	23.78	38.51	(+)14.73	(61)
6. Tax on Sale of Motor Spirits and Lubricants	73.23	82.26	102.11	(+)19.85	(24)
7. Tax on Vehicles	40.08	42.45	47.29	(+) 4.84	(11)
8. Tax on Goods and Passengers	76.43	84.27	95.63	(+)11.36	(13)
9. Taxes and Dut- ies on Electricity	17.85	30.79	36.21	(+)5.42	(17)
10. Other Taxes and Duties on Commodities and Services	51.27	48.06	60.87	(+)12.81	(26)
TOTAL	1140.17	1291.41	1528.60	(+)237.19	(18)

Figures in brackets in the last column indicate the increase as a percentage.

Except in case of 'Land Revenue' where increase in receipts was just 6 per cent, increase in receipts ranged from 11 per cent to 61 per cent under the remaining tax revenue heads, as compared to the receipts of the previous year 1985-86.

(c) Non-tax revenue of the State

Interest Receipts, Miscellaneous General Services, Education, Minor Irrigation, Soil Conservation and Area Development, Forest and Irrigation, Navigation, Drainage and Flood Control Projects were the principal sources of non-tax revenue of the State.

A break-up of non-tax revenue for the year 1986-87 and for the preceding two years is given below:

	1984-85	1985-86	1986-87	Increase (+) or decrease (-) in 1986-87 with reference to 1985-86	
	(In crores of rupees)				
1. Interest Receipts	160.77	180.00	213.86	(+) 33.86	(18)
2. Miscellaneous General Services	33.06	57.00	48.17	(-) 8.83	(13)
3. Education	13.46	11.01	12.26	(+) 1.25	(11)
4. Minor Irrigation, Soil Conservation and Area Development	14.05	23.25	12.41	(-) 10.84	(47)
5. Forest	60.85	55.95	78.99	(+) 23.04	(41)
6. Irrigation, Navigation, Drainage and Flood Control Projects	27.39	107.01	44.42	(-) 62.59	(58)
7. Others	74.81	89.68	92.00	(+) 2.32	(3)
TOTAL	384.39	523.90	502.11	(-) 21.79	(4)

Figures in brackets in last column indicate the variation as a percentage.

Receipts under the heads 'Interest Receipts', 'Education' and 'Forest' registered increase of 18, 11 and 41 per cent respectively over the receipts of the previous year. On the other hand, receipts under the two heads 'Minor Irrigation, Soil Conservation and Area Development' and 'Irrigation, Navigation, Drainage and Flood Control Projects' declined by 47 and 58 per cent respectively. Reasons for the aforesaid variations have not been intimated by the departments (March 1988).

2.3. Variations between Budget estimates and actuals

(a) The variations between Budget estimates and actuals of tax revenue and non-tax revenue during the year 1986-87 are given below:

Budget estimates	Actuals	Variation Increase(+) or Short-fall (-)	Percentage of variation
---------------------	---------	---	-------------------------------

(In crores of rupees)

A. Tax revenue	1414.48	1528.60	(+) 114.12	8
B. Non-tax revenue	489.15	502.11	(+) 12.96	2

(b) The break-up of the variations under the principal heads of revenue is given below:

(19)

Revenue Head	Budget Estima- tes	Actuals	Variation Increase(+)/ Short- fall (-)	Percentage of variation
(In crores of rupees)				
<u>A-Tax revenue</u>				
1. Land Revenue	34.93	29.48	(-) 5.45	15
2. Stamps and Regi- stration Fees	150.14	174.11	(+)23.97	15
3. State Excise	240.05	228.11	(-)11.94	4
4. Sales Tax	665.00	716.28	(+)51.28	7
5. Tax on Purchase of Sugarcane	21.46	38.51	(+)17.05	79
6. Tax on Sale of Motor Spirits and Lubricants	83.03	102.11	(+)19.08	23
7. Taxes on Vehicles	43.85	47.29	(+) 3.44	7
8. Taxes on Goods and Passengers	85.10	95.63	(+)10.53	12
9. Taxes and Duties on Electricity	33.80	36.21	(+) 2.41	7
10. Other Taxes and Duties on Commo- dities and Services	57.06	60.87	(+) 3.81	6
<u>B-Non-tax revenue</u>				
11. Interest Receipts	168.27	213.86	(+)45.59	27
12. Miscellaneous General Services	47.30	48.17	(+) 0.87	1
13. Education	22.77	12.26	(-)10.51	4
14. Minor Irrigation, Soil Conservation and Area Develop- ment	18.86	12.41	(-) 6.45	34
15. Forest	65.51	78.99	(+)13.48	20
16. Irrigation, Navigation, Drainage, and Flood Control Projects	64.00	44.42	(-)19.58	30

The actual receipts fell short of the Budget estimates by more than 10 per cent under 'Land Revenue', 'Minor Irrigation, Soil Conservation and Area Development' and 'Irrigation, Navigation, Drainage and Flood Control Projects'. The actual receipts increased by more than 10 per cent as compared to Budget estimates under 'Stamps and Registration'.

Fees', 'Tax on Purchase of Sugarcane', 'Tax on Sale of Motor Spirits and Lubricants', 'Taxes on Goods and Passengers', 'Interest Receipts' and 'Forest'. Reasons for these wide variations have not been intimated by the departments(March 1988).

2.4. Cost of collection

Expenditure incurred in collection of the receipts under the principal heads of revenue during the three years 1984-85 to 1986-87 is shown below:

Revenue Head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
(1)	(2)	(3)	(4)	(5)

(In crores of rupees)

1. Land Revenue	1984-85	24.11	22.67	94*
	1985-86	27.92	26.93	96*
	1986-87	29.48	27.89	95*
2. Sales Tax	1984-85	527.23	11.50	2
	1985-86	628.23	14.12	2
	1986-87	716.28	14.74	2
3. Taxes on Vehicles	1984-85	40.08	1.17	3
	1985-86	42.45	1.17	3
	1986-87	47.29	1.28	3

(1)	(2)	(3)	(4)	(5)
-----	-----	-----	-----	-----

4. Other

Taxes
and Du-
ties
on Co-
mmodi-
ties and
Services -

(a) Ent-	1984-85	51.27	0.82	2
erta-	1985-86	48.06	1.17	2
inment	1986-87	60.87	2.85	5
Tax				
(b) Elec-	1984-85	17.85	0.63	4
tri-	1985-86	30.79	0.67	2
city	1986-87	36.21	0.74	2
Duty				
(c) Taxes	1984-85	76.43	0.66	1
on	1985-86	84.27	0.21	Negligible
Goods	1986-87	95.63	0.94	1
and				
Pass-				
engers				

* Note: Government stated (November 1987) that the collection staff of the Revenue Department also undertakes work of other Government departments and it cannot be said that the entire expenditure (as booked under the minor head 'Cost of Collection') represents expenditure on collection of Land Revenue alone.

2.5. Arrears in assessment, appeal and revision cases

(i) Arrears in assessment

(a) The number of assessments finalised by the Sales Tax Department during the assessment years 1985-86 and 1986-87 and the assessments pending finalisation at the end of March each year, as reported by the department, are indicated below:

(i) Assessments to be completed:

	1985-86	1986-87
Pending cases	5,82,733	6,72,000*
Current cases	2,66,169	2,81,007
Remand cases	8,865	8,632
Total	<u>8,57,767</u>	<u>9,61,639</u>

(ii) Assessments completed:

Pending cases	2,05,078	2,45,305
Current cases	11,972	13,296
Remand cases	5,447	5,457
Total	<u>2,22,497</u>	<u>2,64,058</u>

(iii) Assessments pending finalisation:

Pending cases	3,77,655	4,26,695
Current cases	2,54,197	2,67,711
Remand cases	3,418	3,175
Total	<u>6,35,270*</u>	<u>6,97,581</u>

Arrears in assessments have been steadily increasing.

* Addition of 36,730 cases in the opening balance of 1986-87 as compared with the closing balance of 1985-86 was stated by the department to be due to inclusion of cases as a result of scrutiny of records and cases opened under section 21 of the U.P. Sales Tax Act, 1948.

(b) In both the years 1985-86 and 1986-87, bulk of the cases were finalised in the last quarter of those years, as indicated in the table below:

Period	1985-86		1986-87	
	Numb- er of Asse- ssme- nts f- inal- ised	Dema- nds rais- ed(In crore- s of rupees)	Numb- er of Asse- ssment- s fi- nali- sed	Dema- nds raised (In crores of rup- ees)
April to December January to March	1,16,317	67.94	1,26,874	173.63
	1,06,180	175.84	1,37,184	187.31
Total	2,22,497	243.78	2,64,058	360.94

Year-wise break-up of the assessments pending as on 31st March 1987 was as follows:

(24)

Assessment year	Number of cases
Upto 1981-82	271
1982-83	16,587
1983-84	1,73,535
1984-85	2,36,302
1985-86	2,67,711
Cases remanded by Courts for re- assessment	3,175
TOTAL	<u>6,97,581</u>

(ii) Arrears in disposal of appeal
and revision cases

Progress of disposal of
appeal and revision cases during
the assessment years 1985-86 and
1986-87, as reported by the depart-
ment, was as under:

(i) Number of cases to be decided:

	<u>Appeal Cases</u>		<u>Revision Cases</u>	
	1985-86	1986-87	1985-86	1986-87
Pend- ing cases	43,457	37,064	52,595	59,852
Curr- ent cases	45,632	47,459	23,615	17,515
Total	<u>89,089</u>	<u>84,523</u>	<u>76,210</u>	<u>77,367</u>

(ii) Number of cases decided:

	<u>Appeal cases</u>		<u>Revision cases</u>	
	1985-86	1986-87	1985-86	1986-87

Pending cases	34,357	28,692	9,918	10,857
Current cases	17,533	13,828	6,440	9,396
Total	51,890	42,520	16,358	20,253

(iii) Number of pending cases:

	<u>Appeal Cases</u>		<u>Revision Cases</u>	
	1985-86	1986-87	1985-86	1986-87

Pending cases	*	*		
	8,965	8,116	42,677	36,276
Current cases	28,099	33,631	17,175	20,838
Total	37,064	41,747	59,852	57,114

* Number of pending appeal cases as on 31st March 1986 actually worked out to 9,100. Difference of 135 cases was stated to be the result of scrutiny of records.

*. Number of pending appeal cases as on 31st March 1987 actually worked out to 8,372. Difference of 256 cases was stated to be the result of scrutiny of records.

The year-wise break-up of the appeal and revision cases, pending as on 31st March 1987, was as under:

	Year	Pending as on	
		<u>31st March 1987</u>	
		Appeal Cases	Revision Cases
Upto	1979-80	112	2,018
	1980-81	53	3,109
	1981-82	105	4,918
	1982-83	315	6,018
	1983-84	1,044	8,210
	1984-85	5,028	12,003
	1985-86	21,485	15,820
	1986-87	13,605	5,018
	Total	41,747	57,114

2.6. Uncollected revenue

Details of the arrears of revenue pending collection, as at the end of the year 1986-87 (as furnished by the departments), in respect of some receipt heads, are given below:

(i) Sales Tax- Rs. 635.91 crores (provisional) remained uncollected as on 31st March 1987, as against Rs. 499.08 crores on 31st March 1986. The year-wise details are given below:

Year	<u>Amount of arrears as on 31st March</u>		Amount of arre- ars recove- red du- ring the year 1986-87
	1986	1987	
(In crores of rupees)			
Upto			
1983-84	193.30	154.00	39.30
1984-85	85.14	49.77	35.37
1985-86	220.64	96.78	123.86
1986-87	...	335.36	...
Total	<u>499.08</u>	<u>635.91</u>	<u>198.53</u>

Thus, out of Rs. 499.08 crores pending collection as on 31st March 1986, Rs.198.53 crores (about 31 per cent) were recovered during 1986-87. Arrears amounting to Rs.23.29 crores have been outstanding for more than 10 years as on 31.3.1987.

The arrears of Rs. 635.91 crores were in the following stages of action:

Stage of action	Amount of arrears (In crores of rupees)
-----------------	---

- | | |
|--|--------|
| (a) Demands covered by recovery certificates(excluding those sent to other States) | 157.58 |
| (b) Recovery stayed by | |
| (i) Courts | 100.62 |
| (ii)Government | 19.68 |
| (c) Recovery held up due to | |
| (i) rectification/ review applications | 41.54 |
| (ii)dealers becoming insolvent | 1.38 |
| (d) Amount likely to be written off | 32.67 |
| (e) Other stages | 282.44 |
| (i) Against Government departments:Rs.25.32 crores; | |
| (ii) Against transporters:Rs.61.19 crores; | |
| (iii) Recovery certificates sent to other States: Rs.12.12 crores; | |

(iv) Demands not finally determined for various administrative reasons:
Rs.183.62 crores and

(v) Amount payable in instalments; Rs.0.19 crore

Total..	<u>635.91</u>
---------	---------------

(ii) Electricity Duty--

The arrears as on 31st March 1987 amounted to Rs. 50.67 crores, out of which Rs. 45.27 crores were due from Renu Sagar Power Company, the recovery of which was stayed by the Hon'ble Supreme Court long back. Recovery of dues against ten sugar factories (Rs. 0.37 crore) was also stayed either by the Hon'ble Supreme Court or the High Court. The U.P. State Electricity Board was another major defaulter against which the arrears increased from Rs.2.34 crores at the end of 1985-86 to Rs.4.34 crores at the end of 1986-87, while dues from 'other persons' increased from Rs.0.20crore (1985-86) to Rs. 0.63 crore (1986-87).

(iii) Land Revenue- Demand of land revenue raised but not collected as on 31st March 1987 amounted

to Rs.28.28 crores as against Rs. 26.39 crores outstanding on 31st March 1986.

Besides, Rs.2.27 crores of land development tax were pending collection on 31st March 1987 as against Rs. 2.52 crores outstanding on 31st March 1986. (Land Development Tax has since been abolished with effect from 1st July 1977).

Year-wise break-up of the arrears was not available with the department.

(iv) Tax on Purchase of Sugarcane--

Out of Rs. 8.98 crores pending collection as on 31st March 1987 from sugar factories, arrears amounting to Rs. 6.38 crores pertained to the period upto 1980-81, Rs. 0.88 crore to the three years 1981-82 to 1983-84 and the remaining Rs. 1.72 crores to the years 1984-85 to 1986-87.

(v) Forest--For supplies of timber and other forest produce to indentors, full payments are required to be collected before

despatch and, as such, normally there should not be any arrears on this account. Yet, as per information furnished by the department, the arrears of forest receipts, as on 31st March 1987, amounted to Rs. 5.58 crores, out of which arrears amounting to Rs. 1.84 crores pertained to the period upto 1980-81, Rs. 1.60 crores to the years 1981-82 to 1983-84 and the remaining Rs. 2.14 crores to the years 1984-85 to 1986-87.

The arrears of Rs. 5.58 crores were in the following stages of action:

Stage of action	Amount of arrears (In crores of rupees)
(a) Demands proposed to be adjusted against contractors' securities and material in the custody of the department	3.57
(b) Demands covered by recovery certificates	1.08
(c) Recovery stayed by Courts	0.63.
(d) Amount likely to be written off	0.11
(e) Other stages	0.19
Total	<u>5.58</u>

(vi) Irrigation Department

During 1972-73, the Uttar State Electricity Board acquired an area of 1,02,280 square feet belonging to the Irrigation Department at Belwala in Hardwar for temporary use during Kumbh Mela 1974. No formal orders were issued by the Irrigation Department for handing over the land to the Board. The Board did not return possession of the land to the Irrigation Department after the Kumbh Mela was over. Instead, the Board erected machine sheds and installed generating sets thereon. Temporary roads and residential quarters were also constructed. According to the decisions communicated by the State Government (Energy Department) in November 1981, the land on which machine sheds had been erected and generating sets installed would be sold to the Board on the valuation to be determined by the District Magistrate, Saharanpur and possession of the remaining land given back by the Board to the Irrigation Department. This action was to be completed by 1st December 1981. Furthermore, the area of other lands occupied by the Board was to be worked out and rent thereof as determined by the District Magistrate, Saharanpur was to be realised.

from the Board by the Irrigation Department from 1972-73 onwards. Accordingly, the cost of land and rent for the period 1972-73 to 1985-86 to be realised from the Board was worked out (July 1986) by the Irrigation Department as under:

	Area (Sq.feet)	Amount (In lakhs of rupees)
1. Cost of land at Belwala sold to the Board	18,701	18.70
2. Rent of other land(at Belwala and Mayapur)under occupation of the Board	9,92,189	90.29
Total		<u>108.99</u>

Demands for the above amounts were raised against the Board in July 1986, but recoveries were still pending (March 1988).

2.7. Frauds and evasions

The table below indicates the position of cases of frauds and evasions detected, finalised and pending as on 31st March 1987, as intimated by a few departments:

Department	Cases pending at the beginning of 1986-87 (Amount involved)	Cases detected during the year (Amount involved)	Cases finalised during the year (Amount involved)	Cases pending at the end of 1986-87 (Amount involved)
1. Sales Tax	6,755 (N.A.)	2,935 (N.A.)	1,875 (Rs. 8.65 Crores)	7,815 (N.A.)
2. Land Revenue	Nil	329 (Rs. 13 lakhs)	322 (Rs. 22.83 lakhs)	7 (Rs. 0.30 Lakh)

N.A.: Not available

The number of cases detected during the year in Sales Tax Department was more than the cases decided during the year. As a result, the number of cases pending finalisation as on 31st March 1987 increased to 7,815 as against 6,755 cases pending on 31st March 1986.

2.8. Writes off and remissions of revenue

Details of demands written off and remitted during 1986-87, as furnished by a few departments, are given below:

Department	Number of cases	Amount involved (In crores of rupees)	Remarks
1. Finance-Sales tax	Not available	0.04	Reasons not indicated
2. Revenue-			
(i) Land revenue (including rent)	54	2.07	Natural calamities
(ii) Bhumi vikas kar		0.12	

2.9. Outstanding audit inspection reports

Under-assessments, financial irregularities and defects in maintenance of initial accounts noticed

in audit, which are not settled on the spot, are communicated to the heads of offices and to the next higher departmental authorities through audit inspection reports. The more important irregularities are also reported to the heads of departments and Government. Half-yearly reports of audit objections, remaining outstanding for more than six months, are also sent to the heads of departments and Government for expediting their settlement. First replies to the audit inspection reports are required to be sent within one month of their receipt.

The number of inspection reports and audit objections issued up to March 1987, which were pending settlement by the departments as on 30th September 1987, together with the corresponding figures in the preceding two years, are given below:

	<u>As at the end of September</u>		
	<u>1985</u>	<u>1986</u>	<u>1987</u>
1. Number of out-standing inspection reports	2,014	1,992	2,111

2. Number of outstanding audit objections	5,063	5,066	5177
3. Amount of receipts involved (in crores of rupees)	47.21	53.90	55.14

The table below indicates receiptwise details of the inspection reports and audit objections issued up to March 1987 but remaining outstanding as on 30th September 1987:

Nature of receipt	Number of outstanding inspection reports/paragraphs and the revenue involved			Year to which the earliest report pertains
	Inspection reports	Paragraphs	Amount of revenue involved (In crores of rupees)	
1. Land Revenue	206	434	1.72	1976-77
2. Stamps and Registration Fees	566	1,009	1.81	1977-78
3. State Excise	196	429	2.38	1980-81
4. Sales Tax	276	923	3.65	1980-81
5. Tax on Purchase of Sugarcane	130	167	1.71	1975-76

6. Taxes on Vehicles, Goods and Passengers	146	549	1.64	1979-80
7. Electri- city Duty	54	68	0.25	1979-80
8. Entertain- ment and Betting Tax	9	9	0.01	1982-83
9. Public Works	43	166	0.99	1983-84
10. Co-operation	27	44	0.08	1981-82
11. Agriculture	25	80	0.15	1982-83
12. Food and Civil Sup- plies	29	77	0.10	1982-83
13. Forest	331	937	36.69	1975-76
14. Irrigation	73	285	3.96	1980-81
Total	<u>2,111</u>	<u>5,177</u>	<u>55.14</u>	

In respect of 429 audit inspection reports pertaining to the following receipt heads, even first replies had not been received from the departments:

Number of audit inspection reports
outstanding for

Three years and more (issued upto March 1984)	Two years and more (issued but less than three years (issued during 1984-85)	Less than two years (issued during 1985-86 and 1986-87)	Total
---	---	---	-------

1. Land Revenue	-	-	38	38
-----------------	---	---	----	----

(39)

2. Stamps and Registration Fees	-	-	4	4
3. State Excise	2	5	14	21
4. Sales Tax	1	4	90	95
5. Tax on purchase of Sugarcane	-	3	15	18
6. Taxes on Vehicles, Goods and Passengers	-	-	43	43
7. Electricity Duty	-	2	12	14
8. Public Works	2	2	37	41
9. Co-operation	-	3	14	17
10. Agriculture	3	3	14	20
11. Food and Civil Supplies	3	2	6	11
12. Forest	15	12	37	64
13. Irrigation	10	11	22	43
TOTAL	<u>36</u>	<u>47</u>	<u>346</u>	<u>429</u>

CHAPTER 3

FINANCE DEPARTMENT

SALES TAX

3.1. Results of Audit

Test check of the records of the Sales Tax Offices, conducted in audit during the year 1986-87, revealed under-assessments of tax and non-levy or short levy of interest and penalty amounting to Rs.145.95 lakhs in 838 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Irregular grant of exemptions	186	29.62
2. Application of incorrect rates of tax	131	32.11
3. Non-levy or short levy of interest/penalty	125	36.44
4. Incorrect classification of goods	20	7.74
5. Turnover escaping assessment and incorrect determination of turnover	79	9.38

6. Non-levy/short levy of additional tax	102	3.51
7. Arithmetical mistakes	45	2.85
8. Other irregularities	150	24.30
Total	<u>838</u>	<u>145.95</u>

A few important cases including those of earlier years are mentioned in the succeeding paragraphs.

3.2. Non-levy of interest, additional tax and purchase tax

(i) Every dealer liable to pay tax under the U.P. Sales Tax Act, 1948 is required to submit returns of his turnover at prescribed intervals and to deposit the amount of tax due under the Act on the turnover disclosed in such returns. Tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of 2 per cent per month on the unpaid amount. For this purpose, 'tax admittedly payable' means tax which is payable under the Act on the turnover disclosed in the accounts maintained by the dealer or admitted by him in any return or proceedings under the Act.

In Sales Tax Circle, Ghazipur, a State Government factory purchased opium for Rs.6.53 crores during the period from 1st April 1979 to 31st May 1979 from unregistered dealers. Purchase tax amounting to Rs. 84.88 lakhs payable at the rate of 13 per cent on this purchase turnover^{was} deposited on 10th March 1980, instead of on the due dates, viz., 31st May 1979 and 30th June 1979. As the tax was not paid by the due dates, the factory was liable to pay interest at the rate of 2 per cent per month for belated payment of tax for the period from 1st June 1979 to 10th March 1980 but the same was omitted to be charged, while making assessment (March 1984) for the year 1979-80.

On this being pointed out in audit (July 1984), the assessing officer levied (September 1987) interest of Rs. 15.85 lakhs.

The case was reported to the department and Government in March 1987; their replies have not been received (March 1988).

(ii) Under Section 3-E of the U.P. Sales Tax Act, 1948, with effect from 1st October 1983, every dealer liable to pay tax under the Act, whose turnover exceeds Rs.10 lakhs

in any assessment year, shall, in addition to tax payable under any other provision of the Act, be liable to pay an additional tax calculated at the rate of 5 per cent of the tax payable by him for that year. In calculating the additional tax, tax payable by the dealer in respect of sale or purchase of declared goods shall not be taken into consideration.

(a) In Sales Tax Circle, Ghaziabad, the turnover of a dealer in respect of sales of deshi ghee, imported foreign liquor and washing soap for the year 1984-85 was computed (June 1985) at Rs. 75 lakhs and tax amounting to Rs. 11.50 lakhs was levied. As the turn over of the dealer exceeded Rs. 10 lakhs, he was liable to pay additional tax amounting to Rs. 57,500, but it was not levied.

On the omission being pointed out in audit (January 1987), the department stated (October 1987) that additional demand for Rs. 57,500 had since been raised in June 1987.

(b) Similarly in Sales Tax Circle, Meerut, the turnover of a dealer in respect of sales of Indian made foreign liquor for the year 1984-85 was assessed (March 1986) at Rs. 25 lakhs and tax amounting to Rs. 6.50

lakhs was levied. As the turnover of the dealer exceeded Rs.10 lakhs, he was liable to pay additional tax amounting to Rs. 32,500 but it was not levied.

On the omission being pointed out in audit (June 1986), the department rectified (March 1987) the mistake and raised additional demand for Rs. 32,500.

The above cases were reported to Government in January 1987 and June 1986 respectively; their reply has not been received (March 1988).

(iii) Under Section 3 AAAA of the U.P. Sales Tax Act, 1948, when goods liable to tax at the point of sale to consumer are sold to a dealer but, in view of any provision of the Act, no tax is payable by the seller and the purchasing dealer does not resell such goods within the State or in the course of inter-State trade or commerce in the same form and condition in which he had purchased them, the purchasing dealer shall be liable to pay tax on such purchases at the rate at which tax is leviable on sale of such goods to consumer within the State.

(a) In Sales Tax Circle, Kanpur a dealer, holding recognition certificate for manufacture of footwear, purchased

'old plastic waste' worth Rs. 3.07 lakhs during 1983-84 from unregistered dealers without payment of tax and used it in the manufacture of footwear. As the dealer did not resell old plastic waste in the same form and condition, he was liable to pay purchase tax amounting to Rs. 24,571 at the rate of 8 per cent, but it was omitted to be levied at the time of assessment in August 1985.

On the omission being pointed out in audit (August 1986), the department intimated (October 1987) that assessment order had since been revised. However, additional demand for Rs. 12,285 at the rate of 4 per cent only had been raised.

(b) In Sales Tax Circle, Aligarh, a dealer purchased ' raddi paper' for Rs. 1.49 lakhs and Rs. 1.20 lakhs during the years 1980-81 and 1981-82 respectively from unregistered dealers without payment of tax and used it in the manufacture of card board. The dealer was liable to pay purchase tax amounting to Rs. 17,980 at the rate of 7 per cent on these purchases upto 6th September 1981 and at the rate of 6 per cent from 7th September 1981 to 31st March 1982, but it was omitted to be levied at the time of assessment in February 1983.

On the omission being pointed out in audit (July 1986), the department stated (June 1987) that additional demand for Rs.17,980 had been raised (January 1987).

(c) In Sales Tax Circle, Gorakhpur, a dealer purchased plastic waste (a commodity liable to tax at the point of sale to consumer) for Rs.72,125 and Rs. 65,309 during the years 1982-83 and 1983-84 respectively from unregistered dealers without payment of tax and manufactured plastic films and strainers out of it. The dealer was liable to pay purchase tax amounting to Rs.10,992 (at the rate of 8 per cent).

On the omission being pointed out in audit (May 1986), the assessing officer intimated (November 1987) that assessment orders had since been revised and additional demand for Rs.10,992 had been raised.

The above cases were reported to Government between June and August 1986; their reply has not been received (March 1988).

3.3. Non-imposition of penalty

(i) Section 4-B of the U.P. Sales Tax Act, 1948 provides for special relief to certain manufacturers on purchases of raw materials required by them for use in the manufacture of certain goods as notified under the Act. Goods so manufactured are required to be sold within the State or in the course of

inter-State trade or commerce or in the course of export out of India. In the event of breach of this condition, the dealer is liable to pay, as penalty, an amount which shall not be less than the tax which would have been payable on the sale price of such notified goods in the State and not more than three times the amount of such tax.

(a) In Sales Tax Circle, Agra, a dealer, holding a recognition certificate for the manufacture of iron and steel, purchased iron ingots, billets and blooms for Rs. 70.65 lakhs on the strength of declaration in form III-B and transferred the manufactured products valuing Rs. 1.06 crores outside the State on consignment basis during the year 1981-82. For breach of the conditions, the dealer was liable to pay a minimum penalty of Rs. 4.23 lakhs, equal to the amount of tax payable on sale of iron and steel within the State, but penalty was omitted to be imposed.

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

(b) In Sales Tax Circle, Kashipur (district Nainital), a dealer, holding a recognition certificate for manufacture of rice, manufactured rice out of paddy, purchased by him without payment of

tax on the strength of declaration in form III-B. and transferred the rice valuing Rs.5.30 lakhs outside the State on consignment basis during the year 1979-80. For breach of the condition, the dealer became liable to pay minimum penalty amounting to Rs. 21,184, based on the sale value of rice, but no penalty was imposed.

On the mistake being pointed out in audit (December 1982), the department stated (September 1987) that penalty of Rs.21,184 had since been imposed and adjusted against the tax paid by the dealer on the purchase of paddy.

(c) In Sales Tax Circle, Karvi (district Banda), a dealer, holding recognition certificate for manufacture of oil, purchased oilseeds including linseed for Rs. 10.99 lakhs at concessional rate on the strength of declarations in form III-B during the year 1981-82. Out of the manufactured linseed oil, the dealer transferred linseed oil for Rs.4.30 lakhs and

Rs. 1.20 lakhs during the period from 1st April 1981 to 6th September 1981 and 7th September 1981 to 31st March 1982 respectively outside the State on consignment basis against form 'F'. The dealer was, therefore, liable to pay minimum penalty of Rs.13,377 (at the rate of 2 per cent of sale price of linseed oil

upto 6th September 1981 and at the rate of 4 per cent of sale price of linseed oil from 7th September 1981 to 31st March 1982), but it was not imposed.

On the omission being pointed out in audit (September 1985), the department intimated (June 1987) that penalty of Rs. 13,377 had since been imposed and realised from the dealer.

The cases were reported to Government between January 1983 and February 1987; their reply has not been received except in case of sub-para (c) where Government confirmed (January 1988) the reply of the department (March 1988).

(ii) Where a dealer holding a recognition certificate, after purchasing goods (raw materials) at a concessional rate of tax or without payment of tax, uses such goods for a purpose other than the declared purpose or disposes them of otherwise, he shall be liable to penalty not less than the difference between the amount of tax payable at the prescribed rate and that paid at the concessional rate or the amount of tax that would have been levied on sale or purchase of such goods and not exceeding three times the amount of such difference or of the tax, as the case may be.

(a) In Sales Tax Circle, Lucknow,

a dealer, holding a recognition certificate for the manufacture of rubber and rubber products, purchased (without payment of tax) M.S.Plates and sheets, chemicals and rubber for Rs.31.20 lakhs during the years 1979-80 and 1980-81 by furnishing prescribed declarations in form III-B and manufactured rubber buffer springs and moulded components which did not fall under the entry ' rubber products'. For furnishing false declaration, the dealer was liable to pay minimum penalty of Rs.1.25 lakhs, but it was not imposed.

On this being pointed out in audit (July 1985), the department intimated (October 1986) that penalty of Rs.1.25 lakhs had since been imposed.

(b) In Sales Tax Circle, Lucknow, another dealer holding a recognition certificate for manufacture of iron and steel purchased, without payment of tax, iron scrap valuing Rs. 1.39 Crores during the years 1982-83 and 1983-84 by furnishing prescribed declarations in form III-B. Out of this, he resold iron scrap worth Rs. 6.03 lakhs tax-free against declarations in form III-B. The dealer was, therefore, liable to pay minimum penalty of Rs.24,110 for reselling iron scrap, but no penalty was imposed.

On the omission being pointed out in audit (July 1985), the department intimated (October 1986) that penalty of Rs. 24,110 had since been imposed.

(c) In Sales Tax Circle, Kanpur a dealer holding a recognition certificate for the manufacture of packing materials made tax-free purchases of plastic granules for Rs. 2.39 lakhs during the year 1981-82 on the strength of declarations in form III-B and sold them in the same form. As the raw material was not used for the purpose of manufacturing the goods for which recognition certificate was granted, the dealer was liable to pay a minimum penalty of Rs. 19,106, but it was not imposed.

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

The above cases were reported to Government between July 1985 and February 1987; their reply has not been received (March 1988).

(iii) Under the U.P. Sales Tax Act, 1948, if a dealer realises any amount as sales tax or purchase tax where no sales tax or purchase tax is legally payable or realises tax in excess of the amount of tax legally payable, the assessing officer may direct the dealer to pay by way of penalty a sum not less than the amount of the tax so realised or realised in excess but not more than three times the said amount.

(a) In Sales Tax Circle, Agra, a corporation controlled by the Central Government made inter-State sale of soyabean oil for Rs. 39.11 lakhs during the year 1978-79 against declarations in form C. The corporation realised from the purchasers and deposited into Government treasury tax amounting to Rs. 1.56 lakhs at the rate of 4 per cent during the year 1978-79, instead of at the prescribed rate of 3 per cent. The Tax deposited in excess was refunded to the corporation on 27th March 1983. A minimum penalty of Rs. 39,110, equal to the amount of tax realised in excess could be levied, but no penalty was imposed nor any reason for not imposing penalty was recorded in the assessment order.

On this being pointed out in audit (August 1984), the department intimated (February 1988) that penalty of Rs. 39,110 had since been imposed and adjusted against the excess tax paid by the dealer.

(b) In Sales Tax Circle, Firozabad, a dealer realised from the customers sales tax at the rate of 8 per cent, instead of at the correct rate of 4 per cent during the year 1980-81 on the taxable turnover of laboratory wares amounting to Rs. 4.20 lakhs and deposited Rs.33,600 into the treasury. The mistake was rectified by the assessing authority in March 1985

by an order made under Section 22 and the credit for tax deposited in excess was afforded to the dealer, without considering the penalty leviable for realisation of tax in excess. A minimum penalty of Rs.16,800, equal to the amount of tax realised in excess, could be levied.

On the omission being pointed out in audit (May 1986), the assessing officer intimated (January 1988) that penalty amounting to Rs.,16,800 had since been imposed (February 1987) and the excess amount of tax of Rs.16,800, deposited along with monthly returns, had been adjusted (November 1987) against the amount of penalty.

The above cases were reported to Government in August 1984 and July 1986; their reply has not been received (March 1988).

3.4. Underassessment of Central sales tax

(i) Under Section 8 of the Central Sales Tax Act, 1956, on inter-State sales of non-declared goods, not covered by prescribed declarations, tax is leviable at the rate of 10 per cent or the rate applicable to sale or purchase of such goods within the State, whichever is higher.

(a) In Sales Tax Circle, Lucknow, a State public sector undertaking made inter-State sales of televisions, transistors and calculators (non-declared commodities) for Rs.2.12 crores during the period from 7th September 1981 to 31st March 1982, which were not supported by prescribed declarations. While making assessment (September 1985) for the aforesaid period, tax was levied at the rate of 10 per cent, instead of at 12 per cent leviable on sales of television etc. Application of incorrect rate of tax resulted in short levy of tax amounting to Rs. 4.24 lakhs.

The case was reported to the department and Government in May 1986; their replies have not been received (March 1988).

(b) In Sales Tax Circle, Modinagar, a dealer made inter-State sales of cups, medals and shields (not covered by prescribed declarations) for Rs. 3.59 lakhs and Rs. 5.26 lakhs during the years 1978-79 and 1979-80 respectively. Tax was levied (October 1980 and October 1981) at the rate of 4 per cent, instead of .at 10 per cent. This resulted in tax being levied short by Rs.53,075.

On this being pointed out in audit (February 1983), the department intimated

(July 1984) that assessments had been revised and additional demand for Rs.53,075 raised (September 1983 and March 1984).

The case was reported to Government in February 1983; their reply has not been received (March 1988).

(ii) In terms of the Government notification dated 25th February 1981, effective from 26th February 1981, in respect of sales of cereals and pulses (declared commodities under section 14 of the Central Sales Tax Act, 1956), no tax is payable if the selling dealer furnishes either the proof of deposit of tax payable on such cereals and pulses under the U.P. Sales Tax Act, 1948 or the declaration in the prescribed form received from the dealers from whom the goods were purchased by him and also furnishes the declaration or certificate referred to in sub-section (4) of Section 8 of the Central Sales Tax Act, 1956. On inter-State sales of declared goods not supported by prescribed declaration or certificate, tax is leviable at twice the rate of tax applicable to sale or purchase of such goods within the State.

In Sales Tax Circle, Ghaziabad, a dealer made inter-State sales of cotton

yarn (a declared commodity) for Rs.61.12 lakhs and Rs.82.97 lakhs during the years 1980-81 and 1981-82 respectively. Though these sales were not covered by prescribed declarations (form 'C' or 'D'), tax was levied (March 1985 and March 1986) at the rates of 2.5 per cent and 2 per cent for the years 1980-81 and 1981-82 respectively, instead of at twice the rate of tax (i.e., 5 per cent up to 6th September 1981 and 4 per cent thereafter). Incorrect application of the rate resulted in short levy of tax amounting to Rs.1.53 lakhs and Rs.2.06lakhs for the years 1980-81 and 1981-82 respectively. Besides, interest at the rate of 2 per cent per month was also chargeable from the dealer.

On the omission being pointed out in audit (October 1986), the department stated (August 1987) that additional demands for Rs. 1.53 lakhs and Rs. 2.06 lakhs for the years 1980-81 and 1981-82 respectively had since been raised in April 1987.

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

3.5. Short levy of tax due to misclassification of goods

(i) 'Stainless steel plates' does

fall under any of the items of 'Iron and Steel' mentioned in Section 14 (iv) of the Central Sales Tax Act, 1956 and as such are not declared goods. On the analogy of the decision* of the High Court of Madras, the plates would fall under section 14(iv)(vii) ibid only if these are iron and steel.

In Sales Tax Circle, Agra, a dealer made inter-State sales (not supported by prescribed declarations) of self-manufactured stainless steel plates for Rs. 2.94 crores during the year 1981-82. Tax was levied (March 1986) at the rate of 8 per cent, treating stainless steel plates as 'iron and steel' (declared goods), instead of treating them as general goods liable to tax at 10 per cent. The misclassification resulted in short levy of tax amounting to Rs. 5.87 lakhs.

The case was reported to the department and Government in February 1987; their replies have not been received (March 1988).

(ii) Under the U.P. Sales Tax Act, 1948, on sales of 'sanitary goods and

* 54 STC 88(Madras)R.K.Manufacturer Vs. The Board of Revenue, Commercial Taxes, .. Madras.

fittings', tax is leviable at the rate of 12 per cent (additional tax of one per cent was also leviable upto 6th September 1981). Cisterns and S.W.pipes fall under the category of 'sanitary goods and fittings'.

(a) In Sales Tax Circle, Agra, the turnover of a dealer relating to sales within the State of self-manufactured cisterns (sanitary goods) were computed at Rs. 1.60 lakhs for the period from 1st April to 6th September 1981 and Rs. 2 lakhs for the period from 7th September 1981 to 31st March 1982. There were also sales in the course of inter-State trade amounting to Rs.2 lakhs during the year 1981-82. Tax on local sales was levied (March 1986) at the rate of 8 per cent for the period upto 6th September 1981 and at 6 per cent for the period from 7th September 1981 to 31st March 1982 and on inter-State sales at the rate of 10 per cent, treating cisterns as machinery parts. The misclassification led to short levy of tax amounting to Rs. 0.24 lakh.

The case was reported to the department and Government in September 1986; their replies have not been received (March 1988).

(b) In Sales Tax Circle, Kanpur, a dealer made sales, within the State, of

S.W.pipes (sanitary fittings) for Rs.4.16 lakhs, Rs.1.72 lakhs and Rs.13,552 during the years 1978-79, 1979-80 and 1980-81 respectively. Tax was levied at the rate of 8 per cent (including additional tax of one per cent) on sales of S.W.pipes, treating them as unclassified items, instead of at 13 per cent (including additional tax of one per cent). The misclassification resulted in short levy of tax amounting to Rs. 0.30 lakh.

On the mistake being pointed out in audit (August 1984), the department intimated (January 1987) that the assessment orders had since been revised (May-October 1985) and additional demand for Rs.0.30 lakh raised.

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

3.6. Irregular grant of concession of tax-free purchases

Section 4-B of the U.P. Sales Tax Act, 1948, read with Government notification dated 31st December 1976, provides for special relief in tax to certain manufacturers (holding recog-

nition certificates) in the shape of tax-free purchase of raw materials required by them for use in the manufacture of certain goods specified in Annexures I and III to the said notification. In respect of goods not specified in Annexures I and III to the said notification and / or subsequent notification dated 31st August 1979 (specifying nuts, bolts and screws), the manufacturers (holding recognition certificate) are entitled to purchase raw materials at concessional rate (2 to 4 per cent) subject to certain exception and conditions.

(i) In Sales Tax Circle, Kanpur, a dealer, holding recognition certificate for the manufacture of cycle seat leather tops and cycle parts, made tax-free purchase of raw materials for Rs. 7.84 lakhs and Rs. 36.73 lakhs during the years 1981-82 and 1982-83 respectively on the strength of declaration in form III-B and used the same in the manufacture of cycle seat leather tops. As held judicially*, cycle seat leather tops are not specified goods, i.e., cycle parts or accessories and

* M/s Shadi Cycle Industries Vs. Commissioner of Sales Tax, U.P. (1971) 27, STC 56 (Alld.)

as such the dealer was not entitled to purchase raw materials tax-free on the strength of forms III-B. He would purchase raw materials at concessional rate of 4 per cent. Grant of irregular concession of tax-free purchases led to non-levy of tax amounting to Rs. 1.78 lakhs.

On the omission being pointed out in audit (October 1986), the department intimated (December 1987) that assessment orders of both the years had since been revised and additional demand for Rs. 1.78 lakhs raised. The dealer was also liable to be penalised under rule 15-A. Report on action taken to impose penalty and the recovery of amount has not been received (March 1988).

(ii)(a) In Sales Tax Circle, Lucknow, a dealer, holding recognition certificate for the manufacture of A.C.S.R. conductors and H.B. wire, purchased A.C.S.R. core wire for Rs. 4.77 lakhs tax-free on the strength of declaration in form III-B during the year 1983-84. As the goods manufactured by the dealer were not specified in the Government notification dated 31st December 1976, he was not entitled to purchase raw materials tax-free but at the concessional

rate of 4 per cent. Grant of irregular concession of tax-free purchases resulted in non-levy of tax amounting to Rs. 19,073.

The case was reported to the department in May 1986; their reply has not been received (March 1988).

(b) In Sales Tax Circle, Lucknow, another dealer, holding recognition certificate for the manufacture of nuts, bolts and wires, made tax-free purchases of iron and steel for Rs. 3.17 lakhs, Rs. 2.35 lakhs and Rs.55,000 during the years 1977-78, 1978-79 and 1979-80 (upto 31st August 1979) respectively on the strength of declarations in form III-B and manufactured nuts and bolts out of the same. As nuts and bolts were not specified goods prior to the issue of Government notification dated 31st August 1979, the dealer was entitled to purchase raw material at the concessional rate of 4 per cent (and not tax-free) during the aforesaid period. Grant of irregular concession of tax-free purchases resulted in non-levy of tax amounting to Rs. 24,314.

On the omission being pointed out in audit (August 1984), the department rectified (October 1985) the mistake and raised additional demand for Rs. 24,314.

(c) In Sales Tax Circle, Lucknow, yet another dealer, holding recognition certificate for the manufacture of bolts, rivets and nails, purchased iron and steel tax-free for Rs. 2.87 lakhs and Rs. 1.36 lakhs during the years 1978-79 and 1979-80 (upto 31st August 1979) respectively on the strength of declarations in form III-B and manufactured the said goods. As bolts (prior to 31st August 1979), rivets and nails were not specified goods, raw materials for the manufacture of bolts (prior to 31st August 1979), rivets and nails could not be purchased tax-free. The dealer could purchase raw materials at the concessional rate of 4 per cent and not tax-free. Grant of irregular concession of tax-free purchases resulted in non-levy of tax amounting to Rs. 16,920.

On the omission being pointed out in audit (August 1984), the department rectified (October 1985) the mistake and raised additional demand for Rs. 16,920.

(iii) In Sales Tax Circle, Meerut, a dealer, holding recognition certificate for the manufacture of kolhu parts and pipe fittings, made tax-free purchases of iron and steel for Rs. 1.60 lakhs, Rs. 1.96 lakhs and Rs. 2.37 lakhs during the years 1980-81, 1981-82 and 1982-83 respectively on the strength of declaration in form III-B.

As kolhu parts and pipe fittings were not specified in the Government notification dated 31st December 1976, the dealer was not entitled to tax-free purchase of raw materials. Grant of irregular relief of tax-free purchases led to non-levy of tax amounting to Rs.23,639.

On the omission being pointed out in audit (October 1986), the department stated (June 1987) that the assessments had been revised (October 1986) and additional demand for Rs.23,707 raised for the three years 1980-81 to 1982-83.

(iv) In Sales Tax Circle, Mirzapur, a dealer, holding recognition certificate for manufacture of chaff cutters, handpumps, kolhu and power threshers, made tax-free purchases of iron and steel for Rs. 2.50 lakhs and Rs.3.61 lakhs during the years 1978-79 and 1979-80 respectively on the strength of declarations in form III-B and manufactured kolhu, handpumps and thresher out of the same. As kolhus, handpumps and power threshers were not specified in the notification dated 31st December 1976, the dealer was not entitled to purchase raw materials tax-free but at the concessional rate of 4 per cent. Grant of irregular concession of tax-free purchases led to non-levy of tax

amounting to Rs. 24,437.

The case was reported to the department in November 1986; their reply has not been received (March 1988).

(v)(a) In Sales Tax Circle, Varanasi, a dealer, holding recognition certificate for the manufacture of parts of cement factory and thermal power plant, made tax-free purchases of iron and steel for Rs.73,843 and Rs.2.60 lakhs during the years 1978-79 and 1979-80 respectively on the strength of declarations in form III-B. As the goods manufactured by the dealer were not specified in the Government notification dated 31st December 1976, the dealer was entitled to purchase raw material at the concessional rate of 4 per cent and not tax-free. Grant of inadmissible concession of tax-free purchases resulted in non-levy of tax amounting to Rs. 13,351.

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

(b) In Sales Tax Circle, Varanasi, another dealer, holding recognition certificate for the manufacture of aluminium wire conductor A.C.S.R. and A.A.

conductor, made tax-free purchases of iron and steel for Rs. 5.93 lakhs and Rs. 1.44 lakhs during the years 1976-77 and 1977-78 respectively on the strength of declarations in form III-B. As the goods manufactured by the dealer were not specified in the Government notification dated 31st December 1976, the dealer was entitled to purchase raw materials at the concessional rate of 4 per cent and not tax-free. Grant of inadmissible concession of tax-free purchases resulted in non-levy of tax amounting to Rs.29,491.

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

(vi) In Sales Tax Circle, Unnao, a dealer, holding recognition certificate for the manufacture of motor parts, made tax-free purchases of raw materials (iron and steel) valuing Rs.3.12 lakhs and Rs.3.52 lakhs during the years 1980-81 and 1981-82 respectively on the strength of declarations in form III-B. As motor parts were not specified in the Government notification dated 31st December 1976, the dealer was not entitled to purchase raw material (iron and steel) tax-free but at the concessional rate of 4 per cent. Grant of inadmissible concession of tax-free

purchases led to non-levy of tax amounting to Rs. 26,588.

On the omission being pointed out in audit (June 1986), the department rectified (November 1986) the mistake and raised additional demand for Rs.26,588.

(vii) In Sales Tax Circle, Kanpur, a dealer, holding recognition certificate for the manufacture of leather boot polish, made tax-free purchase of raw materials for Rs. 1.80 lakhs and Rs.2.06 lakhs during the years 1981-82 and 1982-83 respectively on the strength of declarations in form III-B. As leather boot polish was not included in the aforesaid notification, the dealer was not entitled to purchase raw materials tax-free but at the concessional rate of 4 per cent. Grant of inadmissible concession of tax-free purchases resulted in non-levy of tax amounting to Rs. 15,455.

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

The above cases were reported to Government between September 1984 and February 1987; their reply has not been received (March 1988).

3.7. Purchase of raw material tax-free beyond the prescribed period

Section 4-B of the U.P. Sales Tax Act, 1948, read with Government notification dated 11th June 1974, provides for special relief in tax on purchases of raw materials by manufacturers (new units) for use in the manufacture of certain goods for a period of five/ three years, depending on the location of the manufacturing unit.

In Sales Tax Circle, Ghaziabad, a dealer, holding a recognition certificate (with effect from 10th March 1973) for manufacture of oil engines and oil expellers, purchased iron and steel for Rs. 2.21 lakhs, Rs. 1.36 lakhs and Rs. 1.68 lakhs during the years 1978-79, 1979-80 and 1980-81 respectively without payment of tax on the strength of declarations in form III-B. In terms of the notification dated 11th June 1974, the dealer was entitled to benefit of tax-free purchase of raw material for three years from the date of start of production (1st April 1973). Thus, he could purchase raw material without payment of tax upto 31st March 1976. Grant of exemption from tax on purchase of raw material beyond 1975-76 resulted in short levy of tax amounting to Rs. 21,025.

On the omission being pointed out in audit (October 1986), the department stated (September 1987) that penalty amounting to Rs. 36,330 (1978-79: Rs.16,000; 1979-80:Rs.8,290 and 1980-81: Rs.12,040) had since been imposed (June 1987) under Section 15-A(1)(1) of the U.P. Sales Tax Act, 1948.

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

3.8. Irregular grant of concession, recognition certificates and exemptions

(i) Section 3-G of the U.P.Sales Tax Act, 1948 provides for levy of tax at a concessional rate of 4 per cent, exclusive of additional tax leviable at the rate of 1 per cent upto 6th September 1981, on sales of goods (supported by prescribed declarations in form III-D) made to departments of the Central Government or a State Government or to a company, corporation or undertaking owned or controlled by the Central Government or by a State Government, provided the goods are not resold or used in the manufacture or packing of other goods for sale by such department, corporation etc. If goods so purchased against prescribed

declarations are not used for its own requirements, the department, company, corporation or undertaking shall be liable to pay, as purchase tax, an amount equal to the difference between the tax leviable on sale of such goods and the tax levied at concessional rate.

In Sales Tax Circle, Varanasi, two dealers sold electroplating chemicals and engine parts to the Diesel Locomotive Works, Varanasi (an undertaking of the Ministry of Railways) for Rs. 16.22 lakhs and Rs. 3.35 lakhs respectively during the year 1979-80 at concessional rate of tax of 5 per cent (including additional tax of one per cent) against declarations in form III-D. As the abovementioned goods were used in the manufacture of diesel locomotive engines, the Diesel Locomotive Works, Varanasi became liable to pay purchase tax amounting to Rs.58,710 (representing the difference in tax payable and the tax paid at concessional rate), but this was not levied.

On the omission being pointed out in audit (November 1982), the department intimated (June 1987) that the assessment of the Diesel Locomotive Works, Varanasi for the year 1979-80 had been revised (September 1985) and a total demand for Rs.4.46 lakhs

had been raised in respect of all goods purchased by them (including such purchased from other dealers) at concessional rate against declaration in form III-D and used in manufacture during the year 1979-80.

The case was reported to Government in November 1982; their reply has not been received (March 1988).

(ii) Section 4-B of the U.P. Sales Tax Act, 1948, read with Government notification dated 31st December 1976, provides for special relief in tax on purchases of raw materials by manufacturers for use in the manufacture of goods on fulfilment of certain conditions. However, this special relief is not admissible if the goods manufactured are exempt under clause (a) or (b) of Section 4 to the Act and also in case of units engaged in the manufacture of paper, catechu (Katha), matches, empty match boxes, match splints and match veneers. In terms of notification dated 30th June 1979, issued under Section 4 (b) of the Act, turnover of soap manufactured by units certified by the U.P. Khadi and Village Industries Board is exempt from tax.

(a) In Sales Tax Circle, Meerut, a dealer was granted recognition certifi-

cate from 11th December 1979 for the manufacture of soap. He purchased raw materials (caustic soda) for Rs. 11.11 lakhs during the years 1979-80 to 1981-82 on the strength of declarations in form III-B without payment of tax. As the said dealer was certified by the Uttar Pradesh Khadi and Village Industries Board, soap manufactured by him was not liable to tax at any stage under the Act. He was, therefore, not entitled to purchase raw material free of tax. Irregular grant of recognition certificate and issue of declaration forms III-B to the dealer resulted in loss of revenue amounting to Rs. 88,859.

The case was reported to the department in December 1986; their reply has not been received (March 1988).

(b) In Sales Tax Circle, Ghaziabad, a dealer, holding recognition certificate from 1st October 1975 for the manufacture of paper (abri), purchased raw materials for Rs. 1.66 lakhs, Rs. 1.66 lakhs and Rs. 1.82 lakhs during the years 1980-81, 1981-82 and 1982-83 respectively on the strength of declarations in form III-B without payment of tax. After the issue of Government notification dated 31st December 1976, the manufacturers of paper were not entitled to any relief in tax for purchase of raw

materials. As such, the recognition certificate granted to the dealer was required to be cancelled with effect from 1st January 1977, but this was not done. Non-cancellation of recognition certificate resulted in loss of revenue amounting to Rs. 30,883 during the years 1980-81 to 1982-83. In the absence of details of raw materials purchased for the period from 1st January 1977 to 31st March 1980, tax due for this period could not be worked out.

The case was reported to the department in July 1986; their reply has not been received (March 1988).

(c) In Sales Tax Circle, Shikohabad, a dealer, holding recognition certificate for the manufacture of paper, purchased raw materials (raddi) for Rs.2.32 lakhs and Rs. 6.53 lakhs during the years 1981-82 and 1982-83 respectively on the strength of declarations in form III-B at concessional rate of 4 per cent. As manufacturers of paper are not entitled to relief in tax in purchase of raw material, grant of recognition certificate and issue of declaration form III-B to the dealer was irregular, thereby resulting in loss of revenue, amounting to Rs.17,697. The recognition certificate was cancelled with effect from 13th February 1986.

The case was reported to the department in September 1986; their reply has not been received (March 1988).

(d) In Sales Tax Circle, Ghazia-
bad, a dealer, holding recognition certificate for the manufacture of craft paper and cover paper, purchased raw materials (hessian rags and rosin) for Rs.58,903 and Rs. 1.94 lakhs during the year 1983-84 without payment of tax on the strength of declarations in form III-B. As the dealer was not entitled to purchase raw materials tax-free, grant of recognition certificate and issue of declaration form III-B was irregular, which resulted in loss of revenue amounting to Rs.20,220.

The case was reported to the department in June 1986; their reply has not been received (March 1988).

(e) In Sales Tax Circle, Kanpur, a dealer, holding recognition certificate for manufacture of hand and animal driven agricultural implements, purchased iron and steel for Rs. 5.17 lakhs tax-free on the strength of declarations in form III-B during the year 1979-80. As goods manufactured by the dealer were exempt from payment of tax, he was not entitled to purchase raw materials tax-free. Thus, irregular grant

of recognition certificate and issue of declaration form III-B resulted in loss of revenue amounting to Rs.20,669.

The case was reported to the department in January 1987; their reply has not been received (March 1988).

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

(iii) Under Section 3 of the U.P. Sales Tax Act, 1948, every manufacturer of goods, whose aggregate of turnover of sales during an assessment year is not less than fifty thousand rupees, is required to pay tax at the rates prescribed in the Act. Further as per Section 2(e-1) of the Act, processing, treating or adapting any goods tantamounts to manufacture.

In Sales Tax Circle, Lucknow, a dealer of dyes and colours purchased colours for Rs.20,432 and Rs.27,445 during the years 1980-81 and 1981-82 respectively and, after processing and repacking the same, sold the same for Rs.96,230 and Rs.1.12 lakhs during the years 1980-81 and 1981-82 respectively. While making assessments (December 1982 and April 1983) for the

above periods, sales were treated as sales of tax-paid goods and exempted from levy of tax. As the activity of processing and repacking tantamounts to manufacture, the dealer was liable to pay tax on the said sales at the rate of 8 per cent. The irregular grant of exemption led to non-levy of tax amounting to Rs.16,633.

On this being pointed out in audit (December 1984), the department stated (January 1987) that the mistake had been rectified and additional demand for Rs.16,633 raised.

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

3.9. Turnover escaping assessment

(i) Under the U.P. Sales Tax Act, 1948, on the turnover of first purchase of mentha oil, tax was leviable at the rate of 7 per cent up to 31st August 1979 and at 10 per cent thereafter. Besides, additional tax at one per cent was also leviable up to 6th September 1981.

In Sales Tax Circle, Lucknow, a dealer made first purchases of mentha oil for Rs.1.27 lakhs during 1978-79 and Rs.2.90 lakhs during 1979-80

(Rs.83,567 up to August 1979), but tax was omitted to be levied on these purchases at the time of assessments (November 1981 and March 1982). This resulted in non-levy of tax amounting to Rs. 39,487. Besides, interest at the rate of 2 per cent per month was also chargeable up to the date of deposit of tax.

On the omission being pointed out in audit (June 1984), the department stated (March 1985 and December 1986) that additional demands for Rs.10,124 and Rs.29,363 had since been raised (November 1984 and March 1985).

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

(ii) In Sales Tax Circle, Orai (district Jalaun), a dealer indicated sales of agricultural implements, spare parts and tractors amounting to Rs.12.58 lakhs in his accounts for the year 1981-82. The assessment was taken up in February 1986. The accounts of the dealer were accepted as such and the tax was levied at the prevalent rate of 6 per cent. It was noticed in audit (June 1986) that on adding the amount of purchases to the opening stock and deducting the value of closing stock therefrom, as indicated by the dealer

in his trading account for the year 1981-82, sales during the year 1981-82 worked out to Rs.17.12 lakhs and not Rs.12.58 lakhs. Thus, turnover to the tune of Rs.4.54 lakhs escaped assessment, on which tax at the rate of 6 per cent amounting to Rs.27,199 was leviable. The dealer was also liable to pay interest at the rate of 2 per cent per month up to the date of payment.

The case was reported to the department and Government in June 1986; their replies have not been received (March 1988).

(iii) In Sales Tax Circle, Ghaziabad, a manufacturer of cloth and yarns also runs two brick-kilns, mini iron mills, etc. In his returns for the year 1981-82 (assessments made on 17th March 1986), sales of Rs.60,71,425 bricks were shown by him. On the basis of figures of opening stock, bricks manufactured and closing stock maintained by the dealer, sales of bricks were worked out by the assessing officer as 65,47,557. It was noticed that actually the number of bricks sold worked out as 75,47,557, as per the figures available on record. Thus, sales of 10,00,000 bricks escaped assessment and resulted in short levy of sales tax amounting to Rs.18,000 leviable

on the sales turnover of Rs.2.25 lakhs (being the sale value of ten lakh bricks calculated at the rate of Rs.225 per thousand). The dealer was also liable to be penalised for the suppression of his turnover, but no penalty was imposed upon him. Further, the said dealer had sold iron hooks for Rs.1.11 lakhs during 1981-82. Although the sales were not supported by any declarations, tax amounting to Rs.8,874 (at the rate of 8 per cent) was omitted to be levied. Interest at the rate of 2 per cent per month was also chargeable from the dealer in this case. The dealer was, thus, assessed short to the tune of Rs.26,874 during the year 1981-82.

On the omission being pointed out in audit (October 1986), the department stated (January 1988) that the assessment order had since been revised and additional demand for Rs.18,000 had been raised.

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

3.10. Suppression of purchases

A dealer of Jaipur, manufacturing watches, sold watches for Rs.3.44 lakhs.

to a dealer of Sales Tax Circle, Agra, against 4 declaration forms 'C' during the period May to December 1982. As a result of cross verification in audit (January 1986) of inter-State sales with the purchases made against the said declaration forms 'C', it was revealed that the dealer of Agra had shown purchases of Rs.6,778 only in his books of accounts against these declaration forms. Thus, purchases at least to the extent of Rs.3.37 lakhs had been suppressed by the dealer of Agra during the year 1982-83.

On this being pointed out in audit (July 1986), the assessing officer finalised (July 1986) assessment of the dealer for 1982-83 ex parte and determined the turnover of watches at Rs. 7 lakhs and raised additional demand for Rs.65,067 after giving credit of Rs.4,933 already deposited by the dealer with periodical returns. The matter regarding imposition of penalty for suppression of purchases was also stated (August 1987) to be under examination by the department.

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

3.11. Misappropriation of Government
money

As per rule 52 of the U.P. Sales Tax Rules, 1948, the Sales Tax Officer is required to send to the officer in-charge of the treasury a statement in form XIII in the first week of each month showing the deposits of tax made during the previous month for verification.

As a result of cross verification, it was found that amounts of Rs.15,210 and Rs.15,530, shown to have been deposited into the Government treasury on 6th February 1985 and 20th April 1985 respectively by the Check-post (Sales Tax), Indrapuri (Ghaziabad) as per entries in the cash book of the check-post, had not actually been deposited into the Government treasury. This omission was not detected by the department, as monthly verification of deposits has not been carried out as per departmental rules.

On this being pointed out in audit (April 1986), the Assistant Commissioner, Check-post/Mobile Squad, Ghaziabad intimated (February 1987) that

that an F.I.R. had been lodged with the Police and, as a result of departmental enquiry, services of one clerk had been terminated, while departmental action against other officials was in progress.

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

3.12. Other lapses

(a) Application of incorrect rates of tax

(i) In Sales Tax Circle, Mathura, a dealer purchased bones for Rs. 7.75 lakhs from unregistered dealers, without payment of tax, during the year 1978-79 and prepared bone-meal out of the same. As the dealer did not sell the bones in the same form and condition in which the same were purchased by him, he was liable to pay purchase tax, under Section 3AAAA of the U.P. Sales Tax Act, 1948, at the rate of 7 per cent (including additional tax at one per cent), but tax was incorrectly levied (April 1984) at the rate of 4 per cent only. Application of incorrect rate resulted in short levy of tax amounting to Rs. 23,250. Besides, the

dealer was liable to pay interest at the rate of 2 per cent per month up to the date of deposit of tax.

On the mistake being pointed out in audit (September 1985), the department stated (June 1986) that additional demand for Rs.23,250 had been raised in March 1986.

Government, to whom the case was reported in September 1985, confirmed the position.

(ii) In Sales Tax Circle, Kanpur, sales of Indian made foreign liquor made by a dealer during the year 1981-82 were computed at Rs.12 lakhs. Tax was levied (March 1986) at the rate of 8 per cent, instead of at the correct rate of 26 per cent (including one per cent additional tax) up to 6th September 1981 and 25 per cent thereafter. Application of incorrect rate resulted in short levy of tax amounting to Rs.2.16 lakhs. Besides, interest at the rate of 2 per cent per month was also leviable up to the date of deposit.

On the omission being pointed out in audit (November 1986), the department stated (June 1987) that additional

demand for Rs.2.16 lakhs had been raised in January 1987.

The case was reported to Government in November 1986; their reply has not been received (March 1988)

(iii) On sales of old, discarded and unserviceable machinery or stores, tax was leviable at the rate of 6 per cent (including additional tax of one per cent) up to 31st August 1979 and at the rate of 7 per cent (inclusive of one per cent additional tax from 1st September 1979 to 6th September 1981). Tax on sale of these items was leviable at the rate of 8 per cent from 7th September 1981.

In Sales Tax Circle, Jhansi, the Central Railways sold iron scrap, waste paper, empty drums and old discarded machinery and stores for Rs. 47.43 lakhs during the year 1979-80. Out of this, sales of old discarded machinery and stores were assessed at Rs.2.21 lakhs up to 31st August 1979 and at Rs.6.19 lakhs from September 1979 to March 1980. Tax on these sales was levied (March 1984) at the rate of 4 per cent, instead of at the correct rate mentioned above. Application of incorrect rate of tax resulted in short levy of tax amounting to Rs.22,986.

Besides, interest at the rate of 2 per cent per month was also chargeable from the dealer up to the date of deposit of tax.

On the mistake being pointed out in audit (January 1986), the department stated (September 1986) that additional demand for Rs.22,986 had since been raised in March 1986.

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

(b) Failure to take prompt action

Every dealer who sells any goods, the turnover whereof is liable to tax under the U.P.Sales Tax Act, 1948, is required to obtain registration under the Act. For the grant of registration, certain conditions and procedures have been laid down in the Rules and departmental Manual which, inter alia, provide that the dealer will submit an application in the prescribed form containing requisite details to the Sales Tax Officer concerned. The Sales Tax Officer, in turn, is required to verify the identity of the dealer, his source of livelihood before the present business, his financial position, viz., capital invested in the business and its source, location

of fixed and floating assets with their value, the dealer's or his partners local and permanent addresses and whether these addresses are complete and correct, whether the dealer has a bank account and whether balance amount of tax due from the dealer will be recoverable in case of closure of the firm. After satisfying himself by spot verification and enquiries, the Sales Tax Officer will grant registration within 30 days from the date of application.

In Sales Tax Circle, Sultanpur, a dealer applied for grant of registration under the U.P. Sales Tax Act, 1948 on 20th February 1980 for carrying on wholesale and retail business in iron and steel; capital proposed to be invested being merely Rs.5,000. On 21st February 1980, the dealer was asked to deposit a security of Rs.1,000 and appear for grant of registration on 5th March 1980. The registration was, however, granted to him on 22nd February 1980 on the day he deposited the security money.

On various dates during the period from 29th February to 17th November 1980, the dealer was issued 55 forms III-A without ascertaining, at any time, proper utilisation of forms issued to

him on earlier occasions. He submitted returns for the months of February and March 1980, but did not submit any returns thereafter. On the basis of information received from the Sales Tax Officers of Kanpur (May 1980 to March 1981), the department found that the dealer had made tax-free purchases of iron and steel for Rs.8.89 lakhs (against 2 forms III-A) during March 1980 and for Rs.23.31 lakhs (against 7 forms III-A) during 1980-81. The details of purchases made against the remaining 46 forms were not known to the department.

Notices were sent (17th June 1983 and 26th July 1983) to him at his local and permanent addresses, but the same were returned (23rd June 1983, 2nd August 1983 and 11th August 1983), to the assessing officer with the remarks that there was no dealer of such name at those places. Thereafter, assessments for the years 1979-80 and 1980-81 were finalised ex parte on 30th August 1983 only. The turnover of sales of iron and steel for the years 1979-80 and 1980-81 was determined at Rs.10 lakhs and Rs.40 lakhs respectively and tax of Rs.0.40 lakh and Rs. 1.60 lakhs (at the rate of 4 per cent) was levied (August 1983) for the respective years. As the where-

abouts of the dealer were not known to the department, tax could not be realised. Thus, failure on the part of the department to take prompt action and issuing declaration forms without ascertaining the purchases made against earlier forms issued by department, resulted in loss of revenue amounting to Rs. 2 lakhs.

The case was reported to the department and Government in September 1984; their replies have not been received (March 1988).

(c) Failure to check misuse of declaration forms III-B

Section 4-B of the U.P. Sales Tax Act, 1948 provides for a scheme for special relief of tax to certain manufacturers on purchases of raw materials required for the manufacture of notified goods subject to certain conditions. In case of violation of any of the conditions or issue of a false or wrong certificate or declaration by reason of which tax on sale or purchase ceases to be leviable or becomes leviable at a concessional rate, the dealer shall be liable to pay an amount which would have been payable as tax on such transaction, had such certificate or declaration not been issued.

(i) In Sales Tax Circle, Shikohabad (district Mainpuri), a dealer, holding recognition certificate for the manufacture of glasswares, purchased firebricks for Rs.3.83 lakhs tax-free on the strength of declarations in form III-B during the year 1981-82. As firebricks are not raw material for the manufacture of glassware, the dealer was not entitled to purchase the same tax-free. For misuse of declaration forms, the dealer was liable to pay an amount of Rs.30,680 (8 per cent of the cost of bricks) being equal to the amount of tax payable by the dealer on the above transaction. But it was omitted to be levied.

The case was reported to the department in September 1986; their reply has not been received (March 1988).

(ii) In Sales Tax Circle, Agra, a dealer, holding recognition certificate for the manufacture of leather board, purchased chemicals for Rs.9.47 lakhs tax-free on the strength of declarations in form III-B during the year 1981-82. As the dealer was entitled to purchase only leather cuttings tax-free in terms of the notification dated 7th December 1979, purchase of chemicals tax-free on the strength of declarations in form III-B was irregular. The dealer

was, therefore, liable to pay Rs.75,754 equal to the amount which would have been payable as tax on such transactions. It was, however, omitted to be levied.

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

The above cases were reported to Government in September 1986 and February 1987; their reply has not been received (March 1988).

(d) Computation mistakes

(i) Under the U.P. Sales Tax Act, 1948, on sales of 'All kinds of ores, metals, scraps and alloys', tax was leviable at the rate of 3 per cent (including additional tax of one per cent up to 6th September 1981).

In Sales Tax Circle, Muzaffarnagar, a public sector undertaking of the Central Government located at Hardwar sold copper scrap for Rs.4.46 lakhs during the period from 1st April 1981 to 6th September 1981. Tax at the rate of 3 per cent on these sales worked out to Rs.13,400, but due to calculation mistake it was computed as Rs.1,400. The mistake led to short levy of tax amounting to Rs.12,000. Besides, inte-

rest at the rate of 2 per cent per month was also chargeable up to the date of payment.

On the mistake being pointed out in audit (July 1986), additional demand for Rs.12,000 was raised (July 1986).

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

(ii) In Sales Tax Circle, Lucknow, in case of a dealer the turnover of sales of tractor and motor tyres for the year 1980-81 was determined at Rs.2.40 crores. Tax at the rate of 5 per cent on sales (Rs. 1.78 lakhs) against declarations in form III-D, at the rate of 8 per cent on sales (Rs.19.85 lakhs) of tractor tyres and at the rate of 10 per cent on sales (Rs.2.19 crores) of motor tyres, actually worked out to Rs. 23.55 lakhs, but due to calculation mistake it was computed as Rs.23.45 lakhs. This resulted in short levy of tax amounting to Rs.10,000.

The case was reported to the department and Government in May 1986; their replies have not been received (March 1988).

CHAPTER 4

EXCISE DEPARTMENT

STATE EXCISE

4.1. Results of Audit

- Test check of the accounts and records in the State Excise Offices, conducted in audit during the year 1986-87, revealed non-levy or short levy of duties and fees amounting to Rs.29.99 lakhs in 81 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-collection or short collection of licence fee	8	4.05
2. Non-levy or short levy of duty on wastage of liquor	10	1.49
3. Short levy of export duty on liquor	2	4.00
4. Non-levy of interest	5	18.97
5. Other irregularities	56	1.48
	<hr/>	<hr/>
TOTAL	81	29.99

Due to non-observance of rules and in the absence of any check/reviewing mechanism within the department,

such irregularities continue to occur year after year. A few important cases are mentioned in the succeeding paragraphs.

4.2. Non-realisation of interest on delayed payment of instalments

As per the provisions of the U.P. Excise Act, 1910, as amended from 29th March 1985, where any excise revenue has not been paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent per annum is recoverable from the date such excise revenue becomes payable till the date of actual payment. In respect of excise revenue which became payable before the commencement of the date of the said amendment, viz., 29th March 1985, interest at the said rate is to be charged from 29th March 1985, if the excise revenue is not paid within three months of the date of amendment, viz., 29th March 1985.

In the District Excise Offices at Basti, Muzaffarnagar and Jhansi, excise revenues comprising licence fee, vend fee and assessed fee to the tune of Rs. 7.78 lakhs, payable by various licensees in respect of the period prior to 29th March 1985, were paid after delays ranging from 3 to 22 months, reckoned from 29th March 1985. Interest

amounting to Rs. 2.29 lakhs was leviable on these belated payments, but it was not levied and realised.

The matter was reported to the department and Government between January and April 1987; their replies have not been received (March 1988).

4.3. Non-realisation of excise duty in respect of excess transit losses

Under the U.P. Excise Act, 1910 and the Rules framed thereunder, an allowance upto 0.5 per cent is admissible for the actual loss in transit (due to leakage, evaporation or other unavoidable causes) of spirit transported or exported under bond in wooden casks or metal vessels. The rules do not provide for any allowance for loss in transit where spirit is transported in bottles, and it has also been judicially* held that in such cases no claim for loss in transit would be admissible. On unauthorised transit wastages, duty is leviable at the highest rate applicable to such spirit in the State.

*. Civil Miscellaneous Case No. 2604 of 1973-M/s Mohan Meakin Breweries Ltd., Lucknow Vs. State of U.P. and others

(a) In a distillery at Majhola (district Pilibhit), on transit losses of 2,140.5 alcoholic litres of spiced country spirit transported in bottles (in 231 consignments) under bond to the various bonded warehouses in the districts of Lakhimpur Kheri, Pilibhit, Barabanki and Varanasi between April 1985 and December 1986, no duty was levied and realised by the department. This resulted in loss of revenue amounting to Rs.60,537.

The matter was reported to the department and Government in April 1987; their replies have not been received (March 1988).

(b) A distillery at Rosa (district Shahjahanpur) transported, between April 1984 and March 1986, spiced country spirit to various bonded warehouses situated in the districts of Shahjahanpur, Hardoi and Sitapur under 89 consignments in metallic vessels (74,260.5 alcoholic litres) and 112 consignments (1,03,773.6 alcoholic litres) in sealed bottles. The transit loss in excess of the permissible allowance in respect of spirit transported in metallic vessels was 472 alcoholic litres, while transit loss claimed and allowed in respect of sealed bottles was 673.9 alcoholic litres. The duty leviable on the inadmissible quantity of transit loss of 1,145.9 alcoholic litres amounted to Rs.0.33 lakh,

but it was not levied.

On this being pointed out in audit (April 1986), the department stated (August 1987) that duty amounting to Rs. 32,052 in respect of 1,121 alcoholic litres in drums and bottles had been realised in May 1986. The omission indicates failure to observe prescribed procedure.

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

4.4. Loss of ad valorem duty

Under the U.P. Excise Act, 1910 and the rules framed thereunder (as amended in May 1979), ad valorem duty is recoverable on the sales of denatured spirit at two stages—firstly at the point of sale to the wholesale vendor (F.L. 16 licensee) at the rate of 15 per cent and, secondly, at the point of sale by the wholesale vendor to the retail vendor (F.L.17 licensee) at the rate of 20 per cent. Storage wastage to the extent of 0.5 per cent (excluding bottled spirit) has been prescribed for storage of denatured spirit in a distillery, but no such provision exists for the stock of such spirit in the hands of a wholesale vendor (F.L. 16 licensee).

At the District Excise Offices, Gorakhpur, Muzaffarnagar and Sitapur, storage wastages of appreciable quantities (ranging between 0.7 per cent and 8.9 per cent per annum) aggregating 14,712 bulk litres (Gorakhpur: 11,999 bulk litres, Muzaffarnagar: 787 bulk litres and Sitapur: 1,926 bulk litres) were noticed which occurred in the hands of five wholesale vendors during different periods between 1980-81 and 1987-88 (up to October 1987) but were not subjected to duty. Calculated at the rate of 20 per cent advalorem (on the amount of sale price of the quantities of such wastages), there was a loss of revenue amounting to Rs.22,145.

On the omission being pointed out in audit (December 1986), the District Excise Officer, Gorakhpur stated that some storage wastage is bound to occur and, as such, some allowance has to be given on this account. However, in the absence of any provision in the rules in this regard, no such wastage can be permitted by the Excise department officials.

The matter was reported to the department and Government in May 1987 (in respect of Gorakhpur and Muzaffarnagar) and to the department in August 1987 (in respect of Sitapur). Govern-

(98)

ment directed the Excise Commissioner (August 1987) to take appropriate action. Further reply has not been received (March 1988).

CHAPTER 5

TAXES ON VEHICLES, GOODS AND PASSENGERS

5.1. Results of audit

Test check of the records of the various offices of the Transport Department, conducted in audit during the year 1986-87, revealed short levy of taxes amounting to Rs. 86.16 lakhs in 223 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Short levy of passenger tax including additional passenger tax	97	42.25
2. Underassessment of road tax	34	13.56
3. Short levy of goods tax	10	2.42
4. Other irregularities	82	27.93
TOTAL	<u>223</u>	<u>86.16</u>

A few important cases are mentioned in the succeeding paragraphs.

5.2. Working of National and Zonal Permit Schemes and Bilateral Agreements

5.2.1. Introduction

The respective States exercise operational control and also levy and collect various taxes on motor vehicles plying in their respective jurisdiction. With a view to facilitate quick transport of goods and passengers from one State to another, Government of India had introduced National and Zonal Permit Schemes. The Zonal Permit Schemes have since been discontinued. The State Governments also entered into bilateral agreements with various States for regulation of the movement of vehicles from one State to another. The schemes provide for levy of the prescribed taxes by one State which also collects from the operator and arranges to remit the amount payable to the other participating State(s). The U.P. Government operates National and Zonal Permit Schemes and has also entered into bilateral agreements with some States.

5.2.2. Scope of Audit

The audit review of the working of the Schemes was limited to study the procedure followed in regard to

the recovery of the prescribed authorisation and composite fees by the prescribed authorities in U.P., remittance of the amounts of composite fees payable to other States as also watching recovery of composite fees payable to the U.P. Government by the other States. The review was undertaken during the period January 1987 to June 1987 and covered the offices of the Transport Commissioner, 3 Regional Transport Officers at Agra, Jhansi and Varanasi and 4 check-posts out of 14 regions and 35 check-posts.

5.2.3. Organisational set up

The overall responsibility for levy and collection of taxes as also issue of necessary directions in this regard rests with the Transport Commissioner. The State is divided into 14 regions, each of which is under the charge of a Regional Transport Officer and 19 sub-regions, each under the charge of Assistant Regional Transport Officer (Administration). Besides, there are 35 check-posts at various entry points to the State to collect path-kar and other taxes from vehicles of other States entering Uttar Pradesh or passing through it.

5.2.4. Highlights

This review brings out the following important and interesting points:

(1) Non-utilisation and/or delay in utilisation of quota of permits under National and Zonal Permit Schemes, released by Government of India in 1982, resulted in loss of authorisation fee to this State amounting to Rs. 6.72 lakhs, besides loss of composite fee due to other States.

(2) Due to non-receipt of prescribed returns from other States, the amount of composite fee due, realised and the balance outstanding was not known to the department.

(3) Short realisation/non-realisation of composite fee (Rs.1.39 lakhs) and short levy/non-levy of penalty (Rs.1.88 lakhs) on belated payments of composite fee by other States resulted in loss of revenue amounting to Rs.3.27 lakhs. In 455 cases, relating to the year 1986-87, penalty to the tune of Rs.1.84 lakhs, leviable on the belated payments was not realised by this State for remitting to other States concerned.

(4) The State laws were not amended to provide for pro rata payment of composite fee after the first quarter of the financial year and adopting the year as financial year in respect of National Permit Scheme. Short realisation/non-realisation and transmission

of composite fee due to U.P. State by the State of Nagaland amounted to Rs. 0.53 lakh in respect of National and Zonal Permit Schemes.

(5) Demand drafts in respect of composite fee due to this State were generally received late from other States. In 2,487 cases demand drafts amounting to Rs. 18.22 lakhs, issued during 1982 to 1986, were received after 4 to 52 months from the date of issue.

(6) No control and monitoring over the receipts and timely transmission of demand drafts payable to other States, where similar provisions have been made for collection and remission of taxes on behalf of other States, was kept either in the office of the Transport Commissioner, or in the Regional Transport Offices. 502 bank drafts pertaining to the period 1979-80 to 1983-84, involving tax to the extent of Rs.2.01 lakhs, meant for transmission to other States were misappropriated in Moradabad region.

(7) Short realisation/non-realisation of taxes on goods and passengers in respect of vehicles of other States plying in this State under countersigned permits amounted to Rs. 8.40 lakhs.

5.2.5. General

With a view to encouraging inter-

State road transport, Zonal (since abolished in 1986) and National Permit Schemes were introduced from the years 1973-74 and 1975 respectively. Besides, the States were allowed to enter into bilateral agreements with other States on a reciprocal basis.

Under the Zonal Permit Scheme, Government of Uttar Pradesh had entered into multilateral agreements with other States and Union Territories in the Eastern, Western, Northern and Central Zones. The States and Union Territories in each of these zones were authorised to issue composite permits enabling the holders to ply their vehicles in any of the other States/Union Territories mentioned in the permit.

The Motor Vehicles Act, 1939 and the Motor Vehicles (National Permits) Rules, 1975 made thereunder provide for issue of National permits against the quota fixed by Government of India. The National permit holders are entitled to ply their vehicles throughout the territory of India (minimum of four States are to be opted for operation, in addition to their home State) and are required to file prescribed quarterly returns to the appropriate authority of the State in which the National permit is issued and the said authority,

in turn, shall forward copies thereof to the appropriate authorities of the other States/Union Territories concerned.

Under Zonal Permit Schemes, each permit holder is required to pay composite fee of Rs.1,000 per annum per State of his option (Rs.500 per annum to the States of Meghalaya, Manipur, Tripura, Nagaland, Mizoram and Arunachal Pradesh and Union Territory of Delhi and Rs.150 per annum to Union territory of Chandigarh). Where the permit is issued by the States of Meghalaya, Manipur, Tripura, Nagaland, Mizoram and Arunachal Pradesh, the composite fee to be paid to each other State is Rs. 500 per annum per vehicle. Under National Permit Scheme, each permit holder was required to pay composite fee of Rs.1,000 per annum (which was raised (January 1986) to Rs.1,500) for each State and Rs.750 per annum for each Union Territory, besides taxes payable to the home State. In case of delay in payment of composite fee, an additional sum of Rs. 100 per month or part thereof is also payable. The composite fee is initially collected by the home State through crossed bank drafts payable to the transport authorities of the recipient States and thereafter passed

on to the concerned States. In addition to composite fee, an authorisation fee of Rs. 300 per annum per vehicle under Zonal Permit Schemes and Rs. 500 per annum per vehicle under National Permit Scheme is payable to home State.

Consequent upon liberalisation of the National permit scheme by Government of India, Zonal permit scheme introduced in 1973-74 was abolished with effect from January 1986 but the authorisation certificates were allowed to be continued till the validity of the original Zonal permits (upto March 1989) on payment of prescribed authorisation and composite fee. The work relating to issue of National permits was decentralised by the State Transport Authority to the Regional Transport Authorities with effect from July 1986.

Results of test check conducted in audit are mentioned in the succeeding paragraphs.

5.2.6. National and Zonal Permit Schemes

5.2.6.1. Non-utilisation and/or delay in utilisation of quota of permits

- (i) Under the National Permit Scheme, an additional quota of 450 permits was allotted to Uttar Pradesh by Government of India in October 1982,

against which only 377 permits were issued during December 1984 and January 1985, although by 24th January 1983 (the last date specified for receipt of application), 2,965 applications were received for issue of National Permits. Delay in finalisation of issue of permits for over two years (October 1982 to November 1984) resulted in loss of Rs. 3.77 lakhs by way of authorisation fee. Besides, there was a further loss of composite fee receivable by other States.

(ii) Under the Zonal Permit Scheme, 491 permits, against the quota of 600 permits allotted in March 1982, could be issued during the period October-November 1984. Delay in issue of these permits for over two years resulted in loss of Rs. 2.95 lakhs by way of authorisation fee (for 1982-83 and 1983-84). No further quota of Zonal permits was allotted to the State (Zonal Permit Scheme abolished from January 1986).

(iii) A quota of 249 permits (73 National and 176 Zonal), reserved for scheduled caste and scheduled tribe categories, remained to be utilised. The State Transport Authority had directed (October/November 1984) to invite fresh applications for the reserved

quota, but no action was taken by the department since then.

5.2.6.2. Basic data not collected

(a) Under the Zonal Permit Scheme, home State was required to obtain from the operators their names, addresses, composite permit number and summary of trips made by them during each quarter and forward these particulars along with copies of permits to the concerned other States/Union Territories covered by the permits. Such returns and copies of permits were neither received by the State Transport Authority, Uttar Pradesh from other States/Union Territories nor furnished by that Authority to the other States/Union Territories concerned during the period 1982-83 to 1986-87.

(b) Under the National Permit Scheme, the home State was required to obtain from the National permit holders quarterly returns in prescribed form in respect of vehicles covered by the permits and to forward copies thereof to the other States/Union Territories concerned. No such returns were either received by the State/Regional Transport Authority, Uttar Pradesh from other States/Union Territories nor sent by that Authority to the other concerned States/Union Territories.

5.2.6.3. System defects

(i) As a consequence of the non-receipt of quarterly returns/copies of the permits from other State Governments/Union Territories, no vehicle-wise demand, collection and balance register was maintained by the State Transport Authority for keeping watch over the revenue due to the State in the form of composite fee in respect of the vehicles permitted to ply in Uttar Pradesh. In the absence of such record, amount of composite fee due, realised and balance could not be verified in audit.

(ii) The department had no system of cross-checking of the vehicles of other States holding National/Zonal permits passing through various check-posts with the actual realisation of composite fee in respect of these vehicles by way of bank drafts received by the Transport Commissioner, U.P.

In respect of 684 vehicles holding National/Zonal permits, which had passed through four check-posts during the period April 1985 to May 1987, details of which were collected at random during review of records of these check-posts, it could not be verified in audit (June 1987), in the

absence of proper records kept by the office of the Transport Commissioner, U.P., whether bank drafts for composite fee in respect of these vehicles had been actually received.

(iii) Demand drafts in respect of composite fee due to the State were generally received very late from other States/Union Territories. For instance, in 2,487 cases demand drafts amounting to Rs. 18.22 lakhs, issued during April 1982 to September 1986 by permit holders, were received 4 to 52 months after the date of their issue. Due to abnormal delay in receipt of the demand drafts from other States/Union Territories and thereafter remitting them to the State Bank of India for collection and credit to Government account, huge amounts had remained out of Government account for unduly long periods.

(iv) No control and monitoring over the receipts and timely transmission of the demand drafts in respect of composite fee payable to other States/Union Territories was kept either in the Transport Commissioner's office or in the Regional Transport Offices.

Demand drafts were generally sent very late to the concerned States/Union Territories. For instance, 611

bank drafts for Rs. 6.18 lakhs, issued during February / March 1985 by permit holders, were sent to the concerned States after a time lag of 6 to 21 months.

(v) In 89 cases, bank drafts for Rs. 0.56 lakh on account of composite fee, received from other States/Union Territories, during 1984-85 to 1985-86 were returned (October 1984 to February 1986) to the concerned authorities for revalidation but were yet (June 1987) to be received back after revalidation.

It will thus be seen that neither the home State issuing the National permit nor the States in which the vehicles were permitted to ply were in a position to exercise any effective check/control to ensure collection, remission and accountal of composite fee in all cases.

5.2.6.4. Short realisation/non-realisation of composite fee by other States

In respect of 158 vehicles plying under National permits issued by Meghalaya (115) and Assam (43) during the period 1982-83 to 1985-86, composite fee had been realised at Rs.700 and

Rs.500 per year, instead of at Rs.1000 per year, resulting in short remittance of Rs. 0.53 lakh to this State.

In respect of 25 other cases of National permits, composite fee of Rs. 0.30 lakh pertaining to the year 1985-86 was neither remitted by Nagaland Government nor demanded by this State (June 1987).

5.2.6.5. Non-levy/short levy of
penalty on belated payments
of composite fee

In respect of 519 National/Zonal permits, composite fee was paid late during the years 1983-84 to 1986-87, but penalty amounting to Rs.1.88 lakhs on belated payments of composite fee was not recovered by the authorities in other States/Union Territories for remitting to Uttar Pradesh. In another 455 cases relating to the year 1986-87, penalty to the tune of Rs. 1.84 lakhs leviable on the belated payments was not levied and realised by this State for remitting to other States/Union Territories concerned.

5.2.6.6. State Act not amended to
provide for pro rata payment
of composite fee

Government of India directed (June 1976) State Governments to suitably amend the Notification issued under

the State laws, providing for pro rata payment of composite fee for National Permit holders when authorisation is granted at any time after the first quarter of the financial year. No such amendment to the relevant notification issued on 22nd January 1976 was, however, carried out by the Uttar Pradesh Government. The subsequent notifications of 5th June 1980 and 6th June 1981 issued by Uttar Pradesh Government did not also provide for pro rata payment of composite fee. Thus, the realisation and remittance of composite fee by other States/Union Territories in respect of this State was neither being made on financial year basis nor on calendar year basis but on the basis of the year computed from the date of issue of permit in each case. For instance, in 138 cases authorisation certificates issued by Nagaland for one year during the period July to December 1985 remained valid for part of the next financial year (1986-87), resulting in non-realising of difference of fee at enhanced rate, effective from April 1986. This resulted in loss of revenue to the extent of Rs. 0.28 lakh.

5.2.6.7. Non-realisation of fee after prescribed period

Under reciprocal agreement for Eastern Zone scheme, authorisation

certificates issued by signatory States in the course of a financial year expires on 31st March. Authorisation certificates issued by Nagaland State in 76 cases in the course of the financial years 1982-83 and 1983-84 were allowed to continue in the succeeding year without realising fresh amount of composite fee. The omission resulted in loss of Rs. 0.25 lakh to this State. The department promised (June 1987) to get the authorisation regularised from the concerned State.

5.2.7. Bilateral agreements

5.2.7.1. The State Government have also entered into bilateral agreements with 8 States and 2 Union Territories under which on a reciprocal basis a substantive permit issued by other State Government is valid in this State subject to the permit being counter-signed (after charging a fee) by the Transport Authority in Uttar Pradesh. Agreement places a limit on the number of permits which could be countersigned in respect of different types of vehicles. Where permits have been so counter-signed, only payment of road tax of the countersigning State is exempted and not the payment of goods tax or passenger tax leviable in that State.

Passenger tax in U.P. is leviable in respect of stage carriages on the basis of fare charged for the journeys performed within the territories of Uttar Pradesh and in respect of goods vehicles on the basis of authorised pay load. Taxes on goods and passengers in cases covered by bilateral agreement are levied and collected by the State of Uttar Pradesh.

5.2.7.2. Short realisation/non-realisation of passenger/goods tax

(i) In respect of the vehicles of the Madhya Pradesh State Road Transport Corporation (Shivapuri Depot) plying in Uttar Pradesh, passenger tax for a period of seven months (between June 1985 and February 1987) and surcharge for two years (1985-86 and 1986-87) were accepted below the prescribed rate by the Regional Transport Officer, Jhansi. This resulted in short realisation of tax and surcharge amounting to Rs. 0.34 lakh.

(ii) In the case of one stage carriage of Bihar plying in Uttar Pradesh on countersigned permit issued for the period May 1982 to May 1986, passenger tax was levied on the fare of Rs.2.45, instead of on the correct fare of Rs.3.70. This resulted in short levy of tax to the tune of Rs.0.33 lakh during

the above period.

(iii) Passenger tax to the tune of Rs. 4.30 lakhs in respect of vehicles of the State Transport Corporations of Rajasthan, Madhya Pradesh, Punjab, Delhi and Haryana Roadways, plying in Uttar Pradesh, relating to the years 1985-86 and 1986-87, was neither paid by the concerned transporters to the Regional Transport Officers, Agra and Jhansi nor was any demand to this effect raised by these Regional Officers.

(iv) In respect of 39 public carriers registered in the States of Haryana, Madhya Pradesh and Rajasthan and plying in Uttar Pradesh under countersigned permits, goods tax was not paid by the operators for the total period of validity of countersignature (1982-83 to 1986-87) to the Regional Transport Officer, Agra. The department did not take any action to assess and raise demands for recovery of goods tax to the tune of Rs.3.43 lakhs for the said period against the concerned operators. On the omission being pointed out (May 1987), the department issued demand notices.

(v) Details of bank drafts sent by other States wanting

Bank drafts for Rs.10.06 lakhs and Rs.6.03 lakhs towards payment

of passenger tax during April to December 1985 and April to December 1986 respectively were sent to the Regional Transport Officer, Meerut by the Haryana Roadways without furnishing any details in support thereof. In the absence of any details, the correctness of the amount of tax remitted could not be verified in audit.

5.2.8. Temporary permits

5.2.8.1. General

Temporary permits may also be issued by other State Governments/ Union Territories for plying of vehicles in Uttar Pradesh on reciprocal basis. There is no limit on the number of temporary permits that can be issued in respect of public carriers. On vehicles plying under temporary permits, there is no exemption from payment of any tax leviable in Uttar Pradesh; but the tax leviable in this State is collected on a reciprocal basis by the other State Governments/Union Territories at the time of issue of the temporary permits in the shape of bank drafts which are subsequently handed over to the permit holders for delivering the same at the check-posts established by this State on its borders.

With a view to checking the correctness of the taxes remitted by other

States/Union Territories, their Transport Authorities were required to furnish copies of the temporary permits to the Regional Transport Officers having jurisdiction over the check-post concerned.

5.2.8.2. Non-receipt of copies of temporary permits from other States

Scrutiny of records in Regional Transport Offices revealed that neither copies of such temporary permits had been received nor called for by the department to verify the correctness of taxes paid.

5.2.8.3. Receipt of bank drafts in respect of vehicles of other States entering the State of U.P. on temporary permits

The Transport Commissioner, Uttar Pradesh, while decentralising (May 1980) the work relating to the receipt of bank drafts at check-posts in the case of vehicles entering the State on temporary permits, directed the respective Regional Transport Officers to keep check-post-wise bank draft registers and remittance rolls in a prescribed form. From April 1983 onwards, details of bank drafts and remittances to Government account were to be kept at the check-post itself

with check-post-wise control records in the Regional Transport Offices. The prescribed records were, however, not maintained by the Regional Transport Offices (Agra, Jhansi and Varanasi) test checked (May-June 1987) with the result that the remittances made by them could not be cross checked with the data furnished by the check-posts. In respect of 85,668 bank drafts involving tax to the tune of Rs.214.29 lakhs, pertaining to the period July 1980 to March 1983, forwarded by Naubatpur check-post to the Regional Transport Officer, Varanasi, the correctness of remittances made by the latter into the Government account could not be verified in audit in the absence of proper records.

5.2.8.4. Non-maintenance of proper records of the bank drafts received in Regional Transport Offices for transmission to other States/Union Territories

Control records of the receipt and timely transmission of the demand drafts in respect of temporary permits for plying of vehicles in other States were not kept at any of the Regional Transport Offices test checked. This laxity facilitated misappropriation of Government money as seen (April 1987)

from the records in the office of the Transport Commissioner, U.P. 502 bank drafts pertaining to the period September 1979 to March 1984 (excluding cases pertaining to the period July 1981 to October 1981 which were being investigated by the police), involving tax to the extent of Rs. 2.01 lakhs and meant for transmission to other States, had allegedly been misappropriated in the Regional Transport Office, Moradabad. The case was stated to be under investigation (June 1987).

5.3. Evasion of passenger tax on enhanced fares

The Motor Vehicles Act, 1939 provides that with a view to preventing uneconomic competition among motor vehicle owners, the State is authorised to fix the maximum and minimum in respect of fares to be charged by operators of stage carriages. For this purpose, a draft of the proposed directions is first published in the official gazette inviting objections or suggestions from interested parties, and then the rates of fare are finalised after giving these parties an opportunity of being heard. The fares are increased by Government at the request of interested parties, considering the increase in cost of spare parts, fuel and other operational

charges. So far, Government has been prescribing only the maximum rates of fare chargeable and not the minimum.

The State Government increased maximum rates of fare by 25 per cent in January 1981 and by 15 per cent in October 1981. Again, by a notification issued on 20th September 1983, the State Government enhanced the maximum rates of fare for stage carriages by 25 per cent. The Transport Commissioner, Uttar Pradesh, in his circular of 25th October 1983 observed that it was not necessary for stage carriage operators to enhance the fare of their routes as and when the maximum fares chargeable are enhanced by Government. However, it came to notice of Government that on earlier occasions also the operators had evaded payment of tax by not intimating the actual fares which were being charged by them from public. The Transport Commissioner had, accordingly, emphasized that in order to avoid escapement of passenger tax by the operators of stage carriages on enhanced fare, the enforcement officers of the State should survey all the private bus routes in their jurisdiction and report the factual position to the concerned passenger tax officer within twenty days.

(i) In respect of 8 routes (5 in Faizabad region, 2 in Allahabad

region and one in Bahraich sub-region), the operators of stage carriages plying on these routes were charging enhanced fares during the period between October 1981 and December 1985 as revealed during the survey conducted by the departmental officers from time to time but passenger tax was continued to be paid at the lower rates of fare. No action was taken by the department to reassess and/or realise the difference of passenger tax on the basis of fares being actually charged by the operators. Non-revision of the rates of passenger tax resulted in loss of revenue amounting to Rs. 13.21 lakhs during various periods between October 1981 and December 1985.

On this being pointed out in audit (December 1985), the Regional Transport Officer, Allahabad stated (December 1985) that the Assistant Regional Transport Officer, Pratapgarh was requested in August 1984 to ascertain the facts but no reply had been received till then (December 1985). However, it could not be intimated as to why it was considered necessary to re-asertain the facts reported in the surveys conducted by the goods tax officer twice, once in November 1983 and again in June 1984.

(ii) In respect of 10 other routes (5 in Gorakhpur region and one each

in Varanasi and Meerut regions and Mathura, Hardoi and Mirzapur sub-regions), no survey was conducted by the officers of the enforcement branch as directed by the Transport Commissioner in October 1983. In case of 2 such routes in Gorakhpur region (amount involved Rs.1.05 lakhs), no survey was ever conducted after 16th November 1976. Instead of conducting surveys as directed by the Transport Commissioner, the Motor Operators' Union of these routes was asked by the concerned tax officers in August 1984 to furnish an affidavit within a month to the effect that no fares were increased by them. Such an affidavit had not been furnished by the Union till the date of audit (February 1985). Similarly, in respect of the one route in Mathura sub-region (amount involved Rs.0.92 lakh), the route was not surveyed after July 1975 and also there was no increase in fare since July 1975. In Meerut region (amount involved Rs. 5.03 lakhs), the Motor Operators' Union of 72 vehicle operators plying their vehicles on the Meerut-Baghpat-Chhaprauli special class route gave the lists of fares in respect of 17 intermediate stations on the route. There was no uniformity in the fares indicated in the lists, e.g., the fare from Meerut to Balauni (26 Kms.) was Rs. 2.48 whereas the fare from Meerut to Dhokri (27 Kms.) was

Rs. 2.30 only. Out of 17 stations, the fare for 10 stations was enhanced at the maximum rate prescribed by Government, but in respect of 7 intermediate stations, the fare was not so increased.

In the absence of any survey of these routes, it could not be ascertained in audit when and by how much the fares were actually enhanced by the operators of stage carriages. However, in view of increases made by Government from time to time, possible evasion of tax/loss of revenue amounted to Rs.9.67 lakhs (computed on the basis of maximum fare prescribed by Government from time to time) for the various periods between October 1981 and March 1987.

The above cases were reported to the department and Government between May 1984 and April 1987; their replies have not been received (March 1988).

5.4. Incorrect calculation of passenger tax

Under the Uttar Pradesh Motor Gadi (yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, computation of passenger tax payable by a stage carriage under a lump sum agreement depends, inter alia, on the

total fare normally payable for the entire route on which the stage carriage plies.

(a) In Ghaziabad sub-region, while computing the passenger tax on lump sum basis in respect of 24 stage carriages plying on Ghaziabad-Loni portion of the route Ghaziabad-Loni-Rathod, the fare of only Rs.1.25 was taken into account from 6th July 1985, as against the fare of Rs. 1.85 actually charged by the operators from passengers. The incorrect computation resulted in short charge of passenger tax amounting to Rs. 1.67 lakhs during the period 6th July 1985 to 5th May 1986.

On this being pointed out in audit (May 1986), the Sub-Regional Transport Officer, Ghaziabad agreed (May 1986) to recover the amount. Further progress has not been intimated (March 1988).

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

(b) In Rae Bareli sub-region, the Rae Bareli-Mohanganj-Inhauna route (51 kilometres) was approved as 'A' class route. The operators of three stage carriages, permitted to ply their vehicles on the said route, entered into lump sum agreements for payment

of passenger tax. The operators of two stage carriages paid tax up to 30th September 1983 on the basis of the fare of Rs.1.95 chargeable for part route only, viz., Rae Bareli-Mohanganj on which these were plying. The operator of the third stage carriage, which was plying on the entire route, paid passenger tax on the basis of the fare of Rs.3.15 (Rs.1.95 + Rs.1.20) chargeable for the entire route. In October 1983, the operators of the two stage carriages, plying motor vehicles on the part route Rae Bareli-Mohanganj, enhanced the fare to Rs.2.90, which was about 48.7 per cent more than the earlier fare and paid tax accordingly. Passenger tax in the case of the third stage carriage, which was plying on the entire route (Rae Bareli-Mohanganj-Innauna) was also assessed on the basis of fare of Rs.2.90 only for October 1983. On the basis of 48.7 per cent increase in fare for the part route from October 1983, the fare for the entire route should have been raised to Rs. 4.70. The incorrect adoption of fare amount in respect of third of stage carriage resulted in short charge of passenger tax at the rate of Rs. 1,020.60 per month from October 1983 onwards.

On this being pointed out in audit (August 1986), the Sub-Regional Transport Officer, Rae Bareli accepted (April 1987) the error and agreed to realise

the amount of Rs. 36,742 for the period October 1983 to September 1986 from the owner of the stage carriage concerned. Progress of recovery has not been intimated (March 1988).

The case was reported to the department and Government in September 1986; their replies have not been received (March 1988).

5.5. Incorrect assessment of passenger tax

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali, 1962, when the operator of a stage carriage enters into a lump sum agreement for the payment of passenger tax, the agreement shall be for a period of three months or for the unexpired period of the currency of the permit, whichever is less. The assessment of passenger tax under the lump sum agreement depends, inter alia, on the number of one-way trips allowed or expected to be made by the stage carriage on the route for the duration of the lump sum agreement.

In the Sub-Regional Transport Office, Mirzapur, the passenger tax was assessed on the basis of 52 to 55 single trips per month instead of 60 single trips per month, giving allow-

ance for non-operation on Sundays/holidays in the case of 10 vehicles plying on the Ahraura-Naugarh, Ahraura-Tinduari and Narainpur-Hinduani routes. Non-assessment of passenger tax on the basis of 30 days in a month resulted in tax being realised short by Rs.0.30 lakh for the period from December 1983 to June 1986.

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

Similarl irregularity was also pointed out in paragraph 4.3 of the Audit Report (Revenue Receipts) for the year 1978-79. While discussing the paragraph, Public Accounts Committee had recommended (1981-82) that passenger tax in such cases should be calculated on the basis of 30 days in a month throughout the State.

5.6. Loss due to non-calculation of passenger tax on approved trips

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, passenger tax payable under lump sum agreement in respect of any stage carriage on a particular route depends, inter alia,

on the number of one-way trips the stage carriage is authorised to make during a particular period and the fare payable for the entire route. Any change in the trips renders the lump sum agreement void with effect from the date of such change and thereafter a fresh lump sum agreement in respect of the unexpired period is required to be executed.

(i) In Lucknow region, seven stage carriages were plying on the Lucknow-Mal route on temporary permits. In October 1984, the tax officer ordered that the passenger tax payable in respect of the said stage carriages should be calculated on the basis of one return trip per day by each of these vehicles and 80 per cent load factor. The passenger tax in respect of seven vehicles was, however, assessed on the basis of 4 return trips daily, instead of 7 return trips as directed by the tax officer. Non-calculation of passenger tax on approved trips resulted in short realisation of passenger tax amounting to Rs. 71,896 during the period from October 1984 to March 1986.

The case was reported to the department and Government in January 1987; their replies have not been received (March 1988).

(ii) In Mirzapur sub-region, payment of passenger tax on lump sum basis in respect of 4 vehicles plying on the Mirzapur-Ahaura route via Pathraura and Sonpur was determined at Rs. 31.51 per seat per month prior to 1st October 1985 (on the basis of fare: Rs.5.05, single trips: 50 per month and load factor: 78 per cent). From 1st October, 1985, the passenger tax was determined at Rs. 32.32 per seat per month (on the basis of fare: Rs. 5.05, single trips: 50 per month and load factor: 80 per cent). The passenger tax in respect of one of these 4 vehicles, having seating capacity of 47, worked out to Rs.1,943.75 per month but the tax was erroneously assessed at Rs.1,930.70 per month for the period from May 1985 to September 1985. In respect of the remaining 3 vehicles, although the tax was payable between Rs.1,824.05 and Rs.2,497.78 per month depending on the seating capacity of the vehicles, but no passenger tax was assessed by the department for the period from 25th January 1986 to 31st May 1986.

This resulted in non-realisation/ short realisation of passenger tax amounting to Rs. 14,217 for various periods between 14th May 1985 and May 1986.

The case was reported to the department and Government in July

1986; their replies have not been received (March 1988).

5.7. Loss due to computation of incorrect load factor

Under the U.P. Motor Gadi (Yatrikar) Adhiniyam, 1962 and the rules framed thereunder, passenger tax payable under lump sum agreement in respect of any stage carriage on a particular route depends, inter alia, on its authorised load factor, i.e., full seating capacity and fifty per cent of the standing capacity, if any, allowed; but the load factor to be authorised shall, however, not be less than 75 per cent.

(i) In Lucknow region, the load factor of Lucknow-Bangarmau route was enhanced from 75 per cent to 80 per cent from 1st October 1984 but passenger tax on lump sum agreement for the period from October 1984 to September 1985 in respect of 17 vehicles plying on the said route was assessed and realised on the basis of 75 per cent load factor.

(ii) Similarly, passenger tax in respect of 85 stage carriages plying on the Lucknow-Hardoi route was determined on the basis of 36 return trips per day and 80 per cent load factor from 1st February 1985. The number

of return trips was increased to 37 per day by the operators from 1st May 1985, and consequently the load factor was reduced to 75 per cent by the department. In fact, load factor on proportionate basis works out to 78 per cent $\frac{36 \times 80}{37} = 77.838$ or say

78 per cent). Reduction of load factor to 75 per cent, instead of 78 per cent by the Passenger Tax Officer, Lucknow resulted in loss of revenue amounting to Rs.29,384 during the period from October 1984 to November 1986.

On this being pointed out in audit (December 1986), the Regional Transport Officer, Lucknow agreed to recover the amount. Further report has not been received.

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

5.8. Non-levy of passenger tax on private stage carriages

Under the U.P. Motor Vehicles Rules, 1940, a 'private stage carriage' means any motor vehicle constructed or adapted to carry more than nine persons (excluding the driver) and used by or on behalf of the owner exclusively in connection with his trade or business or private purposes but

not for hire or reward. The Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 does not contemplate levy of passenger tax on a private stage carriage. If, however, such vehicles ply for hire or reward, passenger tax becomes leviable under Section 3 of the said Adhiniyam at a rate equivalent to 16 per cent (15 per cent up to 30th April 1979) of the fare paid or payable by passengers. When passengers are carried by such vehicles at concessional rates or free of charge, the fare normally payable for the journey is deemed to be the fare payable by such passengers for the purpose of determining the passenger tax. Road tax on vehicles used for hire or reward is assessed on the basis of authorised load of passengers, as prescribed under the U.P. Motor Vehicles Taxation Act, 1935. When a vehicle plies on a special class route, a further road tax equal to 25 per cent of the tax prescribed for 'A' class routes is also leviable.

(i) In Kanpur region, six stage carriages owned by the Indian Institute of Technology, Kanpur were plying for the conveyance of the employees of the Institute between places of their residence and the Institute. The Institute realised Rs. 3,385 per vehicle per month from the employees to cover the operational expenses of

vehicles. The average monthly receipt on this account worked out to Rs. 20,310. Since the Institute was operating the vehicles for hire, these fell in the category of 'stage carriages' liable to payment of passenger tax at prescribed rates. Although Government did not agree (October 1985) to grant exemption to the vehicles of the Institute from payment of passenger tax, passenger tax was not realised in respect of the Institute's vehicles. Passenger tax not realised amounted to Rs. 1.21 lakhs for the period from January 1984 to September 1986.

The case was reported to the department and Government in October 1986; their replies have not been received (March 1988).

(ii) By a notification dated 30th September 1962, stage carriages owned by recognised educational institutions and used solely for the conveyance of pupils to and from the institutions have been totally exempted from payment of passenger tax. The owners of such vehicles are also exempt from the necessity of obtaining a stage carriage permit.

In Gorakhpur region, a vehicle registered as a school bus in the name

of a distillery since June 1984 was being used to carry children of the employees of the factory to the school and back. Similarly, in Muzaffarnagar sub-region, a vehicle registered as a school bus in the name of a cooperative sugar mill since September 1985 was being used to carry children of the employees of the sugar mill from its campus to school and back. The road tax was being paid in respect of these vehicles under the U.P. Motor Vehicles Taxation Act, 1935. As both the vehicles were not owned by any recognised educational institution, they were liable to payment of passenger tax but no passenger tax was levied on them. Irregular exemption resulted in non-realisation of passenger tax amounting to Rs.20,770 for the period from July 1984 to August 1986, besides non-recovery of permit fee of Rs. 364.

The cases were reported to the department and Government in October 1986 and March 1987; their replies have not been received (March 1988).

5.9. Short assessment of passenger tax and non-imposition of penalty

(i) Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, passenger tax at the prescribed rate is leviable

on every passenger carried by a stage carriage. For this purpose, the owners of stage carriages are required to maintain a way bill for each trip undertaken by the vehicles and to submit a weekly return to the tax officer within three days of the expiry of the week and a monthly return within fifteen days of the expiry of the month to which the return relates. If an operator fails to submit a return within the prescribed time limit, the tax officer may levy penalty not exceeding ten rupees in respect of each stage carriage for every day during which the default continues, provided the total penalty in respect of each stage carriage shall not exceed one hundred rupees. When the tax determined has not been paid in time, a further penalty subject to a maximum of twentyfive per cent of the amount of tax determined is also payable in addition to the tax.

(a) In Kanpur region, the number of vehicles operating on the Fatehpur-Augasi route was increased from 3 to 5 from May 1985. The operators, however, failed to submit the revised time table for operation of their vehicles with the result that the lump sum agreements could not be revised. Although there was no provision in the Act or the Rules, the tax officer permitted (June 1985) the operators

to deposit an ad hoc amount of Rs.1,500 per vehicle per month towards passenger tax. However, between May 1985 and September 1986, the vehicle owners deposited Rs. 5,400 per month only against Rs. 7,500 per month as ordered by the tax officer. The department failed to impose penalty for non-submission of returns and realise passenger tax on way bill basis till the execution of fresh lump sum agreements.

(b) Similarly, the validity of lump sum agreement in respect of the stage carriage plying on the Fatehpur-Hathgaon route expired on 15th July 1985. The operator thereafter failed to enter into a fresh lump sum agreement and also did not submit any return to assess the passenger tax on way bill basis although he continued to ply his vehicle on a valid permit. He made payments of Rs.6,000 and Rs.5,250 in May 1986 and July 1986 respectively towards passenger tax on ad hoc basis and the department accepted these payments without initiating action for imposition of penalty for non-submission of returns and payment of tax on way bill basis until the execution of a fresh lump sum agreement.

The above irregularities resulted in passenger tax being levied short by Rs.79,393. Besides, Rs.68,248 were

also leviable by way of penalty (Rs.48,400 for non-submission of returns and Rs. 19,848 for non-payment of tax in time) during the period from May 1985 to 30th September 1986.

On the irregularities being pointed out in audit (September 1986), the tax officer determined (May 1987) the passenger tax due on each vehicle for the period from May 1985 to April 1987 and issued (July 1987) demand notices for recovery of tax amounting to Rs.1.46 lakhs. Some of the operators were reported (January 1988) to have filed writ and obtained stay orders from the Hon'ble High Court.

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

(ii) Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, the lump sum passenger tax payable in respect of a stage carriage on a particular route depends, inter alia, on the number of single trips allowed or expected to be made by the stage carriage on the route during the specified period.. Any change in trips, fare etc., which has the effect of increasing the receipts

of the operator, renders the agreement void with effect from the date of such change, and thereafter a fresh lump sum agreement in respect of the unexpired period is required to be executed.

(a) In Kanpur region, the passenger tax payable under lump sum agreement in respect of 15 stage carriages plying on the route Thathia-Indergarh via Tirwa was determined by the Regional Transport Officer, Kanpur at the rate of Rs.25.35 per seat per month for the period from 20th September 1983 to 30th November 1984 and at the rate of Rs. 16.15 per seat per month from 1st December 1984 onwards. However, the actual payment of passenger tax was made by the vehicle owners at the rate of Rs. 15.35 per seat per month and accepted by the department as such. This resulted in short levy of passenger tax amounting to Rs.20,892 during the period from 20th September 1983 to 30th September 1985.

On this being pointed out in audit (November 1985), the Regional Transport Officer, Kanpur accepted the error and agreed to issue demand notices for recovery of tax assessed short. Further report has not been received (March 1988).

(b) In Rae Bareli sub-region, each of the two stage carriages plying

on the Salwan-Unchahar-Kharauli route was making one return trip daily. One of the above two stage carriages stopped operation from 28th February 1984 and another stage carriage, which came in its place, started plying on the route from 26th March 1985. Thus, only one stage carriage plied on the route during the period from 28th February 1984 to 25th March 1985 and undertook additional trips in order to maintain the service as per prescribed time table as seen from the demand and collection register and the assessment file of the vehicle. Although the number of trips of the vehicle on road was thus increased, the lump sum amount of passenger tax was continued to be accepted at the previous rate. This resulted in short levy of passenger tax amounting to Rs.15,424 during the period from 28th February 1984 to 25th March 1985.

On the omission being pointed out in audit (August 1986), the Sub-Regional Transport Officer, Rae Bareilly intimated (April 1987) that a sum of Rs. 7,714 had since been recovered. Report on recovery of the balance amount of Rs. 7,710 has not been received.

(c) In Lucknow region, seven stage carriages plying on the Unnao-Bhojpur route were permitted to make 3 return trips daily on rotation basis from 18th June 1983. Out of the said

seven stage carriages, two were off road for various periods between 18th June 1983 and 20th June 1984, three between 29th August 1983 and 23rd May 1984, and one from 21st June 1984 to 30th August 1984. As there was no change in the time table and the vehicles actually plying on road had to undertake additional trips to maintain the service as per time table, the tax officer ordered (November 1984) for reassessment of passenger tax on the basis of the number of stage carriages actually plying on the route during the aforesaid periods and realising the difference of tax from the operators concerned. The passenger tax on lump sum basis, however, was continued to be assessed and realised on the basis of 3 return trips daily, instead of on the basis of number of trips actually undertaken by the vehicles on road. This resulted in short levy of passenger tax amounting to Rs. 31,050 during various periods between 18th June 1983 and 30th August 1984.

The case was pointed out to the department in January 1987; their reply has not been received (March 1988).

The above cases were reported to Government between December 1985 and January 1987; their reply has not been received (March 1988).

5.10. Issue of 'no objection certificate' to vehicles without realising passenger tax and penalty

Under the Motor Vehicles Act, 1939 read with the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962, before granting a no objection certificate for assignment of fresh registration in any other region/State, the registering authority shall verify whether all the amounts due to Government in respect of that vehicle have been paid.

(i) In Kanpur region, a vehicle plying on the Khaga-Kot route on a permanent permit paid passenger tax on lump sum basis up to 12th December 1982. Thereafter, no lump sum agreement could be finalised, and passenger tax for the period from 13th December 1982 to 15th September 1984 was also not assessed. The operator of the vehicle was required to submit the requisite returns to the tax officer from time to time and pay passenger tax on way bill basis during this period but he failed to do so. No objection was taken by the department also for monthly assessment of passenger tax as required under Section 8(1) of the Adhiniyam, 1962. Instead, the operator paid passenger tax on provisional basis which was accepted by the department,

although there was no such provision in the Adhiniyam or Niyamawali, 1962. The vehicle was issued 'no objection certificate' on 22nd August 1985 for transfer to Muzaffarpur (Bihar) without finally assessing the tax recoverable from the vehicle owner. Subsequently, on final assessment of the tax (20th September 1985) due for the period from 13th December 1982 to 15th September 1984, it was found (by the department) that passenger tax (including penalty) amounting to Rs.17,220 was still due from the vehicle owner. In addition, penalty of Rs. 10,600 was leviable for non-submission of weekly and monthly returns.

On this being pointed out in audit (September 1986), the Regional Transport Officer, Kanpur issued (19th October 1986) a recovery certificate for Rs. 9,608 only towards tax. Reasons for non-levy of penalties have not been indicated.

(ii) In Muzaffarnagar sub-region, the operator of a vehicle paying tax under lump sum agreement was issued 'no objection certificate' on 8th August 1985 for transfer to Meerut without assessing and realising passenger tax for the period from 14th November 1984 to 8th August 1985. The passenger tax leviable, including penalty for

non-payment of tax, worked out to Rs.20,776.

On this being pointed out in audit (December 1986), the assessing officer agreed to investigate the matter (December 1986). No further report has been received (March 1988).

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

5.11. Passenger tax escaping assessment

Under the U.P.Motor Gadi (Yatrikar) Adhiniyam, 1962 and the rules framed thereunder, a tax on every passenger carried by a stage carriage is to be levied at the prescribed rate. If, for any reason, the whole or any portion of the tax leviable under the Adhiniyam ibid in respect of any month has escaped assessment, the Tax Officer may, at any time within three years from the expiry of that month, assess the tax which has escaped assessment.

In Dehradun region, temporary permits were issued in respect of 5 stage carriages on 20th January 1986. for plying on the part route Saharanpur Chowk to Majra (4 kilometres) of the Vikasnagar--Dharmawala route. Passen-

ger tax payable by these carriages plying on the said part route, was, however, omitted to be assessed and realised during the period from 20th January 1986 to 19th February 1987. Similarly, in respect of 9 stage carriages plying on the Dehradun-Raipur-Maldevta route, the Regional Transport Officer, Dehradun made (16th December 1986) endorsements in their permits for two additional return trips between Dehradun and Raipur from 17th December 1986. Passenger tax payable on lump sum basis in respect of the said 9 stage carriages was, however, omitted to be reassessed by the department on the basis of additional trips so authorised. As a result, passenger tax amounting to Rs. 22,160 escaped assessment for varying periods between 20th January 1986 and 28th February 1987.

On the omissions being pointed out in audit (February 1987), the Regional Transport Officer, Dehradun agreed to issue demand notices for recovery. No further report has been received (March 1988).

The matter was reported to the department and Government in April 1987; their replies have not been received (March 1988).

5.12. Short assessment of passenger tax due to non-verification of relevant records

Two vehicles in Allahabad region owned by private individuals, having temporary contract carriage permits, were on contract with a Central Government Public Sector Undertaking between January 1984 and April 1985. The vehicles were used for carrying the staff members of the Undertaking between the places of their residences and duty. The owners of the vehicles were paid contract money at the rate of Rs.16,700 per vehicle per month. While submitting the monthly returns from time to time to the Tax Officer for assessment of passenger tax, the owner of one of the vehicles indicated the amount of contract money as Rs.10,700 and the owner of the other vehicle showed it as Rs. 10,300. The returns submitted by the owners of these vehicles were accepted by the Tax Officer without verifying their correctness from the relevant records available in the assessment files. Computation of passenger tax payable for the vehicles on lower rate of contract money, thus, resulted in short realisation of revenue amounting to Rs.28,185 during the aforesaid period.

The matter was reported to the department and Government in May 1987; their replies have not been received (March 1988).

5.13. Non-assessment or short assessment of passenger tax and road tax in respect of contract carriages plying on temporary permits

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, while determining passenger tax payable under lump sum agreement in respect of a contract carriage covered by a temporary permit, the fare to be taken shall not be less than seventyfive per cent of the fare calculated at the maximum rate prescribed under the Motor Vehicles Act, 1939, and the distance expected to be travelled in a month shall not be taken less than 4,000 kilometres. Also, road tax on vehicles covered by temporary permits is assessed on the basis of authorised carrying capacity of passengers at rates higher than that applicable to vehicles covered by regular permits. When a vehicle is intended to be used on a special class route, a further tax equal to fifty per cent of the tax is also leviable.

(i) (a) In Allahabad region, a vehicle owned by a private company

was issued temporary contract carriage permits for four months each during the period from January 1983 to February 1987. The vehicle was used for carrying the staff members between the places of their residence and the factory. The vehicle was assessed to passenger tax on the basis of Rs.3.36 as fare and 1,500 kilometres as distance expected to be travelled in a month. As the vehicle was plying on temporary permit, passenger tax was leviable on the basis of a distance of at least 4,000 kilometres per month. The passenger tax actually leviable worked out to Rs. 2,822.40 per month. This resulted in short realisation of Rs.88,200.

Besides, road tax for the aforesaid period was realised on the basis of unladen weight of the vehicle under Article III of the U.P. Motor Vehicles Taxation Act, 1935, instead of on the basis of authorised load of passengers at the rates prescribed for transport vehicles plying for hire and reward under Article IV of the aforesaid Act. This resulted in short realisation of Rs.24,020.

(b) Similarly, a vehicle owned by a private individual and having temporary contract carriage permit for four months at each occasion was on contract with a Central Government public sector undertaking between

10th February 1986 and 9th February 1987. The vehicle was used for carrying the staff members between the places of their residence and the factory on a contracted amount of Rs. 10,000 per month including taxes. The passenger tax amounting to Rs. 20,826 payable by the vehicle owner was, however, not assessed and realised.

Besides, the vehicle covered by contract carriage permit was plying on a 'special' class route and was liable to pay road tax at the rate applicable for that class of route and not for 'A' class route. This resulted in short realisation of road tax amounting to Rs. 1,186.

(ii) In Dehradun region, 11 vehicles of private individuals were on contract with a Central Government public sector undertaking located at Dehradun and were issued temporary contract carriage permits for four months at each occasion during various periods between 23rd November 1984 and 23rd February 1987. The vehicles were used to carry the children of the staff between the places of their residence and the school. The vehicle owners were paying passenger tax at the rate of Rs. 997.50 per vehicle per month which was not correctly worked out; they were in fact liable to pay passenger tax at the rate of Rs. 2,116.80

each per month. This resulted in short levy of passenger tax amounting to Rs. 65,442 during the aforesaid period.

(iii) In Kanpur region, a vehicle owned by a private individual having temporary contract carriage permit was on contract with a Central Government Institute during the period from 7th January 1986 to 18th October 1986. The vehicle was used for carrying the students of the Institute between the places of their residence and the Institute. The vehicle was, however, not assessed to passenger tax during the aforesaid period. Non-assessment of passenger tax resulted in non-realisation of revenue amounting to Rs. 19,898.

(iv) In Rae Bareli sub-region, it was noticed in the course of audit (August 1986) that 19 vehicles of private operators were on contract with a Central Government public undertaking located at Rae Bareli for periods ranging from one to 13 months between April 1984 and July 1986 for carrying the staff members between the places of their residences and the factory. The vehicles were, however, not assessed to passenger tax. Taking the minimum distance of 4,000 kilometres per month, passenger tax leviable worked out to Rs.2,116.80 per vehicle per month, and the amount not realised

on this account amounted to Rs.2.90 lakhs for the said periods.

Besides, road tax amounting to Rs. 0.66 lakh for the aforesaid periods was not realised in respect of 15 out of 19 vehicles.

The above cases were reported to the department and Government between September 1986 and May 1987; their replies have not been received (March 1988).

5.14. Irregular conversion of mini buses into motor cabs

Under the Motor Vehicles Act, 1939, classification of vehicles depends on the seating capacity of vehicles. 'Stage carriage' means a motor vehicle carrying or adapted to carry more than six persons, excluding the driver, which carries passengers for hire or reward etc. 'Motor cab', on the other hand, means any motor vehicle constructed, adapted or used to carry not more than six passengers, excluding the driver, for hire or reward. Under the Uttar Pradesh Motor Gadi (Yatrikar) Adhiniyam, 1962, passenger tax is levied on every passenger carried by a 'stage carriage' at the prescribed rate. The road tax payable in respect of vehicles plying for hire for the

conveyance of passengers also, inter alia, depends on the seating capacity of the vehicle. Further the Transport Commissioner had issued (31st July 1985) instructions that while registering a vehicle and/or issuing fitness certificate, the number of seats should be determined on the basis of floor area and the minimum dimensions of a seat, as prescribed in Rule 140 of the U.P. Motor Vehicles Rules, 1940. It was further clarified that even if the vehicle provides for lesser number of seats, the number of seats should be taken to be as determined in accordance with the directions issued therein.

In Allahabad region, 7 mini buses having authorised seating capacity of 16 (including driver) were registered as 'mini buses' between December 1982 and January 1983. Passenger tax and road tax was being realised in respect of these mini buses as stage carriages (having seating capacity of more than 6 passengers excluding driver) at prescribed rates. Between July 1984 and March 1985, these mini buses were shown to have been converted into motor cabs having 7 seats (including one for driver) and this was approved by registering authority. The registration documents, however, did not indicate any change in the wheel base or registered laden and unladen weights

etc. The acceptance of conversion of the mini buses into motor cabs without any change in wheel base and floor area was in contravention of the directions of the Transport Commissioner and was apparently done to avoid payment of passenger tax and to make payment of road tax at lower rates. The continued operation of the mini buses, irregularly registered as 'motor cabs', resulted in loss of revenue (Rs. 49,840) to Government by way of passenger tax (Rs.44,328) and road tax (Rs.5,512) for varying periods between July 1984 and March 1987.

The matter was reported to the department and Government in May 1987; their replies have not been received (March 1988).

5.15. Loss of revenue due to delay in the reclassification of routes

For the purpose of determining road tax payable by transport vehicles under the U.P. Motor Vehicles Taxation Act, 1935, routes have been classified under four classes, viz., 'special', 'A', 'B' and 'C'. Vehicles plying on special class routes attract the highest rate of road tax, while those plying on 'A', 'B' and 'C' class

routes are charged at comparatively lower rates of road tax. If a stage carriage covers more than one route falling under different classes, it is liable to be charged road tax applicable to the highest class of route. The U.P. Motor Vehicles Taxation Rules, 1935 provide that while classifying a route, the controlling authority shall be guided by three considerations, viz., (i) the potential income which will accrue from the employment of a public service vehicle on that route, (ii) the maintenance cost of the road or roads or the portion or portions of any road or roads comprised within the said route and (iii) the necessity for the development of the proposed route in the public interest.

In a case of reclassification of a route (in the year 1981), where the Regional Transport Authority had not indicated specific advertence to all the points referred to in Rule 6 ibid but had merely called for report from certain officers, the Supreme Court had held *(1981) that reclassification

* Sheelwanti Vs. State Transport Authority, U.P.(1981)3 SCC 665

was 'bad' and had observed that the considerations enumerated in the rule must be followed.

Two routes in Bareilly region and three routes in Bulandshahr sub-region were reclassified and upgraded to higher classes between April 1977 and October 1983 by the State Transport Authority on the recommendations of the Regional Transport Authorities, Bareilly and Meerut respectively. The operators of these five routes filed writ petitions in the High Court at Allahabad, challenging the reclassification of the routes. While quashing the reclassification orders on the basis of the aforesaid judicial pronouncement of the Supreme Court, the High Court observed (April 1983) that " it would be open to authorities to reconsider the matter in accordance with law as expeditiously as they choose".

The matter regarding upgradation of the routes has not been reviewed in the light of the judgment of the High Court for the last four years. Consequently, road tax continued to be realised at the old rates thereby depriving the State exchequer of the estimated additional revenue to the extent of Rs.4.72 lakhs for the years 1983-84 to 1986-87 (at the rate of Rs.1.18 lakhs per annum).

The matter was reported to the department/Government in September 1986 and February 1987; their replies have not been received (March 1988).

5.16. Non-assessment or short assessment of road tax

Under the U.P. Motor Vehicles Taxation Act, 1935, no motor vehicle can be used in any public place unless the owner thereof has paid road tax at the appropriate rate specified in the First Schedule to the Act. Road tax payable in respect of a motor vehicle depends, inter alia, on the class of route on which it plies, viz., 'Special', 'A', 'B' or 'C' class. Vehicles plying on a special class route attract the highest rate of tax; the rates for 'A', 'B' and 'C' class routes being comparatively lower. If a vehicle plies on more than one class of routes, road tax leviable is that applicable to the highest class. A vehicle plying without permit attracts road tax applicable to the highest class of routes, i.e., special class.

(i) (a) In respect of 13 vehicles (Kanpur region: 4; Aligarh sub-region:9) which had been plying without permits, road tax applicable to the highest class of routes (viz., special class) was leviable but it was either not assessed and realised or was assessed and realised at the rates applicable

to lower class routes. This resulted in non-assessment or short assessment of road tax amounting to Rs. 47,615 for varying periods between January 1983 and December 1986. Penal action under Section 123 of the Motor Vehicles Act, 1939 for plying vehicles without permits was also not taken by the department against the operators.

(b) Similarly, on 17 other vehicles (Kanpur region: 5; Meerut region: 3; Muzaffarnagar sub-region: 7 and Aligarh sub-region: 2) plying without permits, road tax was either not assessed and realised or was assessed and realised at the rates applicable to lower class routes. The mistake resulted in non-assessment or short assessment of road tax amounting to Rs.96,588 for varying periods between July 1983 and December 1986.

The cases were reported to the department and Government between December 1986 and April 1987; their replies have not been received (March 1988).

(ii) In Allahabad region, on three stage carriages which had been plying without permits between October 1985 and March 1987, road tax applicable to the highest class of routes (viz., special class) was leviable, but it

was realised at the rates applicable to lower class routes. In respect of four other stage carriages plying on higher class routes, road tax was levied at the rates applicable to lower class routes. The error resulted in under-assessment of road tax amounting to Rs.36,485 for varying periods between January 1985 and March 1987. Penal action under Section 123 of the Motor Vehicles Act, 1939 for plying vehicles without permits was also not taken by the department against the operators.

On this being pointed out in audit (March 1987), the Regional Transport Officer, Allahabad issued demand notices in respect of three stage carriages and agreed to take action to realise the amount of tax due in respect of the remaining four stage carriages.

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

- 5.17. Irregular grant of exemption from payment of road tax and goods tax

Under the U.P. Motor Vehicles Taxation Act, 1935, read with the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964, an operator of a goods

vehicle is required to pay road tax and goods tax at prescribed rates. In terms of rule 33 of the U.P. Motor Vehicles Taxation Rules, 1935, if during any period a vehicle owner does not intend to use his vehicle for a period exceeding three months, he is required to surrender the registration certificate and tax token together with a declaration to the taxation officer, otherwise it would be assumed that the vehicle remained under use.

In three regions (Agra, Faizabad and Kathgodam) and three sub-regions (Mathura, Bulandshahr and Azamgarh), the registration certificates and tax tokens in respect of 18 vehicles had not been surrendered by the vehicle owners to the taxation officers. The vehicles were, however, treated by the department as not in use and road tax and goods tax were not assessed and realised from them. This resulted in loss of revenue amounting to Rs.1.59 lakhs by way of road tax and Rs.70,839 by way of goods tax for different periods falling between April 1981 and December 1986.

The cases were reported to the department and Government between June 1986 and February 1987; their replies have not been received (March 1988).

5.18. Non-levy of road tax and goods tax on cranes

Under the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964, there shall be levied and paid to the State Government a tax on all goods carried by road in a public or private goods vehicle at such rates as may be fixed by the State Government from time to time. As per clarification issued by the Transport Commissioner vide his circular letter of 25th June 1984, 'cranes' were covered under the definition of 'goods'. As vehicles fitted with cranes are used for hire, these vehicles are to be treated as 'goods vehicles' and are liable to pay road tax and goods tax on their authorised pay load.

In respect of 4 cranes (3 in Ghaziabad sub-region and 1 in Dehradun region), road tax was being realised under the U.P.Motor Vehicles Taxation Act, 1935, treating them as 'goods vehicles' but goods tax was not assessed and realised in respect of them. In Lucknow region, a crane of U.P.Jal Nigam was not assessed either to road tax or to goods tax. Thus, goods tax and road tax amounting to Rs.1.18 lakhs and Rs.0.13 lakh respectively were not levied and realised during the period July 1980 to December 1986.

The cases were reported to the department and Government between October 1986 and April 1987; their replies have not been received (March 1988).

5.19. Non-recovery or short recovery of goods tax

Under the U.P. Motor Vehicles Taxation Act, 1935 read with the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964, an operator of a goods vehicle is required to pay road tax and also goods tax at prescribed rates on the authorised carrying capacity of the vehicles. In the event of his failure to pay the goods tax, he is liable to pay, in addition to the tax, penalty not exceeding twentyfive per cent of the amount of tax.

At Sub-Regional Transport Office, Muzaffarnagar and Regional Transport Office, Dehradun, in respect of 11 goods vehicles, the operators had paid road tax at the prescribed rates but did not pay goods tax. This led to non-realisation of goods tax amounting to Rs. 83,492 for various periods between January 1982 and January 1987. Besides, penalty up to Rs. 20,873 (at the maximum rate of twenty-five per cent of the tax due) could also be levied.

The matter was reported to the department and Government in March

1987 and April 1987; their replies have not been received (March 1988).

5.20. Non-assessment of goods tax on the vehicles of other States plying in Uttar Pradesh

With a view to encouraging inter-State movement of transport vehicles between the States of Uttar Pradesh and Haryana and to regulate and control their operation, the two States entered into a reciprocal agreement on 7th October 1983. As a result of this agreement, transport vehicles of each State are required to pay road tax in their respective home States at the rates applicable there. However, there is no such provision in the Act or Rules of this State for single point taxation in respect of goods tax and passenger tax. As such, all transport vehicles of Haryana State plying in Uttar Pradesh under reciprocal agreement have the liability to pay goods and passenger taxes to the State of Uttar Pradesh for the duration of their stay therein.

In Saharanpur sub-region, four public carriers (goods vehicles) of Haryana State having permanent permits, duly countersigned by the Regional Transport Officer, Dehradun, were plying in Uttar Pradesh. Goods tax in respect

of the said vehicles for varying periods between April 1983 and December 1986 was, however, not assessed and realised by the transport authorities of Saharanpur sub-region/Dehradun region. The goods tax thus not assessed and realised amounted to Rs. 45,428.

The case was reported to the department and Government in April 1987; their replies have not been received (March 1988).

5.21. Non-levy of goods tax on vehicles plying without valid fitness certificates and permits

In accordance with the provisions of the Motor Vehicles Act, 1939, fitness certificate and permit are pre-requisites for operation of a transport vehicle in a public place. Any violation of these provisions is liable to be penalised. An operator other than a fleet owner is required to submit to the tax officer a monthly return in the prescribed form indicating the collection and deposits of tax in respect of every vehicle owned by him. Where no return has been submitted by the operator and where whole or any portion of tax payable to the State Government in respect of any goods vehicle for any month or part thereof has not

been paid, the tax officer shall assess the goods tax payable by the operator for such month or part thereof and, in addition to the tax so payable, may levy a penalty not exceeding twenty-five per cent of the amount of tax so payable for non-payment of the tax by the due date.

In Muzaffarnagar sub-region, five goods vehicles of the State Electricity Board, in respect of which validity of fitness certificates and permits had expired between January 1977 and August 1981, continued to be operated unauthorisedly. The department did not, however, initiate any penal action for unauthorised operation of the vehicles. Although road tax was being paid in respect of these vehicles, neither goods tax was assessed and realised nor was penalty for non-payment of goods tax levied by the tax officer.

On the omission being pointed out in audit (December 1983), goods tax amounting to Rs.25,140 (covering the period upto August 1984) in respect of two vehicles was realised between June and August 1984 and demand notices for recovery of tax amounting to Rs.7,645 in respect of the remaining three vehicles were reported to have been issued(May 1986).

Government, to whom the matter was reported in January 1984, confirmed (May 1986) the above position.

5.22. Short realisation of compounding fees

As per Government notification issued on 21st December 1982, offences punishable under the Motor Vehicles Act, 1939 can be compounded by the authorised officers after realising compounding fees at the rates prescribed therein. In subsequent Government notification issued on 23rd January 1985, the rates of compounding fees were revised. It was also clarified (17th April 1985) by the Transport Commissioner, U.P. that compounding fees were recoverable from owners as well as drivers in cases where both were found to be offenders under the provisions of the Motor Vehicles Act, 1939.

In the offices of the Transport Commissioner, Lucknow, four Regional Transport Officers (Pauri, Varanasi, Kanpur and Agra) and three Sub-Regional Transport Officers (Mathura, Saharanpur and Ghazipur), it was noticed that offences in respect of 142 vehicles were compounded during the period from February 1985 to January 1987, but compounding fees realised were either less than the rates prescribed by the State Government or were realised

from one of the offenders only. This resulted in short realisation of compounding fees amounting to Rs.1.59 lakhs.

The cases were reported to the department and Government between July 1986 and April 1987; their replies have not been received (March 1988).

5.23. Short levy of path-kar due to late receipt of Government notification

Every transport vehicle plying under a permit granted under the Motor Vehicles Act, 1939 by an authority having jurisdiction outside Uttar Pradesh and entering the limits of Uttar Pradesh is required to pay toll at such rate as the State Government may by notification specify. The State Government, vide their notification issued on 16th April 1985, increased the rate of toll (path-kar) from Rs.40 to Rs. 60 per transport vehicle.

At transport checkpost, Naubatpur (under the jurisdiction of the Regional Transport Officer, Varanasi), path-kar in respect of 6,252 transport vehicles, which had entered the State during the period from 16th April 1985 to 22nd April 1985, was charged at the old rate of Rs. 40, instead of at the revised rate of Rs.60 per vehicle. This resulted in path-kar amounting

(167)

to Rs. 1.25 lakhs being recovered short.

On this being pointed out in audit (March 1986), the department stated that the short levy of path-kar was due to late receipt of the Government notification.

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

CHAPTER 6

STAMP DUTIES AND REGISTRATION FEES

6.1. Results of Audit

- Test check of the accounts and relevant records of District Registrars and Sub-Registrars, conducted in audit during the year 1986-87, revealed short levy of stamp duty and registration fee amounting to Rs.10.42 lakhs in 101 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Short levy of stamp duty and registration fee due to undervaluation of properties	78	5.16
2. Short levy due to misclassification of documents	10	2.00
3. Other cases	13	3.26
TOTAL	<u>101</u>	<u>10.42</u>

- A few important cases are given in the succeeding paragraphs.

6.2. Short levy due to undervaluation of properties

(i) Under the Indian Stamp Act, 1899, as amended in its application to Uttar Pradesh, stamp duty on a deed of conveyance is chargeable on the market value of the property forming the subject of the deed or on the value of consideration set forth therein, whichever is higher. For this purpose, the Collector is required to supply to the District Registrar biennially a statement showing average price of various categories of land for the guidance of the registering authorities in his district.

(a) At Bisalpur (district Pilibhit), in case of seven deeds of conveyance (registered during March 1985 to October 1985) relating to lands admeasuring 7,705 square metres, the valuation of land adopted by the registering authorities was Rs. 0.84 lakh as against Rs. 6.82 lakhs computed on the basis of the rates fixed by the Collector. The adoption of lower valuation resulted in short levy of stamp duty of Rs. 0.57 lakh and registration fee of Rs. 0.01 lakh.

(b) At Bah (district Agra) and Naugarh (district Basti), 10 instruments relating to agricultural plots (21,387 square metres) situate within urban

area were conveyed (between August 1984 and February 1986) for a total consideration of Rs. 1.75 lakhs. On the basis of the rates fixed (January 1984 and March 1984) by the Collectors of these districts, the total consideration for these plots worked out to Rs. 5.52 lakhs. The adoption of lower valuation of agricultural land resulted in short charge of stamp duty of Rs. 0.34 lakh and registration fee of Rs.0.01 lakh.

The above cases were reported to the department and Government between September 1985 and October 1986; their replies have not been received (March 1988).

(ii) Under the Uttar Pradesh Stamp Rules, 1942, with effect from 1st July 1976, the modes of computation of value for the purpose of levy of stamp duty are different for agricultural and non-agricultural land; the value to be adopted for non-agricultural lands used for residential purposes being higher than that in respect of agricultural lands.

(a) At Chunar (district Mirzapur) and Mirzapur, in case of thirteen deeds (registered during September 1984 to April 1985) relating to sale of land (admeasuring 13,911 square yards) for construction of residential houses,

stamp duty was levied, taking the value of land as for agricultural land, instead of that for residential land. The value adopted was Rs.1.08 lakhs as against Rs. 6.47 lakhs worked out on the basis of the rates fixed by the Collector. This resulted in stamp duty and registration fee being levied short by Rs.0.48 lakh.

The matter was reported to the department and Government in September 1985; their replies have not been received (March 1988).

(b) At Ballia and Rasra (district Ballia), seven instruments relating to sale of land (admeasuring 1,660 square metres) for construction of residential houses were registered between November 1985 and March 1986. In all these cases, stamp duty was levied, based on its valuation as for agricultural land, instead of that for 'residential lands'. The value adopted was Rs.2.19 lakhs as against Rs.6.69 lakhs worked out on the basis of the rates fixed by the Collector. This resulted in stamp duty of Rs. 43,150 and registration fee of Rs. 1,371 being levied short.

The cases were reported to the department and Government in June-July 1986; their replies have not been received (March 1988).

(iii) Under the U.P. Stamp Rules, 1942, as amended from time to time, the minimum market value of immovable property forming the subject of an instrument of conveyance, gift, settlement, award or trust shall be deemed to be not less than that determined as under:

(1) Where the subject is building at 25 times the actual or assessed annual rental value, whichever is higher.

(2) Where the subject is non-agricultural land and the land is situated within the limits of any local body, on the basis of the average rate per square metre prevailing in the locality on the date of the execution of instrument.

On a sale deed registered at Ranikhet (district Almora) in July 1981, stamp duty on a property, consisting of building and land appurtenant thereto measuring 6.103 acres, was levied based on the sale consideration of Rs.0.49 lakh. Through a memorandum of agreement registered in December 1978, the same property had been agreed to be conveyed for a sum of Rs. 0.70 lakh but this was not taken into consideration while determining the value of the property conveyed in the sale deed

of July 1981. On the basis of the rate notified (April 1981) by the Collector, the cost of appurtenant land alone worked out to Rs.1.30 lakhs.

On this being pointed out in audit (May 1982), the Deputy Registrar referred (July 1982) the case to the Collector for proper valuation and realisation of deficit stamp duty. The department intimated (September 1986) that on adjudication of the case by the Collector, the value of the property had since been determined at Rs.2 lakhs and deficit stamp duty of Rs.12,835 along with penalty of Rs.3,215 had been realised in August 1986.

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

6.3. Loss of stamp duty due to non-pursuance of case in time

Under the Indian Stamp Act, 1899, as amended in its application to Uttar Pradesh, where deficiency in stamp duty paid is noticed from the copy of any instrument, the Collector may, on a reference from any officer authorised by the Board of Revenue in that behalf, or from an Assistant Commissioner of Stamp etc., call for the original instrument for the purpose of

satisfying himself as to the adequacy of the duty paid thereon. In case, the instrument is not produced within the period specified by the Collector, he may require payment of deficit stamp duty, if any, together with penalty, provided that no action should be initiated after a period of four years from the date of execution of the instrument.

At Meja (district Allahabad), a short payment of stamp duty of Rs. 34,930 and registration fee of Rs. 241 in respect of an instrument executed and registered in November 1979 was pointed out in audit (September 1980). The Sub-Registrar intimated (March 1984) that the document had been referred to the Collector on 3rd October 1980 for realisation of deficient stamp duty. The case was, however, not pursued thereafter. The Collector subsequently called for a copy of the document (October 1985) which was sent to him in October 1985. Action to realise deficient stamp duty was not possible in October 1985 due to limitation of period as provided in the Act ibid. Thus, a loss of Rs.35,154 occurred due to failure of the department to take timely action.

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

6.4. Misclassification of a fresh mortgage deed as correction of first deed

Under the provisions of the Indian Stamp Act, 1899 (as amended in its application to the State of Uttar Pradesh), stamp duty leviable on mortgage deed, when possession of the property or any part of the property comprised in such deed is given or agreed to be given, is the same as duty on a "conveyance" for a consideration equal to the amount secured by such deed. When possession is not given or agreed to be given as aforesaid, duty is leviable as on a "bond" for the amount secured by such deed. For corrections of a purely clerical error in an instrument in respect of which duty has already been paid, nominal duty upto Rs. 6 is chargeable.

At Ballia, property consisting of land and building was mortgaged to secure due performance of certain acts to the extent of Rs.5.61 lakhs for the period 2nd August 1983 to 2nd November 1984 through a deed registered on 28th September 1983 and, accordingly, stamp duty was realised, as leviable on a "bond". On the expiry of the term of the mortgage, the property was again mortgaged through another deed in April 1985 which sought

to extend the period of mortgage upto 31st December 1989 on the same terms and conditions as per the first deed and stamp duty of Rs.6 only was realised as applicable in the case of correction of purely clerical nature in the first instrument. As the mortgage deed executed in April 1985 was a fresh deed and not in the shape of corrections to the first deed, stamp duty was leviable as on a 'bond'. The misclassification resulted in short levy of stamp duty of Rs. 0.24 lakh.

The case was reported to the department and Government in May 1986; their replies have not been received (March 1988).

CHAPTER 7

TAX ON PURCHASE OF SUGARCANE

7.1. Results of Audit

Test check of the records of sugar factories and khandsari units, conducted in audit during the year 1986-87, revealed non-levy or short levy of tax amounting to Rs. 111.64 lakhs in 33 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Clearance of sugar without payment of tax	10	4.36
2. Irregular deferment of tax	4	102.78
3. Irregularity in fixation of rate of tax	3	1.72
4. Short assessment due to non-observance of rules	5	0.69
5. Other irregularities	11	2.09
Total	33	111.64

A few important cases are mentioned in the succeeding paragraphs.

7.2. Non-levy of penalty for default
in payment of tax

Under Section 3-A of the U.P. Sugarcane (Purchase Tax) Act, 1961, no owner of a sugar factory shall remove or cause to be removed any sugar produced in the factory, either for consumption or for sale or for manufacture of any other commodity in or outside the factory, until he has paid the tax leviable on the purchase of sugarcane consumed in the manufacture of such sugar. Contravention of these provisions renders the factory owner liable to pay, under sub-section 5(b) of Section 3-A, in addition to the tax payable, a further sum not exceeding one hundred per cent of the sum so payable by way of penalty. The Act and the Rules, governing the levy of purchase tax on sugarcane do not provide for deferment of payment of tax.

A sugar factory in Ghazipur district, which commenced production from 1978-79 season, was granted deferment of tax on purchase of sugarcane for the first five seasons from 1978-79 to 1982-83 under an executive order issued by Government in December 1976 which was not consistent with the provisions of Act or Rules. The tax so deferred was to be realised in five equal annual instalments beginning from the ninth year of commencement of production.

The tax payable on purchase of sugarcane since 1983-84 season was, therefore, to be paid at the time of clearance of sugar from the factory. The factory, however, cleared sugar of 1983-84 and onward seasons also without payment of tax. The total tax defaulted during the seasons 1983-84 and 1984-85 alone amounted to Rs. 11.30 lakhs on purchase of 9,04,280.79 quintals of sugarcane. But no penal proceedings were initiated against the factory for non-payment of tax for the seasons of 1983-84 and 1984-85.

On this being pointed out in audit (November 1985), the department initiated penal proceedings in March 1986. Further developments are awaited (March 1988).

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

7.3. Incorrect fixation of rate resulting in accumulation of arrears

As per Section 3 of the U.P. Sugarcane (Purchase Tax) Act, 1961, there shall be levied and collected a tax on the purchase of sugarcane by the owner of a factory at the rate

of Rs. 1.25 per quintal of sugarcane. The tax payable by the factory is realised, as per Section 3-A ibid, at the time of clearance of sugar bags for which provisional rate per bag, based on the data of previous season, is fixed by the Assessing Officer in the beginning of the season (October to September). Immediately after the close of the crushing operation, the final rate is fixed after taking into account the sugar bags of the season left in stock and balance of tax yet to be paid.

The owner of a sugar factory in Farrukhabad district purchased 7,40,502.65 quintals of sugarcane during the season 1984-85 on which tax of Rs. 9.26 lakhs was leviable. On the clearance of 36,073 bags of sugar during the period from beginning of the season till 31st May 1985, tax amounting to Rs. 4.79 lakhs was realised by the department at the rate of Rs.13.28 per bag fixed by the Assessing Officer and Collector, Farrukhabad in the beginning of the season, while 36,412 bags remained in stock at the end of May 1985. In order to liquidate the remaining tax liability of Rs.4.47 lakhs, the final rate should have been fixed at Rs.12.27 per bag whereas it was incorrectly fixed at Rs.5.93 per bag by the Collector and the Assessing Officer in May 1985. This rate was

subsequently revised to Rs.24.95 per bag, as late as in June 1986 when stock left was 8,347 bags only. The fixation of incorrect rate resulted in tax of Rs.1.72 lakhs remaining unpaid at the end of July 1986, when no stock of sugar was left in hand.

On this being pointed out in audit (May 1986), the department stated (May 1987) that the arrears of tax had since been realised in full during December 1986 to February 1987 by tagging the same with the clearance of sugar of the 1986-87 season.

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

CHAPTER 8

OTHER TAX RECEIPTS

A- LAND REVENUE

8.1. Results of Audit

Test check of the accounts and relevant records of the offices of the Revenue Department, conducted in audit during the period from April 1986 to March 1987, revealed under-assessments of land revenue and land development tax and short realisation of collection charges amounting to Rs. 47.21 lakhs in 251 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of land revenue and land development tax	92	34.65
2. Short recovery of collection charges	66	7.71
3. Non-recovery of fee for supply of <u>jot bahis</u>	32	3.27
4. Other irregularities	61	1.58
TOTAL	251	47.21

A few important cases are mentioned in the succeeding paragraphs.

8.2. Non-recovery of fee for supply of jot bahis

Under sub-section of Section 33 of the U.P. Land Revenue Act, 1901, every tenure holder is supplied with a jot bahi (pass book) in respect of all holdings of land held by him on payment of prescribed fee, which is recoverable as arrears of land revenue. Its preparation and distribution to cultivators was introduced by Government with effect from the year 1969-70(1377 fasli, i.e., June 1969).

In three Land Record Offices and eleven Tahsils, 16,52,588 jot bahis were distributed to cultivators during the period 1970 to 1984, for which fee amounting to Rs.20.03 lakhs was recoverable as arrears of land revenue, against which the department recovered an amount of Rs. 12.62 lakhs only till February 1987. The balance of Rs. 7.41 lakhs still remains unrealised.

On this being pointed out in audit (between October 1984 and February 1987), the department stated that further sum of Rs. 5,249 had since been recovered.

The cases were reported to the department between December

1984 and April 1987; their reply has not been received (March 1988)

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

8.3. Non-recovery of collection charges

In terms of the Revenue Recovery (Uttar Pradesh Amendment) Act, 1965, revenue authorities on receipt of recovery certificates from the concerned authorities are required to recover dues on behalf of other departments of Government, semi-Government organisations and local bodies, as arrears of land revenue. Collection charges at the rate of 10 per cent of the dues collected are realised by the revenue authorities as service charges. The Board of Revenue, in their circular dated 30th June 1975, directed that the recovery certificates should clearly indicate whether collection charges were to be borne by the defaulter or by the department or the local bodies etc. issuing those certificates. In cases where no such indication was given in the recovery certificate, only the net amount, after deducting the collection charges, was to be

passed on to the concerned department or local bodies etc.

In six Tahsils (Farrukhabad, Etah, Basti, Ghazipur, Banda and Faizabad districts), collection charges in respect of the recoveries effected by the revenue authorities as arrears of land revenue on behalf of semi-Government organisations, local bodies, etc. during the years 1983-84 to 1985-86 were not deducted from the collections made nor were these charges otherwise recovered from those organisations or bodies. The omission resulted in collection charges amounting to Rs. 1.97 lakhs not being realised.

On the omission being pointed out in audit (November 1985, March 1986 and July 1986), the concerned Tahsildars stated that action was being taken for the recovery of the amount involved.

The above cases were reported to the department and Government between November 1985 and September 1986; their replies have not been received (March 1988).

B- ELECTRICITY DUTY

8.4. Results of Audit

Test check of the accounts of Assistant Electrical Inspectors/Appointed Authorities, conducted in audit during the year 1986-87, revealed non-levy or short levy of electricity duty and inspection fees amounting to Rs. 3.01 lakhs in 18 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Loss of revenue due to non-payment of electricity duty	5	0.46
2. Short levy of electricity duty and non-realisation of inspection fees	13	2.55
TOTAL	<u>18</u>	<u>3.01</u>

An important case is mentioned in the succeeding paragraph.

8.5. Short levy of electricity duty

Under the U.P. Electricity (Duty)

Act, 1952 and the rules framed thereunder, electricity duty is levied on energy sold to a consumer by a licensee, the Board, the State Government or the Central Government. For the purposes of calculation of electricity duty, energy supplied free of charge is deemed to be energy sold to consumer by the licensee or the Board at the rates applicable to other consumers of the same category. With effect from 1st October 1984, the rate of electricity duty (for purposes other than industrial or motive power) was enhanced from 2 paise to 4 paise per unit in respect of energy supplied at rates above 38 paise per unit.

A cement factory at Dalla (district Mirzapur), a unit of the U.P. State Cement Corporation Ltd. (a licensee), continued to realise electricity duty from its consumers at the rate of 2 paise per unit even after 30th September 1984 although the normal rate of energy charged was 68 paise per unit. During the period October 1984 to April 1986, 85,92,872 units of energy were supplied to the factory and other persons residing in the factory premises, and thus, there was short realisation of electricity duty to the tune of Rs.1.72 lakhs.

(188)

On this being pointed out in audit (July 1986), the Corporation agreed (July 1986) to realise duty at the enhanced rate from outside persons (residing in the factory premises); but no recovery was proposed to be made from the factory staff who were supplied energy free of charge. However, electricity duty in respect of energy supplied free of charge to the factory staff was also to be paid to Government whether the same was realised from the staff or not.

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

CHAPTER 9 **FOREST RECEIPTS**

9.1. General

(i) As on 31st March 1986, about 17.44 per cent (0.51 lakh square kilometres) of the total area (2.94 lakh square kilometres) of the State of Uttar Pradesh was under forests.

As per information supplied by the department, the forest area was distributed as follows:

	Forest area (Square kms.)	Percentage to total geo- graphical area
1. Area under the control of the Forest Department-Reserved	40,755.74	13.85
2. Area not under the control of the Forest Department		
- Civil & Soyam forests	8,013.63]	
- Panchayat Forests	2,368.00]	3.53
- Private forests	158.88]	
- Municipal, Cantonment and other forests	38.84]	0.06
Total	<u>51,335.09</u>	<u>17.44</u>

Note: Figures for 1986-87 were not available with the department (March 1988).

(ii) The forest revenue is derived mainly from sale of major and minor forest produce. The major forest produce includes timber and fuelwood and minor forest produce includes resin, tendu leaves, katha, grass, bamboo, boulders, bajri, stones, etc. As per information supplied by the department, out-turn and value of major forest produce (timber) were as under:

Year	Out-turn (In lakhs of cubic metres)	Value (In lakhs of rupees)
1984-85	4.43	4427.04
1985-86	4.45	4600.00

Note: The figures of 1985-86 ^{were} stated (October 1987) to be ^{provi-}sional. Figures for 1986-87 were not available.

9.2. Results of Audit

Test check of records of the divisions, conducted by Audit during the year 1986-87, revealed irregularities involving revenue of Rs.1200.73 lakhs in 122 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Allotment of forest produce at concess- ional rates	3	49.08
2. Irregularities in extraction of resin	9	69.80
3. Incorrect fixation of royalty	23	592.70
4. Loss of revenue due to non-registration of saw mills	11	13.30
5. Loss of revenue due to non-levy of stamp duty	15	38.87
6. Other irregularities	61	436.98
TOTAL	122	1200.73

A few interesting cases are men-
tioned in the succeeding paragraphs.

9.3. Extraction and sale of resin

9.3.1. Introduction

Resin is an important forest produce
which is extracted from pine forests growing

at an altitude of 1,050 to 2,250 metres in the lower Himalayas. This is the raw material for the production of rosin and turpentine oil. In Uttar Pradesh, most of the resin is collected through the employment of petty contractors (popularly called mates) and a very small quantity is collected departmentally where mates are not available.

9.3.2. Scope of Audit

Accounts and other records relating to production and disposal of resin of all the resin producing divisions under Kumaon, Garhwal, Bhagirathi and Yamuna forest circles were test checked by Audit between February 1987 and May 1987 to see whether in the working of resin contracts, the various orders had been followed and financial interest of the exchequer kept in view. Highlights and other findings are mentioned in the succeeding paragraphs.

9.3.3. Highlights

The review brings out the following important points:

(i) Decline in the channels tapped and fall in yield.

(ii) Introduction of the new implement (Joshi bashula) for resin crop of 1986 on an extensive scale, without its introduction on a pilot basis before extending it to the

whole State, led to decline in yield valuing Rs. 417.34 lakhs over and above the envisaged decline of Rs.149.82 lakhs.

(iii) Allotment of resin to a Government Company, cooperative societies and other small industrial units involved concessions amounting to Rs.3053.81 lakhs over a period of 7 years ending 1986-87.

(iv) In 4 divisions, 39 coupes having an estimated yield of 1,478 quintals (valuing Rs.7.82 lakhs) remained untapped.

9.3.4. Production of resin and revenue

The number of channels actually tapped, production and revenue earned vis-a-vis the targets set about the channels and production for the State are indicated in the table given below:

Year	No.of chan- nels to be tapped (In lakhs)	No.of chan- nels actu- ally tapped (in lakhs)	Esti- mated output from chan- nels to be ta- pped (Quin- tals in lakhs)	Actu- al output (Qui- ntals in lakhs)	Reve- nue earn- ed(In lakhs of rup- ees)
(1)	(2)	(3)	(4)	(5)	(6)
1980-81 (1980 Crop)	100.34	99.22	1.65	1.71	671.89

1981-82 (1981 Crop)	92.92	91.63	1.36	1.42	569.53
1982-83 (1982 Crop)	74.95	73.04	1.26	1.27	672.04
1983-84 (1983 Crop)	74.12	73.33	1.27	1.34	769.72
1984-85 (1984 Crop)	75.62	75.21	1.31	1.38	916.13
1985-86 (1985 Crop)	75.72	73.98	1.26	1.37	1047.55

It would be seen from the above table that the actual number of channels tapped each year after 1981-82 is, around 75 lakhs, nearly three-fourth of the number in 1980-81. Production of resin after 1981-82 is also around 1.35 lakh quintals compared to 1.71 lakh quintals in 1980-81. Rise in revenue from Rs.671.89 lakhs in 1980-81 to Rs.1047.55 lakhs in 1985-86 is solely attributed to rise in price of resin and not due to increased production. The department attributed the fall in the number of channels tapped as also the production to premature fall of trees on a large scale, especially in 1982 due to a storm (which, however, is a regular feature in hill areas) and to the ban on felling of green trees from 1982 which prevented "heavy" tapping in those trees which, in the past, would otherwise have been felled after the tapping.

9.3.5. Shortfall in resin production in 1986-87

As the conventional implement (bashula) for making and freshening of channels

for tapping of resin used to cause damage to pine trees reducing the yield of wood, a new type of bashula known as Joshi bashula was introduced from 1986 crop season for all resin producing divisions. This new implement required scrapping action instead of chiselling and the yield was estimated to be 1.5 quintals per 100 channels against the then obtaining yield of 1.83 quintals (average for the 3 years ending 1985-86) per hundred channels. The fall in rvenue due to lesser yield of resin was, according to the department, expected to be made up by higher yield of timber.

It was noticed from the report regarding working of the Joshi bashula submitted (June 1986) by the Principal Chief Conservator of Forests to Government that the new method was vehemently opposed by the mates and labourers which led to a severe setback in resin tapping operations in 1986.

The test check by Audit indicated that the actual shortfall in production in 1986-87 was 94,527 quintals as against expected shortfall due to introduction of Joshi bashula worked out at 24,971 quintals. Excess shortfall of 69,556 quintals thus entailed loss of revenue of Rs. 417.34 lakhs computed at the rate at which sale was made to Indian Turpentine and Rosin Company Limited, Bar-eilly.

The records of the West Almora Division revealed that out of 15.31 lakh channels

(196)

in 382 coupes, only 7.06 lakh channels in 228 coupes could be tapped. Besides less yield of resin, this involved infructuous expenditure of Rs. 3.30 lakhs, in setting up 8.25 lakh channels (at the rate of Rs. 40 per hundred channels as per Schedule of Rates of the Circle) which were left untapped.

Though introduction of Joshi bashula was expected to give an average yield of 1.5 quintals per 100 channels , the actual yield ranged from 0.83 to 1.36 quintals in 1986-87, whereas the yield was between 1.66 and 2.48 quintals per hundred channels in 1985-86. The sudden application of the new type of bashula (Joshi bashula) for resin tapping in all the resin producing divisions simultaneously without its pilot introduction resulted in disruption of resin production in the State. Judging by the adverse labour reaction, the Joshi bashula had been replaced (September 1986) by the State Government in the Kumaon region by a modified version of old one known as Kumaon bashula, from the year 1987-88 (1987 crop year).

9.3.6. Sale of resin at concessional rate

About 65 to 70 per cent of the total production (except from private forests) of resin is sold by the Forest Department to a Government Company, viz., Indian Turpentine and Rosin Company Limited, Bareilly and the balance 30 to 35 per cent to cooperative societies and other small industrial

units at the rates fixed by Government from time to time. The resin of private forests is sold by the department in open market by public auction for which the department gets service charges.

The sale price fixed by Government from year to year for supply of resin to the Indian Turpentine and Rosin Company Limited, cooperative societies and other small industrial units was much less than the price obtained in auction. The rates allowed to cooperative societies and other small industrial units for the years 1980-81 and 1982-83 to 1984-85 were lower than those fixed for the Indian Turpentine and Rosin Company Limited during the same period, and the rate (Rs. 347 per quintal) fixed for the year 1982-83 was even lower than the average all inclusive cost (Rs.377 per quintal) worked out by the department. The concession, in the shape of lower rates, allowed between 1980-81 and 1986-87 amounted to Rs. 3053.81 lakhs (Rs.1906.40 lakhs on sale to Indian Turpentine and Rosin Company and Rs.1147.41 lakhs on sale to co-operative societies and other units).

As against the concession of Rs.1906.40 lakhs allowed to the company, the dividend proposed by the Indian Turpentine and Rosin Company for payment to Government for the period from 1980-81 to 1985-86 was Rs. 14.16 lakhs only.

The department stated (November 1987) that only a small quantity was being sold in auction, and such a rate would not

possibly be obtained if the entire produce were to be sold in auction.

9.3.7. Loss due to theft, fire and pilferage

From the store accounts of resin maintained by the department, it was noticed that, in between 1980-81 and 1985-86, 1449.33 quintals of resin, valuing Rs.8.93 lakhs, was lost due to theft, fire and pilferage.

The department stated (April 1987) that action to recover / write off the loss was being taken.

9.3.8. Coupes remaining unworked

In four divisions (Badrinath, Garhwal, Pithoragarh and Uttarkashi), tenders for the period 1980-81 to 1983-84 for extraction of resin for 39 coupes having an estimated yield of 1,478 quintals of resin were not received. The coupes were also not worked departmentally. Thus, 1,478 quintals of resin involving revenue of Rs.7.82 lakhs remained untapped.

The department stated (November 1987) that the coupes could not be worked departmentally due to non-availability of labourers.

9.3.9. Non-imposition/short imposition of fine

As per terms of agreement, a fine of Rs. 1.12 lakhs was realisable from mates

(199)

for short extraction of resin by them in 253 coupes of Pithoragarh Division between 1980-81 and 1982-83, but it was not realised. The department stated (June 1986) that action was being taken to effect the recovery. Report on recovery is awaited (March 1988).

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

9.4. Non-levy of launching fee

According to the Uttar Pradesh Timber and other Forest Produce Transit Rules, 1978, any person or contractor who wants to transport his timber through forest waterways is required to obtain a permit in advance from the Divisional Forest Officer on payment of prescribed launching fee. Any one, who violates these provisions, is liable to imprisonment upto one year, or fine upto Rs.1,000, or both.

The Uttar Pradesh Forest Corporation was not paying the required launching fee to the Forest Department as required under the above rules. The Corporation represented (April 1981) to Government for exemption from payment. Government in consultation with the Law Department decided (August 1981) in favour of levying the fee as per the Rules of 1978 and the decision was communicated (28th August 1981) by the Chief Conservator of Forests, Uttar Pradesh to all the concerned forest divisions. The Additional Chief Conser-

vator of Forests (Management) Uttar Pradesh, Nainital reiterated (7th December 1983) similar instructions to effect the recovery of launching fee from the Corporation.

It was noticed in audit that in respect of two (West Almora and Nainital) divisions alone, launching fee amounting to Rs. 6.92 lakhs (Rs. 2.86 lakhs for the period 1978-79 to 1984-85 and Rs.4.06 lakhs for the period 1979-80 to 1982-83) was recoverable from the Corporation, but it was not realised. This indicates the non-observance of laid down systems/procedures.

On this being pointed out in audit (May 1986), Government /the department intimated (November 1987) that the Divisional Forest Officers, West Almora and Nainital had since recovered Rs.2.85 lakhs (March 1987) and Rs. 4.07 lakhs (July 1987) respectively from the Corporation.

9.5. Loss of revenue due to non-levy of transit fee

According to the Uttar Pradesh Timber and Other Forest Produce Transit Rules, 1978, no forest produce can be transferred in or from or within Uttar Pradesh without a transit pass for which a transit fee of Rs. 5 per tonne is payable to the Forest Department.

In the Tarai East Forest Division, Haldwani, 5 plots of Gaula river, falling

under reserve forest, were allotted to M/s Kumaon Mandal Vikas Nigam and Gaula Labour Contract Co-operative Society, Haldwani for five years from July 1980 for collection of boulder, bajri and lime stone. No agreement was executed between the department and the allottees. The allottees collected 54,79,248 tonnes of boulders, bajri and lime stone which quantity was transported by their contractors during July 1980 to June 1985 without payment of transit fee of Rs.273.96 lakhs. The deparatment also did not take any action to levy and realise the transit fee. Non-levy of fee resulted in loss of revenue of Rs.273.96 lakhs to Government over the period of five years.

On this being pointed out in audit in November 1985, Government stated(November 1987) that considering the present financial position of the allottees there was hardly any possibility of recovery.

9.6. Loss of revenue due to non-levy/
short levy of stamp duty

As per Uttar Pradesh Government notification issued on 14th January 1982 under the Indian Stamp Act, 1899, stamp duty is leviable on all contracts exceeding Rs.5,000 executed by the Forest Department for sale of standing trees or any other forest produce with effect from 20th January 1982. Stamp duty is chargeable at the rate of Rs.8.50 per one hundred rupees or any part thereof,

if the consideration is less than Rs.1,000, and at Rs.42.50 per five hundred rupees or any part thereof, if the consideration exceeds Rs.1,000.

Mention had been made in paragraph 5.8 of the Audit Report for the year 1984-85 about non-recovery of stamp duty amounting to Rs. 3.44 lakhs in respect of 220 contracts for sale of forest produce and 85 works contracts executed during 1982-83 to 1984-85.

It was further noticed that in three forest divisions (Nainital, East Almora and West Almora), in respect of 277 resin lots for which agreements were executed during the years 1984-85 and 1985-86, stamp duty of Rs.19.07 lakhs was not realised.

On this being pointed out in audit in May and June 1986, Government stated (November 1987) that the stamp duty at the (lower) rate of 4.50 per cent of security deposit was realised during 1985-86, as security deposits were either in the shape of Bank Pass Books or Fixed Deposit Receipts. The reply is not tenable as the duty is to be realised on the value of the agreements and not on amount of security deposits. Government further stated that recovery of the balance amount of stamp duty would not be possible as there was no clause to that effect included in the tender notice.

Failure to make liability of the contractors in this respect explicit in the

contract agreement, thus, led to such losses of revenue. Despite subsequent instructions of Government issued in July 1985, the contract agreements continue to be executed without explicit inclusion of such a clause.

9.7. Loss due to failure to detect illicit felling of trees

To prevent illicit felling of trees, the Divisional Forest Officer (DFO) is required to keep a specie-wise and girthwise record of trees felled, cases of damage of trees etc. The field staff entrusted with protection work is to promptly intimate unauthorised felling and encroachments to the DFO.

Through some complaints from public, it came to the notice of DFO, Gorakhpur in February 1985 that in three ranges of the North Gorakhpur Forest Division, there had been heavy illicit felling of trees between January 1984 and January 1985. On the basis of orders of the DFO, an Assistant Conservator of Forests (ACF) carried out combing operation of the area between February 1985 and June 1985. According to the combing report, 25,929 trees of different species and diameter were found to have been illicitly felled during the period from January 1984 to January 1985 involving loss of revenue of Rs.12.40 lakhs, calculated at the prevailing schedule of rates of the circle. No reports of such illicit felling and unauthorised export of

material had, however, been received from the concerned Range Offices. It was further noticed in audit that during the period of illicit felling of trees, the Assistant Conservator of Forests, who had headquarters in one of the three affected Ranges, had inspected each of them between one and seven days in each month throughout the period, but he failed to detect illicit felling of trees and unauthorised export of the material. The DFO also inspected those areas almost in each month, but failed to notice the illicit felling of trees.

The loss of Rs.12.40 lakhs was reported by the DFO to the Chief Conservator of Forests (Planning) in November 1985.

On this being pointed out in audit in February 1987, Government stated (November 1987) that fixing of responsibility of different officials for their failure to detect such large scale illicit felling spread over a year and consequent action on that basis was under consideration. Further report is awaited (March 1988).

9.8. Loss of revenue due to delay in exploitation of lots

According to the provisions (Rule 16 of Appendix V) of the Forest Manual, the villagers of the Kumaon Divisions are permitted to utilise for fuel windfallen wood, miscellaneous under-wood fodder etc., which are not marked by the department for sale.

The responsibility of safe custody of the marked trees lies with the department till the date of handing over of the work order to the contractor. However, in respect of the Uttar Pradesh Forest Corporation, no provision for penalty has been made if it delays exploitation of lots or acceptance of work orders.

(a) In the East Almora Forest Division, six lots of uprooted trees found fit (estimated out-turn : 579.53 cubic metres) were allotted by the Divisional Forest Officer to the Corporation between July 1984 and November 1984 for exploitation at a royalty of Rs. 1.55 lakhs. The Corporation did not exploit the lots in 1984-85 and it refused (May 1985) to pay the royalty as the lots were not worked out by it on the ground that the trees as indicated in the lots were not in position, and those in position were in rotten condition. But, in the absence of any penal provision against delays in acceptance of work orders, claim of Rs. 1.55 lakhs could not be enforced effectively.

On this being pointed out in audit (May 1986), the department stated (May 1986) that after allotment, the responsibility for safe custody of material in the lots rested with the Corporation, which did not work the lots in spite of repeated requests.

(b) Similarly, in the West Almora Forest Division, three lots of 1984-85 consisting

of 113 Chir trees (239.41 cubic metres timber) were allotted (July 1984) to the Corporation on royalty at the rate of Rs. 257 per cubic metre (gross amount: Rs.0.62 lakh). But the work order was not accepted by the Corporation (July and August 1984) owing to discrepancy in the number of trees as available in the lots. On a fresh enumeration conducted by the division between July 1985 and February 1986, it was found that out of 113 trees, only 19 trees were available and the rest 94 trees (194.39 cubic metres) valuing Rs. 0.50 lakh had been taken away by the nearby villagers for their personal use.

Thus, due to delay in exploitation and failure to protect the lots marked for sale, revenue to the extent of Rs.2.05 lakhs had been lost to Government in the cases mentioned at (a) and (b) above.

The case was reported to the department/Government in October 1986. Government stated (November 1987) that the Corporation was responsible for the delay in exploitation of lots and the matter regarding recovery of full amount of royalty was under correspondence with the Corporation.

9.9. Loss of revenue due to delay in approval of sale

According to the conditions 4 (c) and (d) of the Sale Conditions of Kumāon Circle for 1984-85, bids of the purchasers

would remain open up to 60 days from the date of auction and would not be withdrawn within this period.

In East Almora Forest Division, Almora 3112.43 quintals of resin received from private forests during 1984-85 were arranged in 51 lots and were put to auction on 17th May 1985. Out of this, the bids received in respect of 27 lots (1821.58 quintals) were considered reasonable by the Divisional Officer and were recommended (28th May 1985) to the Conservator of Forests, Kumaon Circle, Nainital, who, however, accorded approval to them on 3rd August 1985, after expiry of the stipulated period of 60 days. Meanwhile, due to delay in approval, the bidders withdrew their offers and demanded refund of their security deposits, which was accepted.

These 27 lots were again put to auction on 16th September 1985 but the bids were not accepted as the rates offered were less than those in the previous auction held on 17th May 1985. The resin was, however, finally sold on 17th April 1986 (1420.47 quintals in 20 lots) and 3rd July 1986 (401.11 quintals in 7 lots) for Rs. 19.80 lakhs against the previous offer of Rs. 23.03 lakhs. Thus, the delay in approval of sale within the prescribed period by the Conservator of Forests resulted in loss of revenue of Rs. 3.23 lakhs to Government.

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

9.10. Short realisation of royalty due to application of incorrect rates

As per Government orders issued in October 1984, rate of royalty leviable on boulders was revised from Rs. 2 to Rs. 4 cubic metre with effect from 19th October 1984. For bajri, it continued to be Rs. 5 per cubic metre.

In the West Bahraich Forest Division, Bahraich, 38,528 cubic metres of boulders and 27,449 cubic metres of bajri were allowed to be collected by various contractors between November 1984 and June 1986 after recovering royalty at the rate of Rs. 2 per cubic metre for bajri and boulders, instead of at the rate of Rs. 4 per cubic metre for boulders and Rs. 5 per cubic metre for bajri. This resulted in royalty being realised short by Rs. 1.59 lakhs.

On this being pointed out in audit in March 1987, the department/Government stated (November 1987) that short recovery in respect of boulders was due to delayed intimation of the revised rate to the division. As regards short recovery in respect of bajri, no reply has been given. Government, on a suggestion by Audit, agreed (November 1987) to work out the total amount of short recovery involved in this regard in the entire State.

9.11. Non-recovery of fine for short supply of sleepers

According to the Sale Rules for supply of railway sleepers, fine at prescribed rate is leviable on a contractor who fails to supply the allotted quantity of sleepers. The rules are also applicable to the Uttar Pradesh Forest Corporation (Corporation) in cases where allotments for supply of sleepers are placed on it.

In South Gorakhpur Division, out of 2473.750 cubic metres of railway sleepers allotted to the Corporation for supply during 1983-84, it supplied only 1256.620 cubic metres. Similarly, in South Kheri and West Bahraich Forest Divisions against the allotment of 210.543 and 89.925 cubic metres of special size sleepers for supply in the year 1984-85, the actual supply by the Corporation was 135.620 and 51.562 cubic metres respectively.

Fines amounting to Rs. 9.91 lakhs (calculated at the rate of Rs 360 per cubic metre in the case of Gorakhpur Division and at the rate of 150 per cent of the cost of sleeper in respect of the West Bahraich and the South Kheri Divisions) were, therefore, recoverable from the Corporation for short supply, but these were not levied. This indicates non-observance of laid down systems/procedures.

The cases were reported to Government between February 1986 and June 1986. Government stated that Rs. 9.91 lakhs had since been paid by the Corporation under protest. Result of the review of the related position in other divisions, requested for by Audit in November 1987, has not been received (March 1988).

CHAPTER 10

OTHER DEPARTMENTAL RECEIPTS

PUBLIC WORKS DEPARTMENT

10.1. Results of Audit

Test check of the accounts and records of 38 divisions of the Public Works Department, conducted in audit during the year 1986-87, revealed irregularities involving Rs.35.45 lakhs in 94 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of stamp duty on agreements	35	8.79
2. Sale of tender forms at pre- revised rates	26	3.85
3. Non-realisation of rent of build- ings and field hostels	8	13.81
4. Non-realisation of toll	5	2.09
5. Other irregula- rities	20	6.91
TOTAL	94	35.45

(212)

A few important cases are mentioned in the succeeding paragraphs.

10.2. Loss of revenue due to delay in implementation of Government orders

In terms of the Government orders of 31st August 1982, the minimum rate of tender fee was raised from Rs. 10 to Rs.15 for tenders costing up to Rs. 0.30 lakh and the maximum rate was Rs. 100 applicable to tenders costing above Rs.20 lakhs. These orders were applicable to all the departments of the State Government. However, the Public Works Department failed to circulate these orders to various offices under their administrative control.

On the omission being pointed out in audit (October 1985), the Public Works Department circulated (December 1985) the orders of August 1982 to the heads of offices for implementing the revised rates of tender fee. Delay of over three years in implementation of the Government orders resulted in loss of tender fee amounting to Rs.4.03 lakhs

in twentythree Public Works Divisions test checked during 1985-86 and 1986-87.

The matter was reported to Government between October 1985 and November 1986; their reply has not been received (March 1988).

10.3. Non-realisation of stamp duty on agreements

Exemption from the levy of stamp duty on agreements/contract bonds executed for Government works was withdrawn by Government by a notification issued on 14th January 1982. As such, all types of agreements became subject to stamp duty from 14th January 1982. As per Article 5(c) of Schedule I-B of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), an instrument of simple agreement (without security) is chargeable with stamp duty of Rs. 5 (increased to Rs.6 from 15th June 1982).

In 18 Public Works Divisions, stamp duty on 1,956 agreements at the rate of rupees five and on 16,625 agreements at the rate of rupees six, executed between January 1982 and October 1986, was not realised. This resulted in loss of revenue to the tune of Rs. 1.10 lakhs.

On this being pointed out in audit between August 1985 and October 1986, the Divisional Officers stated that no such order had been received in the divisions.

The matter was reported to the department and Government between October 1985 and November 1986; their replies have not been received (March 1988).

10.4. Misutilisation of departmental receipts

As per the provisions of the Financial Hand Book, Volume VI, cash realised by departmental officers is required to be remitted, as soon as possible, into the nearest treasury for credit as receipt of the department. If a divisional or sub-divisional officer wants to make use of cash receipts temporarily for meeting current expenditure, he may do so but, before the end of the month, he must send to the treasury for credit to Government account a cheque for the amount so utilised.

In Provincial Division, P.W.D., Faizabad, revenue receipts amounting to Rs.70,585, realised by the Divisional Officer between June 1984 and February 1985, were not deposited into the treasury. These receipts were utilised to meet departmental expenditure from time to time.

No cheque for the amount so utilised was sent to the treasury for credit to Government account, as required under the Financial rules. This indicates non-observance of laid down procedure.

On this being pointed out in audit (October 1986), the Executive Engineer stated (October 1986) that the amount would be remitted soon.

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

10.5. Non-recovery / short recovery of rent

(i) Short realisation of rent from occupants of officers' hostels

As per Government order of 26th October 1984, the officers of the State Government can occupy the officers' hostel for a period of six months or till the availability of suitable accommodation, whichever is earlier. This period can be extended on the request made in writing by the officers, with sufficient reasons, to the Collector, whose decision in the matter will be final.

The rent payable for the duration of stay in the hostel was fixed as under:

- (i) For the first six months, standard rent.

(216)

- (ii) For the next three months, double the standard rent.
- (iii) After first nine months, three times the standard rent.
- (iv) After one year, four times the standard rent or double the market rent, whichever is higher.

In six Public Works Divisions (Varanasi, Allahabad, Agra, Kanpur, Faizabad and Meerut), 203 officers, who had occupied the hostel accommodation between November 1984 and December 1986 and remained in occupation thereof beyond the initial period of six months, had not been charged rent at the enhanced rate for stay in excess of 6 months. This resulted in short realisation of rent amounting to Rs.5.89 lakhs.

On the matter being pointed out in audit (between August 1985 and March 1987), the Divisional Officers stated (between August 1985 and March 1987) that the above orders had not been received in their divisions. However, notices were stated to have been issued to the concerned officials for payment of the differential rents. Report on recovery has not been received (March 1988).

The matter was reported to Govern-
ment. between October 1985 and April 1987;
their reply has not been received (March
1988).

(ii) Non-realisation of rent from retired/transferred employees

As per the rules regulating allotment of Government accommodation, officials who have been allotted Government accommodation are required to vacate them on their transfer or retirement. If permitted to stay thereafter, officials remain in occupation of the same beyond the date of transfer or retirement, rent at the normal rate (standard rent or 10 per cent of pay, whichever is less) is payable for the first month. For period beyond first month, standard rent for the next two months, double the standard rent for the following two months and triple the standard rent thereafter is chargeable.

At Varanasi and Ballia, 3 employees who had been transferred to other stations between March 1983 and June 1985 and 4 officers at Allahabad who had retired between October 1976 and July 1985 continued to retain Government accommodations allotted to them for periods ranging from 12 months to 119 months without payment of higher rent, as chargeable under the rules. Rent due but not paid in these cases amounted to Rs. 2.30 lakhs. No action was taken by the department to recover this amount from the employees concerned.

The matter was reported to the department and Government between October

1985 and February 1987; their replies have not been received (March 1988).

(iii) Non-recovery of rent from occupants of Government houses constructed under pooled housing scheme

As per Government notification issued in September 1976, allotment of Government houses of the pooled housing scheme to the persons, not normally entitled to the accommodation, could be made only with the prior approval of the State Government. Rent chargeable from such persons is the market rent or double the standard rent, whichever is higher.

In Kanpur, Agra and Allahabad, 37 persons not entitled had been allotted pooled Government residences and they had paid/were paying rent at 10 per cent of pay or standard rent only, instead of rent recoverable as per the Government notification of September 1976, i.e., at the market rate or double the standard rent, whichever was higher. This resulted in short realisation of rent to the extent of Rs.2.30 lakhs during the period from 1976-77 to 1986-87.

On this being pointed out in audit (between August 1986 and October 1986), the Divisional Officers (Public Works Department) stated (between August 1986 and October 1986) that suitable action,

(219)

including issuance of notices, would be taken for recovery of the rent due.

The cases were reported to Government in October and November 1986; their reply has not been received (March 1988).

(iv) Non-recovery of rent for use of State Guest House under Government Estate Department

According to the rules framed in January 1980 for the State Guest House, only restricted categories of persons while on duty are entitled to stay in the State Guest House upto a week on payment of the prescribed rent and there-after upto a maximum period of 14 days on payment of rent at enhanced rates. At the time of leaving the State Guest House, all dues are required to be cleared by visitors.

As per information furnished by the Government Estate Officer, Lucknow, 181 officials and other visitors had not paid rent amounting to Rs. 84,231 for the period of their stay in the State Guest House during 1984-85 and 1985-86. No action had been initiated by the department to recover the dues from the visitors concerned.

The matter was reported to the department and Government in January 1987; their replies have not been received (March 1988).

AGRICULTURE DEPARTMENT

10.6. Results of Audit

Test check of the accounts and records of the Agriculture Department, conducted in audit during the year 1986-87, revealed irregularities involving Rs.4.69 lakhs in 18 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of stamp duty on agreements	3	0.44
2. Shortfall in pro- duction on Govern- ment agricultural farms	3	1.91
3. Sale of fertilizers at pre-revised rates	3	1.18
4. Non-realisation of additional tax on fertilizers	4	0.72
5. Other irregularities	5	0.44
TOTAL	18	4.69

A few important cases are mentioned in the succeeding paragraphs.

10.7. Sale of fertilizers

(i) Loss due to sale of fertilizers at pre-revised rates

Consequent on the increase in retail prices of fertilizers announced by the Government of India from zero hours of 31st January 1986, the sale prices of fertilizers were revised by the Government of Uttar Pradesh in their orders issued on 1st February 1986.

In three District Agriculture Offices (Jaunpur, Sultanpur and Pratapgarh), copy of the crash Government's order dated 1st February 1986, indicating the revised prices and asking all concerned to intimate the closing stock as on 31st January 1986, was received by the district authorities between 1st and 4th February 1986 and forwarded to all concerned thereafter with the result that sales at the revised rates could not be enforced from the 1st February 1986. During the intervening period from 1st February 1986 to 4th February 1986, 779 metric tonnes of fertilizers were sold in the three districts alone, resulting in loss of revenue amounting to Rs.1.65 lakhs. Information in respect of other districts of the State has not been received (March 1988).

The cases were reported to the department and Government between July 1986 and April 1987; their replies have not been received (March 1988).

Similar audit observations regarding loss of revenue amounting to Rs.38.21 lakhs under similar circumstances at the time of revision of rates on 8th June 1980 were reported in paragraph 8.4 of the Audit Report on Revenue Receipts, Government of Uttar Pradesh for the year 1981-82. The Public Accounts Committee (1985-86), in their recommendations (20th August 1986) on this para, had expressed regret that the department could not furnish information about the dates on which the orders were got received at different seed stores (through which the sales were made) and their distances from the district headquarters. It recommended that detailed investigations should be carried out and officials found guilty be punished.

(ii) Loss of revenue due to non-inclusion of additional tax in sale price of fertilizer

As per Government notification of 30th October 1985, additional sales tax at the rate of 10 per cent on the sale tax was leviable with effect from November 1985. Sales tax at the rate of 5 per cent was chargeable on fertilizers at the point of sale by manufacturer or importer. The

sale price of fertilizers to be charged from farmers is fixed by the Agriculture Department and it is inclusive of element of sales tax chargeable on fertilizers. The sale price of fertilizers fixed by the department in January 1986 was required to be revised consequent upon levy of additional sales tax from November 1985.

In four District Agriculture Offices (Ghaziabad, Shahjahanpur, Jaunpur and Sultanpur), element of additional tax leviable from November 1985 was not included in the sale price of fertilizers supplied to farmers during the period from December 1985 to January 1986. This resulted in loss of revenue to the tune of Rs. 0.52 lakh.

On this being pointed out in audit (between May 1986 and September 1986), the District Agriculture Officers stated (between May 1986 and September 1986) that Government orders of 30th October 1985 were circulated by the Director of Agriculture only on 15th January 1986. Consequently, it could be given effect from February 1986.

The cases were reported to the department and Government between July 1986 and October 1986; their replies have not been received (March 1988).

IRRIGATION DEPARTMENT

10.8. Results of Audit

Test check of the accounts and records of 15 divisions of the Irrigation Department, conducted in audit during the year 1986-87, revealed irregularities involving Rs.17.27 lakhs in 36 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of stamp duty	20	4.09
2. Unauthorised use of canal water	1	0.56
3. Misutilisation of departmental receipts	2	1.74
4. Deposits lying unclaimed for more than 3 years not credited to miscellaneous receipts of the department	2	9.23
5. Other irregularities	11	1.65
TOTAL	36	17.27

A few important cases are mentioned in the succeeding paragraphs.

10.9. Non-realisation or short realisation of stamp duty on lease agreements

In accordance with the provisions of Article 35(b) of Schedule I-B of the Indian Stamp Act, 1899 (as ammended in its application to Uttar Pradesh) and the instructions issued by the Board of Revenue in October 1953, stamp duty on leases for ferry services, fishing rights and market leases is to be levied, treating the full lease amount as 'premium'.

In three Irrigation Divisions (Aligarh, Agra and Okhla), in respect of 34 lease deeds for fishing rights, executed by the Divisional Officers with the lessees between 1981-82 and 1986-87, stamp duty was either not realised or was realised short treating them as ordinary agreements, chargeable with duty of Rs. 5 only. Non-levy of stamp duty on the basis of lease amounts (premium) resulted in non-realisation of stamp duty amounting to Rs. 0.52 lakh.

The matter was reported to the department and Government between October 1986 and April 1987; their replies have not been received (March 1988).

10.10. Mis-utilisation of departmental receipts

As per the provisions of the Financial Hand Book, Volume VI, cash realised

by departmental officers is required to be remitted, as soon as possible, into the nearest treasury for credit as receipts of the department. If a Divisional or

Sub-Divisional Officer wants to make use of the cash receipts temporarily for meeting current expenditure, he may do so, but before the end of the month, he must send to the treasury for credit to Government Account a cheque for the amount so utilised.

In three Irrigation Divisions (2 located at Azamgarh and 1 at Allahabad), revenue receipts amounting to Rs. 1.15 lakhs, realised by the Divisional/Sub-Divisional Officers, between October 1982 and October 1986, were not deposited into the treasury for periods ranging from 3 to 19 months. These receipts were utilised by them to meet departmental expenditure from time to time. No cheque for the amount so utilised was sent to the treasury for credit to Government Account, as required under the Financial Rules. This indicates non-observance of laid down procedure.

The irregularities were reported to the department and Government in July 1986 and October 1986; their replies have not been received (March 1988).

FOOD AND CIVIL SUPPLIES DEPARTMENT

10.11. Results of Audit

During the year 1986-87, test check of the accounts and relevant records of six District Supply Offices revealed irregularities involving Rs. 2.28 lakhs in 15 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of the difference due to increase in issue price of levy sugar	3	0.22
2. Non-crediting of lapsed securities as revenue to Government	4	0.37
3. Non-realisation of stamp duty on securities	1	0.05
4. Non-realisation of licence fee/renewal fee from cloth dealers	3	0.31
5. Non-realisation of	3	1.20

• the cost of ration cards		
6. Non-realisation of licence fee from co-operative societies dealing in sugar trade	1	0.13
	<hr/>	<hr/>
Total	15	2.28
	<hr/>	<hr/>

CO-OPERATION DEPARTMENT

10.12. Results of Audit

Test check of the accounts and relevant records of the offices of 3 Assistant Registrars, conducted in audit during the year 1986-87, revealed irregularities involving revenue of Rs. 0.82 lakh in 5 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of arbitration fee	1	0.04
2. Non-deposit of collection charges into treasury	3	0.71
3. Other irregularities	1	0.07
	<hr/>	<hr/>
Total	5	0.82
	<hr/>	<hr/>

GENERAL ADMINISTRATION DEPARTMENT**10.13. Loss of revenue due to non-fixation of dead rent at enhanced rates**

Under the provisions of the U.P. Minor Mineral (Concessions) Rules, 1963, the lessees are liable to pay dead rent at the rate specified in the Second Schedule of the Rules, or the prescribed royalty, whichever is higher. The State Government enhanced the minimum and the maximum rates of dead rent by notification published in the U.P. Government Gazette dated 15th September 1976. In view of the enhanced rates, the Dehradun District Authorities served (October 1979) to 7 lessees demand notices for the differential amount totalling Rs. 3.95 lakhs for the period from 15th September 1976 till the dates of expiry of leases in 1977.

The lessees filed petitions in the High Court at Allahabad against the differential demands on the ground that there had been no fixation of dead rent in their cases after the amendment which came into force. The High Court upheld (September 1983) the contention of the petitioners that the liability of the lessees to pay dead rent at the revised rates accrues from the day of communication of the revised rates in writing to them as provided in the relevant form appended

to the Rules. Thus, the District Authorities should have first communicated to the lessees simultaneously with the issue of the notification the revised dead rent fixed with effect from 15th September 1976. Since the said Authorities failed to do so, the lessees were not liable to make payment of dead rent at the enhanced rate for the said period. This resulted in a loss of revenue of Rs. 3.95 lakhs to Government.

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

LABOUR DEPARTMENT

10.14. Non-renewal of registration of shops and commercial establishments

Under the provisions of the Uttar Pradesh shops and Commercial Establishment Act, 1962 and the rules framed thereunder, registration of shops and commercial establishments is initially done for 3 years on payment of prescribed fee and, on the expiry of this period, registration is required to be renewed. Where an application for renewal of registration is received after due date, a late fee calculated at the rate of ten per cent of the renewal fee for each month or part thereof is chargeable under the Act.

(231)

Information collected (January 1988) from the Labour Commissioner, U.P., Kanpur showed that 95,736 shops and commercial establishments, where registrations became due for renewal by March 1987 (involving renewal fee of Rs.34.50 lakhs), did not apply for renewal on due dates.

On this being pointed out in July 1987, Government intimated (January 1988) that decision for amendment of the rule regarding recovery of late fee had since been taken which would encourage the shopkeepers to get their registration renewed. Besides, the shopkeepers were also being approached by the respective Regional Officers for giving them facilities of renewal by arranging camps.

Lucknow
The

(A.J.RAJENDRAN)
ACCOUNTANT GENERAL
(AUDIT)-II
Uttar Pradesh

Countersigned

NEW DELHI
The

(T.N.CHATURVEDI)
Comptroller and Auditor
General of India

