



REPORT
OF THE
COMPTROLLER
AND

AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 1989

No. 3

(REVENUE RECEIPTS)

GOVERNMENT OF UTTAR PRADESH

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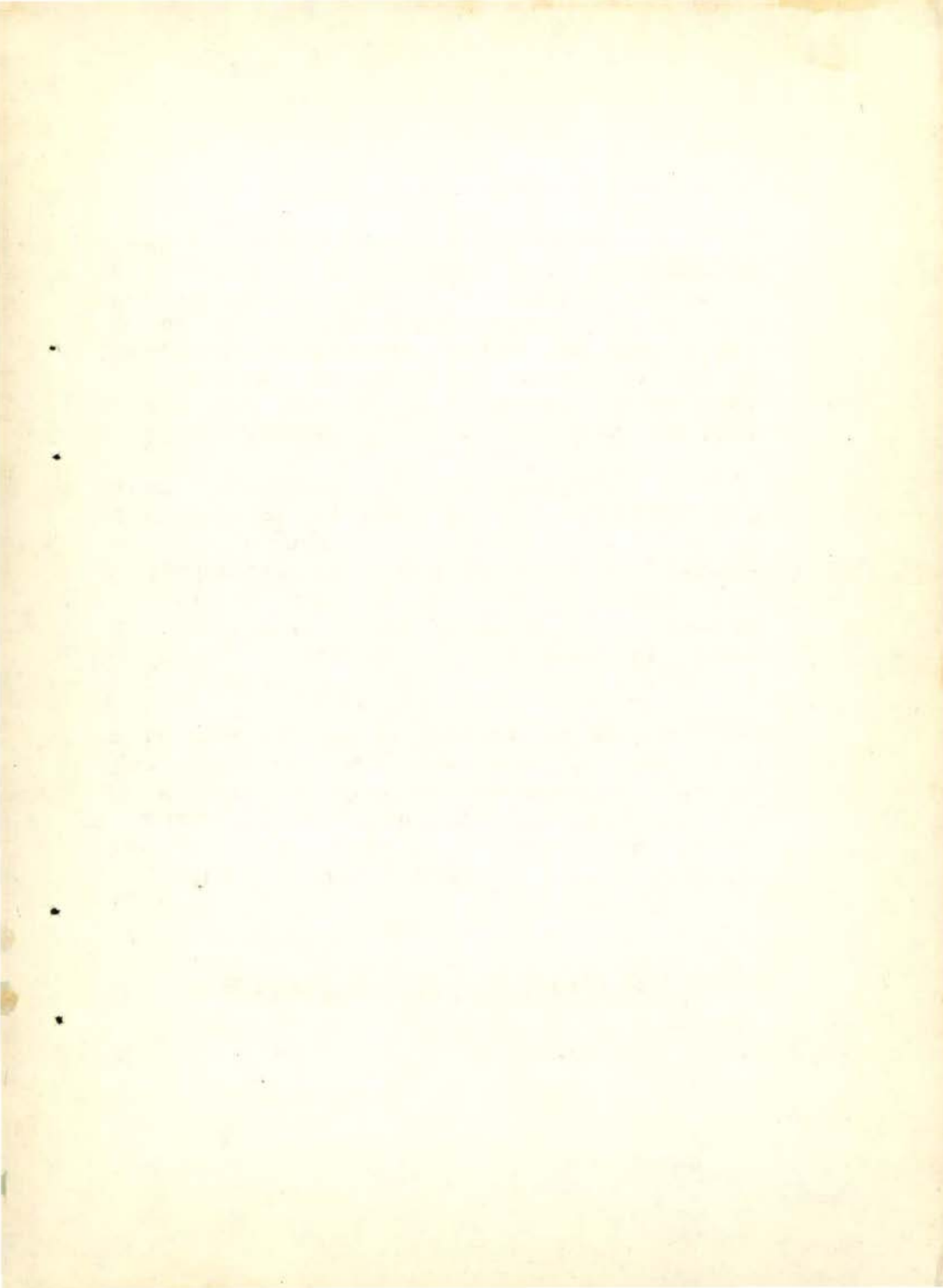
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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Uttar Pradesh for the year 1988-89 is presented in this separate volume No 3. The material in the Report has been arranged in the following order:

(i) Chapter 1 deals with trend 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.

(ii) Chapter 2 to 9 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 Registraton Fees, Land Revenue, Electricity Duty, Tax on purchase of sugarcane and Non-Tax Receipts.



OVERVIEW

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

1. General

(i) The total revenue receipts of Government of Uttar Pradesh during the year 1988-89 amounted to Rs.5852.20 crores. This comprised Rs.2085.74 crores tax revenue and Rs.704.65 crores non-tax revenue. The balance Rs.2881.81 crores represented receipts from Government of India (share of divisible Union taxes:Rs.1786.09 crores and grants-in-aid: Rs.1115.72 Crores).

(Para 1.2)

(ii) At the end of 1988-89, 7,42,340 Sales Tax cases were pending for assessments. Of the 3,44,140 cases assessed during 1988-89, assessment of 1,41,218 cases (41 per cent) was made during the last quarter of the year.

(Para 1.5 (a) & (b))

(xii)

(xiii)

(iii) Uncollected revenue at the end of 1988-89 was Rs.951.74 crores under Sales Tax, Rs.32.56 crores under Land Revenue, Rs.10.27 crores under Tax on Purchase of Sugarcane and Rs 8.98 crores under Receipts from Forestry and Wild Life.

An overview of important findings and interesting points included in the Report is given in (Para 11.6)

(iv) At the end of June 1989, 1855 Audit Inspection Reports (issued upto December 1988) containing 5050 objections and involving revenue of Rs.82.03 crores were outstanding for settlement with various departments. In respect of 413 inspection reports, even first replies had not been received from the departments.

from Government of India (Share of Rs.18.88 crores) (Para 11.8)

(v) Test audit conducted during 1988-89 revealed under assessments and loss of revenue aggregating to Rs.43.47 crores. These related to Sales Tax (Rs.3.81 crores), State Excise (Rs.0.94 crore), Taxes on Vehicles, Goods and Passengers (Rs.1.90 crores), Stamp Duty and Registration Fees (Rs.0.22 crore), Land Revenue (Rs.0.56 crore), Electricity Duty (Rs.0.34 crore), Tax on Purchase of Sugarcane (Rs.2.02 crores), Forest Receipts (Rs.31.29 crores) and Other Departmental Receipts (Rs.2.39 crores).

(vi) This report includes representative cases of non-levy/short levy of

(xiv)
tax, duty, fees, royalty, interest and penalty etc. and findings of three reviews, involving financial effect of Rs.16.37 crores, noticed during test check in 1988-89 and earlier years. Of this, under assessments of Rs.3.17 crores were accepted by the departments, out of which Rs.0.23 crore were recovered till November 1989. In respect of the balance amount of Rs.13.21 crores, comments/final replies of the departments / Government have not been received (November 1989).

2. Sales Tax

(i) A review on "exemptions from sales tax to new industrial units" revealed the following:

(a) Out of 244 units which had completed the exemption period by March 1988, 93 units (38 per cent) were closed either during the period of exemption or thereafter; of the remaining 151 units, 94 units were showing decreasing turnover and only 57 units (23 per cent) were operating in good shape.

(Para 2.2.5)

(b) Districts which were industrially backward failed to attract new units despite exemptions for longer period provided under the scheme.

(Para 2.2.6)

(c) Delay in deciding on applications

(xv)

for exemption entailed huge loss of revenue. Out of 516 applications for exemptions which were ultimately rejected, 176 units had enjoyed benefit of Rs.12.20 crores before their requests for exemption were rejected.

(Para 2.2.8)

(d) Irregular exemption granted in 4 cases resulted in forgoing a revenue of Rs.38.21 lakhs.

(Para 2.2.9)

(e) Defective clarification by the Director of Industries extending exemption to even units with investment of less than Rs.3.00 lakhs resulted in loss of revenue amounting to Rs.8.32 crores in case of one unit alone, which enjoyed the exemption for 5 years instead of 3 years, as provided under the scheme.

(Para 2.2.12)

(ii) In the case of a dealer of Agra, non-observance of prescribed precautions, prior to the granting of registration certificate (January 1977), faulty verification of personal details of the dealer, and failure to take prompt action on the loss of office records, despite the discovery that the firm was bogus, led to estimated loss of revenue of Rs.42.47 lakhs.

(Para 2.3(a))

(xvi)

(iii) In Kanpur Circle, irregular grant of recognition certificate to a dealer manufacturing cycle seat leather tops, resulted in loss of revenue amounting to Rs.3.94 lakhs.

(Para 2.4.(a)(i))

(iv) Two dealers of Kanpur (Dehat) purchased iron and steel worth Rs.39.29 lakhs free of tax during 1983-84 on false declaration that the goods were covered by the certificate of registration granted to them under the Central Sales Tax Act, 1956. The dealers were liable to pay penalty up to Rs.4.71 lakhs, but no penalty was imposed by the assessing officer.

(Para 2.5(a))

(v) A dealer in Ghaziabad Circle purchased raw materials worth Rs.28.02 lakhs free of tax for manufacture of rubber products but manufactured belt-ings which do not fall in the category of rubber products. Penalty upto Rs.6.72 lakhs was leviable for the misuse; but no penalty was imposed.

(Para 2.6(i)(a))

(vi) A dealer of Ghaziabad imported goods worth Rs.34.62 lakhs during 1980-81 from outside the State without submitting the prescribed declarations (form xxxi), which attracted penalty amounting to Rs.13.85 lakhs which was not levied at the time of assessment;

(xvii)

but penalty of Rs. 3.55 lakhs was levied on being pointed out in audit.

(Para 2.7(a)(i))

(vii) A dealer of Kanpur Circle availed exemption on sales of Rs. 203.04 lakhs on the basis of declarations which were found to be false by the department but no penalty was imposed while completing assessment. Penalty amounting to Rs. 12.20 lakhs was imposed by the department on being pointed out in audit.

(Para 2.7(a)(ii))

(viii) Consignment transfers of iron and steel amounting to Rs. 56.58 lakhs made by a dealer of Kanpur were found to be fake by the department. The assessing authority determined his sales at Rs. 150 lakhs. The sales transaction was treated as inter-State sales but tax was erroneously levied at 4 per cent instead of at 3 per cent, leading to short levy of Rs. 6 lakhs. Besides, the dealer was also liable to pay penalty up to Rs. 9 lakhs, which was leviable for concealment of facts, which was not levied. Additional demand for Rs. 6 lakhs was raised on being pointed out in audit.

(Para 2.8)

(ix) In his accounts for the year 1983-84, a dealer of cement exhibited, the sale of cement and sale of gunny bags separately. Tax on the sales of gunny

(x)(xviii)

bags amounting to Rs.256.15 lakhs was levied at the rate of 6 per cent instead of at 8 per cent (rate applicable to cement), resulting in short levy of Rs.5.27 lakhs.

(Para 2.14(a))

(x) In Sales Tax Circle, Pilibhit, in the case of an assessee (Forest Department), tax leviable actually amounted to Rs.24.09 lakhs, due to calculation mistake was computed as Rs.20.50 lakhs, leading to short assessment of Rs.3.59 lakhs. Demand for Rs.3.59 lakhs was raised on being pointed out in audit.

(Para 2.16(b))

3. State Excise

(i) Absence of any time limit for submission of wastage statements and issue of recovery orders, led to non-realisation of duty on transit wastages of spirits in excess of the prescribed limits, amounting to Rs. 8.95 lakhs in respect of four distilleries, even after 10 years in certain cases.

(Para 3.3)

(ii) On excess wastage of 13,115.95 A.L. (Alcoholic Litre) excise duty amounting to Rs.7.21 lakhs was not realised from the handling agent of West Bengal in respect of export of spirit outside India. The department

(xix)

issued demand notice to the agent on being pointed out in audit.

(Para 3.4)

(iii) A distillery at Dehradun failed to supply 5.18 lakh litres of spirit demanded by the retail vendors in contravention of the terms of contract. The distillery was liable to penalty upto Rs.90.68 lakhs in terms of the contract but no action was taken to this effect. On the contrary, contract for supply of spirit in the subsequent years was awarded to the same distillery.

(Para 3.9)

(iv) At Etawah, an amount of Rs.25.16 lakhs (Rs.3.16 lakhs in cash and Rs.22 lakhs in bank draft) was received towards advance security on 27th March 1987. Of this, an amount of Rs.3.16 lakhs was deposited to Government account after a lapse of 3 months and 19 days, while bank draft of Rs. 22 lakhs was not credited to Government account till November 1989 although under the rules, it was required to be deposited on the same day or next day.

(Para 3.10)

(xx)

4. Transport Department

(i) A review on "assessment and collection of Passenger Tax" revealed the following:

(a) Contribution of Passenger Tax revenue to the total Tax Revenue of the State indicated a declining trend. Increase in Passenger Tax receipts over the period from 1982-83 to 1987-88 was not commensurate with the increase in number of buses and hike in passenger fare over the same period; the shortfall was to the extent of 95.5 per cent.

(Para 4.2.5)

(b) Delay in promulgation of minimum rate of fare by the State Transport Authority deprived the State Government of revenue to the tune of Rs.13.26 lakhs.

(Para 4.2.6(ii))

(c) Non-assessment of passenger tax on basis of fare for full route lengths resulted in short realisation of Rs.7.23 lakhs.

(Para 4.2.8)

(xx) (xxi)

(d) Non-assessment of passenger tax for the entire permitted route resulted in short realisation of tax amounting to Rs.10.58 lakhs.

(Para 4.2.12.)

(a) Delay in issue of permits on inter-State routes between Uttar Pradesh and Madhya Pradesh deprived the State Government of passenger tax amounting to Rs.7.88 lakhs.

(Para 4.2.15(i))

(f) As a result of lack of control and monitoring over remittances of passenger tax due to the State from other State/Union Territories, the Delhi Transport Corporation remitted only Rs.150.00 lakhs against Rs.226.35 lakhs due.

(Para 4.2.16)

(iii) Finalisation of lump sum agreements for payment of passenger tax on fares which were less than the prescribed minimum in respect of 16 routes in Azamgarh, Bareilly, Mirzapur and Varanasi regions resulted in short levy of Rs.3.93 lakhs.

(Para 4.3(a))

(iii) Non-revision of lump sum agreements in lieu of passenger tax, in respect of vehicles plying on two routes in Jhansi region, even after

(xxii)

receipt of departmental survey report in January 1987 resulted in short levy to the extent of Rs.2.25 lakhs.

(Para 4.5(a)(i))

(iv) In respect of 11 goods vehicles in Mirzapur sub-region, goods tax and road tax to the extent of Rs.3.08 lakhs was not assessed and recovered during the period January 1984 to December 1988.

(Para 4.9(a))

5. Stamp Duties and Registration Fees

Due to under-valuation of lands and buildings, stamp duty was short levied in 40 cases to the extent of Rs.1.75 lakhs. Additional Stamp duty of Rs.1.74 lakhs and penalty of Rs.1.41 lakhs were levied in these cases on being pointed out in audit.

(Para 5.2)

6. Land Revenue

In respect of dues recovered on behalf of other bodies by issuing recovery certificates, collection charges amounting to Rs.6.10 lakhs were not realised.

(Para 6.2)

7. Other Tax Receipts

A-Electricity duty

A review on "Realisation of electricity duty and fees" revealed the following:

(i) About 90 per cent of the total amount of electricity duty is realised from the Uttar Pradesh State Electricity Board. The duty is not being deposited by the Board in the manner laid down in the U.P. Electricity (Duty) Rules, 1952. There is no system to verify the correctness of the amount of duty paid with reference to the number of units consumed.

(Para 7.2.6)

(ii) Electricity duty amounting to Rs.24.77 lakhs was short realised due to incorrect application of rates in case of six appointed authorities, one licensee and two distribution divisions of U.P.S.E.B.

(Para 7.2.9)

(iii) Electricity duty amounting to Rs.9.75 lakhs was not levied on energy supplied free of charge to defence personnel by four appointed authorities.

(Para 7.2.10)

(iv) In ten distribution divisions of

(xxiv)

U.P.S.E.B. electricity duty amounting to Rs.8.78 lakhs was not levied or was short levied on consumption of energy for street light and public lamps.

(Para 7.2.11)

(v) Electricity duty amounting to Rs.7.04 lakhs was not levied on the energy sold for consumption in the residential colony of a Central Government Undertaking.

(Para 7.2.12)

(vi) Recovery of electricity duty amounting to Rs.75.43 lakhs was pending in respect of one appointed authority, one licensee and 22 other persons even after delays ranging from 10 months to 25 years.

(Para 7.2.13)

(vii) Interest amounting to Rs.76.17 lakhs was not charged on belated payment of electricity duty by three licensees.

(Para 7.2.14)

(viii) Interest amounting to Rs.1.76 crores on belated payment of duty upto March 1975 has not been paid by U.P.S.E.B. interest of Rs.3.44 crores for the period from 1975-76 to 1979-80 was waived by the Government, though there is no such provision in the Act.

(Para 7.2.15)

(ix) Periodical inspections and testing of electrical installations was carried out only to the extent of 16 per cent. Non-inspection of installations involved safety risks and hazards apart from net loss of revenue of Rs.4.76 crores which would have been realised by way of inspection fees.

Rs.7.04 lakhs was not levied on the consumption in the (Para 7.2.17)
B. Tax on purchase of sugarcane

Purchase tax amounting to Rs.1.81 lakhs was not paid by a sugar factory on 1,45,056.40 quintals of sugarcane grown in factory's own farms and used for production of sugar.

amounting to Rs.1.81 lakhs was not paid by a sugar factory on 1,45,056.40 quintals of sugarcane grown in factory's own farms and used for production of sugar. (Para 7.5)
in respect of one appointed authority, 10 other persons even after delays ranging from 10 months to 25 years.

8. Forest Receipts

(i) Rates of royalty on the forest produce allotted to the Van Nigam during 82-83 were fixed by the department by allowing increase on the original rates instead of on the revised rates of 1981-82 (incorporating increase of 41.08 per cent) prescribed by Government in April 1984. The mistake resulted loss of revenue of Rs.238.10 lakhs during 1982-83 to 1987-88. Additional demands for Rs. 154.97 lakhs (upto 1985-86) were raised against the Corporation on being pointed out in audit.

there is no such provision in the Act.
(Para 8.2(i))

(xxvi)

(ii) In five forest divisions, for collection of tendu patta of 1987 season royalty of Rs.468.36 lakhs was payable in three instalments, by the agent. Against this, royalty actually paid was Rs.234.08 lakhs only. No action was initiated to recover the balance amount of royalty of Rs.234.28 lakhs and Sales Tax of Rs.26.64 lakhs. Besides, stamp duty of Rs.44.49 lakhs could also not be realised because of non-execution of agreement, though required under the Rules.

(Para 8.3)

(iii) In three forest divisions, incorrect estimation of outturn resulted in loss of royalty amounting to Rs.28.65 lakhs.

(Para 8.4)

(iv) In five forest divisions, contract deeds were not executed with allottees for sale of forest produce, which resulted in loss of revenue amounting to Rs.14.43 lakhs by way of stamp duty.

(Para 8.5)

9. Other Departmental Receipts

(i) In five Tubewell Divisions, delay in repairs of tubewells deprived, on the one hand the cultivators of irrigation facilities, while on the other, Government lost revenue of Rs. 3.06 lakhs.

(Para 9.2)

(ii) In ten public works divisions, stamp duty amounting to Rs.18.89 lakhs was levied short in respect of lease agreements executed by the department with lessees for collection of toll.

(Para 9.7)

(iii) In two Public Works Divisions, departmental charges amounting to Rs.7.30 lakhs were not recovered on deposit works carried out by the department.

(Para 9.8)

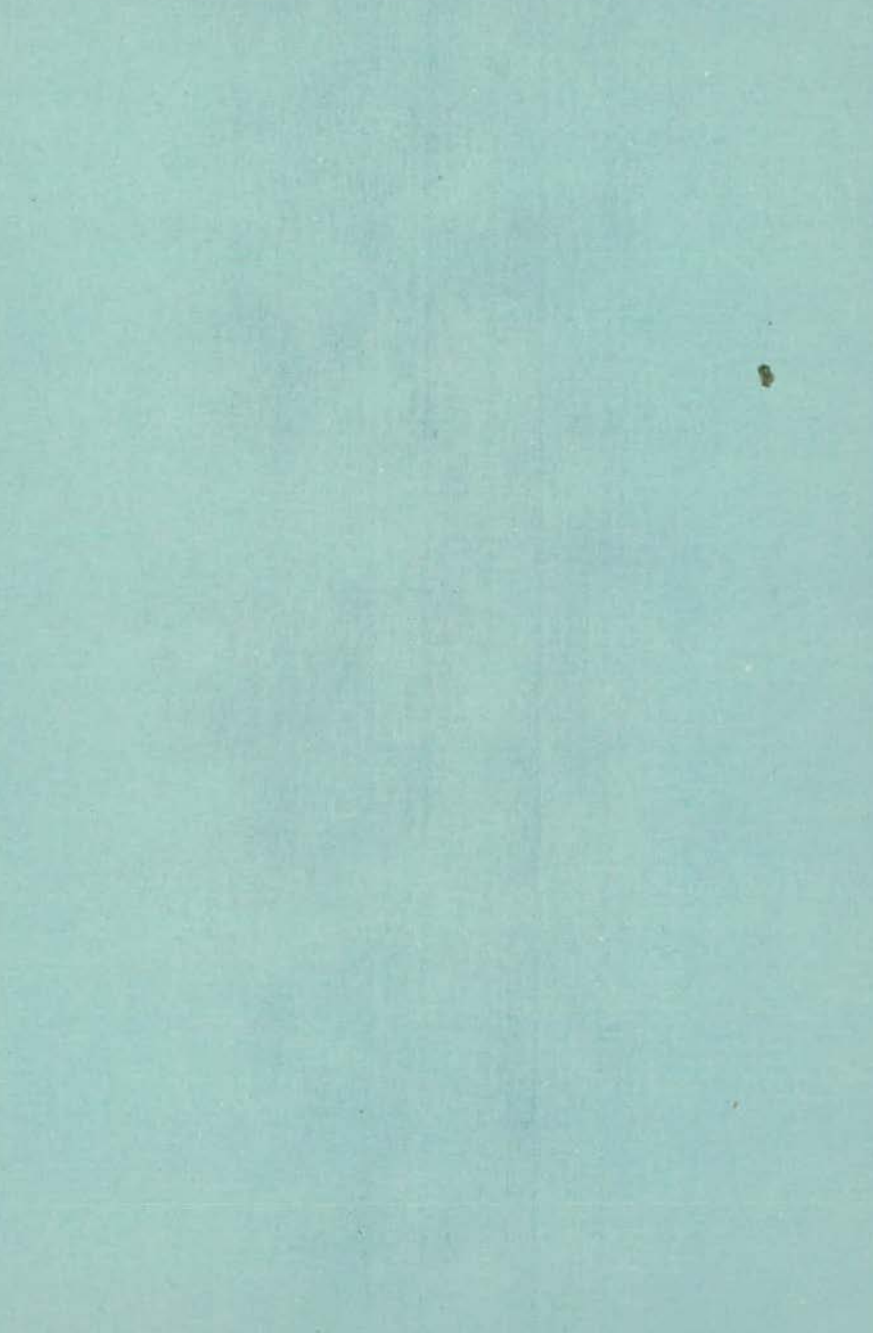
(xxviii)

(iv) In three Agriculture offices, variation (shortfall) between the estimated and actual produce of wheat and paddy during 1985-86 and 1986-87 at the State owned farms was in excess of the permissible limit of ten per cent, which resulted in shortfall in revenue to the extent of Rs.13.80 lakhs. No action was taken against the Farm Superintendent to recover the loss as contemplated in the instructions issued.

(Para 9.14)

(v) Due to irregular grant of subsidy on sale of fertilizer beyond the date of its withdrawal, Government suffered a loss of revenue amounting to Rs.8.25 lakhs.

(Para 9.15)



CHAPTER 1

GENERAL

1.1.Trend of revenue receipts

The total revenue receipts of the Government of Uttar Pradesh for the year 1988-89 were Rs 5652.20 crores, against the anticipated receipts of Rs 5173.69 crores. Increase in total receipts during the year over the receipts of 1987-88 (Rs 5331.93 crores) was only 6 per cent as against the corresponding increase of 28 per cent of the previous year. Of the total receipts of Rs 5652.20 crores, revenue raised by the State Government amounted to Rs 2770.39 crores, of which Rs 2065.74 crores represented tax revenue and the balance Rs 704.65 crores non-tax revenue. Receipts from the Government of India amounted to Rs. 2881.81 crores.

1.2.Analysis of revenue receipts

(a) General analysis

An analysis of the revenue receipts for the year 1988-89, alongside those for the preceding two years, is given below:

1986-87 1987-88 1988-89
(In crores of rupees)

1. Revenue raised
by the State
Government

(a) Tax revenue	1528.60	1988.66	2065.74
(b) Non-tax revenue	502.11	631.39	704.65
	-----	-----	-----
Total	2030.71	2620.05	2770.39
	-----	-----	-----

II. Receipts from
the Government
of India.

(a) State share of divisible Union taxes	1427.61	1786.79	1766.09
(b) Grants-in- aid	713.32	925.09	1115.72*
	-----	-----	-----
Total	2140.93	2711.88	2881.81
	-----	-----	-----

III. Total receipts of the
State (I+II) 4171.64 5331.93 5652.20

* for details, please see Statement
No.11-detailed Accounts of Revenue by
Minor Heads in the Finance Accounts of
Government of Uttar Pradesh 1988-89.

IV. Percentage of I to III	49	49	49
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(b) Tax revenue raised by the State Government

Receipts from tax revenue (Rs 2065.74 crores) during the year 1988-89 constituted 75 per cent of the State's own revenue receipts (Rs 2770.39 crores) and registered an increase of 4 per cent over the receipts of the previous year 1987-88, viz , Rs 1988.66 crores.

An analysis of tax revenue for the year 1988-89 and for the preceding two years is given below:

Revenue Head	1986-87	1987-88	1988-89	Increase (+) decrease (-) in 1988-89 with reference to 1987-88
(1)	(2)	(3)	(4)	(5)
(In crores of rupees)				
1. Other Taxes ..		0.02	0.01	(-)0.01 (50)
On Income and Expenditure*				
2. Land Revenue	29.48	35.75	35.77	(+)0.02 (0.06)
3. Stamps and Registration	174.11	250.33	251.77	(+)1.44 (0.6)
4. Taxes on Immovable Properties other than Agricultural Land		0.13	0.07	(-)0.06 (46)
5. State Excise	228.11	494.15	338.24	(-)155.91 (32)

*Receipts under this pertain to taxes on Professions, Trades, Callings and Employment.

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6.	Sales Tax	716.28	799.42	947.00	(+)	147.58 (18)
7.	Tax on Purchase of Sugarcane	38.51	37.38	27.18	(-)	10.20 (27)
8.	Tax on Sale of Motor Spirits and Lubricants	102.11	117.23	116.03	(-)	1.20 (1)
9.	Taxes on Vehicles	47.29	51.12	89.84	(+)	38.72 (76)
10.	Taxes on goods and Passengers	95.63	108.23	125.07	(+)	16.84 (16)
11.	Taxes and Duties on Electricity	36.21	41.78	62.00	(+)	20.22 (48)
12.	Other Taxes and Duties on Commodities and Services Entertainment Tax	60.87	53.12	72.76	(+)	19.64 (37)
Total		1528.60	1988.66	2065.74	(+)	77.08 (4)

(In the last column, figures within brackets denote percentage)

Growth in tax revenue over the previous year, which registered an increase from 18 per cent in 1986-87 to 30 per cent in 1987-88, has come down to 4 per cent in the year 1988-89. The main reason for this deceleration was the fall in revenues under the heads state Excise (Rs 155.91 crores) and Tax on Purchase of Sugar-cane (Rs 10.20 crores), reasons for which were not made available by the departments. This was partly offset by the substantial increases under other major tax receipts except under the head Stamps and Registration, in respect of which the increase was nominal (less than one per cent).

(c) Non-tax revenue of the State

Receipts from non-tax revenue (Rs 704.65 crores) during the year 1988-89 constituted 25 per cent of the State's own revenue receipts (Rs 2770.39 crores) and registered an increase of 12 per cent over the receipts of the previous year 1987-88 (Rs 631.39 crores) as against the corresponding increase of 26 per cent over the receipts of 1986-87

An analysis of non-tax revenue for the year 1988-89 and for the preceding two years is given below:

(7)

Revenue Head	1986-87	1987-88	1988-89	Increase (+)/ Decrease (-) in 1988-89 with reference to 1987-88
-----------------	---------	---------	---------	--

(in crores of Rupees)

1. Interest Receipts	213.86	295.58	234.54	(-) 61.04 (21)
2. Misce- llaneous General Services	48.17	66.60	106.67	(+) 40.07 (60)
3. Edu- cation, Sports, Art and Culture	12.30	21.02	16.33	(-) 4.69 (22)
4. Forestry and Wild Life	78.99	100.80	78.18	(-) 22.62 (22)
5. Major and Medium Irrigation Projects	44.42	17.16	30.39	(+) 13.23 (77)
6. Minor Irrigation	12.41	11.60	16.30	(+) 4.70 (41)

7. Others	91.96	118.63	222.24	(+)103.61 (87)
Total	502.11	631.39	704.65	(+) 73.26 (12)

(In the last column, figures within brackets denote percentage.)

The main shortfall, as compared to the receipts in the previous year was under 'Interest Receipts' (Rs 61.04 crores) and 'Forestry and Wild Life' (Rs 22.62 crores). There was, however, substantial rise under 'Miscellaneous General Services' (Rs. 40.07 crores) and 'Others' (Rs 103.61 crores) leading to an overall increase of 12 per cent.

1.3. Variations between Budget estimates and actuals

(a) The variations between Budget estimates and actuals of tax revenue and non-tax revenue during the year 1988-89 are given below:

(9)

	Budget Estimates	Actuals	Vari- tion Increase (+)/ Short- fall(-)	Per cen tage of Varia tion

(In Crores of Rupees)				

A. Tax Revenue	1871.88	2065.74	(+)193.86	10
B. Non-Tax Revenue	577.73	704.65	(+)126.92	22

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

Revenue Head	Budget Estimates	Actuals	Vari- tion Increase (+)/short fall(-)	Per cen tage of varia tion
(1)	(2)	(3)	(4)	(5)
(In crores of Rupees)				

A. Tax Revenue

1. Land Revenue	30.00	35.77	(+) 5.77	19
2. Stamps & Registration	200.00	251.77	(+) 51.77	26
3. State	345.50	338.24	(-) 7.26	(-) 2

Excise

4. Sales Tax	880.00	947.00	(+) 67.00	8
5. Tax on Sale of Motor Spirits and Lubricants	116.03	116.03	Nil	Nil
6. Tax on Purchase of Sugarcane	27.50	27.18	(-) 0.32	(-) 1
7. Taxes on Vehicles	55.22	89.84	(+) 34.62	63
8. Taxes on Goods and Passengers	112.32	125.07	(+) 12.75	11
9. Taxes and Duties on Electricity	40.02	62.00	(+) 21.98	55
10. Other Taxes and Duties on commodities and Services-Entertain- ment tax.	65.23	72.76	(+) 7.53	12

B. Non-Tax Revenue

11. Interest Receipts	191.98	234.54	(+) 42.56	22
12. Miscel- laneous General Services	70.07	106.67	(+) 36.60	52

13. Education Sports, Art and Culture	25.80	16.33	(-) 9.47 (-)37	
14. Forestry & Wild Life	73.29	78.18	(+) 4.89	7
15. Major and Medium Irrigation Project	72.02	30.39	(-) 41.63 (-)58	
16. Minor Irrigation	11.45	16.30	(+) 4.85	42

Variations under the heads 'Taxes on Vehicles' and 'Taxes and Duties on Electricity' under Tax Revenue were more than 50 per cent as compared to the budget estimates. Similarly, variations under 'Miscellaneous General Services' and 'Major and Medium Irrigation Projects' were more than 50 per cent as compared to budget estimates under the Non-Tax Receipts. Since defective estimation in framing budget proposals might lead to less than optimum mobilisation of available resources, this is an area requiring special attention of the Government.

1.4. Cost of collection

Expenditure incurred on collection of receipts under the principal heads of revenue during the three years 1986-87 to 1988-89 is given below:

Revenue Head	Year	Gross Collec- tion	Expend- iture on col- lection	Per cen- tage of Exp endi- ture to gro- ss Coll ecti- on
(1)	(2)	(3)	(4)	(5)
(in crores of rupees)				
1. Land Revenue	1986-87	29.48	27.89	95
	1987-88	35.75	33.95	95
	1988-89	35.77	40.24	112*
2. Sales Tax	1986-87	716.28	14.74	2
	1987-88	799.42	17.50	2
	1988-89	947.00	24.97	3
3. Taxes on vehicles	1986-87	47.29	1.28	3
	1987-88	51.12	1.72	3
	1988-89	89.84	2.21	2
4. Taxes on Goods and Passengers	1986-87	95.63	0.94	1
	1987-88	108.23	0.28	-
	1988-89	125.07	0.29	-

*Does not represent the expenditure solely for collection of Land Revenue. Please refer to the Sub-Para below.

5. Electricity Duty	1986-87	36.21	0.74	2
	1987-88	41.78	0.91	2
	1988-89	62.00	1.22	2
6. Entertain- ment taxes	1986-87	60.87	2.85	5
	1987-88	53.12	4.52	8
	1988-89	72.76	7.07	10

During the year 1988-89, cost of collection in respect of Sales Tax and Entertainment Tax increased by about 43 per cent and 56 per cent respectively over the cost of collection of previous year.

As regards cost of collection of Land Revenue, the department in their explanatory note, stated that under the scheme for joint collection of all Government dues (as arrears of land Revenue) no separate staff is deployed for collection of dues other than land revenue and the Amins of the department also collect other departmental dues and taxes, besides distributing various subsidies and reliefs. Collections on behalf of semi-Government organisations and autonomous bodies are also undertaken, for which collection charges are recovered by the department at the rate of 10 per cent of the amount collected, which is also credited to the head Land Revenue.

1.5. Performance of assessment work in sales Tax Department

(a) The number of assessments due for completion and those finalised by the Sales Tax Department during the assessment 1987-88, together with the number of assessments pending finalisation at the end of March, as reported by the department, are indicated below:

	1987-88	1988-89
(i) Number of assessments due for completion during the year		
Pending cases	7,41,316	7,73,293*
Current cases	2,94,697	3,03,486
Remand cases	9,004	9,701
Total	10,45,017	10,86,480
(ii) Number of assessments completed during the year		
Pending cases	3,05,725	3,25,136
Current cases	11,234	12,476
Remand cases	5,630	6,528
Total	3,22,589	3,44,140

*The opening balance of 1988-89, has been revised by the department from 7,22,428 cases (closing balance of 1987-88) to 7,73,293 cases. Addition of 50,865 cases was stated to be due to inclusion of cases as a result of scrutiny of cases.

(iii) Number of assessments pending finalisation as on 31st March

Pending cases	4,35,591	4,48,157
Current cases	2,83,463	2,91,010
Remand cases	3,374	3,173
Total	7,22,428	7,42,340

(iv) Percentage of disposal to the number of assessments due for completion

31 32

The percentage of disposal to the number of assessments due for completion is very low and at this rate, the arrears are bound to increase year after year. The department will have to devise ways and means to overtake this backlog and clear the arrears.

(b) Rush of assessment work at the close of the year

In both the year 1987-88 and 1988-89, bulk of the cases involving heavy tax effects were finalised in the last quarter of those years, as shown below:

Period	1987-88		1988-89	
	Number of asse- sment final- ised	Demands raised (In cro- res of rupees	Number of ass- essment final- ised	demands riased (In cro- res of rupees)
April to December	1,93,223	161.20	202,922	166.99
January to March	1,29,366	223.97*	1,41,218	243.57
Total	3,22,589	385.17	3,44,140	410.56

* Figures have been revised by the department.

(c) Heavy incidence of finalisation of cases at the fag end of the limitation period

As shown below, assessment case finalised during the years 1987-88 and 1988-89 included a high percentage of cases (1987-88: 66 per cent; 1988-89: 62 per cent) which would have become time-barred if not disposed of during the respective years.

Cases final- ised during the year ending 31st March	Yearwise Break-up of cases disposed of		
	Assessment year to which pertained UPTO	Number of Cases	Percen- age
1988	1983-84	2, 11, 734	66
	1984-85	71, 539	22
	1985-86	22, 452	7
	1986-87	11, 234	3
	Remand Cases	5, 630	2
	Total	3, 22, 589	
1989	1984-85	2, 13, 566	62
	1985-86	80, 197	23
	1986-87	31, 373	9
	1987-88	12, 476	4
	Remand Cases	6, 528	2
	Total	3, 44, 140	

The tendency to finalise large number of cases at the fag end of the limitation period is fraught with the risk of loss of revenue due to hurried assessments, inadequate scrutiny of records and dealers becoming insolvent or un-traceable with the lapse of time. On the other hand, delay in finalisation of assessment cases also results in blocking revenue (additional

demands raised during such assessments) for a period ranging from one to 4 years, which not only affects the ways and means position of the Government, but also results in accrual of fortuitous benefit to the dealers.

(d) Increasing pendency of assessment cases

The number of pending cases has been steadily increasing as would be seen from the year-wise break-up of the assessments pending as on 31st March 1989, given below:

	Assessment year	Number of cases
Upto	1983-84	620*
	1984-85	21,345**
	1985-86	1,69,493
	1986-87	2,56,699
	1987-88	2,91,010
Cases remanded by court for re-assessment		3,173

	Total	7,42,340

*All cases are stayed by courts

**Includes 21,140 cases re-opened for assessment/reassessment under Section 21 of the U.P. Sales Tax Act 1948 and remaining 205 regular cases are stayed by Courts

The necessity of overtaking the arrears and expeditious finalisation of 7,42,340 pending cases as on 31st March 1989 can hardly be over-emphasised, as revenue involved in these cases cannot be pressed for recovery until the assessments are completed and demand notices are served on the assesses.

(e) Progress of appeal and revision cases

Progress of appeal and revision cases (Sales Tax) during the years 1987-88 and 1988-89, as reported by the department, is given below:

(i) Number of Cases to be decided

	Appeal Cases		Revision Cases	
	1987-88	1988-89	1987-88	1988-89
Pending Cases	41,747	58,896	57,114	56,891
Current Cases	56,188	54,609	18,253	17,302
Total	97,935	1,13,505	75,367	74,193

(ii) Number of Cases decided.

Pending	32,921	19,065*	10,241	15,425
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*Number of pending appeal cases shown by the department as 78,325 instead of 78,899;

Cases

Current Cases	8,118	15,541	8,235	5,221
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Total	39,039	34,606	18,476	20,646
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(iii) Number of pending Cases

Pending Cases	8,826	39,257	40,000	41,466
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Current Cases	50,070	39,068	16,801	12,081
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Total	58,896	78,325	56,891	53,547
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difference of 574 cases is stated to be as a resulted scrutiny of pending cases

According to the information, furnished by the Sales Tax department, the year-wise break-up of the appeal and revision cases, pending as on 31st March 1989, was as under:

Year Upto	Pending as on 31st March 1989	
	Appeal cases	Revision cases
1983	156	6,857
1984	149	3,852
1985	443	7,804
1986	3,943	7,683
1987	17,057	9,949
1988	41,164	13,506
1989 (January to March 1989)	15,413	3,696
Total	78,325	53,547

**(f) Progress of finalisation of cases
of frauds and evasions**

The table below indicates the position of cases of frauds and evasions detected, finalised and pending as on 31st March 1989, as intimated by the sales Tax Department:

Cases pending at the beginning of 1988-89	Cases detected during the year	Cases finalised during the year (Amount raised)	Cases pending at the end of 1988-89
8,407	2,921	4,161 (Rs 32.57 crores)	7,167

1.6 Uncollected revenue

Details of the arrears of revenue pending collection at the end of the year 1988-89, as furnished by the departments, in respect of some receipts heads are given below:

(i) Sales Tax-

Rs 951.74 crores (provisional) remained uncollected as on 31st March 1989, as against Rs 783.69 crores (revised) on 31st March 1988; the year-wise details are given below:

Year	Amount of arrear as on 31st March	Amount of arrears recovered during 1988-89
	1988	1989

(In cores of rupees)			
Upto 1983-84	137.19	130.69	6.50
	(include arrears	(include arrears	(5)

(23)

	of Rs 28.63 crores more than 10 years old i.e upto 1977-78)	of Rs 35.04 crores more than 10 years old i.e. upto 1978-79)	
1984-85	44.26	41.05	3.21 (7)
1985-86	75.85	67.37	8.48 (11)
1986-87	200.15	156.71	43.44 (22)
1987-88	326.24	202.98	123.26 (38)
1988-89	-	352.94	-
Total	783.69	951.74	184.89 (24)

(Figures within brackets in the last column indicate percentages of recovery made during 1988-89 to arrears as on 31st March 1988)

The arrears of Rs. 951.74 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)	206.23
(b) Recovery stayed by	
(i) Courts	207.12
(ii) Government	15.58
(c) Recovery held up due to	
(i) rectification/review applications	13.88
(ii)dealers becoming insolvent	2.34
(d) Amount likely to be written off	43.29
(e) Other categories	
(i) Outstanding against Gover- ment departments	37.80
(ii)Outstanding against transporters	79.91
(iii)Recovery certificates sent to other states	38.11
(iv) Demands not finally determined for various administrative reasons	307.40
(v) Amounts payable	

(25)

in instalments 0.08

Total 951.74

(ii) Tax on purchase of sugarcane

Rs.9.19 crores from sugar factories and Rs.1.08 crores from Khandsari units remained uncollected, as on 31st March 1989. Year-wise details are given below:

Year upto	<u>Arrears pending collection from</u> Sugar factories Khandsari units (In crores of rupees)	
-----------	--	--

1981-82	6.48	0.69
1982-83 to	1.39	0.26
1985-86		
1986-87 to	1.32	0.13
1988-89		

Total	9.19	1.08
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(iii) Land Revenue- Out of Rs.32.56 crores pending collection as on 31st March 1989, recovery of Rs.13.20 crores had been suspended by the Government on ground of damages to crops on account of natural calamities.

Similarly, out of Rs.2.09 crores of land development tax pending collection as on 31st March 1989, recovery of Rs.0.83 crore had been

suspended by Government for the same reason.

(iv) Entertainment Tax- Rs.0.10 crore remained uncollected as on 31st March 1989. Year-wise details are given below:

Year Upto	Amount of arrears (In crores of rupees)
1983-84	0.02
1984-85 to 1986-87	0.03
1987-88 to 1988-89	0.05
Total	0.10

The arrears were in the following stage of action:

Stage of action	Amount of arrears (In crores of rupees)
(i) Demands covered by recovery certificates	0.05
(ii) Recovery stayed by (a) High Court and Judicial Tribunals	0.02
(b) Government	0.01
(iii) Other stages	0.02
Total	0.10

(iv) Forestry and Wild Life: Rs.8.98 crores remained uncollected as on 31st March 1989. Year-wise details are given below:

Year	Amount of arrears (In crores of rupees)
1983-84	2.72
1984-85 to 1986-87	0.75
1987-88	1.82
1988-89	3.69 (Provisional)
Total	8.98

The arrears of Rs.8.98 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	6.88
(b) Demands covered by recovery certificates	1.15
(c) Recovery stayed by Courts	0.65
(d) Amount likely to be written off	0.12
(e) Other stages	0.18

Total 8.98

1.7. Writes off and remission of revenue

Details of demands written off and remitted during 1988-89, as furnished by certain departments, are given below:

Department	No. of Cases	Amount involved (in lakhs of Rupees)	Remarks
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(1) Finance

Sales Tax	12	0.05	Reasons not indicated
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(2) Revenue

Land Revenue (including rent)	50	439.40	Natural Calamities
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1.8. 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.

(a) The number of inspection reports and audit objections issued up to December 1988, which were pending settlement by the departments as on 30th June 1989, alongwith corresponding figures for the preceding two years, are given below:

	As at the end of June		

	1987	1988	1989
1. Number of outstanding inspection reports	2,089	2,136	1,855
2. Number of outstanding audit objections	5,219	5,302	5,050
3. Amount of receipts involved (in crores of rupees)	58.70	51.91	82.03

(b) The table below indicates receiptwise details of the inspection reports and audit objections issued up to December 1988 but remaining outstanding as on 30th June 1989;

Nature of Receipt	Number of out-standing			Year to which the earliest report pertains
	Inspection Reports	Objection	Amount of revenue involved (In crores of Rupees)	
----- (1) -----	----- (2) -----	----- (3) -----	----- (4) -----	----- (5) -----
1. Land Revenue	215	436	1.25	1980-81
2. Stamps and Registration Fees	352	765	1.28	1981-82
3. State Excise	183	291	2.19	1981-82
4. Sales Tax	409	1195	5.45	1980-81
5. Tax on Purchase of Sugarcane	109	143	3.05	1980-81
6. Taxes on Vehicles Goods and Passengers	69	647	3.82	1979-80
7. Electricity Duty	35	48	0.37	1980-81

8. Entertainment Tax	12	12	0.01	1986-87
9. Public Works	56	208	1.36	1984-85
10. Cooperation	17	21	0.06	1984-85
11. Crop Husbandry	24	53	0.27	1985-86
12. Food and Civil Supplies	23	53	0.11	1984-85
13. Forestry and Wild Life	281	923	57.83	1975-76
14. Irrigation	70	255	4.98	1984-85
Total	1855	5050	82.03	

(c) In respect of 413 audit inspection reports out of 1855, pertaining to the following receiptsheads, even first replies had not been received (as on 30th June 1989) from the departments:

Number of audit inspection
reports outstanding as on
30th June 1989

	3 yrs & more (issued upto March 1986)	2 yrs & more but less than 3 yrs issued during 1986-87	Less than 2 yrs issued during 1987-88 & 1988-89	To tal
(1)	(2)	(3)	(4)	(5)
1. Land Revenue	---	---	35	35
2. Stamps and Registration Fees	---	---	25	25
3. State Excise	---	---	18	18
4. Sales Tax	4	3	83	90
5. Tax on purchase of Sugarcane	7	---	3	10
6. Taxes on Vehicles Goods and passengers	---	---	32	32
7. Electricity Duty	---	---	12	12
8. Public Works	2	10	12	24
9. Cooperation	---	8	1	9
10. Crop Husbandry	3	5	5	13

(33)

11. Food and Civil Supplies	---	2	3	5
12. Forestry and Wild Life	14	15	66	95
13. Irrigation	10	5	30	45
Total	40	48	325	413

CHAPTER-2

SALES TAX

2.1 Results of Audit

Test check of the records of the Sales Tax offices, conducted by Audit during 1988-89, brought out under-assessments of tax and non-levy or short-levy of interest and penalty amounting to Rs 381.02 lakhs in 1,132 cases, which broadly fall under the following categories.

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short- levy of interest/ penalty	279	120.08
2. Irregular grant of exemptions	137	108.56
3. Application of incor- rect rates of tax	148	82.45
4. Non-levy/short-levy of additional tax	108	11.03

5. Turnover escaping assessment and incorrect determination of turnover	74	9.82
6. Arithmetical mistakes	68	8.24
7. Incorrect classification of goods	81	8.05
8. Other irregularities	239	32.79
	-----	-----
Total	1,132	381.02
	-----	-----

A few important cases noticed during 1989-90 and earlier years and findings of a review on sales tax exemption to new industrial units are mentioned in the succeeding paragraphs.

2.2. Sales tax exemption to new industrial units

2.2.1. Introduction

Under Section 4-A of the Uttar Pradesh Sales Tax Act, 1948 (the Act), where the State Government is of the opinion that it is necessary to do so for increasing the production of any goods or for promoting development of industry in the State generally and in any districts or part of the districts in particular, it may on application or otherwise, by notification, declare that the turnover of sales in respect of such goods by the manufacturers

thereof shall, during such period not exceeding 7 years from the date of starting production by such manufacturer, and subject to such conditions as may be specified, be exempted from sales tax or be liable to tax at such reduced rates as it may fix.

Government of Uttar Pradesh in its notification dated 30th September 1982 exempted from payment of tax for different periods (7 years for 11 districts in Region* "A", 6 years for 30 districts in Region* "B" and 5 years for 17 districts in Region* "C" from the date of starting production), turnover of sales of new units established in the State with capital investment exceeding Rs. 3 lakhs. A new unit, to be eligible for such exemption, had to be:

(i) established between 1st October 1982 and 31st March 1990;

(ii) registered under the Factories Act;

*Region 'A' covered 11 districts, selected by Government of India in which there was no big or medium industry, Region 'B' covered 30 districts which were considered backward by Government of India from the point of view of industrial developments and Region 'C' covered the remaining districts.

(iii) with capital investment in land, building, plant and machinery and equipments above Rs.3 lakhs and

(iv) employing such machinery, accessories or components not already used or acquired for use in any other factory or workshop in Uttar Pradesh.

From 12th October 1983, new units established with machineries etc, used or acquired for use in any other factory or workshop any where in India, were also not eligible for exemption.

By another notification dated 27th August 1984, new units established in the said areas (the date of production of which falls between 1st October 1982 and 31st March 1985, later extended up to 31st March 1990) even with capital investment of less than Rs.3 lakhs were entitled to such benefits but for a lesser period. In case of new units with capital investment not exceeding Rs.3 lakhs, the period of exemption was 5 years for units located in 11 districts (referred to as Region "A"); 4 years for 30 districts (referred to as Region "B") and 3 years for the remaining 17 districts (referred to as Region "C").

According to the Government notifications, the objective of the scheme was to augment the capital investment in the State and help setting up at least one heavy industry

in each district of the State. The longer period for exemption to new units in the 11 backward districts (Region A) is indicative of the priority assigned by the State Government for industrialisation of these districts over others.

2.2.2. Scope of Audit

The working and impact of the scheme was reviewed in detail through test checks, during March 1989 to June 1989, of the records in the office of the Commissioner of Sales Tax and Sales Tax offices in four districts namely, Bareilly, Ghaziabad including New Okhla Industrial Development Authority (NOIDA), Kanpur and Lucknow. Relevant records in the offices of the Industries Department in these districts were also verified for this purpose.

In Sectors 1 and 3 in NOIDA, the records were not made available to audit by the Department despite repeated requests, and as a result a large number of cases escaped audit scrutiny.

2.2.3. Organisational set up and procedural aspects

Section 4-A of the Act envisages that a new unit will be exempted by the assessing officer from the payment of sales tax only if it produces an

Eligibility Certificate (EC) issued to it by the Industries Department. In order to obtain an EC a unit was required to apply in the prescribed proforma to the District Industries Centre. After necessary enquiries, it was to be forwarded to the Director of Industries for issue of the EC. In other words, in the initial period of the Scheme Sales Tax Department did not have any role in the issue of the EC.

The procedure was, however, changed with effect from 26th December 1985. The revised procedure envisaged consideration of the application by committees at various levels, in which a representative from the Sales Tax Department was also a member. The formation of the committees is as follows:

District Level Committee

- (1) District Magistrate- Chairman
- (2) General Manager (District Industries Centre)- Convenor
- (3) Sales Tax Officer - Member

The recommendations of the Committee are to be placed before the Zonal Committee and thereafter the State Committee, compositions of which are as under:

Zonal level Committee

- (1) Commissioner - Chairman
- (2) Regional Joint Director
of Industry - Coordinator
- (3) Deputy Commissioner
(Executive)
Sales Tax - Member

State level Committee

- (1) Director of Industry - Chairman
- (2) Commissioner of Sales Tax-Member
- (3) Director, Pradeshiya Industrial
and Investment Corporation of
Uttar Pradesh(PICUP) Member

In the event of any difference of opinion between the Commissioner of Sales Tax and the Director of Industry, the matter was to be referred to the Government.

The disputed cases were to be examined by a committee with the Principal Secretary (Industry) as Chairman, and Secretaries, Finance and Institutional Finance as members. The decision of this Committee would be final.

2.2.4. Highlights

(i) Out of 244 units which had fully availed of the exemption by March 1988, 93 units (38 per cent) were closed down either during the period of exemption or thereafter; of the remaining 151 units, 94 units were showing a decreasing turnover while the remaining 57 units (23 per cent) were showing an increasing turnover after expiry of the exemption.

(ii) Districts which were industrially backward, failed to attract new units, despite exemptions granted for longer period. For instance, 7 out of 11 backward districts failed to attract any unit with investment of Rs.20 lakhs or more.

(iii) Unlike in other States, the scheme in Uttar Pradesh was not linked with the nature or size of the industry or capital invested. Many units with very low capital investment were closed down after availing the benefit of huge tax exemptions.

(iv) Delay in deciding on applications for exemption entailed huge loss of revenue. Out of 516 units whose requests for exemption were ultimately rejected, 176 units had already enjoyed the benefit of Rs.12.20 crores, before their requests were rejected.

(v) Irregular exemption granted in 4 cases resulted in loss of revenue of Rs.38.21 lakhs. In two other cases, the extent of revenue loss could not be quantified in the absence of details.

(vi) Defective clarification by the Director of Industries extending exemption to units with investment of less than Rs.3 lakhs, resulted in loss of revenue amounting to Rs.8.32 crores in the case of one unit alone.

2.2.5. Statistical particulars of exempted units

(a) Year wise data on the amount of exemption of sales tax availed by various units from October 1982 to March 1989 were not available with the Sales Tax Department. However, information about the number of units established and the total exemption availed by them, circle-wise, covering the entire State up to March 1988, as supplied by the Sales Tax Department, are shown below:

Sl No	Circle	No of Units established	Exemption availed (in crores of Rupees)
(1)	(2)	(3)	(4)
1.	Agra	232	5.74
2.	Aligarh	68	2.23

3. Allahabad	263	4.78
4. Bareilly	357	19.27
5. Ghaziabad	1078	47.74
6. Gorakhpur	196	7.49
7. Kanpur	350	18.85
8. Lucknow	276	8.54
9. Meerut	187	7.13
10. Moradabad	197	11.09
11. Saharanpur	368	9.33
12. Varanasi	91	2.46
Total	3,663	144.65

(b) The following information in respect of the entire State was also supplied by the Sales Tax Department :

(i) Number of Units for which period of exemption was over by March 1988. 244

Out of (i) above-

(ii) Units closed during the period of exemption. 76

(iii) Units closed after the period of exemption	17
(iv) Units showing increasing trend in the turnover after expiry of the period of exemption	57
(v) Units showing decreasing trend in turnover after expiry of exemption	94

Thus, out of 244 units, 93 units (38%) were closed either during the period of exemption or after the expiry of the period of exemption. Only 57 Units (23%) were showing profit even after the tax exemption period had expired

2.2.6. Limited benefits to backward districts

(i) According to the information made available by the Industries Department, of the 5,350 applications received during the period from 1st October 1982 to 31st March 1989, from new industrial units seeking tax exemption and grant of E.C. only 390 applications were in respect of the 11 backward districts (Region A) as against 2,393 and 2,567 applications received for Regions 'B' and 'C' respectively. Similarly, while 145 E.Cs were granted in region 'A', 1,161 and 1,212 ECs were issued for Regions 'B' and 'C' respectively.

(ii) The eleven industrially backward

districts in the State (referred to as Region 'A') gained only limited benefit from the scheme, despite the period of exemption being longer. The number of new units asking for ECs for industries in Region 'A' was low; the number of such units getting exemption was even lower. Thus, only 37% of the applicants of this region as against 49% in region 'B' and 47% in Region 'C', got eligibility certificates. Further, of 2,518 ECs granted till March 1989, 1934 were issued to units set up in NOIDA (in Region 'B') and other districts of region 'C', which were already industrially advanced. On the other hand, only 5% (145) of the ECs issued were for units located in Region 'A'. It was also noticed that no application was received from Chamoli and Uttarakashi districts in Region 'A', while five applications were received from Ballia district and one from Pithoragarh district in Region 'B'. However, in these four districts (Chamoli, Uttarakashi, Ballia and Pithoragarh), not a single unit got an EC. The number of ECs issued in Almora, Azamgarh, Badaun, Bahraich, Etawah, Ghazipur, Hardoi and Lalitpur districts (in Region 'B') and Jaunpur (in Region 'A') was also below five each. This indicates that the districts which were backward industrially, failed to attract new units, despite operation of the scheme.

2.2.7. Objective of setting up heavy industrial units in backward districts not accomplished

The position of capital investment by the Industrial units, which had applied for EC in the districts in Region 'A', as at the end of March 1989 was as under:

Sl No.	District	Units granted EC	Capital invest- ed by the units in Col (3) (in lakhs of Rupees)	No of units whose appl icat ions are pend ing	Capita l inve sted by the units in Col (5) (in lakhs of Rupees)
1	(2)	(3)	(4)	(5)	(6)
1.	Banda	3	6.17	3	5.76
2.	Chamoli	Nil	Nil	Nil	Nil
3.	Fatehpur	3	18.26	7	57.89
4.	Hamirpur	4	17.63	12	55.63
5.	Jalaun	6	24.54	14	37.82

6.	Jaunpur	4	21.61	21	283.76
7.	Kanpur (Dehat)	(information not available)			
8.	Pauri Garhwal	8	31.49	7	24.70
9.	Sultanpur	5	3.52	14	177.15
10.	Tehri Garhwal	4	113.44	9	122.82
11.	Uttar Kashi	Nil	Nil	Nil	Nil
Total		37	236.66	87	765.53

Out of the aforementioned 11 districts only in Tehri Garhwal 2 industrial units having capital investment of more than Rs. 20 lakhs had been issued EC. Applications of 10 such units were pending as on 31st March 1989 in Fatehpur, Jaunpur, Sultanpur and Tehri Garhwal districts. Seven districts failed to attract any unit with investment of Rs.20 lakhs or more. The objective of attracting investment in at least one heavy industrial unit in each backward district as set forth in Government notification dated 30th September 1982 has not thus, been accomplished.

2.2.8. Delay in deciding on applications for grant of eligibility certificates

Under the procedure obtaining up to 26th December 1985, in order to get an EC a unit was required to move an application to the District Industries Centre. After necessary enquiries it was to be forwarded to the Director of Industries for issue of the EC. The revised procedure envisages consideration of the application by various committees at different levels, as mentioned in para 2.2.3 supra. A circular issued by the Finance Department on 15th December 1987 lays down that applications for EC should be finally decided within 3 months of their receipt, with a view to avoiding inconvenience to dealers in payment of arrears of tax or to preclude their demands for exemption or instalments facility if their applications are eventually rejected, after remaining pending for a long time.

Once an application for EC is moved and production and sale of goods have commenced, the unit is not entitled to realize tax on its sales without forfeiting its claim for exemption during the period of pendency. Thus, in the event of non-granting of EC it would be difficult to recover tax from a unit, which has not realized tax during the pendency of its application.

Out of 5,350 applications made by the new units till March 1989 for grant of EC, 1,654 (31%) were pending as on 31st March 1989. Out of these 1106 (67%) were pending with the District Industries Centres and the remaining with the offices of the Joint Director of Industries for want of information/documents from the units as also for want of enquiry report from the Sales Tax Department.

In the three districts subjected to scrutiny (Bareilly, Ghaziabad and Kanpur), it was seen that as at the end of 31st March 1989, 171 applications were pending, out of which 7 were pending since 1984-85. These pending applications have a tax potential of Rs.15.78 crores as indicated below:

Year from which exemption is sought	No of units	Amount of Tax potential (in lakhs of Rupees)
-----	-----	-----
1984-85	7	54.21
1985-86	17	155.64
1986-87	17	512.52
1987-88	62	607.29

1988-89	68	249.06
Total	171	1578.72

In Bareilly, 8 applications received between 1984-85 and 1986-87 were forwarded as and when received by the District Level Committee to the Zonal Level Committee with recommendations not to grant EC, but these were not decided till March 1989.

In the entire State, 1178 applications were rejected till March 1989. Out of these, 516 rejected applications related to the three districts of Bareilly, Ghaziabad and Kanpur. Out of the above, 176 new units had already completed their period of exemption even before their applications were rejected. They had availed exemption of Rs.12.20 crores on a turnover of Rs.127.98 crores, which was irregular and was a direct consequence of the delay in decision taking.

In spite of the specific orders of the Government to finally decide the applications for eligibility certificates within 3 months of their receipts, large number of applications remained undecided for long, which indicated failure to follow the prescribed system. The Government may, therefore, consider the feasibility of making the scheme statutory and prescribing a statutory time-limit for

disposal of applications. Or alternatively a provision may be made in the scheme determining tax-payment liability of the applicant after the expiry of the three months' period.

2.2.9. Irregular grant of eligibility certificate for exemption from tax

One of the conditions to be fulfilled by a new unit so as to be entitled for this exemption is that it cannot be set up with machinery, accessories or components already used or acquired for use in any factory or workshop in Uttar Pradesh (for units set up upto 11th October 1983) or anywhere in India (for units set up after 11th October 1983).

In 4 cases, the incorrect grant of eligibility certificate or non-adherence to the stipulated provisions /decisions of the Court led to a loss of Rs.38.21 lakhs as given below:

(i) A unit in NOIDA was previously situated in Delhi and was manufacturing pumps. The unit was closed and a new unit with the same name and manufacturing the same product was established in NOIDA. The unit was granted EC for 6 years from 27th July 1987. The unit was established by transferring old and used plant and machinery as was evident from the terms and conditions of U.P. Financial

Corporations which granted the unit a term loan. As the unit brought used plant and machinery, it was not eligible for the exemption. The benefit derived by the unit during the two years of 1987-88 and 1988-89 would be of the order of Rs. 0.54 lakhs.

(ii) In Sahibabad, a unit was closed down on 18th December 1981. A new unit was started on the same site with the same used plant and machinery and for manufacture of the same goods. The unit was granted eligibility certificate for 5 years from 23rd February 1984, which was irregular. This resulted in foregoing of revenue of Rs.31.59 lakhs till March 1986. For the subsequent years, in the absence of assessments being completed, the amount of exemption could not be worked out.

(iii) In Meerut, a new unit was established by taking over old plant and machinery with its assets and liabilities. Since the unit used the same plant and machinery it was not eligible for exemption. Though Meerut is a district where exemption is available for 5 years, the unit was granted EC for 7 years from 1st June 1983. The exemption availed by the unit in 1983-84 amounted to Rs.1.22 lakhs. Figures for subsequent years could not be worked out in the absence of assessment being completed.

(iv) Processing and blending tea does not amount to manufacture as held* judicially and hence any unit doing the same is not eligible for any exemption. In Meerut, EC was granted to a unit processing and blending tea for 5 years from 1st January 1984. The exemption availed in this case during 1984-85 and 1985-86 as per assessment records amounted to Rs.4.86 lakhs.

2.2.10. Erroneous exemption

(i) A new unit in NOIDA was granted EC for 4 years from 28th June 1985, for manufacture of washing and cleaning powder. The unit, however, also manufactured detergent cakes which was not covered by the EC. The unit did not keep separate accounts of powder and cake, nor was it insisted upon by the assessing officer.

The exemption allowed to the unit amounted to Rs.2.39 lakhs for 1985-86 to 1986-87, of which the portion relating to detergent cakes which could not be worked out in the absence of details, was irregular.

(ii) Similarly, a unit was granted EC for 6 years from 19th September 1983 for manufacture of HDPE bags. In addition, the unit manufactured HDPE laminated fabric pieces which was not

covered under the EC, and for which it did not maintain any separate accounts.

The exemption allowed to the unit amounted to Rs. 9.50 lakhs from 1983-84 to 1985-86, of which the amount relating to HDPE laminated fabric pieces, which could not be worked out in the absence of details, was irregular.

2.2.11. Requisite verification not done

A unit at NOIDA was granted EC for 4 years from 15th February 1985 for manufacture of Agarbattis. The unit could not furnish documents to prove that some of the machines being used were actually new. The EC was, however, granted subject to the verification of facts by the Sales Tax Department. There was no proof on record to show that the verification was carried out although the unit continued to enjoy the benefit of tax exemption upto 14th February 1989. The exemption availed during the period of validity of EC works out to Rs.41.76 lakhs (computed on the basis of turnover of Rs.4.77 crores for the period from 1984-85 to February 1989).

2.2.12. Loss of revenue due to defective clarification by Director of Industries

Under the rules regarding implementation of the scheme issued under notification dated 30th September

1982 and Government order dated 15th January 1983, all new units were allowed the benefit, subject to the condition that such a unit would have a minimum capital investment of Rs.3 lakhs. Director of Industries, Kanpur, however, issued a clarification on 16th March 1983 that all those units which were registered with the Director of Industries, and also registered under Factories Act were eligible for exemption, omitting to indicate the stipulated minimum capital investment. The clarification was contrary to the Government notification and order mentioned above. Though by a later notification dated 27th August 1984, the benefit was extended by the Government with effect from 1st October 1982 to units even with capital investment of less than Rs.3 lakhs, the period of exemption, however, for such units was less (5 to 3 years).

In view of the erroneous clarification dated 16th March 1983, issued by the Director of Industries, Kanpur, the Allahabad High Court held* that for the units having capital investment of less than Rs.3 lakhs, the period of exemption (7 to 5 years) granted originally (before 27th August 1984) cannot be reduced subsequently.

* Bajaj Packwell Vs State of U.P. (1989 UPTC 88)

A unit of Kanpur manufacturing Pan Masala, with new plant and machinery, was granted EC for 5 years from 24th January 1984. On the date of starting production, capital investment of the unit was found to be below Rs.3 lakhs. The EC was reduced to 3 years in terms of the notification dated 27th August 1984, after the matter was brought to the notice of the Commissioner of Sales Tax, but was restored to 5 years by the Sales Tax Tribunal, Lucknow on 29th January 1989 relying on the said judgement of Allahabad High Court. As a result of defective clarification, one unit alone availed excess exemption of about Rs.8.32 crores for the period of the years i.e. 1987-88 and 1988-89.

2.2.13 Other points of interest

An old unit at Kanpur manufacturing Pan Masala was functioning prior to the introduction of this scheme. The assessee also established a new unit at Kanpur for manufacturing Pan Masala (mentioned in para 2.2.12 supra) for which he was granted EC on 5th February 1985 effective from 24th January 1984. It was noticed that the assessee decreased the production in his old unit and increased production in the new unit after the grant of EC, and ultimately the old unit was closed down on 31st March 1988. Comparative position of production in the old and new unit is indicated below:

Year	Old Unit (in crores of Rupees)	New Unit (in crores of Rupees)
1983-84	9.41	0.24
1984-85	11.87	0.44
1985-86	0.63	19.09
1986-87	0.11	34.58
1987-88	0.10	47.72
1988-89	Nil	56.24

The above case illustrates as to how the scheme could be manipulated by the assesseees to their advantage without any manifest contribution to development of industry in the State- the basic objective behind granting such exemptions from Sales Tax.

The audit observations were reported to Government in August 1989; their reply has not been received (April 1990).

2.3. Failure to observe prescribed procedures for grant of registration certificates

Every dealer who sells any goods, the turnover whereof is liable to sales

tax under the U.P. Sales Tax Act, 1948, is required to obtain registration certificate under the Act. For grant of registration certificate, certain conditions and procedures have been laid down in the rules framed under the Act and the 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 who, in turn, will verify by means of spot enquiries the identity of the dealer, his source of livelihood before commencement of the present business, financial position of the dealer, and the dealer's or his partners' correct local and permanent addresses.

(a) A dealer in Agra circle was granted (20th January 1977) registration for conduct of business in oils. There was nothing on record to indicate that verification of his financial position, local or permanent address, etc., had been done.

During the first year of business (1976-77), five forms xxxi, meant for importing goods from outside the State, were issued to the dealer. However, for January and March 1977, no return was filed nor was any tax deposited by him. The assessment for the year 1976-77 still remains incomplete and has now become time barred. In February 1978, the Assessing Officer noticed that all

original records pertaining to the dealer were missing from 7th January 1978. But 200 forms xxxi; 30 forms 'C' meant for purchasing goods from outside the State at concessional rate and 10 forms 'F' meant for receiving goods from outside the State on consignment basis, were found to have been issued to the dealer between 24th January 1977 and 20th May 1978 on the duplicate files opened by the ledger keeper on his own accord without obtaining accounts of declaration forms issued earlier. In a survey conducted in July 1978 it was reported that the firm itself was non-existent, and that the name and addresses of the dealer were fictitious.

Scrutiny of tax payments for 1978-79 indicated that Rs.9,635.79 were shown to have been deposited towards tax by 3 challans. In January 1979, the assessing officer observed that the challans were fake or manipulated. One of the challans purportedly for Rs.3,110.69 was actually for Rs.10.69 only.

Tax assessments for the years 1977-78, 1978-79 and 1979-80 were completed on 22.3.82, 5.3.83 and 31.3.84 respectively. The turnover for the years 1977-78 to 1979-80 was determined by the assessing officer at Rs.2.91 crores. Tax levied thereon amounted to Rs.28.31 lakhs and penalty imposed for 1979-80 was Rs.7.24 lakhs. This,

however, did not cover the penalty leviable for 1977-78 and 1978-79, which could be up to Rs.6.92 lakhs. The recovery certificates issued on various dates between May 1983 and April 1986 were only for Rs.33.09 lakhs, instead of for Rs.42.47 lakhs (including penalty of Rs.6.92 lakhs). The action initiated to recover the outstanding amounts has also remained limited to repeated service of recovery notices only.

Thus, non-observance of initial precautions prior to registration, faulty verification of personal details submitted by the dealer, and failure to take prompt action on loss of records despite the discovery that the firm was bogus, have resulted in a loss of revenue estimated at Rs.42.47 lakhs.

The above case was reported to Government in January 1989; their reply has not been received in spite of reminders issued in April 1990.

(b) In Sales Tax Circle, Agra, a dealer was granted registration certificate effective from 28th February 1980 for extraction of oil, without making any spot survey or enquiry about his local and permanent addresses and his financial position. During the year 1980-81, 95 declaration forms XXXI and 40 forms 'C' were issued to the dealer on different dates

without ascertaining whether the forms issued to him on earlier occasions had been properly utilised. On 24th August 1981, the dealer intimated that he had closed his business with effect from 30th June 1981. But no action was taken for completing assessment immediately after receipt (on 24th August 1981) of the information regarding closure of business by the dealer. On the contrary, 5 more declaration forms III-C (1) were issued to the dealer on 18th December 1982, i.e., after a lapse of more than 17 months of the closure of business by the dealer. It was on 23rd November 1983, 20th December 1983, 7th December 1984 and 25th January 1985 that notices regarding completion of assessment for the year 1980-81 were issued to the dealer but were received back unserved. Accordingly, assessment was completed ex-parte on 27th March 1985 and turnover of sales of oilseeds and oil within the State and in the course of inter-State trade was determined at Rs.1.20 crores involving tax liability of Rs. 4.60 lakhs and demand for Rs. 4.39 lakhs (after giving credit for tax of Rs. 20,682 deposited by the dealer) was raised. For the assessment year 1981-82 notices were issued on 3rd February 1986, 17th February 1986, 27th February 1986 and 14th March 1986 but they too were received back undelivered, and assessment for 1981-82 was completed on 17th March 1986, ex parte, determining sales turnover of

oilseeds and oil both within the State and in the course of inter-State trade at Rs.37.00 lakhs, involving tax liability of Rs.1.36 lakhs. Thus, due to non-observance of the prescribed procedures regarding grant of registration certificate and issuance of forms, Government was deprived of revenue amounting to Rs.5.75 lakhs for 1980-81 and 1981-82, the chances of recovery of which are remote.

The case was reported to Government in March 1988; their reply has not been received in spite of reminder issued in April 1990.

(c) In Sales Tax Circle, Sultanpur, a dealer applied for grant of registration under the U.P. Sales Tax Act, 1948 and Central Sales Tax Act, 1956, on 4th June 1980 for carrying business in coal. The dealer was granted registration on 21st June 1980, effective from 4th June 1980, without making spot verification of dealer's permanent and local addresses and enquiries about the dealer's fixed and floating assets and his financial position etc., as required under the rules. Although the dealer was asked to furnish a security bond for Rs.20,000, the registration was granted without obtaining security bond. Ten declaration forms (Form XXXI) were issued to the dealer on 21st June 1980. Without ascertaining the use of the

declaration forms issued on earlier occasions, 225 more declaration forms were issued to him during the period from 30th June 1980 to 5th August 1980. The dealer did not deposit returns for the months of June 1980, July 1980 and August 1980, but no action was taken to carry out provisional assesement on 30th August 1980. The firm was found by the assessing officer to be bogus, but even then as many as 329 more declaration forms were issued to the dealer up to 17th November 1980. As per departmental orders, the dealer was required to deposit Rs.100 as security for each declaration form XXXI issued to him, but against 564 forms only Rs.51,600 were realized from him. A notice for assessment was issued to the dealer on 19th September 1983 but it was received back undelivered. On 26th October 1983, assessment for the year 1980-81 was made ex-parte and the turnover of sales of coal was determined at Rs.31.02 lakhs and tax amounting to Rs.1.24 lakhs was levied. The dealer was also liable to pay penalty up to Rs.62,020 for non-submission of returns, but no penalty was imposed.

On this being pointed out in audit (September 1984), the department stated (July 1987) that the security of Rs.51,600, deposited by the dealer, had been adjusted against the tax due from him. Non-observance of departmental procedure at the time of granting

registration, thus, led to loss of revenue amounting to Rs.72,480 besides penalty leviable under the Act.

The case was reported to Government in May 1989; their reply has not been received in spite of reminder issued in April 1990.

(d) In Sales Tax Circle, Bareilly, a dealer was granted registration certificate effective from 25th June 1980 without verifying his local and permanent address and his financial position. Even the security bond for Rs.5000 furnished by the dealer was found to be fake. Although at the time of the registration capital to be invested was declared by the dealer to be Rs.8,000 only, during the period from 17th July 1980 to 12th September 1980, 35 declaration forms 3-A were issued to the dealer and the dealer had disclosed sales of Rs.22.32 lakhs in his return for the period from June 1980 to September 1980. On 17th September 1980, Sales Tax Officer, Kanpur intimated to the assessing Officer, Bareilly that the said dealer had purchased iron materials for Rs.3.80 lakhs, from a dealer of Kanpur but the former accounted for purchases of Rs.98,424 only in his accounts on 30th September 1980. Notice was issued to the dealer, but it was received back unserved. On enquiry the dealer was found to be fictitious. No prompt action was, however, taken by the

department to make spot enquiries or to carry out provisional assessment. Assessment for the year 1980-81 was completed ex-parte, only on 13th September 1983 determining the total taxable turnover of sales of iron and steel at Rs.30 lakhs and tax amounting to Rs.1.20 lakhs was levied after giving credit of Rs.440, being tax deposited by the dealer, and the demand was raised accordingly; but it could not be recovered. Non-observance of the prescribed procedures regarding grant of registration certificate in this case led to loss of revenue amounting to Rs.1.20 lakhs.

This was pointed out in audit in April 1984. The department confirmed the facts in March 1989.

The case was reported to Government in June 1989; their reply has not been received in spite of reminder issued in April 1990.

(e) In Sales Tax Circle, Farrukhabad, a dealer applied for registration certificate under the U.P.Sales Tax Act and Central Sales Tax Act on 15th February 1984 for carrying on business in chemical fertilizers. There was nothing to substantiate if spot verification of dealer's local and permanent addresses and verification of his financial position was carried out. A letter was however, addressed to the Tahsildar, Bareilly to verify the

security bond, which was handed over to the dealer himself to get the verification done. The dealer resubmitted the application and the Tahsildar's verification of the security bond on 21st February 1984 and within three days, registration certificate was issued, effective from 15th February 1984. The dealer was also issued two declaration forms XXXI and one 'C' form on 24th February 1984.

The dealer did not submit any return for the years 1983-84 to 1985-86 (up to December 1985), and the department also did not take any action to make provisional assessment. In December 1985, a survey of his business premises was conducted when it was found that the firm was fictitious. It was also noticed that the seal of the Tahsildar affixed as a mark of verification of security bond was also fake. From the original copies of the declaration forms XXXI received by the Sales Tax Officer from the check posts, it was seen that on 1st March 1984 and 5th March 1984, iron and steel worth Rs.2.93 lakhs was imported instead of chemical fertilizers.

Eventually on 22nd February 1986, ex parte assessment of the dealer was finalised and tax amounting to Rs.18,000 was levied after determining the dealer's turnover of iron and steel at Rs.4.5 lakhs. The dealer was liable to pay penalty up to Rs.9,000 for non-

submission of returns and Rs.54,000 for importing iron and steel by falsely representing that the goods imported were covered by his certificate of registration. The department did not impose any penalty while making assessment on 22nd February 1986.

On non-levy of penalty being pointed out in audit in October 1986, the department imposed penalty of Rs.23,486 in August 1987. Chances of recovery either of the amount of tax or of penalty are remote, the firm being fictitious.

The case was reported to Government in March 1989; their comments have not been received in spite of reminder issued in April 1990.

2.4. Loss of revenue due to irregular grant of recognition certificate

Section 4-B of the U.P.Sales Tax Act, 1948, read with Government notification dated 31st December 1976, provides for specific relief in tax to manufacturers holding recognition certificate in purchases of raw materials for use in the manufacture of certain notified goods subject to certain condition. For the manufacture of goods not specified in the said notification or subsequent notification, the dealer could avail of benefit of concessional rate of tax in purchases of raw materials. However,

no concession in tax in purchases of raw materials is admissible if the manufactured goods are exempted from levy of tax. Further units engaged in the manufacture of paper, catechu (Kattha), matches, empty match boxes, match splints and match veneers are excluded from the purview of the said notification.

(a)(i) In Sales Tax Circle, Kanpur, a dealer was granted recognition certificate for the manufacture of cycle seat leather tops and was authorised by the department to purchase raw materials tax-free, although according to the notification dated 31st December 1976, such certificate could be issued only for manufacture of bicycle, tricycle perambulators, and accessories and parts thereof. Leather top of the cycle seat is not part or accessory of the cycle, but only part of a part viz., cycle seat and is also not otherwise specified in the aforementioned notification. As such, the dealer was entitled to purchases raw material at the concessional rate of tax only. The dealer purchased raw material for Rs.98.47 lakhs tax-free on the strength of declaration form III-B during 1983-84 to 1985-86. Thus grant of irregular recognition certificate resulted in loss of revenue amounting to Rs.3.94 lakhs.

The case was reported to the department in February 1989 and to Government in June 1989; their replies have not been received in spite of reminders issued in April 1990.

(ii) In case of another dealer, in the same circle, also manufacturing cycle seat leather tops, similar tax free purchases (Rs.6.38 lakhs) of raw material during the years 1980-81 to 1982-83 led to loss of revenue amounting to Rs.25,520.

The case was reported to the department in April 1988 and to Government in January 1989; their replies have not been received in spite of reminder issued in April 1990.

(b) In Sales Tax Circle, Varanasi, a dealer was authorised to purchase raw materials for manufacture of inter alia, monofilament poly yarn tax-free, though he was eligible only for concessional rate of tax (4 per cent) on such purchase. The tax free purchases effected by the dealer during 1983-84 to 1985-86 amounted to Rs.34.25 lakhs involving a loss of revenue of Rs.1.37 lakhs.

On this being pointed out in audit (June 1987), the department intimated in July 1989 that the assessment had since been revised and additional demand of Rs.1.37 lakhs raised.

The case was reported to Government in February 1989.

(c) In Sales Tax Circle, Faizabad, a dealer was granted recognition certificate on 1st April 1980 for the manufacture of "Hawai Chappals" (footwear) and was authorized to purchase raw materials tax-free, though "Hawai Chappals" (footwear) were not covered by the notification dated 31st December 1976, or any subsequent notifications. The dealer purchased raw materials for Rs.25.81 lakhs tax-free giving declarations in form III-B during the years 1980-81 to 1984-85. The irregular grant of recognition certificate resulted in loss of revenue to the extent of Rs.1.03 lakhs for the years 1980-81 to 1984-85.

On the omission being pointed out in Audit (November 1988), the department revised the assessment for the year 1984-85 and an additional demand for Rs.18,886 was raised. Report on action taken for the years 1981-82 and 1982-83 has not been received.

The case was reported to Government in September 1989; their reply has not been received in spite of reminder issued in April 1990.

(d) A dealer of Kanpur circle was granted a recognition certificate for the manufacture of iron and steel and

for purchasing free of tax, inter-alia, fire-bricks, fire clay and refractories for that purpose, though these goods are not raw materials for the manufacture of iron and steel as such. Purchases of said goods valuing Rs.6.21 lakhs, made tax-free by him during the years 1980-81 to 1982-83 from another dealer of Ghaziabad, led to loss of revenue amounting to Rs.49,684.

On this being pointed out in audit (November 1985), the department stated in August 1989 that additional demand of Rs.1.10 lakhs including penalty under section 4-B had since been raised against the dealer.

The case was reported to Government in June 1989.

(e) In Sales Tax Circle, Faizabad, four dealers holding recognition certificate for ornamentation of glass bangles were authorised to purchase raw materials tax-free, treating wrongly ornamentation of bangles as manufacture of glass and glasswares. The dealers purchased raw material worth Rs.10.80 lakhs during 1979-80 tax free on the strength of a declaration to the effect that it will be utilised in the manufacture of glass bangles. As glass bangle were neither mentioned in annexures to the said notification nor covered by the item glassware, the dealers were not entitled to purchase raw materials tax-free. Authorisation

of tax free purchases of raw materials while granting recognition certificate, was, therefore, irregular. This led to loss of revenue amounting to Rs.43,297.

On this being pointed out in audit in August 1984, the department stated (April 1989) that dealers would not be allowed tax-free purchase of raw materials in respect of ornamentation of glass bangles hereafter.

The case was reported to Government in May 1989; their reply has not been received in spite of reminder issued in April 1990.

(f) In Sales Tax Circle, Lucknow, a dealer was granted recognition certificate for the manufacturer of tarpaulin with effect from 10th April 1980 and was authorised to purchase paraffin wax and rosin at the concessional rate of tax. The dealer purchased paraffin wax and rosin for Rs.10.56 lakhs during the years 1981-82 and 1982-83. As tarpaulin falls under 'textiles' which are exempt from levy of tax, no concession in tax on purchases of raw materials was admissible to the dealer. Thus, grant of irregular recognition certificate led to loss of revenue amounting to Rs.42,231.

The case was reported to the department in December 1988 and to Government in June 1989; their replies

have not been received in spite of reminders issued in April 1990.

(g) In Sales Tax Circle, Modi Nagar, a dealer was granted recognition certificate for manufacture of paper. He purchased raw materials valuing Rs.15.16 lakhs during 1981-82 to 1984-85 tax free on the strength of declaration form III-B to the effect that the goods were for use as raw material for the manufacture of notified goods, although unit engaged in manufacture of paper is excluded from the perview of the notification dated 31st December 1976. Irregular grant of recognition certificate for manufacture of paper led to loss of revenue amounting to Rs.90,965.

The case was reported to the department in July 1988 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

2.5. Non-imposition of penalty under the Central Sales Tax Act

Under the Central Sales Tax Act, 1956, if a registered dealer, while purchasing any goods, falsely represents that such goods are covered by his certificate of registration, the assessing officer may impose upon him penalty not exceeding one and half times the amount of tax leviable on sale of such goods.

(a) In Sales Tax Circle, Jhinhak (Kanpur Dehat), two dealers purchased, from outside the State, iron and steel for Rs.39.29 lakhs during 1983-84 on the strength of declaration in form 'C', although 'iron and steel' were not covered by his certificate of registration. The two dealers, therefore, rendered themselves liable to penalty amounting to Rs.4.71 lakhs, which was not imposed by the department.

This was reported to department in June 1988 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

(b) In Sales Tax Circle, Sitapur, a sugar mill purchased cement and gunny bags for Rs.11.11 lakhs from outside the State at the concessional rate of tax on the strength of declaration form 'C' in 1982-83 and 1983-84, although the goods were not covered by the registration granted to the sugar mill. The sugar mill was, therefore, liable to pay penalty up to Rs.1.67 lakhs, which was not imposed.

The case was reported to the department in August 1988 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

(c) In Sales Tax Circle, Kanpur, a dealer purchased machinery for the manufacture of PVC pipes and fittings for Rs.8.05 lakhs at the concessional rate of tax on the strength of declaration form 'C' during 1982-83. These goods were not covered by his certificate of registration. Penalty up to Rs.1.21 lakhs could be imposed but irregularity was not detected while making assessment in June 1986.

The case was reported to the department in August 1988 and to Government in March 1989; their replies have not been received in spite of reminders issued in April 1990.

(d) In Sales Tax Circle, Varanasi, a dealer in Khadi and village industries products purchased soap, veneer and fire clay etc. at the concessional rate of tax on the strength of declaration form 'C' for Rs.7.84 lakhs during the year 1983-84, although the goods were not covered by his certificate of registration. The dealer was, therefore, liable to pay penalty up to Rs.1.17 lakhs, which was not imposed.

On the omission being pointed out in audit (August 1988), the department stated (April 1989) that penalty amounting to Rs.1.17 lakhs had since been imposed.

The case was reported to Government in May 1989.

(e) In Sales Tax Circle, Moradabad, a dealer purchased aluminium coil and sheets etc., for Rs.4.74 lakhs at the concessional rate of tax on the strength of declaration form 'C' from outside the State during the years 1984-85 and 1985-86. These goods were not covered by the registration certificate granted to the dealer. Penalty upto Rs.71,075 could be imposed but the irregularity was not detected by the assessing authority.

The case was reported to the department in November 1988 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

(f) In Sales Tax Circle, Meerut, a dealer manufacturing sugar mill machine parts, purchased generating set for Rs.3.44 lakhs, and foam for Rs.0.15 lakh from outside the State during 1983-84 at the concessional rate of tax on the strength of declaration in form 'C' to the effect that the goods were covered by his certificate of registration although the goods were not so covered. He was, therefore, liable to penalty upto Rs.64,692 but it was omitted to be imposed, while making assessment in January 1987.

On this being pointed out in audit (June 1988), the department intimated in January 1989 that penalty amounting

to Rs.32,616 had since been imposed in November 1988.

The case was reported to Government in January 1989; their reply has not been received (April 1990).

(g) In Sales Tax Circle, Kanpur, a dealer purchased coal from outside the State for Rs.5.16 lakhs during 1983-84 on the strength of declaration in form 'C' though coal was not covered by his certificate of registration. Penalty up to Rs.61,930, could be imposed for this offence, but no penalty was imposed.

On this being pointed out in audit (August 1988), the department stated (December 1988) that the penalty of Rs.61,930 had since been imposed.

The case was reported to Government in June 1989.

(h) In Sales Tax Circle, Meerut, a dealer purchased machinery for Rs.2.90 lakhs during 1985-86 from outside the State at a concessional rate of tax on the strength of declaration in form 'C' although machinery was not covered by his registration certificate. Penalty up to Rs.43,650 could be imposed but it was omitted to be imposed.

On this being pointed out in audit (June 1988), the department stated

(January 1989) that penalty of Rs.26,199 had since been imposed.

The case was reported to Government in June 1989.

(i) In Sales Tax Circle, Akbarpur (district Faizabad), a co-operative society purchased timber for Rs.2.25 lakhs at the concessional rate of tax on the strength of declaration form 'C' during 1984-85 by falsely representing that timber was covered by the registration certificate granted to the society. Penalty up to Rs.40,470, could be imposed, but this irregularity was not detected by the assessing authority at the time of assessment in November 1988.

On this being pointed out in audit (November 1988), the department stated in September 1989 that penalty amounting to Rs. 40,470 had since been imposed.

The case was reported to Government in May 1989.

(j) In the Sales Tax Circle, Agra, a dealer manufacturing and selling synthetic monofilament yarn and plastic tubings purchased generating sets for Rs.1.96 lakhs during the year 1982-83 at the concessional rate of tax on the strength of declaration in form 'C' although the goods were not covered by his certificate of registration. The

dealer was, therefore, liable to penalty upto Rs.35,324, which was omitted to be imposed.

On the omission being pointed out in audit (March 1988), the department intimated (July 1989) that penalty amounting to Rs.35,324 had since been imposed on the dealer.

The case was reported to Government in March 1988.

(k) A sugar mill in Muzaffarnagar made inter-State purchases of bed lathe, exhaust fan coolers, electric motors and air compressors valuing Rs.1.48 lakhs during the year 1979-80 at concessional rate of tax by misrepresenting that these goods were covered by the certificate of registration. Penalty up to Rs.22,125 could be imposed on the mill for misrepresentation, but the assessing authority failed to detect the irregularity.

On this being pointed out in audit (July 1985), Government intimated (February 1986) that the aforesaid goods were included in the registration certificate granted to the sugar mill. However, the verification again in Audit did not substantiate the reply of Government and the matter was again referred to them in April 1986, followed by reminders in July 1986 and

June 1987. In March 1989, the department stated that penalty amounting to Rs.22,123 had since been imposed (January 1989).

2.6. Non-imposition of penalty under Section 4-B

(i) 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 manufacturers on the purchases of raw materials required for use in the manufacture of certain notified goods on fulfillment of certain conditions. In case the raw materials are used for manufacture of any other goods not mentioned in the recognition certificate, the dealer shall be liable to pay as penalty such amount as the assessing authority may fix, being not less than the amount of tax payable but not exceeding three times the relief in tax availed by him.

(a) It has been judicially held* that in a case where more than one raw material are used in manufacture of any goods, the value of the raw materials which is much more than the value of other raw materials will decide the

*C.S.T. V/s Agrawal Abhiwhan Bhandar (1981 STC 41.HC) and State of Tamil Nadu Vs. Bhagwan Chand & Co. (1978) 42 STC. 325 (Madras)

category in which the goods so produced falls.

In Sales Tax Circle, Ghaziabad, a dealer, holding recognition certificate for the manufacture of rubber products, purchased rayon /polyester cord, cotton fabrics and chemicals etc. for Rs.125.77 lakhs and rubber compound for Rs.67.44 lakhs during the years 1984-85 and 1985-86 as raw materials. Out of these, raw materials for Rs.28.02 lakhs were purchased tax-free on the strength of declaration in form III-B and used in the manufacture of different kinds of beltings viz. transmission belt, elevator belts, conveyer belts, V.belts and fan belts etc. With effect from 7 September 1981 beltings of all kinds have been classified separately under the U.P.Sales Tax Act, 1948, and as such the aforesaid products could not be treated as a rubber product or rayon, polyester cord product or cotton fabrics etc. As the beltings did not fall under the category of rubber products for the manufacture of which he held recognition certificate, penalty up to Rs.6.72 lakhs, could be imposed but was omitted to be imposed.

On the omission being pointed out in audit (September 1988), the department stated (March 1989) that beltings were rubber products as the weight of rubber used was more than the weight of other materials used in the manufacture of belting. The reply of

the department is not tenable in view of the fact that in the instant case the value of polyester/rayon cord and cotton fabrics was much more than the value of rubber used in manufacture of beltings. Moreover "beltings" have been classified separately from 7th September 1981 and as such stand excluded from the scope of entry 'Rubber products' from that date.

The case was reported to Government in April 1989; their reply has not been received in spite of reminder issued in April 1990.

(b) In Sales Tax Circle, Ghaziabad, a dealer, holding recognition certificate for manufacture of iron and steel, purchased certain items for Rs.73.43 lakhs during 1980-81, 1981-82 and 1982-83 tax-free on the strength of declaration in form III-B and used them in the manufacture of barbed wire which did not fall in the category of "Iron and Steel". For making use of raw materials for manufacture of commodities other than 'iron and steel', the dealer was liable to a minimum penalty of Rs.2.94 lakhs but no penalty was imposed while making assessments for the above years in February 1985 and March 1985.

On the omission being pointed out in audit (August 1985), penalty amounting to Rs.2.93 lakhs was imposed (May 1986).

Government, to whom the case was reported in August 1985, endorsed (August 1987) the action taken by the department.

(c) In Sales Tax Circle, Kanpur, a dealer, holding recognition certificate for the manufacture of paints and chemicals, purchased raw materials for Rs.9.99 lakhs tax-free on the strength of declarations in form III-B during 1982-83 and used it in the manufacture of rosin oil, instead of paints and chemicals. The dealer was, therefore, liable to penalty up to Rs.2.40 lakhs which was omitted to be imposed while making assessment in March 1985.

On the omission being pointed out in audit (May 1986), the department stated (March 1987) that penalty amounting to Rs.1.40 lakhs had since been imposed.

The case was reported to Government in February 1988.

(d) In Sales Tax Circle, Kanpur, a dealer, holding recognition certificate for the manufacture of iron and steel, purchased tin plates for Rs.12.28 lakhs during the year 1978-79 and 1979-80 (assessment completed in April 1983 and December 1982 respectively) tax-free on the strength of declaration in form III-B and used the same in the manufacture of tin containers which do not fall under iron and steel. The

dealer was, therefore, liable to penalty up to Rs.1.47 lakhs, but it was omitted to be imposed.

On the omission being pointed out in audit (July 1985) the department stated (September 1987) that the penalty amounting to Rs. 95,000 has since been imposed.

The case was reported to Government in April 1989.

(e) In Sales Tax Circle, Agra, a dealer was granted recognition certificate for the manufacture of "Rubber products". He purchased raw materials worth Rs.12.02 lakhs during 1981-82 to 1983-84 tax free on the strength of declaration to the effect that goods are for use as raw materials in manufacture of rubber products. His business was, however, to rubberise steel rollers used in the printing machines. As rubberised steel rollers were not "Rubber products", but part of machinery, the dealer was liable to pay penalty up to Rs.1.44 lakhs, which was not imposed.

On this being pointed out in audit in September 1988, the department stated (July 1989) that the dealer had carried out rubberisation on steel rollers on which rubber had worn out and did not manufacture rollers, but manufactured rubber products. The reply is not tenable since according to

the assessment orders, the dealer manufactured and sold rubberised printing machine steel rollers. Even rubberisation of steel rollers on which rubber had worn out does not amount to manufacture of "rubber products".

The case was reported to Government in June 1989; their reply has not been received in spite of reminder issued in April 1990.

(f) In Sales Tax Circle, Varanasi, a dealer, holding recognition certificate for manufacture of poly yarn, purchased raw materials for Rs.6 lakhs at the concessional rate of tax on the strength of declaration form III-B during the year 1983-84 and used them in the manufacture of plastic cane goods which are exempt from levy of tax. The dealer was, therefore, liable to penalty up to Rs.72,000, for misuse of goods, but no penalty was imposed while making assessment in February 1988.

On the omission being pointed out in audit (June 1988), the department stated (January 1989) that penalty amounting to Rs.72,000 had since been imposed.

The case was reported to Government in May 1989.

(g) A dealer of Allahabad circle was granted recognition certificate for the

manufacture of steel wire and nails with effect from 10th September 1976. He purchased raw materials worth Rs.5.23 lakhs tax free on the strength of declaration form III-B during 1980-81 and 1981-82 and used in the manufacture of nails. For the manufacture of steel wires he was eligible to purchase raw materials tax free but for the manufacture of nails he could purchase raw materials at the concessional rate of 4 per cent. The dealer was liable to penalty up to Rs.62,810 for misuse of raw materials, but it was not imposed while making assessment in January 1983 and March 1988.

The case was reported to the department in April 1989 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

(h) In Sales Tax Circle, Meerut, a dealer holding recognition certificate for the manufacture of C.I. Castings (iron and steel) purchased pig iron and cast iron scrap for Rs.5.10 lakhs tax-free during 1983-84 and 1985-86 on the strength of declaration to the effect that the scrap was to be used in the manufacture of C.I. castings. But he used scrap worth Rs.5.00 lakhs in the manufacture of machinery parts. The dealer was, therefore, liable to pay penalty upto Rs.60,154, which was omitted to be imposed.

The case was reported to the department in July 1986 and to Government in January 1989; their replies have not been received in spite of reminder issued in April 1990.

(i) In Sales Tax Circle, Ghaziabad, a dealer holding recognition certificate for the manufacture of bicycle parts purchased raw materials for Rs.13.08 lakhs during 1980-81 and 1982-83 and utilised materials worth Rs.4.64 lakhs in the manufacture of rickshaw rims not notified under the Act. The dealer was, therefore, liable to pay penalty up to Rs.55,192 for use of raw materials for the purpose other than that for which the recognition certificate was granted, but no penalty was imposed.

The case was reported to the department in May 1989 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

(ii) Section 4-B of the U.P.Sales Tax Act, 1948 provides for a scheme for special relief in tax to certain manufacturers on purchases of raw materials required for use in manufacture of certain notified goods on fulfillment of certain conditions. 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, Orai, a dealer, holding recognition certificate for the manufacture of oil, purchased oilseeds for Rs.5.57 lakhs during 1983-84 at the concessional rate of tax and transferred the oil manufactured out of the said oil seeds on consignment basis. As the dealer did not sell the notified goods, he was liable to pay penalty up to Rs.33,899, but no penalty was imposed.

On the omission being pointed out in audit (October 1988), the department stated (March 1989) that penalty amounting to Rs.33,899 had since been imposed.

The case was reported to Government in July 1989.

(b) In Sales Tax Circle, Ghaziabad, a dealer, holding recognition certificate for the manufacture of bicycles, purchased tyres, tubes, brass ingots and chains etc. worth Rs.48.17 lakhs tax-free on the strength of declaration in form III-B during the years 1981-82 and 1982-83, and used

them in the manufacture of bicycles. He transferred bicycles worth Rs.51.81 lakhs outside the State on consignment basis. For disposing of goods otherwise than sale the dealer was liable to pay penalty up to Rs.2.56 lakhs, which was omitted to be imposed.

The case was reported to the department in June 1986 and to Government in January 1988; their replies have not been received in spite of reminders issued in April 1990.

(c) In Sales Tax Circle, Dehradun, a corporation, holding recognition certificate for manufacture of turpentine oil and rosin, purchased resin for Rs.49.97 lakhs tax-free on the strength of declaration form III-B during the year 1981-82 and transferred turpentine oil and rosin worth Rs.46.78 lakhs manufactured out of the said resin outside the State on consignment basis. For breach of the condition penalty upto 1.40 lakhs could be imposed but was omitted to be imposed.

The case was reported to the department in January 1989 and to Government in May 1989; their replies have not been received in spite of reminders issued in April 1990.

(d) In Sales Tax Circle, Ghaziabad, a dealer who had purchased woodwool for Rs.1.17 lakhs during 1983-84 availing relief in tax did not sell but only

transferred the finished products valuing Rs.2.58 lakhs outside the State on consignment basis. The dealer was, therefore, liable to pay penalty up to Rs.61,929 which was not imposed.

On this being pointed out in audit (July 1986), the department imposed the penalty of Rs.61,929 in September 1986 which was reduced to Rs.51,600 by appellate authority in August 1988.

The case was reported to Government in July 1989.

(e) In Sales Tax Circle, Agra, a dealer, holding recognition certificate for extraction of oil, purchased *mahua* seeds for Rs.15.68 lakhs at the concessional rate of tax on the strength of declaration form III-B during the year 1982-83 and transferred oil (extracted out of the *mahua* seeds) valuing Rs.4.74 lakhs outside the State on consignment basis. For breach of the condition penalty up to Rs.56,880 could be imposed but was omitted to be imposed (June 1986).

On the omission being pointed out in audit (March 1988), the department stated (December 1988) that penalty amounting to Rs.38,400 had since been imposed.

The case was reported to Government in June 1989.

(f) In Sales Tax Circle, Hardoi, a dealer, holding recognition certificate for manufacture of oil, purchased oilseeds worth Rs.6.51 lakhs at concessional rate of tax on the strength of declarations in form III-B during the year 1982-83. Out of the manufactured oil, the dealer transferred oil for Rs.7.83 lakhs to his branches outside Uttar Pradesh, which does not constitute sale. The dealer was, therefore, liable to pay minimum penalty of Rs.31,500 which was omitted to be imposed.

On this being pointed out in audit (August 1987), the department stated (December 1988) that penalty of Rs.31,500 had since been imposed, out of which Rs. 15,731 had been realised.

The case was reported to Government in February 1989.

2.7. Non-imposition of penalty under section 15-A

(a) Under Section 28A of the U.P.Sales Tax Act, 1948, read with Rule 85 of the U.P.Sales Tax Rules, 1948, a registered dealer, desirous of importing goods from outside the State, shall obtain declaration form XXXI from the assessing officer. Where such goods are consigned by rail, river, air or post, the importer shall not obtain delivery thereof unless he furnishes to

the assessing officer the declaration in duplicate duly filled in and signed by him for endorsement by such officer. In the event of contravention of these provisions, the assessing authority may direct that such dealer or person shall pay, by way of penalty, a sum not exceeding 40 per cent of the value of the goods imported, as provided in Section 15-A(1)(o) *ibid* read with item (ix) thereunder.

In two cases where goods were imported without submitting declaration in form XXXI, penalty of Rs.1.21 lakhs was imposed and realised on being pointed out in audit. A few other cases are mentioned below.

(i) In Sales Tax Circle, Ghaziabad, a dealer imported tin plates worth Rs.34.62 lakhs during the year 1980-81 from outside the State by rail and obtained the delivery of goods without furnishing the declaration form XXXI in duplicate to the assessing officer. For this offence, penalty up to Rs.13.85 lakhs could be imposed, but this was not considered while making assessment in November 1983.

On the omission being pointed out in audit (April 1986), the department stated in July 1989 that penalty amounting to Rs.3.55 lakhs had since been imposed.

The case was reported to Government in December 1988.

(ii) In Sales Tax Circle, Kanpur, two dealers had sold iron and steel for Rs.203.40 lakhs during 1978-79 and 1979-80, tax free on the strength of declarations purported to have been furnished by the purchasers to the effect that they intended to re-sell the goods in the same form and condition. The declaration forms were later on found to have been not so furnished by the purchasers and to be fake. The selling dealers were, therefore, liable to pay penalty up to Rs.12.20 lakhs, but no penalty was imposed, while completing assessment in July 1983 and September 1984.

On this being pointed out in audit (December 1984), the department stated in July 1986 that the penalty of Rs.12.20 lakhs had since been imposed.

The case was reported to Government in September 1989.

(b) Under Section 15-A(1)(qq) of the U.P.Sales Tax Act, 1948, if a dealer realises any amount as sales tax or purchase tax, when no sales tax or purchase tax is legally payable or realises tax in excess of the amount of tax legally payable, the assessing authority 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.

In Sales Tax Circle, Dehradun, two dealers realised and deposited tax amounting to Rs.27,494 on sale of lime and timber, during the years 1982-83 and 1983-84, in excess of the tax due under the Act. While making assessments in August 1986 and January 1987, the amounts realised in excess were adjusted against the demands raised against the dealers. The assessing authority failed to impose minimum penalty of Rs.27,494 contemplated in the Act.

On the omission being pointed out in audit (March 1988), the department stated (February 1989) that penalty amounting to Rs.27,494 had since been imposed, out of which a sum of Rs.13,932 had been realised in May 1988.

The case was reported to Government in March 1989.

2.8. Under assessment of Central sales tax and non-imposition of penalty

Under section 8(2) of the Central Sales Tax Act, 1956, in case of inter-State sale of declared goods not covered by declarations in forms 'C' or 'D', tax is leviable at twice the rate applicable on sale of such goods in the State. Further, if a dealer has

concealed or has given incorrect particulars of turnover he is liable to penalty upto one and half times of tax which would thereby have been avoided.

In Sales Tax Circle, Kanpur, a dealer disclosed transfer of iron and Steel for Rs.56.58 lakhs outside the State on consignment basis during 1984-85. On 1st April 1985 the dealer sent an intimation to the assessing officer regarding closure of business. In June 1985, Departmental Investigation Branch intimated that consignment sales shown by the dealer were found to be fake. Thereupon assessment of the dealer for the said year was carried out ex-parte in March 1987, and treating the consignment sales shown by the dealer as inter-State sales, and on the turnover of such sales determined at Rs.150 lakhs, tax was levied at the rate of 4 per cent instead of the correct rate of 8 per cent. This led to short levy of tax by Rs.6 lakhs. The dealer was also liable to pay penalty upto Rs.9 lakhs for concealment and giving inaccurate particulars of turnover which was not imposed.

On this being pointed out in audit (August 1988), the department intimated (January 1989) that assessment had since been revised and additional demand for Rs.6 lakhs raised. Report on action taken for levy of penalty has not been received (April 1990).

The case was reported to Government in December 1988; their reply has not been received in spite of reminder issued in April 1990.

2.9. Under-assessment due to misclassification of goods

(i) It has been judicially held* that chakki ka patthar will fall under the entry 'mill stones', the turnover of sales thereof being taxable at the rate of 8 per cent with effect from 7th September 1981 in the hands of manufacturer or importer.

In Sales Tax Circle, Ghaziabad, on the sales of chakki ka patthar for Rs.21.99 lakhs made by a dealer during the years 1984-85 to 1986-87, tax was levied at the rate of 6 per cent, treating chakki ka patthar as 'machinery part'. The misclassification resulted in underassessment of tax by Rs.43,984. Interest at the rate of 2 per cent per month was also chargeable from the dealer.

The case was reported to the department in December 1988 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

(ii) Under the U.P.Sales Tax Act, 1948, with effect from 7th September 1981, on chemicals tax is leviable at

the rate of 8 per cent at the point of sale by the manufacturer or importer. Potassium chlorate is a chemical which detonates with heat and is used in the manufacture of matches, fireworks and explosives.

In Sales Tax Circle, Hapur, a dealer sold potassium chlorate (chemical) worth Rs.13.70 lakhs during 1983-84, on which tax was erroneously levied (November 1987) at the rate of 5 per cent (treating the commodity as chemical fertilizer) instead of at 8 per cent leviable on chemicals. This resulted in short levy of Rs.41,118.

On the omission being pointed out in audit (October 1988), the department stated in November 1989 that assessment had since been revised and additional demand of Rs.39,528 raised and realized in September 1989.

The case was reported to Government in April 1989.

(iii) As per Government notification dated 7th September 1981, refined coconut oil is taxable at the rate of 10 per cent at the point of sale by the manufacturer or importer, with effect from 7th September 1981.

In Sales Tax Circle, Moradabad, on the sales of refined coconut oil for Rs.6.56 lakhs made by a dealer during the year 1982-83, tax was levied (June

1986) at the rate of 4 per cent, treating refined coconut oil as 'oils of all kinds', instead of at the prescribed rate of 10 per cent. The misclassification resulted in short levy of tax amounting to Rs.39,375. Interest at the rate of 2 per cent per month is also leviable up to the date of deposit of tax due.

The case was reported to the department in January 1989 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

(iv) As per Government notification dated 1st March 1979, knitting yarn, whether woollen, acrylic or any other kind is taxable at the rate of 6 per cent at the point of sale by the manufacturer or importer. Additional tax at the rate of one per cent was also leviable during the period from 4th December 1979 to 6th September 1981.

In Sales Tax Circle, Kanpur, on the sales of knitting yarn for Rs.7.53 lakhs made by a dealer during the years 1979-80, 1980-81 and 1981-82, tax was levied (March 1983, January 1985 and February 1985) at the rate of 2 per cent instead of 6 per cent, treating 'knitting yarn' as 'yarn of all kinds' although knitting yarn was specifically provided in the said notification. The misclassification led to

underassessment of tax by Rs.30,816. As the tax was admittedly payable by the dealer, interest at the rate of 2 per cent per month was also chargeable from him up to the date of deposit of tax due.

On the omission being pointed out in audit (May 1986), the department stated (March 1987) that assessments had since been revised and an additional demand for Rs.30,816 raised.

The case was reported to Government in February 1988.

2.10. Grant of irregular exemption

(i) It has been *Judicially held that nuts and bolts fall under the item "hardwares", and tax on their sales turnover is leviable at the rate of 8 per cent with effect from 7th September 1981 in the hands of manufacturer or importer.

In Sales Tax Circle, Barot (district Meerut), sales of nuts and bolts amounting to Rs.18.93 lakhs made by four dealers during the years 1982-83 to 1984-85 were exempted from levy of tax, treating nuts and bolts as parts of agricultural implements. Irregular exemption granted to the

*Allahabad High Court Judgement in the case of C.S.T. vs. Narang Sales Corporation (1980) U.P.T.C. 453

dealers resulted in non-levy of tax amounting to Rs.1.52 lakhs. As taxes were admittedly payable, interest at the rate of 2 per cent per month was also chargeable from the dealers.

The matter was reported to the department in December 1988 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

(ii) Section 4-B of the U.P.Sales Tax Act provides for special relief in tax to manufacturers on purchases of raw materials for use in the manufacture of notified goods. As per departmental circular dated 27th October 1979, chemicals (a processing materials) used in the manufacture of dressed hides from raw hides were not raw material and benefit of concessional rate was not to be allowed to manufacturer of dressed hides on purchases of chemicals. Babul bark is used as a processing material in manufacture of dressed hides on account of the 'tannin' content in it.

In Sales Tax Circle, Kanpur, a manufacturer of dressed hides was erroneously authorised to purchase babul bark at the concessional rate of tax as applicable for raw materials. The dealer purchased babul bark worth Rs.6.88 lakhs during 1983-84 from unregistered dealers. While completing assessment in October 1987, tax on

these purchases was levied at the rate of 4 per cent instead of at the general rate of 8 per cent. This led to under-assessment of tax by Rs.27,335.

The case was reported to the department in August 1988 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

2.11. Misuse of declaration forms

(i) As per notification dated 11th June 1974, issued under Section 8 of the U.P.Sales Tax Act, 1948, a new unit could purchase raw materials, without paying any tax, to manufacture certain notified goods, for a period of 5 years or 3 years, depending on the district in which the new unit is situated. In case the dealer falsely issues declaration forms as a result of which such tax ceases to be leviable, the dealer is liable to pay an amount equal to the relief in tax obtained by him. Besides, penalty amounting to one and a half times the tax evaded can also be imposed on him for false issuance of declaration forms.

(a) In Sales Tax Circle, Ghaziabad, a dealer was granted recognition certificate, effective from 31st December 1973 to manufacture iron castings, oil engines and oil expellers. The dealer could have purchased, without payment of tax, raw

materials for manufacturing oil engines and oil expellers up to 31st December 1976. It was, however, noticed that during the year 1978-79 to 1984-85, the dealer purchased raw materials worth Rs.66.36 lakhs without payment of tax by issuing declaration forms III-B and used the raw material in the manufacture of oil engines and oil expellers. By issuing declaration forms falsely, the dealer availed of undue concession in purchases of raw materials and, therefore, he was liable to pay an amount of Rs.2.65 lakhs as equal to the relief in tax availed of by him. Besides, penalty up to Rs.3.98 lakhs also could be imposed on the dealer, but no tax or penalty was levied while making assessments for aforementioned years on various dates between March 1983 and October 1987.

On this being pointed out in audit (October 1987), the department stated (January 1989) that an additional demand for Rs.48,880 had since been raised for the year 1983-84. Report on action taken for revising assessment for the years 1978-79 to 1982-83 and 1984-85 and levy of penalty has not been received (April 1990).

The matter was reported to Government in May 1988; their reply has not been received in spite of reminder issued in April 1990.

(b) In Sales Tax Circle, Kanpur, a dealer, who was granted recognition certificate for the manufacture of plastic products in his unit at Unnao, started production with effect from 1st April 1976. He was, therefore, entitled to purchase raw material tax-free up to 31st March 1981. The dealer, however, purchased raw material for Rs.3.16 lakhs tax-free by issuing declaration in form III-B during the year 1981-82, i.e., beyond 5 years. He was, therefore, liable to pay an amount equal to the relief in tax secured by him, i.e., Rs.12,635, besides penalty up to Rs.18,952. But the tax as well as the penalty was not levied, while making assessments for the said period in June 1986.

The case was reported to the department in August 1988 and to Government in March 1989: their replies have not been received (April 1990).

(ii) Section 4-B of the U.P. Sales Tax Act, 1948, read with Government notification dated 31st December 1976, provides a scheme for special relief in tax in purchase of raw materials by manufacturers for use in manufacture of certain notified goods on fulfillment of certain conditions. Concession of tax-free purchases of raw materials to new units was available only when the production was started before 1st January 1979. In the event of false or wrong issue of declaration forms by

reason of which tax on sale or purchase of goods ceases to be leviable, the dealer becomes liable to pay an amount equal to the amount of tax that would have been payable had such declaration not been issued. Besides, the dealer is also liable to pay penalty which shall not be less than 50 per cent and not more than one and a half times of such tax.

(a) In Sales Tax Circle, Lucknow, a dealer, holding recognition certificate for manufacture of conductor wires, purchased steel wires for Rs.36.33 lakhs tax-free on the strength of declarations in form III-B during the year 1982-83 by falsely representing that he was authorised to purchase the same tax-free. As conductor wire has not been specified in annexure III to the 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., The misuse of declaration form led to underassessment of tax amounting to Rs.1.45 lakhs. Besides, penalty up to Rs.2.18 lakhs could also be imposed for misuse of declaration forms. But levy of penalty was not considered by the department.

The case was reported to the department in October 1987 and to Government in January 1989; their replies have not been received in spite of reminders issued in April 1990.

(b) In Sales Tax Circle, Aligarh, a dealer was granted recognition certificate for the manufacture of chemicals, with effect from 9th May 1979. The dealer purchased raw materials tax-free on the strength of declaration forms (III-B) for Rs.3.29 lakhs during the years 1979-80 to 1981-82. As production in this unit was started after 1st January 1979, the dealer was not entitled to purchase raw materials free of tax but only at the concessional rate of 4 per cent. Misuse of declaration form led to underassessment of tax amounting to Rs.13,140. Besides, penalty up to Rs.19,710 could also be imposed for misuse of declaration forms.

On the omission being pointed out in audit (May 1986), the department stated (March 1988) that penalty amounting to Rs.13,142 had since then been imposed and realized. Report on levy of tax under Section 3-B ibid has not been received (April 1990).

The case was reported to Government in December 1988; their reply has not been received in spite of reminder issued in April 1990.

2.12. Non-levy of additional tax

(i) Under Section 3-F of the U.P. Sales Tax Act, 1948, additional tax at the rate of 1 per cent, over and above the tax leviable at prescribed

rates, was also leviable on the turnover of the dealers up to 6th September 1981.

In Sales Tax Circle, Varanasi, on the sales of spun pipes for Rs.5.85 lakhs and Rs.49.09 lakhs made by a dealer during the year 1979-80 and 1980-81 respectively to Government departments against declaration form III-D. tax at the rate of 4 per cent was levied (June 1987). Additional tax amounting to Rs.54,935 (at the rate of one per cent) was, however, not levied on the turnover of Rs.54.94 lakhs.

On the omission being pointed out in audit (November 1988), the department stated (May 1989) that assessments for both the years had since been revised and additional demand for Rs.54,935 raised in February 1989.

The case was reported to Government in June 1989.

(ii) Under Section 3-F of the U.P.Sales Tax Act, 1948, dealers, whose aggregate turnover exceeded Rs.10 lakhs, were liable to pay additional tax with effect from 1st October 1983, at the rate of 5 per cent of the tax. For the year 1983-84 the additional tax was payable only for the period from 1st October 1983 to 31st March 1984.

(a) In Sales Tax Circle, Gonda, a division of Forest Department sold timber for Rs.290.42 lakhs during the period from 1st October 1983 to 31st March 1984 and tax amounting to Rs.34.85 lakhs was levied at the rate of 12 per cent on these sales. Additional tax amounting to Rs.1.74 lakhs was, however, omitted to be levied.

On the omission being pointed out in audit (September 1988), the department stated in September 1989 that the additional demand of Rs.1.74 lakhs had since been raised.

The case was reported to Government in May 1989.

(b) In Sales Tax Circle, Sikanderabad (district Bulandshahar), the turnover of sales of paper by a dealer during the period from 1st October 1983 to 31st March 1984 was determined at Rs.96.15 lakhs and tax amounting to Rs.5.77 lakhs was levied. Additional tax amounting to Rs.28,845 was, however, not levied (October 1987).

On this being pointed out in audit (October 1989), the department revised the assessment and raised additional demand for that amount.

The case was reported to Government in June 1989.

(c) In Sales Tax Circle, Rae Bareli, the turnover of sales of cement pipes for the period from 1st October 1983 to 31st March 1984, made by a dealer, was, determined at Rs.60 lakhs and tax amounting to Rs.4.80 lakhs was levied thereon. Additional tax amounting to Rs.24,000 was however, not levied (January 1987).

On the omission being pointed out in audit on 3rd June 1988, the department stated (January 1989) that additional tax amounting to Rs.24,000 had since been levied on 7th June 1988.

The case was reported to Government in January 1989.

2.13. Non-levy of purchase tax

(i) Section 3-G of the U.P.Sales Tax Act, 1948, provides for levy of tax at the concessional rate of 4 per cent on sales (supported by prescribed declarations) made to departments of Central Government or State Government or company or undertaking controlled by Central or State Government provided that the goods are not resold or used in manufacture or packing of other goods for sale by such department. In case of violation of these conditions the department or undertaking shall be liable to pay purchase tax equal to the difference between the tax leviable on

sale of such goods and the tax levied at the concessional rate.

(a) In Sales Tax Circle, Allahabad, an undertaking of the Ministry of Railways purchased pin support stress benches, cement stone chips and sand, etc., for Rs.33.60 lakhs at the concessional rate of tax during 1981-82, and used them in the manufacture of Railway Sleepers. The undertaking was, therefore, liable to pay differential purchase tax amounting to Rs.1.29 lakhs, which was omitted to be levied (February 1988).

The case was reported to the department in March 1989 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

(b) In Sales Tax Circle, Lucknow, a unit of Medical Department of the State Government purchased medicinal herbs worth Rs.46.13 lakhs during the years 1979-80 to 1983-84 at the concessional rate of tax by furnishing declarations in form III-D and used the same in the manufacture of medicines. The pharmacy was, therefore, liable to pay purchase tax at the differential rate of 2 per cent amounting to Rs.92,274 which was omitted to be levied.

On this being pointed out in audit in December 1984, the department intimated (February 1989) that the

assessment had since been revised, and additional demand of 92,274 raised, out of which a sum of Rs.43,850 had since been realized.

The case was reported to Government in March 1989.

(c) In Sales Tax Circle, Dehradun, a Division of the State Electricity Board purchased electrical goods (insulators, insulating material, thrust bearing, cables, motor spares and batteries etc.) for Rs.2.66 lakhs at the concessional rate of tax on the strength of declaration form III-D during 1982-83 and used the same in generation of electricity. As the goods were used in generation of electricity, the Division was liable to pay purchase tax amounting to Rs.21,253 equal to the difference in tax, but it was not levied (December 1986).

On the omission being pointed out in audit (September 1988), the department stated (February 1989) that assessment had since been revised and additional demand for Rs.21,253 raised.

The case was reported to Government in May 1989.

(ii) Under Section 3AAAA of the U.P.Sales Tax Act, 1948, where any goods liable to tax at the point of sale to consumers 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 the 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 purchase tax at the rate at which tax is leviable on sale of such goods to consumers within the State.

(a) In Sales Tax Circle, Kanpur, a dealer purchased condemned railway wagons for Rs.6.79 lakhs tax-free on the strength of declaration form III-A during 1982-83 and 1983-84 from the Railway Department. He dismantled the wagons and sold the dismantled material as iron scrap tax-free against declaration form III-B. As the wagons were not sold in the same form and condition in which they were purchased, the dealer was liable to pay purchase tax (at 8 per cent) amounting to Rs.54,320, which was not levied (October 1986 and February 1987).

The case was reported to the department in August 1988 and to Government in March 1989; their replies have not been received in spite of reminder issued in April 1990.

(b) In Sales Tax Circle, Ghazipur, a dealer (distillery) purchased coal for Rs.11.90 lakhs during 1983-84 from unregistered dealers and confirmed it. The dealer was, therefore, liable to

pay purchase tax amounting to Rs.47,560, but it was not levied while making assessment in March 1986.

On this being pointed out in audit (May 1988), the department raised (May 1988) demand for the amount.

The case was reported to Government in June 1989.

2.14. Application of incorrect rate of tax

(a) It has been *judicially held that cost of packing is to be included in the turnover of goods and sales tax thereon is leviable at the rate applicable to goods which have been packed.

In Sales Tax Circle, Allabahad, a dealer disclosed sales of cement during 1983-84 excluding the price of gunny bags valuing Rs.256.15 lakhs which was shown separately. while finalising the assessment, tax on turnover of gunny bags was levied at the rate of 6 per cent, instead of at 8 per cent which was the rate applicable to cement. This led to short levy of Rs.5.27 lakhs (inclusive of the additional tax at the rate of 5 per cent of tax leviable from 1st October 1983). Interest at the rate of 2 per cent per month was also

*Commissioner Sales Tax Vs. Rai Bharat Das and Brothers (1988 UPTC 1326)

chargeable on the amount of tax paid short.

The case was reported to department in April 1989 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

(b) Under the U.P.Sales Tax Act, 1948, sale of spices and condiments was taxable in the hands of importer or manufacturer at the rate of 8 per cent as applicable to unclassified goods with effect from 1st June 1985.

In Sales Tax Circle, Meerut, sale of spices and condiments by a dealer, who was the importer, during June 1985 to March 1987 was determined at Rs.165.70 lakhs and tax was levied at the rate of 6 per cent instead of at the correct rate of 8 per cent. Application of incorrect rate led to under-assessment of tax (including additional tax) by Rs.3.61 lakhs. The dealer was also liable to pay interest at the rate of 2 per cent per month for non-payment of tax due.

On this being pointed out in audit (September 1988) the department revised (September 1988) the assessment and raised the demand.

The case was reported to Government in May 1989.

(c) Under the Central Sales Tax Act, 1956, on inter-State sales of declared goods not covered by prescribed declarations in form 'C' or 'D', tax is leviable at twice the rate applicable to sale of such goods within the State.

In Sales Tax Circle, Dehradun, on inter-State sales of cotton yarn amounting to Rs.74.24 lakhs (not covered by declarations in form 'C') made by a dealer during the years 1980-81 and 1981-82, tax was levied at the rate of 2 1/2 per cent on sales up to 6th September 1981 and at the rate of 2 per cent on sales from 7th September 1981 to 31st March 1982, instead of at the correct rate of 5 per cent and 4 per cent, respectively. Application of incorrect rates resulted in short levy of tax amounting to Rs.1.81 lakhs.

On this being pointed out in audit (January 1989), the department stated in September 1989 that additional demand of Rs.72,062 had since been raised for the year 1981-82, and the case for the year 1980-81 had become time barred.

The case was reported to Government in May 1989; their reply has not been received in spite of reminder issued in April 1990.

(d) If no return is submitted by the dealer within the prescribed period or the return submitted by the dealer

appears to the assessing authority to be incorrect or incomplete, the assessing authority is required to determine the turnover of the dealer to the best of his judgement and assess the tax on that basis. For the failure to furnish the return of his turnover the dealer is also liable to be penalised under Section 15-A(1)(i) of the Act. With effect from 7th September 1981, tax on cycle parts and accessories thereof is leviable at the rate of 8 per cent in the hand of manufacturer or importer.

In Sales Tax Circle, Unnao, a dealer of cycle spare parts had either not submitted the prescribed returns for the period April 1983 to March 1984 or the returns submitted by him were incorrect/incomplete. As per provisions of Section 7(3) of the Act, assessment should have been taken up during 1983-84 itself but it was actually taken up on 19th March 1988 by which time he could not be located either at his place of business or at his residence. An ex-parte assessment was accordingly carried out (March 1988) and his taxable turnover was determined by the assessing officer at Rs.50 lakhs. While assessing the tax due, the rate of tax leviable was taken to be 6 per cent instead of 8 per cent, with the result that demand for tax was worked out at Rs.3.07 lakhs (including additional tax at 5 per cent from 1st October 1983) instead of Rs.4.10 lakhs.

Levy of penalty for non-submission of returns or for submitting incorrect returns was not considered.

On this being pointed out in audit (September 1988), the additional demand for the difference of Rs.1.03 lakhs was raised on 20th September 1988. As the dealer could not be traced as yet, the prospects of recovery of tax (4.10 lakhs) and interest at the rate of 2 per cent per month due thereon appeared to be remote.

The case was reported to Government in June 1989; their reply has not been received in spite of reminder issued in April 1990.

(e) Under the U.P.Sales Tax Act, 1948, on sales of unclassified goods tax is leviable at the rate of 8 per cent, and on inter-State sales of goods other than declared goods, not covered by prescribed declarations in form 'C' or 'D' at the rate of 10 per cent or the rate of tax applicable in the State on sales of such goods within the State, whichever is higher. In departmental Circular dated 16th February 1987, it was clarified that rubber bladders/upper leather covers were raw materials for foot-balls and volley-balls and they could be purchased for manufacture of foot-balls/volley-balls. It implies that rubber bladders/upper leather covers

were parts of foot-balls/volley-balls and not sports goods by themselves.

In Sales Tax Circle, Meerut, two dealers having recognition certificates for the manufacture of sports goods made sales of rubber bladders both within the State and outside the State during 1982-83 and 1983-84. On sales of these goods within the State amounting to Rs.2.70 lakhs and Rs.4.89 lakhs respectively, tax was levied at the rate of 6 per cent, treating them wrongly as sports goods, instead of at the correct rate of 8 per cent applicable to unclassified goods. This led to under assessment of tax amounting to Rs.15,237. Further, on sales of these goods outside the State (not covered by declarations in form 'C' or 'D') by the same dealers during the same period amounting to Rs.13.53 lakhs and Rs.3.94 lakhs respectively, tax was levied at the rate of 4 per cent instead of at 10 per cent. The mistake resulted in short realisation of tax amounting to Rs.1.05 lakhs.

These cases were reported to the department in June 1988 and July 1988 and to Government in June 1989; their replies have not been received (April 1990).

(f) As per Government notification dated 7th September 1981, on turnover of sales of 'cinema arc carbon' tax was

leviable at the rate of 12 per cent in the hands of manufacturer or importer.

In Sales Tax Circle, Lucknow, on sales of 'cinema arc carbon' amounting to Rs.17.02 lakhs made by a dealer during the year 1983-84, tax was levied (July 1987) at the rate of 8 per cent, instead of at the correct rate of 12 per cent. Application of incorrect rate of tax led to short levy of tax by Rs. 68,080. Interest at the rate of 2 per cent per month is also chargeable from the dealer up to the date of deposit.

The case was reported to the department in December 1988 and to Government in June 1989; their replies have not been received in spite of reminder issued in April 1990.

(g) Under the U.P. Sales Tax Act, 1948, on turnover of sales of vanaspati, tax was leviable at the rate of 10 per cent with effect from 7th September 1981 in the hands of manufacturer or importer.

In the Sales Tax Circle, Kasganj, a dealer had submitted only one return for the year 1981-82. A survey report dated 21st February 1983, placed on record, indicated that the firm had been closed down a few months before. In spite of this, his assessment was made ex-parte only in March 1986. At the time of making assessment in March

1986, the assessing authority noticed from the utilization certificate of Forms XXXI (meant for importing goods from outside the State) Submitted by the dealer that he had purchased vanaspati for Rs.5.79 lakhs from outside the State during the period from 7th September 1981 to 31st March 1982. The dealer had not disclosed any purchases and sales during the said period. In view of concealment of purchases/sales, the assessing authority determined (March 1986) the sale turnover at Rs.15 lakhs for the said period. The assessing authority levied tax on sales of Rs.15 lakhs at the rate of 6 per cent instead of correct rate of 10 per cent. This led to under-assessment of tax of Rs.60,000. In the assessment order the assessing authority had mentioned that penal action for suppression of turnover would be taken separately, but no such action was taken till date. Penalty up to Rs.90,000 could be imposed under the Act.

On this being pointed out in audit (September 1986), the assessing officer stated (May 1988) that assessment had since been revised and additional demand for Rs.60,000 raised, but nothing was stated about levy of penalty.

The case was reported to Government in June 1989; their replies

have not been received in spite of reminder issued in April 1990.

(h) Under the U.P. Sales Tax Act, 1948, with effect from 7th September 1981, on sales of 'old, discarded, unserviceable or obsolete machinery, stores or vehicles including waste products tax was leviable at the rate of 8 per cent, at the point of sale to consumer.

(i) In Sales Tax Circle, Agra, sales of condemned wagons, made by a unit of Western Railways in 1982-83 were determined at Rs.12.50 lakhs. These condemned wagons were treated as iron scrap by the assessing authority, and tax was levied at the rate of 4 per cent instead of at the correct rate of 8 per cent. Application of incorrect rate of tax resulted in short levy of tax by Rs.50,000.

On the omission being pointed out in audit (December 1987), the department stated (February 1989) that assessment had since been revised and additional demand for Rs.50,000 raised.

The case was reported to Government in January 1988.

(ii) In Sales Tax Circle, Allahabad, tax on sales of old, discarded and unserviceable stores amounting to Rs.4 lakhs and 10 lakhs, made by a dealer during 1984-85 and 1985-86

respectively, was levied at the rate of 6 per cent instead of at the correct rate of 8 per cent. This resulted in short-levy of Rs.29,800 inclusive of the additional tax (leviable, from 1st November 1985, at the rate of 10 per cent of the tax payable by the dealer).

On the omission being pointed out in audit (April 1989), the department stated in November 1989 that assessments for both the years had since been revised and additional demand for Rs.29,800 raised.

The case was reported to Government in June 1989.

(i) Under the U.P.Sales Tax Act, 1948, on sales of oils of all kinds, tax was leviable at the rate of 5 per cent with effect from 1st June 1985 (4 per cent prior to this).

In Sales Tax Circle, Agra, sales of edible oils made by a dealer during 1985-86 were determined at Rs.38.14 lakhs, out of which sales of Rs.31.78 lakhs pertained to the period from 1st June 1985 to 31st March 1986., Tax on these sales was levied at the rate of 4 per cent, instead of at the correct rate of 5 per cent. Application of incorrect rate led to underassessment of tax by Rs.31,780. Surcharge at the rate of 10 per cent of the tax was also leviable on sales during the period

from 1st November 1985 to 31st March 1986.

The case was reported to the department in November 1988 and to Government in May 1989; their replies have not been received in spite of reminders issued in April 1990.

(j) Under the Central Sales Tax Act, 1956 read with the Commissioner of Sales Tax U.P. Circular dated 8th March 1982, tax on inter-State sales of spirit and spirituous liquors, not covered by the prescribed declaration, was leviable at the rate of 28.6 per cent at the point of sale by the importer or manufacturer.

In Sales Tax Circle, Ghazipur, tax on inter-State sales of spirit for Rs.1.32 lakhs, during 1982-83 and 1983-84 was levied (March 1988) at the rate of 10 per cent (sales not supported by prescribed declarations), instead of at the correct rate of 28.6 per cent. This led to under-assessment of Rs.24,643.

On this being pointed out in audit (July 1988), the department raised demand of Rs.0.11 lakh for 1982-83. Report on action taken for 1983-84 has not been received (April 1990).

The case was reported to Government in June 1989; their reply has not been received (April 1990).

(k) Under the U.P. Sales Tax Act, 1948, on sales of stainless steel utensils tax is leviable at the rate of 12 per cent in the hands of manufacturers or importers with effect from 6th June 1985. With effect from 1st November 1985 additional tax at the rate of 10 per cent of tax was also leviable irrespective of the turnover amount (prior to this additional tax was leviable at 5 per cent of tax, where turnover exceed Rs.10 lakhs).

In Sales Tax Circle, Ghaziabad, on sales of stainless steel utensils amounting to Rs.10 lakhs (Rs.5 lakhs within the State and Rs.5 lakhs outside the State) made by a dealer during July 1985 to March 1986, tax was levied at the rate of 10 per cent instead of at 12 per cent. This resulted in short levy of Rs.23,600 including additional tax of Rs.3,600 leviable on local sales of Rs.3 lakhs from 1st November 1985 to 31st March 1986.

On this being pointed out in audit in December 1988, the department stated in July 1989 that demand for Rs.23,600 had since been raised.

The case was reported to Government in June 1989.

(l) Under Section 8 of the Central Sales Tax Act, 1956, on inter-State sales of non-declared goods not covered

by prescribed declaration, tax is leviable at the rate of 10 per cent or the rate applicable in the State, whichever is higher. Under the U.P. Sales of Spirit, Diesel Oil and Alcohol Taxation Act, 1939, on sales of spirit (non-declared commodity) tax was leviable at the rate of 25 paise per litre during the year 1979-80. The value of one litre of spirit during that year was 81.99 paise. As per instructions dated 8th March 1982 issued by the Commissioner, Sales Tax, the percentage of tax leviable on inter-State sale of spirit worked out to 30.4878.

In Sales Tax Circle, Dhampur (district Bijnor), a sugar factory made inter-State sales of spirit for Rs.11.45 lakhs during the year 1979-80 (not covered by declaration form 'C'). Tax on the sales was levied (March 1984) at the rate of 26 per cent, instead of at the correct rate of 30.4878 per cent. It was also noticed that excise duty amounting to Rs.3.49 lakhs was omitted to be included in the turnover. The omission to include excise duty in the turnover and application of incorrect rate of tax resulted in underassessment of tax amounting to Rs.1.58 lakhs.

On the omission being pointed out in audit (September 1984), the department stated (June 1988) that assessment had since been revised and

additional demand for Rs.1.58 lakhs raised and realized (Rs.52,591 in November 1985 and Rs.1,05,181 in January 1986).

The case was reported to Government in May 1989.

2.15. Non-levy/short levy of interest

Section 8(1) of the U.P.Sales Tax Act, 1948, read with section 9(2) of the Central Sales Tax Act, 1956, provides that the tax, admittedly payable, shall be deposited within the time prescribed or by 31st August 1975, whichever is later, failing which simple interest at the rate of 2 per cent per month shall become due and be payable on the unpaid amount with effect from the date immediately following the last date prescribed or with effect from 1st June 1975, whichever is later.

(a) In Sales Tax Circle, Bareilly, the turnover of sales of condemned wagons and iron scrap by a unit of the Ministry of Railways at Bareilly for the year 1971-72 was determined (29th March 1976) at Rs.50 lakhs and tax amounting to Rs.1.77 lakhs was assessed. The unit went in appeal against the said assessment and the case was remanded for reassessment. The remanded case was reassessed on 28th May 1987 determining the turnover at Rs.35 lakhs. Tax payable by the

unit amounting to Rs.1.49 lakhs was accordingly levied. Against this the unit had deposited tax amounting to Rs.81,405 on 26th May 1976 and the balance Rs.68,470 on 24th March 1983. The unit was, therefore, liable to pay interest amounting to Rs.1.48 lakhs (for the period 1st June 1975 to 25th May 1976 on Rs.81,405 and for the period 1st June 1975 to 23rd March 1983 on Rs.68,470) for late deposit of tax but the department charged interest amounting to Rs.9,957 only. This led to short charging of interest by Rs.1.38 lakhs.

On the omission being pointed out in audit (November 1988), the department stated (July 1989) that additional demand for Rs.1.38 lakhs had since been raised and realized.

The case was reported to Government in September 1989.

(b) Inter-States turnover of chemical fertilizer of a Government of India Undertaking at Gorakhpur for the year 1974-75 was determined (31st December 1977) at Rs.3.44 crores, on which tax amounting to Rs.31.56 lakhs was levied. But the Undertaking went in appeal against the said assessment, and the tax was reduced (30th September 1986) to Rs.17.01 lakhs, out of which tax on turnover admitted by the dealer himself came to Rs.16.94 lakhs. Against this, Rs.10.88 lakhs (including

Rs.55,263 deposited after 31st August 1975) had been deposited by the dealer on different dates between July 1974 and February 1976. Interest amounting to Rs.2.30 lakhs on the balance of tax, which was erroneously taken as Rs.6.06 lakhs on 9th September 1976 instead of taking as Rs.6.61 lakhs as on 31st August 1975, for the period from 9th September 1976 to 31st March 1978, was adjusted against deposits made by the undertaking before going in appeal. The undertaking was, however, actually liable to pay interest amounting to Rs. 4.21 lakhs for the period from 1st June 1975 to 21st February 1976 on tax of Rs. 55,263 (deposited on 22.2.1976) and from 1st June 1975 to 30th March 1978 on tax of Rs.6.06 lakhs (deposited on 31.3.1978). This resulted in short levy of interest of Rs.1.91 lakhs.

The case was reported to the department in October 1987 and to Government in September 1989; their replies have not been received in spite of reminder issued in April 1990.

2.16. Short levy of tax due to calculation error

(a) In the Sales Tax Circle, Varanasi, on sales and purchases of components and electrical goods amounting to Rs.97.33 lakhs made by an undertaking of the Ministry of Railways during 1983-84, tax leviable actually worked out to Rs.5.02 lakhs. But due

to calculation error, it was determined (March 1988) by the Sales Tax Officer at Rs.4.41 lakhs. This resulted in short levy amounting to Rs.60,201. Further, the undertaking had purchased paints valuing Rs.4.75 lakhs at the concessional rate of 4 per cent and used it in the manufacture of railway engines. In terms of Section 3-G of the U.P.Sales Tax Act, 1948, such concessional rate could only be granted if the goods purchased by the undertaking were not used in the manufacture. In this case, therefore, purchase tax at the rate of 6 per cent (equal to the difference in tax payable and tax paid) was leviable on the said purchases, but the department levied tax at the rate of 4 per cent. This led to further short levy of Rs.9,508.

On the omission being pointed out in audit (November 1988), the department stated (February 1989) that the mistakes had since been rectified and additional demand for Rs.69,709 raised.

The case was reported to Government in April 1989.

(b) In Sales Tax Circle, Pilibhit, on the sales of various forest products made by the Forest Department during the year 1983-84 total tax leviable actually amounting to Rs.24.09 lakhs, due to error in calculation was worked out (March 1988) at Rs.20.50 lakhs.

This resulted in short levy of tax by Rs.3.59 lakhs. The dealer was also liable to pay interest on it at the rate of 2 per cent per month up to the date of deposit.

On the omission being pointed out in audit (September 1988), the department stated (December 1988) that the mistake had since been rectified and an additional demand for Rs.3.59 lakhs raised. It was also stated by the department that recovery had been stayed in view of a Government's order dated 26th June 1988. However, the above order was only a general direction from Government to the Commissioner, Sales Tax for staying recovery in respect of punitive proceeding being undertaken against the Forest Department/Van Nigam in respect of disputed cases and since there was no dispute regarding the liability to tax in this case, the order for staying recovery did not apply to it, and as such the department's action for staying recovery was not consistent with the Government's order of 26th June 1988.

The case was reported to Government in May 1989; their reply has not been received in spite of reminder issued in April 1990.

(c) Section 4-B of the U.P. Sales Tax Act, 1948 provides for a scheme for special relief in tax to manufacturers

on purchases of raw materials for use in the manufacture of notified goods in fulfillment of certain conditions. In the event of use of such raw-materials in the manufacture of goods other than those for which the recognition certificate was granted, the dealer would become liable to pay penalty up to three times of relief in tax secured by him.

In Sales Tax Circle Kanpur, a dealer, holding recognition certificate for the manufacture of polythene bonded Hessian cloth and cotton cloth stiffeners, purchased, inter alia, polythene films for Rs.6,13,516 during 1980-81 tax free on the strength of declarations in form III-B and used it in the manufacture of polythene bonded Hessian bags. Instead of taking action under Section 4-B(5), the assessing officer initiated action under Section 3-B of the Act *ibid* in December 1985. But while levying penalty the figure was erroneously adopted as Rs.63,516 instead of Rs 6,13,516. This resulted in short-levy of penalty by Rs.44,000.

Further, in the same assessment the amount of tax leviable on various other items worked out to Rs.8.04 lakhs; but due to calculation mistakes, it was worked out as Rs.6.74 lakhs. These mistakes led to short levy of tax by Rs.1.30 lakhs.

On this being pointed out in audit (July 1987), the department stated (February 1989) that assessment had since been revised and additional demand for Rs.1.74 lakhs raised.

The case was reported to Government in May 1989.

2.17. Turnover escaping assessment

(i) It has been judicially held* that excise duty recovered by a dealer on sale of goods forms part of his turnover and is liable to be taxed.

In the Sales Tax Circle, Pallia Kalan, Kheri, a dealer sold 3.88 lakh quintals of molasses during 1979-80 to 1981-82. Excise duty amounting to Rs.12.20 lakhs recovered by the dealer from purchasers was omitted to be included in the turnover of Rs.20.90 lakhs determined for those years. This led to under-assessment of tax amounting to Rs.1.57 lakhs. Interest at the rate of 2 per cent per month was also chargeable from the dealer for non payment of tax admittedly payable.

The case was reported to the department and to Government in June 1989; their replies have not been received April 1990.

*Vinayak Beer and Mines Stores Vs.
C.T.O. 1983 7 STL (AP) 22.

(ii) In Sales Tax Circle, Varanasi, sales of coal by a dealer during the year 1982-83 were determined at Rs.8 lakhs and tax amounting to Rs.32,000 was levied on 19th January 1987. It was noticed from assessment file of the dealer that the sales tax Officer, Deoria, intimated in March 1987 that the dealer had also obtained allotment of 2,200 tons of coal for Deoria district during the year 1982-83, the value of which, at the prevailing rate of Rs.400 per ton, worked out to Rs.8.80 lakhs. However, this turnover escaped assessment, resulting in non-levy of tax amounting to Rs.35,200. For suppression of turnover the dealer was also liable to pay penalty upto Rs.52,800, which was not imposed.

On this being pointed out in audit (October 1987), the department stated (June 1988) that assessment had since been revised and additional demand for Rs.35,200 raised in March 1988. Report on recovery and imposition of penalty has not been received (April 1990).

The case was reported to Government in June 1989; their reply has not been received in spite of reminder issued in April 1990.

2.18. Delay in refund resulting in avoidable payment of interest

Under Section 29(1) of the U.P. Sales Tax Act, 1948, amount of tax, fee or other dues paid in excess of the amount due is required to be refunded to the assessee within three months from the date of order of refund or from the date of receipt of order of refund by the assessing authority, if such order is passed by another competent authority or court. If the amount of refund is not refunded within three months, the dealer shall be entitled to interest at the rate of 18 per cent per annum from the date of order of refund or from the date of receipt of such order by the assessing officer to the date of refund.

In Sales Tax Circle, Kanpur, the Assistant Commissioner (Judicial) passed orders on 29th January 1982 for refund of Rs.21,544, paid in excess as tax by a dealer. The orders were received by the assessing officer on 8th February 1982. The assessing officer, however, refunded Rs.11,424 on 28th November 1987 and Rs.10,120 on 29th January 1988. Due to non-refund of excess tax, paid by the dealer, within the specified time, the department had to pay interest amounting to Rs.21,769 to the dealer on 12th December 1988.

On the omission being pointed out in audit in June 1988, the department confirmed (May 1989) the payment of interest and stated that investigation in the matter was in progress. It was, however, maintained that there was no loss to Government as the amount payable to the dealer was all along kept in Government account. The reply of the department is not acceptable as the payment of interest was avoidable. Outcome of the investigations has not been intimated (April 1990).

The case was reported to Government in January 1989; their reply has not been received in spite of reminder issued in November 1989.

2.19. Affording excess credit

(i) In Sales Tax Circle, Almora, while making assessment (30th January 1988) of a division of Forest Department for the year 1983-84, credit was given for Rs.42,228 against Rs.14,595 deposited by the division for the year 1983-84. It was noticed that the division had deposited Rs.27,633, through three challans in July and September 1984 an account of tax for 1984-85 but credit for the said amount was erroneously offered in both the years viz. 1983-84 and 1984-85. This resulted in affording of excess credit by Rs.27,633 for 1983-84.

On the omission being pointed out in audit (May 1988), the assessing officer revised the assessment in June 1988 and withdrew the excess credit afforded to the division, and ordered for the recovery of interest as well.

The case was reported to Government in May 1989.

(ii) In Sales Tax Circle, Allahabad, a dealer made inter-State sales of oil amounting to Rs.24.70 lakhs during the year 1970-71. He did not disclose sales of tins and drums in his returns. The assessing officer, while completing assessment for the year 1970-71, on 31st March 1973, accepted the accounts of the dealer in respect of sales of oil but determined sales of tins and drums at Rs.98,079 and levied tax of Rs.24,703 on sales of oil and Rs.2,942 on sales of tins and drums. The dealer went in appeal against the orders of the assessing officer and the case remained in various appellate courts during the period from 1973-74 to 1986. In June 1986, the tax on sales of tins and drums was ordered to be reduced from Rs.2,942 to Rs.981 and the excess tax deposited by the dealer was to be refunded/adjusted against the demands for subsequent years.

The dealer deposited the tax amounting to Rs.27,648 toward demand for the year 1970-71. After reduction of tax as above on sales of tins and

drums, tax amounting to Rs.25,684 was payable by him for the assessment year 1970-71, and only a sum of Rs.1,962 was to be refunded/adjusted. But the assessing officer gave erroneously credit of Rs.26,665 during the years 1972-73 and 1975-76, instead of Rs.1,962, thereby allowing excess credit amounting to Rs.24,703 to the dealer.

On the omission being pointed out (December 1987), the department stated in September 1989 that excess credit of Rs.24,703 allowed in 1972-73 and 1975-76 had since been withdrawn.

The matter was reported to Government in January 1989.

CHAPTER 3

State Excise

3.1 Results of Audit

Test check of the accounts and relevant records of the State Excise offices, conducted in audit during 1988-89, brought out non-levy or short-levy of duties and fees amounting to Rs 93.40 lakhs in 150 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non collection /short collection of licence fee	20	21.58
2. Non-levy /short levy of excise duty on excess wastage of spirit	20	11.10
3. Loss of excise duty due to failure of contractors to supply country spirit /bhang	2	5.44
4. Deficiency in outturn of spirit	9	26.23

(137)

5. Non-levy/short -levy of fee other than licence fee	3	0.68
6. Non realisation /short realisation of interest on arrears of payment	18	19.14
7. Other cases	78	9.25
TOTAL	150	93.40

A few important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

3.2 Disregard of rules resulting in non-recovery of licence fee.

(a) Auction of country liquor shops of Shahabad group for the year 1987-88

In Hardoi district, for the year 1987-88, the country liquor shops of Shahabad group were settled jointly in favour of four persons on the highest bid of Rs 32.60 lakhs. The licensees deposited in March 1987, as advance security, Rs 8.15 lakhs (cash: Rs 5.45 lakhs and bank guarantee of an unscheduled bank: Rs 2.70 lakhs). The licensees delayed the deposit of monthly instalments of Rs 2.71 lakhs for May 1987, June 1987 and November 1987 for more than a month. For December 1987, the licensees paid only

a part of the instalment, while instalments due for three months from January 1988 were not paid at all. After adjustment of the cash security, an amount of Rs 3.72 lakhs was due from the licensees on 31st March 1988, against which Rs 56,500 was deposited in two instalments in April and June 1988 leaving a balance of Rs 3.16 lakhs. The following irregularities were committed in settlement and running of the said group of shops.

(i) The bank guarantee of an unscheduled bank was accepted. Besides, the period covered by the bank guarantee was only upto 31st March 1988 and not upto the settlement of the dues.

(ii) The bank guarantee was not enforced before 31st March 1988 although it was clear in January '88 itself that cash security will not cover the full amount of licence fee due before 31st March 1988, nor was action taken to get the bank guarantee extended upto the date of settlement of all claims and dues. In May 1988, on a reference made by the District Excise Officer, the bank stated that since the bank guarantee was valid only upto 31st March 1988, no adjustment of dues against the bank guarantee was possible beyond that date.

(iii) On delay in payment of licence fee by the licensees from May 1987 onwards, the licence fee was not

recovered from the security deposit and the licensees were not issued notices to make good the amount of shortfall in security deposit in any of the months nor was their licence cancelled.

(iv) Issue of recovery certificates was delayed upto 27th July 1988, for which no reason was given.

(v) Further, out of Rs 86,900 as issue price for March 1988, an amount of Rs 70,400 was deposited only in August 1988 though the full amount was payable by 5th March 1988. Action taken by the District Excise Officer to recover the balance of Rs 16,500 was not intimated to audit. The District Excise Officer stated in October 1988 that the licensees were allowed to run the shop on an assurance given by them to deposit the licence fee.

The matter was reported to Government in July 1989; their reply has not been received in spite of reminder issued in April 1990.

(b) Auction of foreign liquor shops in Mirzapur district for the year 1986-87:

Under the U.P. Excise Act, 1910 and rules made thereunder, a licensee of foreign liquor shops is required to deposit, as security advance, one-fourth of the bid amount. Two-third of this advance is payable in cash at the fall of hammer during auction and the

balance can be paid within ten days either in cash or in the form of a bank guarantee. The licensee is thereafter liable to pay monthly instalments of the balance bid money or licence fee by the 20th of each month.

For the year 1986-87, the foreign liquor shops of Pipri and Kota Kharia (Mirzapur) were settled in favour of an individual on the highest bid of Rs 9.50 lakhs and Rs 11.10 lakhs respectively. The licensee besides giving security in cash had given bank guarantees of Rs 92,500 and Rs 79,167 as part of the security deposit. The licensee, however, failed to deposit monthly instalments of the licence fee by the due dates for every month. For June 1986, the licence fee aggregating Rs 1.72 lakhs (Rs 79,166 for Pipri shop and Rs 92,408 for Kota Kharia shop) was not deposited at all. The Excise authorities accepted the statement of the licensee that the amount had been deposited in the Treasury, which on verification by the department after 31st March 1987 was found to be not true.

The following points were noticed:

(i) Even though the licensee had delayed deposit of monthly instalment every month during the year, the security deposit was left untouched, the licence was not cancelled and alternative arrangements to run the

shop, including re-auction, were, though permissible, not made;

(ii) The Demand and Collection Register was not properly maintained by the Excise Officer and the department failed to watch demand and collection of dues;

(iii) The verbal statement of the licensee that money had been deposited for June 1986 was accepted without timely verification of the fact from the treasury;

(iv) Though the dues could have been adjusted from the bank guarantee, the department failed to take up the matter with the bank for nearly nine months before 31st March 1987, the date upto which the guarantee was valid. The very purpose for which bank guarantees were accepted as security deposit was not served.

The department intimated audit (December 1988) that this occurred due to wrong entries made in the register, and that recovery certificate has since been issued in April 1988.

The matter was reported to Government in March 1989; their reply has not been received (April 1990).

(c) Loss of revenue due to not taking proper action for recoveries due.

Under the U.P. Excise Act, 1910 and the rules made thereunder, in case of default in payment of monthly instalments of licence fee, the licence is required to be cancelled and the shops reauctioned at the risk and cost of the original licensee, and the loss, if any, was recoverable from the defaulter through a Civil Suit before introduction of Rule 368(6)(ii) in 1985 which provided for recovery of any such loss of excise revenue as arrears of land revenue.

In Bijnor district, licences for 9 country spirit shops (8 shops in one group and one single shop) for the year 1977-78 were settled (April 1977) in favour of two licensees for Rs. 10.91 lakhs and Rs. 68,000 respectively. Both the licensees defaulted in payment of licence fee from July 1977. Accordingly, their licences were cancelled and the shops were re-auctioned in October 1977 and September 1977, which resulted in loss of Rs 91,730 and Rs. 32,600 towards licence fee. The department issued (March 1978) recovery certificates to the Tahsildar for recovering the amount of loss as arrears of land revenue, against which the defaulting licensees filed writ petitions in the High Court. The High Court decided (June and July 1980) that recovery could not be made as arrears

of land revenue. The option available to the department was only to file a Civil Suit to recover the amount. The department, however, had not filed the suit even after a lapse of 9 years.

On this being pointed out, the department stated (December 1988) that action was under progress to file the suit.

The matter was reported to the Government in April 1989; their replies have not been received in spite of reminders issued in April 1990.

3.3. Non-levy/short-levy of excise duty on wastages of spirit in transit.

Under the U.P. Excise Act, 1910 read with the U.P. Issue of Spirit from Distilleries Rules, 1910 (as amended in 1978), an allowance upto 0.5 per cent is admissible for the actual loss in transit (by 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 when spirit is transported in bottles, and the excise duty on such wastage is to be realised from the distillers under the orders of the concerned Deputy Excise Commissioner, to whom the wastage statements are to be sent by the officer in-charge of the distillery. The rules, however, do not provide for

any time limit for preparation and submission of wastage statements by the latter and issue of recovery orders by the former. A few cases where recoveries for losses in transit of bottled liquor were not made even after substantial delays, highlighting the necessity for prescribing time limits for submission of wastage statements and issue of recovery orders are given below:

Name of distillery	Transportation under bond		Extent of transit loss in A.L. (Alcoholic litre)	Duty involved (Rs in lakh)	Extent of delay in sending statement of losses
(1)	(2)		(3)	(4)	(5)
	(a)	(b)			
Majhola Pilibhit	49 (Country liquor)	August 1987 to January 1988	1,157	0.35	4 to 8 Months
Sardar Nagar Gorakhpur	1,953 IMFL	January 1984 to March 1988	23,910	7.05	3 to 20 Months

(1)	(2)	(3)	(4)	(5)
	(a)	(b)		
Nawabganj 625 January		4,612	1.40	1 to
Gonda (Coun- 1984 to				121
try December				Months
liquor) 1987				
159				
(IMFL)				
Nandgaon 35 September		517	0.15	8 to
Ghazipur (Coun- 1983 to				60
try December				Months
liquor) 1987				
Total			8.95	

These cases were reported to the department between March 1988 and September 1988. In October 1988, the department recovered Rs. 35,358 towards losses incurred between April 1987 and January 1988 in respect of Majhola distillery. In other cases orders of the respective Deputy Excise Commissioners for charging duty have still not been received (November 1989) and recoveries could not be effected even after a lapse of more than 5 years in many cases.

The cases were reported to Government between February 1989 and

March 1989; their replies have not been received (April 1990)

3.4. Non-realisation of duty on excess transit wastage during export outside India

Under the Excise Commissioner, Uttar Pradesh order dated 13th March 1983, four distilleries in the State were permitted to supply during 18th March 1983 to 30th April 1983, 50 lakh bulk litres of spirit of strength not below 66 O.P. (over proof), i.e., having strength of 94.78 per cent by volume, to the State Trading Corporation of India for export out of India through its handling agent. The consignments were to be routed through the bonded warehouse at Budge-Budge (West Bengal) and on transit wastages in excess of the prescribed limit of 0.5 per cent, the handling agent was liable for payment of duty (chargeable at the highest rate of duty on IMFL leviable in Uttar Pradesh).

In March 1985, it was noticed during audit of the office of the Excise Commissioner, Uttar Pradesh that the handling agent had intimated net transit and handling wastage of 34,232.7 bulk litres and 4,390 bulk litres respectively which was taken to be within the prescribed limits of transit wastages by the Excise authorities of West Bengal. On this basis bond for Rs 26.50 crores executed by the handling

agent for the fulfillment of their contractual liabilities was also released by the Excise authorities of U.P. However, the wastage of 34,232.7 bulk litres, when converted into alcoholic litres at the prescribed minimum strength of 94.78 per cent by volume, worked out to 32,445.75 alcoholic litres(AL) and not 15,128.3 AL as indicated by the handling agent in its statement of transit and handling losses and certified by the Excise authorities of West Bengal. Adding to it handling wastage of 4,220 AL the total wastages worked out to 36,665.75 AL which was in excess of the permissible limit by 13,115.95 AL, and attracted a duty liability amounting to Rs 7.21 lakhs. Interest at the rate of 18 per cent per annum was also recoverable on the said amount from 29th March 1985.

On this being pointed out in audit (May 1985), the department stated (December 1988) that a demand notice for Rs 7.21 lakhs has been issued to the handling agent. The reply did not indicate whether demand for recovery of interest had also been issued. It is to be mentioned that after release of the bond, the department is left with no security from which recovery can be made.

The case was reported to Government in March 1988; reply has not been

received in spite of reminder issued in April 1990.

3.5.Excess storage wastages

Under the Uttar Pradesh Bottling of Foreign Liquor Rules, 1983, wastage allowance is admissible up to 0.8 per cent per month on the total storage of foreign liquor, but excluding bottled spirit stored in a bonded warehouse. If the wastage exceeds the permissible limit, the licensee is responsible for the payment of duty on excess wastage of such liquor.

In a distillery at Nawabganj (district Gonda), it was noticed (February 1988) that the opening balance of bottled foreign liquor (spirit) was incorrectly included in the total stock for calculation of wastage with the result that excess wastage of 1,718.4 alcoholic litres of foreign liquor was allowed during the months of April 1986 to July 1986, September 1986, November 1986, January 1987, April 1987 to September 1987 and November 1987, involving loss of excise duty to the tune of Rs 68,736.

The matter was reported to the department in March 1988 and to Government in March 1989; their replies have not been received in spite of reminders issued in April 1990.

3.6.Short-realization of duty on export of plain spirit

Under the U.P.Excise Act, 1910 and the rules framed thereunder, for the purpose of levying excise duty, liquor is categorised either as country liquor or foreign liquor. Liquor obtained through distillation, falling in the category of country liquor, may be plain spirit or outstill liquor and that falling in the category of foreign liquor may be rectified spirit. Spirit having strength below 60° O.P., i.e. containing alcohol less than 91.27 per cent by volume, is termed as plain spirit and that having strength of 60° O.P. and above as rectified spirit. These spirits, having strength of above 42.8 per cent by volume are not fit for human consumption. Plain spirit of strength of below 60° O.P., whether obtained from distillation of molasses or from malt, grape and apple, therefore, fall in the category of country liquor, for the purpose of levying excise duty. In their notification dated 28th April 1986, the State Government prescribed the rates of duty on export of country liquor and foreign liquor at Rs 10.65 and Rs 7.50 per alcoholic litre (AL) respectively.

In a distillery at Ghaziabad, it was noticed (August 1988) that in accordance with the orders dated 5th September 1987 of the Excise Commissioner, Uttar Pradesh, export duty on plain spirit (prepared from malt) of strength below 60° O.P. which fell in the category of country liquor, but not fit for human consumption, was realised at the correct rate of Rs 10.65 per AL. However, in the same distillery, excise duty on 21,730.8 AL of the same kind of plain spirit exported out of Uttar Pradesh during the month of August 1987, export duty was realised at the rate of Rs 7.50 per AL, instead of at the correct rate of Rs 10.65 per AL. Application of the incorrect rate of duty resulted in short realisation of duty of Rs 68,452.

On this being pointed out in audit (August 1988), the Excise Officer in-charge stated (August 1988) that export duty @ Rs 7.50 per A.L. had been realised as per the order dated 7th August 1987 of the Excise Commissioner, Uttar Pradesh and that recovery of the amount realised short would be made on receipt of necessary orders of the Excise Commissioner, Uttar Pradesh.

The matter was reported to the department in September 1988 and to Government in March 1989; their replies have not been received in spite of reminders issued in April 1990.

3.7.Short-payment of licence fee due to adoption of lesser installed production capacity.

Under the U. P. Excise Act, 1910 and Rules framed thereunder, a licence to work a distillery is to be granted to an applicant after the Excise Commissioner is satisfied that (a) the proposed building, vessels, plant and apparatus to be used in connection with the manufacture of spirit are in conformity with the plans submitted by the applicant, (b) the required amount of security deposit has been deposited, and (c) the licence fee has been paid in advance. No alteration or addition in or to the existing building or in or to such stills and other permanent apparatus can be made (to enhance the production capacity) without prior approval of the Excise Commissioner. From the year 1974-75, the licence fee at the prescribed rate was chargeable on the yearly installed production capacity of the distillery, instead of at the fixed rate of Rs 1000 per annum.

With the permission granted by the Excise Commissioner in July 1965, a distillery in Hargaan (district Sitapur) augmented its installed production capacity from 11,530 kilolitre~~s~~ to 15,900 kilolitre~~s~~ and intimated completion of the augmentation to the department in its letter dated 2nd December 1967. The distillery had earlier (February 1967)

requested the Excise Commissioner for enhancing its licensed capacity accordingly on which no decision was taken by the department. The distiller was, however, called upon to pay the yearly licence fee from 1974-75 on the basis of old licensed installed production capacity of 11,530 kilolitres, instead of the augmented capacity of 15,900 kilolitres. Inaction of the department resulted in short-realisation of licence fee amounting to Rs 1.64 lakhs for 1974-75 to 1988-89.

On this being pointed out in audit in June 1987, Government stated in January 1989 that unless the augmented installed capacity is recognised by the concerned department of the Ministry of Industry, Government of India, on the application in that behalf to be made by the distillery, licence fee on that capacity cannot be realised. The stand taken by the Government was not correct in view of the fact that the licence fee was chargeable on the 'installed production capacity' as per Rule 703(4) ibid and licensed capacity was not relevant for the purpose of levy of licence fee.

3.8. Non-levy of interest on belated payments

As per 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 it becomes payable, interest at the rate of 18 per cent per annum is recoverable from the date such excise revenue had become payable till the date of actual payment. In respect of excise revenue which had become payable before the date of commencement 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 said date.

In one case interest amounting to Rs 30,546 for the period 29th March 1985 to 3rd January 1988, was recovered by the department (February 1988) on being pointed out in the audit. A few other cases noticed during audit are cited below:

(a) Between July 1983 and September 1986, the Deputy Excise Commissioner, Unnao ordered for recovery of excise duty of Rs 3.46 lakhs on the excess transit wastages of country liquor transported to bonded warehouses. The excise duty was payable from the date of the order passed by the Deputy Excise Commissioner. The amount of Rs 3.46 lakhs was, however, deposited by the distillery between October 1986 and June 1987, after delays ranging from 8 months to 21 months. For the late deposit of excise revenue, interest at the rate of 18 per cent, amounting to

Rs 73,977, was also payable by the distillery, but no action was taken for its recovery.

The matter was reported to the department in November 1988 and to Government in June 1989; their replies have not been received in spite of reminders issued in April 1990.

(b) In Saharanpur, excise revenue comprising licence fee and ~~7500000~~ fee to the tune of Rs 4.49 lakhs, payable by three licensees in respect of the period prior to 29th March 1985, was paid piecemeal after delays ranging from about three months to twenty two months reckoned from 29th March 1985. Interest amounting to Rs 1.06 lakhs was leviable on these belated payments, but it was not levied and realised.

On this being pointed out in audit (June 1988), the department stated (February 1989) that recovery certificate for Rs 1.06 lakhs has been issued.

The matter was reported to Government in March 1989.

(c) In Dehradun, excise revenue to the tune of Rs 5.54 lakhs, which became payable by 10 licensees prior to 29th March 1985, was paid after delay of 8 to 36 months reckoned from 29th March 1985. Interest amounting to Rs 1.44 lakhs was leviable on these delayed

payments of excise revenue, but it was not levied and realised.

The matter was reported to the department in July 1988 and to Government in March 1989; their replies have not been received in spite of reminders issued in April 1990.

3.9. Non-levy of penalty

Under the U.P. Excise Act, 1910 and the rules made thereunder, a licensed retail vendor is entitled to get spirit from wholesale vendor (contractor) within reasonable time after payment of duty and contracted price. In the event of the wholesale vendor (contractor) failing to supply such spirit within the time adjudged by the Collector to be reasonable, spirit shall be procured from elsewhere by the Collector, and the cost, and any loss accruing to Government would be recovered from the wholesale vendor (contractor). In addition, the contractor shall be liable, at the discretion of the Excise Commissioner, to a penalty not exceeding Rs 17.50 per alcoholic litre of spirit demanded but not supplied.

In the course of audit of the Bonded Warehouse (country spirit), Dehradun, it was noticed (December 1986) that during 1984-85 to 1986-87, contract for supply of spirit to the above-mentioned Bonded Warehouse was

given to a distillery (wholesale vendor) situated at Dehradun. The distillery, however, failed to supply within reasonable time 5.18 lakh litres of spirit demanded by licensed retail vendors during the said period (upto December 1986). The quantity of spirit was arranged by the Collector, Dehradun from other distilleries of the State. For non-supply of the spirit, penalty upto a maximum of Rs 90.68 lakhs was leviable; however, no penalty whatsoever was imposed on the defaulting wholesale vendor. Instead, contract for supply of spirit was awarded to the same distillery in the subsequent years.

The matter was reported to the department in February 1987. Report on final action taken has not been received (April 1990).

The case was reported to Government in February 1988; their reply has not been received in spite of reminders issued in April 1990.

3.10 Non-deposit or delay in deposit of security money into Government account

Under the U.P.Excise Act, 1910 and rules framed thereunder, all sums received in cash or in bank drafts as security advance upto 2.00 PM on the date of auction from the highest bidders of country-liquor or Indian made Foreign Liquor shops, are required

to be credited into Government account on the same day. Amounts paid subsequently on the same day are to be kept in the sealed bags in the Treasury and brought to account on the next day.

At Etawah, for the year 1987-88, four groups of country liquor shops and six foreign liquor shops were settled in auction on 27th March 1987. Rupees 25.16 lakhs (Rs 3.16 lakhs in cash and Rs 22 lakhs in bank draft) paid on the day of auction as advance security by the highest bidders were not deposited to Government account on the same day or on the following day. Later, sum of Rs 3.16 lakhs was credited to the Government account on 16 July 1987, i.e. after a lapse of 3 months and 19 days, while the Bank Drafts were not credited at all (February 1988).

On this being pointed out in audit (February 1988), the District Excise Officer, Etawah stated in February 1988 that the Bank Drafts were not credited to Government account within their validity period as the concerned clerk had retired and that they were subsequently sent to the concerned banks for revalidation. It was noticed, however, that the Bank Drafts were not even entered in the Revenue Register (G-6) or in the receipt granted to the depositor (Form G-16) and no details of these bank drafts were now available with the department (February 1988).

The matter was reported to Government in April 1989; reply has not been received in spite of reminders issued in April 1990.

3.11 Non-adjustment of licence fee from security deposit

In the District Excise Office, Gonda, it was noticed (June 1988) that the licensees of country spirit shops of Raniganj group for the year 1977-78 having defaulted in payment of licence fee to the extent of Rs 29,670 filed a suit against recovery of the amount in the Court of Civil Judge, Gonda. A sum equivalent to the amount was kept in the State Bank of India, Gonda as security under the orders of the Court. The suit was finally dismissed on 4th April 1982. No action was, however, taken by the department even after a lapse of six years, to get the amount released from the bank and credited to Government Account.

On the omission being pointed out in audit (July 1988), the department stated in February 1989 that action was being taken to get the amount released.

The matter was reported to the Government in March 1989; their reply has not been received inspite of reminder issued in April 1990.

CHAPTER-4

**TAXES ON VEHICLES,
GOODS AND PASSENGERS**

4.1. Results of Audit

Test check of the records of the Transport Department during 1988-89 revealed short levy of taxes amounting to Rs 190.03 lakhs in 232 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Short levy of passenger Tax/ additional passenger Tax	114	57.14
2. Underassessment of road tax	35	14.73
3. Short levy of goods tax	27	63.31
4. Other cases	56	54.85
TOTAL	232	190.03

(140)

A few important cases noticed during 1988-89 and earlier years and findings of a review on "assessment and collection of passenger tax" are mentioned in the succeeding paragraphs.

4.2 Assessment and collection of passenger tax

4.2.1. Introduction

Under the provisions of the U.P. Motor Gadi (Yatri-kar) Adhiniyam, 1962, passenger tax is levied on every passenger carried by a stage carriage or contract carriage, at rates not exceeding 20 per cent of the fare payable by such passenger. Initially the rate of passenger tax was 5 per cent of the fare, which was raised to 10 per cent with effect from 1st December 1962, 15 per cent from 1st January 1966 and then 16 per cent from 1st May 1979. Besides, from 15th November 1971, additional passenger tax at the rate of 10 paise is levied on every passenger carried by a stage carriage plying beyond the limits of a city or municipality, when the ordinary fare for such journey is not less than one rupee. From 1st November 1976, a surcharge is also levied for insurance of passengers on every passenger for each journey at the rate of 5 per cent of the aggregate of the tax and additional tax. The tax is collected by the operator of the stage carriage

and paid to the State Government in the prescribed manner.

An operator of a stage carriage has the option to pay passenger tax on way-bill basis (i.e., on the basis of actual number of passengers carried) or on lump sum basis. In the latter case, the tax payable is calculated according to the following prescribed formula:

$$\text{Tax payable} = F \times T \times R$$

where,

F = The total fare normally payable for the entire route for the full seating capacity and 50 per cent of the standing capacity;

T = number of one-way trips; and

R = rate of tax.

Provided that the amount of lump sum shall not be more than the amount determined in accordance with the above formula and shall not be less than 75 per cent thereof.

Further, additional tax at the rate of 25 percent of passenger tax determined as above and insurance surcharge at the rate of 5 per cent of passenger tax plus additional passenger tax is also chargeable.

In case of a contract carriage excluding a motor cab, the following formula is adopted for payment of tax on lump sum basis:

$$\text{Tax payable} = F \times D \times R$$

where,

F = maximum rate of fare per kilometer or such lower rate, which shall in no case be less than 75 per cent of the maximum rate;

D = total distance expected to be travelled by the vehicle in a month; and

R = rate of tax.

Under way-bill method, the operator has to file weekly/monthly returns showing the fare actually realised, whereas under lump sum method, no returns are required to be filed with the department.

4.2.2. Scope of Audit

A review was conducted in audit to study the existing rules and procedure followed in regard to levy and recovery of passenger tax by the prescribed authorities in U.P. The review was undertaken during the period December 1988 to May 1989 and covered the offices of the Transport Commissioner, U.P., 8 Regional Transport Officers at

Lucknow, Varanasi, Gorakhpur, Faizabad, Meerut, Kanpur, Moradabad and Dehradun, 7 Assistant Regional Transport Officers at Sitapur, Hardoi, Azamgarh, Ghaziabad, Hamirpur, Orai and Mainpuri and 4 checkposts, out of 14 Regional Transport Offices, 39 sub-Regional transport Offices and 35 checkposts in the State.

4.2.3. Organisational set-up

The overall responsibility for assessment and collection of taxes, as also issue of necessary directions, in this regard rests with the Transport commissioner, U.P. The State is divided into 14 regions, each under the charge of a Regional Transport Officer and 39 Sub-regions, each under the charge of an Assistant Regional Transport Officer (Administration). Besides, there are 35 checkposts at various entry points into the State which collect *path-kar* and other taxes from vehicles of other States entering into Uttar Pradesh or passing through it.

4 2.4 Highlights

(1) Increase in passenger tax receipts was not commensurate with the increase in the number of buses and passenger fare, indicating shortfall of revenue to the extent of 95.5 per cent over the period 1982-83 to 1987-88.

The contribution of passenger tax revenue to the total tax revenue of the State also declined over these years.

(ii) Enhanced rates of fare, as prescribed by Government in March 1987, were not taken into account in computation of passenger tax in respect of all the routes in Varanasi and Gorakhpur regions and 21 routes in other 4 regions and 4 sub-regions resulting in considerable loss of revenue.

(iii) Delay in enforcement of minimum rates of fare by State Transport Authority deprived the State Government of revenue of Rs. 13.26 lakhs.

(iv) Non-assessment of passenger tax on the basis of fare for actual length of routes resulted in short realisation of passenger tax amounting to Rs 7.23 lakhs.

(v) Non-rounding off of fare to the nearest multiple of fifty paise (including the amount of passenger tax, additional passenger tax and insurance surcharge) resulted in tax being realised short by Rs 2.26 lakhs.

(vi) Non-assessment of passenger tax for the entire permitted route resulted in tax being realised short by Rs 10.58 lakhs in 4 regions and one sub-region.

(vii) Short realisation of passenger tax in respect of contract carriages due to not applying minimum prescribed mileage and fare amounted to Rs 3.78 lakhs.

(viii) Inordinate delay in issue of permits on 8 inter-state routes of U.P. and Madhya Pradesh deprived the State Government of passenger tax amounting to Rs 7.88 lakhs.

(ix) Against Rs 226.35 lakhs due from the Delhi Transport Corporation by way of passenger tax to be remitted, a sum of Rs 150.00 lakhs only was remitted by the latter due to lack of control over such remittances.

(x) Non-observance of rules and procedures in respect of contract carriages covered by temporary/special permits issued by other States, resulted in short realisation of tax amounting to Rs 4.69 lakhs.

4.2.5. Trend of passenger tax revenue

The position of passenger tax vis-a-vis the number of buses on road and total tax revenue of the State for the years 1981-82 to 1987-88 is indicated below:

Year	Number of buses	Revenue under passen- ger tax	Total tax revenue of Uttar Pradesh	percen- tage of contribu- tion of passenger tax to- total tax revenue
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(In crores of rupees)

(1)	(2)	(3)	(4)	(5)
1981-82	9,032	33.73	822.82	4.09
1982-83	9,932	36.23	929.30	3.88
1983-84	16,425	41.94	992.10	4.23
1984-85	18,345	46.71	1,140.17	4.09
1985-86	17,602	51.63	1,291.41	3.90
1986-87	19,183	55.40	1,528.60	3.62
1987-88	21,313	65.10	1,988.66	3.27

During the above period, there was an overall increase of 136 per cent in the number of buses on road and 52 per cent increase in the fare per kilometer. Taking these two incremental factors into account, the passenger tax revenue should have gone up by 188.5 per cent. As against this

the revenue under passenger tax increased by only 93 per cent, the proportionate shortfall being to the extent of 95.5 per cent. During the same period, passenger tax per vehicle came down from Rs 37,345 in 1981-82 to Rs 30,545 in 1987-88 and contribution of passenger tax to total tax revenue came down from 4.09 per cent in 1981-92 to 3.27 per cent in 1987-88. In December 1986, the Transport Commissioner had intimated to Government that because of paucity of checking stall, there was scope for evasion of passenger tax on large scale.

Targets fixed by the State Government for passenger tax vis-a-vis achievements during the period from 1985-86 to 1987-88 were as under:

Year	Target for passenger tax	Actual revenue under passenger tax	Short-fall in target

(in crores of rupees)			
1985-86	59.86	51.63	8.23
1986-87	63.56	55.44	8.12
1987-88	77.32	65.10	12.22

The main constraint in achieving the targets, according to the Transport Commissioner, was paucity of staff and the consequent inadequacy of survey and checking operations on private operators' routes in respect of trips and occupancy ratio of seats in the buses paying tax under lump sum agreements and the correctness of way-bills of buses paying tax under this method.

4.2.6. Loss of passenger tax due to adoption of incorrect fare component

The Motor Vehicles Act, 1939 provides that with a view to preventing uneconomic competition among motor vehicle owners, the State Government is authorised to fix the maximum and minimum fares to be charged by operators of stage carriages and contract 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 in consultation with the State Transport Authority 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. In case of contract carriages rules stipulate that fare shall not be

less than 75 per cent of the maximum fare prescribed by Government.

(i) Non-enhancement of fare as prescribed by Government

The State Government enhanced the maximum rates of fare for stage carriages by 20 per cent in March 1987 and directed the State Transport Authority to fix the maximum rates of fare accordingly. the State Transport Authority approved the rates in its meeting held on 29th April 1987, although the enhanced maximum rates of fare were already being charged by U.P.State Road Transport corporation from March 1987 and by the private bus operators of Kumaon region from 1st April 1987.

In respect of all the routes in Varanasi and Gorakhpur regions and 21 routes in other 4 regions and 4 sub-regions test checked between December 1988 and May 1989, it was noticed that the enhanced rates of fare were not taken into account in computation of passenger tax. In the absence of any survey of these routes, it could not be ascertained in audit when and to what extent the fares were actually enhanced by the operators of stage carriages, and the actual loss of revenue to Government on this account.

(ii) Delay in approval of minimum rates of fare by State Transport Authority

By a notification issued on 9th July 1987, the State Government issued directions to State Transport Authority to fix the minimum rates of fare for stage carriages as mentioned in the schedule appended to the aforesaid notification. The State Transport Authority, however, fixed the rates for implementation in its meeting held on 16th December 1987, although the rates were already finalised by Government in consultation with the State Transport Authority and interested parties. The delay in fixing the minimum rates of fare by State Transport Authority deprived the State Government of passenger tax to the tune of Rs 13.26 lakhs in respect of 725 vehicles plying on 53 routes in 5 regions and 3 sub-regions during the period from 9th July 1987 to 15th December 1987, during which period passenger tax was continued to be paid at the rate of fare below the minimum prescribed by Government.

On this being pointed out in audit (December 1988), the department stated that the matter would be taken up with Government for delegation of powers to the States Transport Authority in such cases under the provision of the Motor Vehicles Act, 1939.

4.2.7 Loss of passenger tax due to non adoption of fare applicable to B class route

Under the provisions of the U.P.M.V. Taxation Rules, 1935, the classification of routes done by a Regional Transport Authority is not valid unless approved by the State Transport Authority.

In Varanasi region three routes (1. Varanasi-Tarwa, 2. Varanasi-Mehanaajpur and 3. Ballia-Reoti) were upgraded from B class to A class by the Regional Transport Authority in August 1987 and the recommendation for approval was forwarded to the State Transport Authority in January 1988 which was not accorded till the date of audit (January 1989). Without waiting for approval of reclassification of routes by the State Transport Authority, the Regional Transport Officer started assessment and realisation of passenger tax with effect from 16th December 1987 based at the minimum rate of fare applicable for A class route which is lower than the rate applicable for B class route.

However, the road tax continued to be assessed at the rate applicable for B class routes which is lower than the rate of tax applicable to A class route. This resulted in passenger tax being realised short by Rs 0.81 lakh in respect of 23 vehicles during the period 16th December 1987 to 15th January 1989

4.2.8 Non-assessment of passenger tax on the basis of fare for actual length of route

(i) In respect of 6 routes (2 in Varanasi region and 4 in Azamgarh sub-region), passenger tax was not assessed on the basis of fare chargeable at minimum rate for the actual length of route as indicated in the permit records. This resulted in short assessment of tax amounting to Rs 2.03 lakhs during the period from 16th December 1987 to 31st January 1989

(ii) In Ghaziabad sub-region, in respect of Ghaziabad-Farukhnagar route, passenger tax was being assessed with effect from October 1987 on the basis of fare chargeable at the maximum rate taking the length of the route as 15 Kms. against the actual length of 20 Kms. indicated in the permit records. This resulted in short assessment of tax amounting to Rs 0.49 lakh during the period from October 1987 to February 1989

(iii) In Ghaziabad sub-region, in respect of Delhi-Ghaziabad and Delhi-Kotana Inter-State routes, the lengths of U.P. portion were shown as 15 Kms and 55 Kms respectively in the reciprocal Transport Agreement between the State of U.P. and the Union Territory of Delhi, published in Official Gazette of U.P. Government dated 31st December 1985. As against the above length of routes in U.P., passenger tax was assessed with effect from 5th May 1987 on the basis of fare chargeable at the maximum rates for 11 Kms. (13Kms with effect from 10th September 1988) and 46Kms. respectively. Calculation of tax on shorter length of routes than actual resulted in short realization of passenger tax amounting to Rs 4.71 lakhs during the period from May 1987 to March 1989.

4.2.9. Under-assessment of passenger tax due to non-rounding off of gross fare

The State Government increased the maximum rates of fare in March 1987 and fixed the minimum rates of fare in July 1987 in respect of stage carriages with the provisions that fare will be rounded off to the nearest multiple of fifty paise including the amount of passenger tax, additional passenger tax and insurance surcharge.

In respect of six routes(2 in Meerut region, 3 in Jalaun Sub-region and 1 in Hamirpur Sub-region), passenger tax was assessed on incorrect fare, not taking into account the provision of rounding off of gross fare inclusive of taxes. This resulted in tax being short assessed by Rs 2.26 lakhs for the various periods between May 1987 and April 1989.

On this being pointed out in audit the Regional Transport Officer, Meerut stated (March 1989) that difference of tax (amounting to Rs 0.50 lakh) had been recovered in respect of Delhi Saharanpur route. In respect of other routes, taxation officers concerned stated that the difference of tax would be recovered.

4.2.10 Loss of revenue because of inefficient/ineffective machinery to check illegal plying of vehicles

Number of stage carriage permits on a route, trips to be performed by each vehicle and load factor(occupancy ratio of seats) to be allowed on that route are inter-related factors affecting levy of passenger tax. The State Government by a notification issued in December 1978 gave direction to the State Transport Authority and Regional Transport Authorities regarding consideration of applications for stage carriage permits on non-nationalised routes in the State. As

certain difficulties were experienced in the implementation of the said directions, the aforesaid notification was rescinded in September 1980. Taking into consideration the increase in population, trade, transit of goods and Government work, another notification was issued in March 1987, in which (clause 1) it was directed that the number of stage carriage permits on any non-nationalised route where there has been no increase in such permits during a period of more than five years, shall be increased by 100 per cent and where there has been no increase during a period of more than two years shall be increased by 30 per cent. Where there has been no increase during a period of more than one and less than two years shall be increased by 20 per cent.

A writ petition was filed (1987) in the Hon'ble High Court of Judicature at Allahabad by a number of existing permit holders of non-nationalised routes challenging the aforesaid provision of the notification on the plea that the presumptions regarding increase in traffic and public needs were arbitrary. Government in their counter affidavit explained that comparative study of availability of stage carriages on various routes in the State for every one lakh of people as compared with other States, was much less, which encouraged illegal plying. It was also stated that experience proved that various Regional Transport

Authorities were not in a position to assess the actual need of the travelling public for want of necessary means required for the purpose. Hon'ble High Court in their Judgement dated 20th September 1988 observed that "to provide more buses to ease the traffic for convenience of public is a laudable objective but the procedure for it should be within the framework of law which cannot be thrown over board because machinery to check illegal plying is inefficient/ineffective or reports received by Regional Transport Authorities are defective. the Government is not entitled to ignore law and assume facts without sufficient material to increase the strength not on necessity but because of apprehension of illegal plying or incapability of Regional Transport Authorities to get proper reports." For these reasons impugned clause 1 of the notification was struck down as ultra vires. Thereafter, Government issued another notification in January 1989 to increase the number of stage carriage permits in sufficient numbers, taking into consideration the increase in development work, industrial activities, social welfare schemes, populations, trade, transit of goods and inadequacy of facilities provided by Railways and on the basis of available survey reports and assessment of necessity of transport due to long term planning. But no norm has been laid down and the matter has been left

to the discretion of Regional Transport Authorities. Thus, Government failed to fix any definite norm or reliable yard stick for fixing the strength of stage carriages on non-nationalised routes since 1978 as also in the case of prescribing any rational method for determining load factor i.e. occupancy ratio of seats in a bus. A few instances of under estimation of trips/load factor are given below:

(1) In Hardoi sub-region, against the sanctioned strength of 15 and 25 vehicles permitted to ply on Hardoi-Beninganj-Sandila and Hardoi-Sitapur routes, only 9 and 17 stage carriages were actually plying even then passenger tax under lump sum agreement from them was assessed at 75 per cent load factor since August 1971 and January 1981 respectively. Similarly, in Azamgarh sub-region in respect of 2 stage carriages against the sanctioned strength of 7 permitted to ply on Maharajganj-Khairuddinpur route, tax was assessed at 75 per cent load factor since September 1977 which was raised to 77 per cent with effect from September 1981 without any survey and the same load factor is still continuing for over six years. There was nothing on record to show that any survey regarding trips and load factor was ever made on the above routes.

In Aligarh sub-region, in respect of 40 stage carriages plying on

Aligarh-Zewar-Tappal route, tax prior to April 1987 was assessed on the basis of 42 return trips daily and 92 per cent load factor. From April 1987 the route was extended from Tappal to Vajana on which six return trips daily were allowed and on Aligarh-Zewar-Tappal (Original route) return trips were reduced from 42 to 40. Instead of increasing the load factor on the route as the trips on the original route were reduced and the area of operation increased, load factor was reduced from 92 to 84 per cent without any survey. Computed even at 92 per cent load factor, tax realised short worked out to Rs 2.11 lakhs for the period from April 1987 to September 1988.

(iii) In Varanasi region, in respect of 49 and 29 stage carriages permitted to ply on Mirzapur-Varanasi-Ghazipur and Mirzapur-Varanasi routes, tax prior to May 1988 was assessed at 81 and 85 per cent load factor respectively since August 1977. In April 1988, the permit holders of both the routes requested tax officer for reduction of load factor on the grounds that 10 return trips daily were being performed by the vehicles owned by U.P.State Road Transport Corporation inducted on the route from Mirzapur to Ghazipur. The tax officer reduced the load factor from 81 to 75 per cent on Mirzapur-Ghazipur route and from 85 to 80 per cent on Mirzapur-Varanasi route from May 1988 without any survey.

(iv) Section 48(3) of the Motor Vehicles Act 1939, provides that while granting a permit to a stage carriage, the Regional Transport Authority may attach a condition regarding minimum and maximum number of daily trips to be performed by the vehicle on the route for which the permit is granted. For any deviation from the conditions of the permit, approval of the Regional Transport Authority is required. When the operator of a stage carriage enters into lump sum agreement for the payment of passenger tax, the agreement shall be for a period of three months or for the expired period of the currency of the permit, whichever is less.

In Lucknow region, the Regional Transport Authority fixed (April 1984) 7 return services daily in respect of stage carriages plying on the Lucknow-Malihanabad route, but the Regional Transport Officer, without obtaining the approval of the Regional Transport Authority reduced the number of daily services to 6 which was irregular and resulted in passenger tax being levied short by Rs 0.57 lakh in respect of 10 vehicles for the period from April 1984 to January 1988.

(v) Non-calculation of passenger tax on the basis of 30 days in a month

The Public Accounts Committee in paragraph 167 of their Report for 1981-

82 had recommended (while discussing para 4.3 of Audit Report 1978-79) that in future passenger tax should be calculated on the basis of 30 days in a month in the whole of the State.

Further, in paragraph 4.3(a) of the Audit Report for the year 1984-85, mention was made about some routes (including Jaunpur-Shahganj Via Martinganj, and Jaunpur-Gairwah routes in Varanasi region) where agreements for payment of lump sum passenger tax were being made for a period of 90 days, but the number of trips for assessment of passenger tax was computed on the basis of lesser number of days (ranging from 75 to 82 days) giving allowance for break-down and repairs of vehicles which was not permissible under the rules. Based on the audit observation (September 1985), the department had revised the assessment of passenger tax in March 1986 on the basis of 60 single trips per month per vehicle i.e. for 30 days in a month, instead of 52 to 56 trips per month in the case of 22 vehicles plying on three routes (Jaunpur-Sahganj via Martinganj, Jaunpur-Gairwah and Jaunpur-Sahganj via Khutahan routes) in Varanasi region. However, when the minimum fare in respect of above routes was fixed with effect from 16th December 1987, which was incidentally greater than the fare on the basis of which the lump sum agreements were being entered into, the department

reverted back to the assessment of lump sum passenger tax on the basis of 52 to 56 single trips per month per vehicle instead of 60 single trips per month per vehicle. Non-assessment of passenger tax on the basis of 60 single trips in a month (taking 30 days in a month) resulted in tax being realised short by Rs 1.26 lakhs for the period from December 1987 to March 1989.

4.2.11. Acceptance of road tax in the absence of permit and non-realisation of passenger tax

In accordance with the provision of the Motor Vehicles Act, 1939, permit is a prerequisite for operation of a transport vehicle in a public place. The U.P. Motor Vehicles Taxation Rules, 1935, provide that the Taxation Officer shall not accept road tax in respect of any transport vehicle plying for hire unless it is accompanied by a permit and part B thereof has been duly completed and signed by the Registering Authority.

(i) In Varanasi region, 46 Tata Diesel Model 407 Vehicles were registered as stage carriages during the period from June 1987 to December 1988 and were allowed different seating capacities between 16 and 21. While registering the vehicles the Taxation Officer accepted road tax in respect of these vehicles and released the registration certificates to the owners

on the ground that they had applied for stage carriage permits, although permits were not actually issued to them. Out of these vehicles, 13 were challaned subsequently during the period from April 1988 to September 1988 for plying on hire without permit (6 vehicles were challaned twice and 1 for 6 times). In these cases the passenger tax was assessed by the department for that month only in which the vehicles were found plying without permit and that too taking the distance expected to be travelled in a month on ad-hoc basis at 3,000 kilometers. However, no norm has been fixed by the department in regard to the period for which passenger tax shall be assessed in respect of stage carriages including contract carriages found plying without permit. In the absence of such norms, the exact loss of revenue in such cases could not be quantified.

(ii) In Banda sub-region, road tax in respect of 2 Mini buses having seating capacity of 21 each was regularly accepted by the Taxation Officer for the periods from September 1985 to September 1987 and from February 1984 to December 1986 although they were not covered by permits. These vehicles were challaned 6 times and 4 times respectively for plying without permit during the said periods, and a sum of Rs 0.30 lakh was levied towards passenger tax for those months only in which the vehicles were

challaned for plying without permit. In the absence of norms, the exact loss of revenue in the two cases could not be quantified.

4.2.12. Non-assessment of passenger tax for the permitted entire route

The U.P. Motor Vehicles Rules, 1940 provide, inter alia that while issuing permit to a stage carriage the Regional Transport Authority may attach condition that the vehicle shall cover the entire route, for which the permit has been granted in each journey.

(i) In Allahabad, Agra, and Kanpur regions and Sitapur sub-region, operators of 46 stage carriages, plying their vehicles on 5 routes were paying passenger tax based on the fare payable for part of the route on the ground that certain portions of the routes were not motorable notwithstanding the fact that the permits were granted for the full route. The passenger tax payable for the entire route amounted to Rs 24.88 lakhs against which tax amounting to Rs 16.30 lakhs only had been realised from them during the period from January 1985 to March 1989.

(ii) In Meerut region, Baghpat-Chamarwal-Ratol route was extended by 5 kms upto Phulera by the Regional Transport Authority on 8th April 1987 and all the 26 permit holders of the route were permitted to ply their

vehicles on the entire route with effect from 1st July 1987. But no passenger tax was assessed and realised for the extended portion of the route. This resulted in tax being realised short by Rs 2.00 lakhs for the period from July 1987 to February 1989.

4.2.13 Short realisation of passenger tax in respect of contract carriages

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali, 1962 assessment of passenger tax under a lump sum agreement in respect of a contract carriage (excluding motor cab, inter-alia, depends on the fare payable and distance expected to be travelled during a month. In respect of a contract carriage rules provide that the fare to be taken into account for levy of passenger tax shall not be less than 75 per cent of the maximum rates prescribed under the Motor vehicles Act, 1939, and the distance expected to be travelled in a month shall not be less than 4.000 kilometers.

(i) In Kanpur region, 13 vehicles of an operator were on contract with a company with effect from June 1985 for carrying employees from various parts of the city to the company's factory and vice versa. The operator was paid 1,25,000 per month for the year 1985-86 on lump sum basis, which was increased to 1,28,700 per month for 1986-87 onwards. The actual number of

kilometers covered by each bus every month and the amount paid per kilometer was not intimated by the company. In the absence of copies of the tender and contract documents in the Regional Office, it could not also be ascertained in audit. Since the vehicles were plying on temporary permits, passenger tax, computed for a distance of at least 4,000 kilometers per month and on the minimum fare of Rs 2.52 per kilometer (75 per cent of the maximum rate of Rs 3.36 per kilometer prescribed by Government in February 1983), worked out to Rs 1,693.45 per vehicle per month. However, passenger tax was realised at the rate of Rs 1,392.65 and Rs 1,435.30 per vehicle per month from the operator from June 1985 and April 1986 respectively. This resulted in passenger tax being realised short by Rs 1.58 lakhs during the period June 1985 to March 1989.

(ii) Similarly, 7 vehicles covered by permanent permits and 4 vehicles by temporary permits of an operator and 1 vehicle covered by temporary permit of another operator in the said region, were on contract with another company with effect from April 1981 and April 1983 respectively for carrying staff members from different places of the city to the company's factory and back. As intimated by the company in October 1982 and July 1984, the average kilometer covered per bus per month was around 3,250/3,350

kilometers in the former case (in respect of 11 buses) and 3,000 kilometers in the latter case (in respect of one bus). The fare paid per kilometer was Rs 3.65 with effect from July 1981 in respect of all the buses. Computed on the basis of the prescribed minimum distance of 4,000 kilometers per month, passenger tax short realised worked out to Rs 2.20 lakhs in respect of these 12 vehicles during the period April 1985 to March 1989.

4.2.14. Non-realisation of passenger tax from stage carriages plying as contract carriages

In Lucknow region, 5 stage carriages plying on Lucknow-Hardoi route under substantive permits, carried staff of the companies from various places in the city to the factories and back on contract basis for varying periods between November 1983 and July 1988. In respect of these stage carriages tax was paid by the operators on way-bill basis for the period they were plying as stage carriages. However, tax for the period in which these stage carriages were used as contract carriage was neither paid by the operators nor demanded by the department. On the basis of the minimum distance of 4,000 kms per month and the rate of fare prescribed by Government, the tax payable worked out to Rs 66,000.

4.2.15. Bilateral agreements with adjoining States

With a view to encouraging movement of transport vehicles on Inter-State routes by road and to regulate and control their operation, the State Government has entered into bilateral agreements with 8 States and 2 Union Territories under which, on a reciprocal basis, a substantive permit issued by the corresponding State/Union Territory is valid in the State, subject to the permits being countersigned (after charging a fee) by the Transport Authority in the State. Agreement places a limit on the number of stage carriage permits which could be countersigned. Where, permits have been countersigned, road tax is not charged by the countersigning State. However, there is no such provision in respect of payment of passenger tax leviable in the countersigning State. The allocation of stage carriages to each State is according to the route kilometerage falling in each State, and the routes, agreed upon, are operated by both the States.

Passenger tax in Uttar Pradesh is leviable in respect of stage carriages on the basis of fare charged for the journeys performed within the territory of the State. Even in cases covered by the bilateral agreements, passenger tax is levied and collected by the State.

(i) Inordinate delay in issue of permits on Inter-State routes

A bilateral agreement between the States of Uttar Pradesh and Madhya Pradesh was entered into in September 1980. According to the agreement, the state of Uttar Pradesh was required to issue 15 permits on 8 routes for which applications were invited by the State Transport Authority in May 1982, which were to be received by October 1982. Objections against the applications received were invited as late as in October 1986. Permits were not issued even though no objections were received. Fresh applications were invited again in March 1987. The matter of issue of permits was not finalised by the State Transport Authority even after a delay of over Seven years (May 1989). The inordinate delay in issue of permits has had revenue implications of Rs 7.88 lakhs (Approx) for the period from April 1987 to March 1989 alone.

(ii) Non-countersigning of Temporary Permits issued by Bihar State for full spell

Temporary permits for spells of four months were regularly issued to four stage carriages for their operation on Ranchi-Bhabhua (Bihar) and Dharouli-Chandauli (U.P.) route by the State Transport Authority, Bihar; but they were either not countersigned or

countersigned for only short periods ranging upto 9 days by the State Transport Authority, U.P., Lucknow, Non-countersigning of temporary permits for full period for which they were regularly issued in continuity by State Transport Authority, Bihar, resulted in loss of passenger tax amounting to Rs 60,385 during the period from September 1982 to September 1988.

On this being pointed out in audit (June 1987), the Secretary, State Transport Authority stated that the temporary permits were countersigned from the dates on which they were presented in the office by the operators. However, no reasons were given for not countersigning the temporary permits for the full spell for which they were issued by State Transport Authority Bihar.

(iii) Non-payment of tax in respect of temporary permits countersigned by State Transport Authority, U.P.

Temporary permits issued by State Transport authority, Bihar in respect of four stage carriages for their operation on Buxer-Varanasi and Ranchi-Chandauli routes were countersigned by the State Transport Authority, U.P. for different spells between February 1987 and January 1988, but passenger tax was neither paid by the operators in the Regional Transport Office, Varanasi nor demanded by the department for the

period for which the temporary permits were countersigned. This resulted in non-realisation of passenger tax amounting to Rs 29,457. In reply the Regional Transport Officer stated that tax was assessed when countersigned temporary permits were presented in his office by the operators, and that copies of countersigned temporary permits were not received from the State Transport Authority.

4.2.16. Lack of control and monitoring over remittance of passenger tax due

Passenger tax due to the State in respect of stage carriages of Delhi Transport Corporation, Haryana Roadways and Punjab State Road Transport Corporation is remitted through bank drafts by the different depots of Transport Undertaking of other States/Union Territories without furnishing details of routes and operational kilometerage (per month), to the Regional Transport Offices at Meerut, Dehradun and Agra. Passenger tax payable to U.P., collected by even one depot, is sent to different Regional Transport Offices of the State. No control and monitoring of taxes due to the State, and actually remitted by other States is done either at Transport commissioner's level or at Zonal and Regional level. A survey carried out in January 1988 by the Deputy Transport commissioner, Meerut

Zone, in respect of operation of vehicles of Delhi Transport Corporation passing through different routes from Ghaziabad towards Delhi, revealed that Delhi Transport Corporation buses were performing 285 return trips daily on 25 routes against 256 return trips on 20 routes envisaged in the bilateral agreement effective from January 1986. He also reported to the Transport Commissioner that in respect of excess services, permits had also not been countersigned by State Transport Authority, U.P. As such, road tax, path-kar and countersignature fee were also payable in such cases, besides the passenger tax. As per survey report, daily operation of Delhi Transport Corporation buses in U.P. as well as on Delhi-Noida routes worked out to 49,830 kms, on which passenger tax (excluding additional passenger tax and insurance surcharge) alone worked out to Rs 15.09 lakhs per month or Rs 226.35 lakhs for the period from January 1988 to March 1989, against which tax amounting to Rs 150.00 lakhs only was remitted to the Regional Transport offices at Meerut and Agra.

No action was, however, taken by the department to press for the payment of tax, route wise, as contemplated in the agreement or to evolve ways and means to check the number of trips and number of buses actually in operation, to avoid loss of revenue to the State.

4.2.17 Details of payments made by other States through bank draft wanting

Under the provisions of the U.P. Motor Gadi (Yatri-kar) Niyamawali, 1962, the Tax Officer may, in the case of a fleet owner, where such fleet owner is a Transport Undertaking, accept an amount representing 14/29th of the actual passenger fare plus passenger tax earned by the fleet owner, for the journeys performed within the territory of the State, as lump sum, in lieu of tax.

Bank draft for Rs 3.75 crores towards payment of passenger tax during 1987-88 and 1988-89 were sent to the Regional Transport Officers Meerut, Dehradun and Agra by the Delhi Transport Corporation and 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.

4.2.18 Temporary and special permits

Temporary permits for carriage of marriage parties, pilgrims etc. and special permits in respect of tourist parties are also 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/special permits

that can be issued in respect of such contract carriages. Dates of outward and return journeys are required to be clearly specified in temporary permits and the special permits are required to contain a detailed programme of tour showing the order in which the various places shall be visited with an indication of probable dates of arrival at and departure from each place. On vehicles plying under such temporary/special permits, there is no exemption from payment of passenger 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/special permits in the shape of bank drafts which are subsequently handed over to the permit holder for delivering the same at the check-posts established by this State on its borders.

Thus, to enable the State Transport Authority to ascertain the amount of lump sum payable under the rules, details of journeys to be performed and fare chargeable from the passengers is to be furnished by the Transport Authorities of other states along with the copies of the temporary/special permits to the regional Transport officer having jurisdiction over the check-posts concerned.

(i) Non-remittance of passenger tax by bank drafts as prescribed

Instead of collecting passenger tax due to U.P., in the shape of bank drafts at the time of issue of temporary permits, other State/Union Territory generally direct permit holders to pay the same at the check-posts in cash. At Maharajpur and Shahibabad check-posts under the jurisdiction of Regional Transport Officer, Meerut, the percentage of passenger tax received in the shape of bank drafts declined from 7 per cent in the year 1986-87 to below 1 per cent in 1988-89. Similarly at Bichhia (Naubatpur) check post under the jurisdiction of Regional Transport Officer, Varanasi, it declined from 26.5 per cent in 1986-87 to 13 per cent in 1988-89.

(ii) Non-receipt of copies of temporary permits from other States

Scrutiny of records in Regional Transport offices revealed that copies of such temporary/ special permits had not been received nor were called for by the department to verify the correctness of taxes realised and paid by them. In the absence of any copy of these permits and the approved programme of the party, at the check posts, the correctness of the amount of taxes paid could not be verified in audit

(iii) Short realisation of passenger tax in respect of temporary permits

At Bichhia (Naubatpur check-posts, under the jurisdiction of Regional Transport Officer, Varanasi and Mohannagar, Maharajpur and Sahibabad check-posts under the jurisdiction of Regional Transport Officer, Meerut, passenger tax was realised in some cases by the Passenger Tax Superintendents posted at the check posts in lump sum at the rate of Rs 200 per day in respect of deluxe buses and at the rate of Rs 160 per day in respect of ordinary buses depending on the number of days, whereas in some cases, it was realised on distance basis which was less than the lump sum amount payable. In the absence of

copies of the permits and tour programmes both in Regional Offices and/or at the check-posts it could not be verified in audit whether taxes due to this State have been correctly worked out and realised. However, on the basis of period of validity of the permits and the date of entry of the vehicles at the check posts as noted in the Receipt Register, passenger tax amounting to Rs 6.53 lakhs was leviable in respect of 238 cases in 7 months (in August and October 1987 and April 1988 in respect of Bichhia check-post, January and February 1988 in respect of Mohannagar check-post and January and December 1988 in respect of Maharajpur checkpost), against which a sum of Rs 1.84 lakhs was realised based on lesser number of days than permitted.

4.2.19. Non-levy of penalty for short deposit/delayed deposit of passenger tax by U.P.State Road Transport Corporation

The U.P.Motor Gadi (Yatri-kar) Adhiniyam, 1962, provides that where tax payable to State Government for any month or portion thereof has not been paid to it in time i.e. on or before the 15th day of the month immediately succeeding, the tax officer may levy a penalty not exceeding 25 per cent of the tax.

(i) In Varanasi region, as per statement submitted by the General

Manager, U.P.State Road Transport Corporation, Varanasi for the months of March 1988 to November 1988 except October 1988, the passenger tax payable at the rate of 16 per cent of fare (excluding all taxes) worked out to Rs 125.26 lakhs, whereas a sum of Rs 124.45 lakhs was calculated by the Corporation as due for payment, and out of that a sum of Rs 124.22 lakhs only was paid into Government treasury. No action was taken by the department to realise the balance amount of Rs 1.04 lakhs. Besides penalty upto 25 per cent was also leviable for delay in payment of tax.

(ii) in Azamgarh sub-region, passenger tax amounting to Rs 132.40 lakhs for the period from December 1983 to August 1985 due for payment by the General Manager, U.P.State Road Transport Corporation, Azamgarh was paid into Government treasury in instalments during the period from May 1987 to March 1989. No action was taken by the department to impose and realise penalty till June 1989 for delayed deposit of tax

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The foregoing points were reported to Government in August 1989; their reply has not been received in spite of reminder issued in April 1990.

4.3. Non-assessment of passenger tax on minimum fare

The Uttar Pradesh Government, under sub-section (1) of Section 43 of the Motor Vehicles Act, 1939, fixed the minimum rates of fares of stage carriages in the State vide Transport Department notification dated 9th July 1987 and directed the State Transport Authority, Uttar Pradesh to fix the rates of fares of Stage carriages as mentioned in the schedule appended to the aforesaid notification. The minimum rates of fare were, however, approved/promulgated by State Transport Authority after five months on 16th December 1987.

(a) In Bareilly region on four routes, in Varanasi region on one route, in sub-region Azamgarh on six routes and in sub-region Mirzapur on five routes, lump sum agreements for payment of passenger tax on stage carriages were executed on fares less than the minimum fare approved, thereby resulting in loss of revenue to the extent of Rs 3.93 lakhs during the period from 16th December 1987 to December 1988.

The matter was reported to the department in August 1988, September 1988, October 1988 and February 1989 respectively and to Government in March 1989; their replies have not been received in spite of reminders issued in June 1989.

(b) For the purpose of determining the amount of tax payable in respect of transport vehicles, all routes in Uttar Pradesh are classified by the prescribed authority as special routes or ordinary routes, and every ordinary route is further classified as A, B or C class route.

In sub-region Saharanpur, the "Manglore-Lakhnauti" route via Lahboli was a 'B' class route from the very beginning. The minimum fare for this route as fixed by Government and approved by the State Transport Authority from 16th December 1987, was 10.43 paise per passenger per kilometer. However, a lump sum agreement for assessment/realisation of passenger tax was executed with the operators of 18 vehicles plying on the route by erroneously treating the route as 'A' class route (minimum fare being 9.56 paise per passenger per kilometer) till 31st July 1988, and thereafter as a 'B' class route. The mistake resulted in short realisation of passenger tax amounting to Rs 43,375 during the period from 16th December 1987 to 31st July 1988.

The matter was reported to the department in December 1988 and to Government in May 1989; their replies have not been received in spite of reminder issued in October 1989.

4.4.(a) Short realisation of registration fee

Under rule 31(a)(iv) of the Uttar Pradesh Motor Vehicles Rules, 1940 as amended vide U.P. Government, Transport Department, notification dated 30th March 1987, the fee for registration of "any other vehicle" was revised from Rs 25 to Rs 75. In addition to the registration fee, a further fee equal to fifty per cent of registration fee was chargeable in respect of vehicles procured under hire purchase agreements with banks etc. for which an endorsement to this effect is made on the registration certificate. Thus, for registration and endorsement of agreement of hire purchase in the case of a tractor, the total chargeable fee per vehicle was Rs 112.50 (Rs 75+Rs 37.50).

In Agra, Meerut, Varanasi and Gorakhpur regions and in sub-regions, Ghazipur, Faizabad, Deoria and Raebareli, in respect of 5,058 tractors, registered between 31st March 1987 and 31st August 1988, registration fee including fee for endorsement of the note of hire purchase on a certificate of registration was

incorrectly charged at rates applicable for medium goods vehicle in Varanasi, Ghazipur, Faizabad, Gorakhpur, Deoria, Rae Bareilly regions, while in Meerut region endorsement fee was not charged in Agra region ad-hoc rate of Rs 30 was charged in April 1987 and from May 1987 onwards rate applicable for invalid carriage was charged. The fees realised short amounted to Rs 3.64 lakhs.

The matter was reported to the department between April 1988 and November 1988 and to Government in March 1989; their replies have not been received in spite of reminder issued in June 1989.

(b) Non-realisation of permit fee for tractor-trailers

Under the Motor vehicles Act, 1939, no owner of a motor vehicle shall use or permit the use of the vehicle in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with the Act and covered with a permit granted by a Regional or State Transport Authority on payment of of prescribed fee. The Act provides for exemption from obtaining permit to any two wheeled trailer with a registered laden weight not exceeding 800 kilograms drawn by a motor car (which excludes tractor).

In Bareilly region and Sitapur and Lakhimpur-Kheri sub-regions, 78 tractor-trailers registered during 1987-88 for carrying load in excess of 800 kilograms were not called upon to obtain temporary permits and were allowed to ply without obtaining permits and paying the prescribed fee, though under the Act, such trailers were not exempted from obtaining the permits. The omission resulted in non-realisation of permit fee amounting to at least Rs 74,100 (computed on the basis of fee realisable for temporary permits for a limited period of 4 months).

The matter was reported to the department in October 1988, November 1988 and January 1989 and to Government in January 1989; their replies have not been received in spite of reminder issued in November 1989.

(c) Short realisation of compounding fees

As per Government notification issued on 21st December 1982, under Section 127-B of the Motor Vehicles Act, 1939, offences punishable under the Act ibid can be compounded by the authorised officers after realising compounding fees at the rates prescribed by Government. In a subsequent notification issued on 23rd January 1985 the rates of compounding fees were revised. In radiogram dated

17th April 1985, Additional Transport commissioner U.P. clarifies that compounding fees were recoverable from owner as well as drivers in cases where both were found to be offenders under the provisions of the Act ibid

In Rishikesh sub-region, offences in respect of 17 vehicles were compounded during the period from February 1985 to November 1987. While in 14 cases compounding fees were realised at old rates in three cases categorisation of offences was also incorrect. Compounding fees realised short amounted to Rs 27.040.

On this being pointed out in audit (May 1988), the Assistant Regional Transport Officer, Rishikesh stated (May 1988) that orders were received in their office only on 6th November 1986 and that necessary action would now be taken in these cases. Report on action taken has not been received (November 1989

The matter was reported to the Government in May 1989; their reply has not been received despite reminder issued in April 1990.

4.5. Short assessment of passenger tax

(i) 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 one-way trips allowed or expected to be made by the stage carriage and the total fare normally payable in respect of the entire route for the full seating capacity and 50 per cent of the standing capacity, if any allowed. 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. Rules do not permit payment of tax on ad-hoc basis.

(a) Adoption of incorrect fare

(i) In Jhansi region, an officer of the Enforcement wing intimated in January 1987 that on two routes, Orai-Jagmanpur via Bangra and Orai-Rampur via Bangra, the operators were charging fare at the rate of Rs 7.00 and 6.75 respectively. During audit (February 1988) it was noticed that lump sum in lieu of passenger tax in respect of stage carriages plying on those routes were computed on fares of Rs 6.30 and Rs 5.45 respectively even after January 1987, when the charging of fare at higher rates was reported by the Enforcement wing. Non-revision of agreements to pay a lump sum in lieu of passenger tax on stage carriage of

those routes on the basis of fare being actually charged from passengers resulted in short-charge of passenger tax to the extent of Rs 2.25 lakhs between January 1987 and February 1988 alone.

The matter was reported to department in April 1988 and to Government in September 1989; their replies have not been received in spite of reminder issued in April 1990.

(ii) In Farrukhabad sub-region, on the Indergarh-Thathic route, eight stage carriage permits were valid up to June 1988 and from June 1988 onwards passenger tax in respect of five of them was realised at the rate of Rs 1 000 per month per vehicle on ad-hoc basis. All these eight stage carriages were paying lump sum passenger tax from May 1985 on the basis of two single trips per vehicle per day, 80 per cent load factor and fare of Rs 2.30 per seat. From 1st May 1987, the fare was revised to Rs 2.90 per seat but lump sum passenger tax was not paid on the basis of the revised fare. Non-realisation of lump sum passenger tax on the basis of the revised fare from 1st May 1987 (which worked out to Rs 66.81 per seat per quarter) resulted in loss of revenue of Rs 60,358 during the period from 1st May 1987 to 31st May 1988 in respect of 8 vehicles and during the period from 1st June 1988 to

30th November 1988 in respect of 5 vehicles.

The matter was reported to the department in January 1989 and to Government in March 1989; their replies have not been received in spite of reminder issued in June 1989.

(iii) In Faizabad region, as per survey report dated 15th December 1985, the total fare charged by the operators for Balrampur-Koilabasa route was Rs 5.00 per seat, and accordingly, net fare was Rs 4.20 per seat. The Regional Transport Officer has, however, for the said route finalised lump sum agreement with the operators for assessment of passenger tax on net fare of Rs 2.75 per seat from December 1985 to July 1986 and on Rs 3.90 per seat from August 1986 onwards. The finalisation of lump sum agreement on the basis of the lower fares resulted in short realisation of passenger tax to the extent of Rs 70,138 in respect of 33 vehicles during the period December 1985 to July 1986 and in respect of 4 vehicles during the period August 1986 to April 1987.

On this being pointed out in audit (June 1987), the department stated (February 1989) that a sum of Rs 19,751 had been realised in respect of sixteen vehicles. Report on action taken for the remaining vehicles has not been received (November 1989).

The matter was reported to Government in April 1989 their reply has not been received in spite of reminder issued in April 1990.

(iv) In Farrukhabad sub-region, nine stage carriages plying on three routes were assessed for passenger tax (on lump sum agreements) on the basis of rates of fares as introduced by U.P. Government notification dated 20th September 1983. Although the rates of fares were revised from 1st May 1987, the passenger tax was continued to be realised on the pre-revised rates of fare and fresh lump sum agreements were not executed. The omission resulted in passenger tax being realised short by Rs 39,572 during the period from 1st May 1987 to 31st December 1988.

The matter was reported to the department and Government in February 1989; their replies have not been received in spite of reminder issued in April 1990.

(v) In Faizabad region, Darjikian-Gaurachawki route was extended to Gonda by the Regional Transport Authority in 1980 and the extension was endorsed on nineteen permits of stage carriages out of 21 stage carriages plying on the route between Darjikian-Gaurachawki. In April 1982, while providing time schedule of stage carriages on the route, the operators had intimated that

twenty one State carriages were plying by rotation between Darjikian and Gaurachawki. Passenger tax payable on lump sum basis was, however, calculated by the department by splitting the route as "Gonda-Darjikian" and "Darjikian-Gaurachawki", instead of for the entire route "Gonda-Darjikian-Gaurachawki". The incorrect calculation of passenger tax resulted in short realisation of tax to the extent of Rs 25,120 during 18th December 1985 to 17th July 1988. It was further noticed that passenger tax amounting to Rs 22,906 was realised short in respect of four out of twenty one stage carriages for the same period as a result of incorrect computation of tax.

On this being pointed out in audit (August 1988), the Regional Transport Officer, Faizabad stated (January 1989) that Rs 3,806 has been recovered.

The matter was reported to the department in August 1988 and to Government in April 1989; their replies have not been received in spite of reminder issued in April 1990.

(vi) In Bareilly region, on the Pilibhit-Khatima and Badaun-Bishauli routes, the fare (including taxes), as per survey report of December 1985 and intimation (August 1986) given by the operators Union, was Rs 4.50 and Rs 4.00 respectively. The lump sum agreement for the two routes was,

however, executed on net fare of Rs 3.60 and Rs 3.25, instead of on Rs 3.75 and Rs 3.30 respectively. The mistake resulted in passenger tax being realised short by Rs 22,000 during the period November 1985 to April 1987.

The matter was reported to the department in September 1988 and to Government in March 1989; their replies have not been received in spite of reminder issued in June 1989.

(b) Adoption of lesser number of trips

In terms of Section 48(3) of the Motor Vehicles Act, 1939, the Regional Transport Authority may attach to the permit a condition for the minimum and maximum number of daily trips to be provided in relation to any route. Under the Uttar Pradesh Motor Gadi (Yatri Kar) Adhiniyam, 1962 and the rules framed thereunder, agreement to pay a lump sum in lieu of 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.

Short recovery of passenger tax amounting to Rs 30,258 from vehicles plying on Ghaziabad-Noida-Dadri route, due to adoption of incorrect number of trips, was recovered on being pointed

out in audit. Some other cases which were noticed in audit are mentioned below:

(i) In sub-region Saharanpur, on the Saharanpur-Gangoh-Titaro-Jalalabad route the Regional Transport Authority had issued five additional stage carriage permits to new operators in June 1985 with the condition that the number of trips on the entire route be increased by one return trip for each vehicle. The existing operators of the stage carriages on the route obtained stay orders from the Hon'ble High Court of Judicature at Allahabad against the orders of the Regional Transport Authority granting 5 additional permits on this route to new operators. In May 1988, the Regional Transport Authority intimated the Assistant Regional Transport Officer (Admn), Saharanpur that the Hon'ble High Court had dismissed the writ petitions of the existing operators and had vacated the stay orders. He, therefore, asked the Sub-Regional Officer, Saharanpur to regulate the plying of stage carriages on the route accordingly. The new operators started plying their vehicles from 17th May 1988, but the Sub-regional Officer Saharanpur continued to assess passenger tax (on lump sum basis) on the stage carriages plying on the route without increasing the number of trips (from 32 to 42). Non-implementation of orders of the Regional Transport Authority resulted

in short assessment of passenger tax to the extent of Rs 1.18 lakhs during 17th May 1988 to 16th November 1988.

The matter was reported to the department in December 1988 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

(ii) In Varanasi region, on two routes (Varanasi-Tarwa via Mehanajpur and Shahganj-Bijethna, eight stage carriage permits with twelve single trips and four stage carriage permits with eight single trips respectively were issued by the Regional Transport Authority. On Varanasi-Tarwa route seven stage carriages from 15th November 1985 and on shahganj-Bijethna route three stage carriages from 1st November 1985 were plying on rotation basis due to one carriage in each route being off the road. As there was no change in the time table, the remaining vehicles actually plying on the road had to undertake additional trips to maintain the service as per time table. However, the Regional Transport Officer did not take any action for reassessment of passenger tax on the basis of the increased number of trips made by the remaining stage carriages plying on the route, even though no passenger tax had been paid in respect of two stage carriages off the road. The continued assessment of passenger tax on lump sum basis in respect of the

remaining vehicles without taking cognizance of the increased number of trips made by the remaining carriages plying on the route resulted in short-levy of passenger tax to the extent of Rs 64.881 for the period from November 1985 to May 1987.

The cases were reported to the department in April 1988 and to Government in September 1989; their replies have not been received (April 1990).

(iii) In Varanasi region, 4 stage carriages were permitted to ply on the Jaunpur-RamDayalganj route and were performing 18 one-way-trips daily, in rotation, with effect from March 1986, as per survey report (June 1986) of the Assistant Regional Transport Officer (Enforcement) Jaunpur. Accordingly, the number of one-way trips performed by a stage carriage in 90 days worked out to 405. However, the department computed the number of trips per bus at 270, for calculation of payment of passenger tax under lump sum agreement. The mistake resulted in passenger tax being realised short by Rs 55,332 during the period from March 1986 to July 1988.

The matter was reported to the department in August 1988 and to Government in March 1989; their replies have not been received in spite of reminders issued in April 1990.

(iv) In Lakhimpur-Kheri sub-region, as per conditions of the permits issued (May 1988) by the Regional Transport Authority in respect of four vehicles, 14 one-way trips per day were to be performed by the vehicles on the route Gola-Bijnor via Aliganj. The Regional Transport Officer, without obtaining approval of the Regional Transport Authority finalised (May 1988) the lump sum agreement on the basis of 6 one-way trips (4 one-way trips on the route Gola-Bijnor and 2 one-way trips on the route Gola-Aliganj).

The reduction of one-way trips by the Regional Transport Officer, without obtaining approval of the Regional Transport Authority, was irregular and resulted in passenger tax being levied short by Rs 44,226 during the period from May 1988 to November 1988.

The matter was reported to the department and Government in January 1989; their replies have not been received in spite of reminder issued in April 1990.

(v) In Moradabad region, on route Dhyoti-Sherpur-Amroha-Hasanpur via Atrasi, the Regional Transport Authority had granted temporary permits (October 1986) for two stage carriages with one single trip per day per vehicle. Thereafter, on 5th

December 1986 temporary permits for two more stage carriages were granted and number of trips for all the four stage carriages was fixed at two single trips per day from the date of the order. In the case of three vehicles, the lump sum passenger tax was realised on one single trip basis even after 5th December 1986, and for the remaining one vehicle the tax was realised less due to incorrect calculations. This involved short realisation of tax amounting to Rs 23,074 during the period from November 1986 to February 1987.

On this being pointed out in audit (April 1987), a sum of Rs 3,239 was recovered from one vehicle and for the rest recovery proceedings were initiated.

The case was reported to Government in September 1989; their reply has not been received in spite of reminder issued in April 1990.

(vi) In Meerut region, the Regional Transport Authority issued 60 mela permits to stage carriages with validity for 4 days during November 1986 and November 1987 and allowed 10 return trips to be performed during the validity period of permits. The department entered into lump sum agreement for payment of tax in respect of these vehicles. It was noticed that tax was, however, assessed and realised

on the basis of 7 return trips only instead of 10 trips actually permitted. The assessment of passenger tax on lesser number of trips than that allowed resulted in short realisation of passenger tax amounting to Rs 21,073 during the period 14th November 1986 to 17th November 1986 and 3rd November 1987 to 6th November 1987.

The matter was reported to the department in June 1988 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

(C) Loss of revenue due to incorrect exhibition of fare in way-bills

In Dehradun region, 9 vehicles of the Highway Motor Transport Company were plying on Dehradun-Chakrata-Tyuni route and paying passenger tax on way-bill basis. The fare of the route was enhanced with effect from 21st May 1987, at the maximum rate prescribed by Government in March 1987, as intimated (May 1987) to the Regional Transport Officer by the owner of the Company. But in the way-bills submitted by the operators to the Regional Transport Officer the fares were shown as being less than that intimated by the owner of the Company. The Regional Transport Officer assessed and realised the tax upto December 1987 on incorrect fare as indicated in way-bills. Further, neither

was any time-table supplied to the Regional Transport Officer under the provisions of the U.P. Motor Gadi (Yatri-kar) Adhiniyam, 1962, nor was any time-table approved by the Regional Transport Authority under the provisions of the Motor Vehicles Act, 1939. No survey of the route was also done by the department to ascertain the correctness of fare charged, trips performed and occupancy ratio of seats of vehicles. On the basis of minimum one single trip per vehicle per day and 34 per cent occupancy ratio of seats on which basis the tax was being assessed by the department, the loss of revenue worked out to Rs 0.63 lakh during the period from May 1987 to May 1988.

On this being pointed out in audit (May 1988), the Regional Transport Officer stated (May 1989) that tax was being paid by the owner of the vehicles at correct fare since June 1988 and for the earlier period notice under the provisions of the U.P. Motor Gadi (Yatri Kar) Adhiniyam, 1962 had been issued to the owner for assessment.

4.6. Underassessment of passenger tax on contract carriages

(a) Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali 1962, assessment of passenger tax under a lump sum agreement in respect of a contract carriage, inter alia, depends

on the fare payable and the distance expected to be travelled during a month. The Rules further provide that in respect of a contract carriage, the fare to be taken into account for levy of passenger tax shall not be less than 75 per cent of the maximum rate prescribed under the Motor Vehicles Act, 1939 and the distance expected to be travelled in a month shall not be less than 4,000 kilometers.

(i) In Jhansi region, two vehicles owned by a thermal power house (with effect from November 1981) were operated for carrying staff members and their children from city to power house and back. It was seen in audit that the vehicles were plying on temporary permits and passenger tax was payable as for a distance of at least 4,000 kilometers per month. On this basis, passenger tax (inclusive of insurance surcharge) at 75 per cent of the maximum prescribed rate of fare worked out to Rs 1,692.60 per vehicle per month. Passenger tax (including additional passenger tax and insurance surcharge) was, however, realised at Rs 1,076.30 per vehicle per month only. Passenger tax thus assessed short in respect of two vehicles amounted to Rs 1.05 lakhs during the period from 5th November 1981 to 5th December 1988.

The matter was reported to the department in February 1989 and to Government in May 1989; their replies

have not been received in spite of reminder issued in April 1990.

(ii) In Mathura sub-region two vehicles of two operators were on contract with the Mathura Refinery, from 15th June 1983 for carrying staff members from the refinery colony to the factory site and vice versa. As per terms of contract, the lump sum agreement envisaged total monthly distance to be travelled as 4,000 kms. with Rs 3.36 per kilometer as fare and a load factor of 75 per cent. Since in the case of a contract carriage, the fare to be charged is not dependent on the number of passengers carried, provision for 75 per cent load factor made in the aforesaid lump sum agreement was irregular. The incorrect lump sum agreement, taking into account 75 per cent load factor instead of 100 per cent, resulted in short realisation of passenger tax to the extent of Rs 69,265 during 15th June 1983 to 30th June 1988.

The matter was reported to the department in November 1988 and to Government in January 1989; their replies have not been received in spite of reminder issued in April 1990.

(b) Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules made thereunder, there shall be levied and paid to the State Government, a tax at a rate equivalent

to 16 per cent of fare and a surcharge for the purpose of providing relief to passengers in case of accidents, at the rate of 5 per cent on the passenger tax and additional passenger tax payable by every passenger carried by a stage carriage for each journey. For this purpose, the contract money payable in respect of the hire of a contract carriage is treated as 'fare' under the provisions of the Motor Vehicles Act, 1939.

In Mathura sub-region, 12 vehicles were engaged on contract by Mathura Refinery, a Central Government Undertaking, for transporting staff members from the factory to Mathura city, on payment of certain agreed amount. The passenger tax was in the above case, calculated at 16/116 (presuming that contract money included element of passenger tax though it did not) instead of at 16/100 of the contract money and this resulted in short assessment of passenger tax and insurance surcharge amounting to Rs 89,190 and Rs 4,412 respectively pertaining to the period from 6th April 1982 to 31st October 1987.

The matter was reported to the department in November 1988 and to Government in April 1989; their replies have not been received in spite of reminders issued in April 1990.

4.7. Non-realisation of taxes in respect of vehicles owned by Government companies/corporations

Under the U.P. Motor Vehicles Taxation Rules, 1935 and the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964, motor vehicles owned and exclusively used by or on behalf of Government departments are exempt from payment of road tax and goods tax. The exemption is, however, not admissible to vehicles owned by Government companies/corporations. Further, if for any reason the whole or any portion of goods tax leviable under the Act 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 after issuing a notice and making such enquiry as such officer may consider necessary.

In respect of three vehicles of U.P. State Electricity Board in Agra region and in sub-region Hardoi and one vehicle of Jal Nigam in Agra region, road tax and goods tax amounting to Rs 1.17 lakhs and Rs 1.02 lakhs respectively were not assessed and/or realised for varying periods between April 1975 and November 1988.

On this being pointed out in audit (June 1988 and November 1988), the Regional Transport Officer, Agra and Assistant Regional Transport Officer,

Hardoi stated that demand notices for recovery would be issued although assessment of goods tax can be made only within three years from the expiry of the month to which it relates.

The matter was reported to Government in April 1989; their reply has not been received in spite of reminder issued in April 1990.

4.8. Short levy of passenger tax due to execution of lump sum agreement at lesser load factor and fare

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali, 1962, assessment of passenger tax under a lump sum agreement in case of stage carriages, inter alia, depends on the load factor and the fare normally payable for the particular route.

In the Regional Transport Office, Bareilly, a lump sum agreement for payment of passenger tax in respect of 37 stage carriages, plying on the Budaun-Dataganj-Sahswan-Bilsi route, was finalised in November 1984 in respect of the part routes Budaun-Sahswan and Budaun-Bilsi on the basis of 75 per cent load factor and fare of Rs 3.30 and Rs 2.85 per passenger respectively. However, in respect of 22 other vehicles plying on Budaun-Bilsi-Sahswan-Gawan route, the lump sum passenger tax was being paid from October 1982 for the above common

portions (Budaun-Sahswan and Budaun-Bilsi) of the route on the basis of load factor of 81 per cent and 90 per cent and the fare of Rs 3.30 and Rs 3.10 per passenger respectively. Finalisation of lump sum agreement at lesser load factor and fare for the same part routes (Badaun-Sahswan and Budaun-Bilsi) in respect of 37 vehicles plying on Budaun-Dataganj-Sahswan-Bilsi route resulted in short levy of passenger tax amounting to Rs 36,715 during the period from November 1984 to March 1987.

On this being pointed out in audit (May 1987), the Regional Transport Officer, Bareilly initiated (January 1989) action for realisation of the difference of tax. Further report has not been received (April 1990).

Government, to whom the case was reported in June 1987, endorsed (January 1989) the reply of the department.

4.9. Non-assessment of road tax and goods tax

Under the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964 and the Rules made thereunder, read with the U.P. Motor Vehicles Taxation Act, 1935, an operator of a goods vehicle is required to pay goods tax and road tax at the prescribed rates. The tax is to be deposited by the owner in advance by

the 15th day of January in each year. Under Section 13 of the Adhiniyam of 1964, if for any reason the whole or any portion of tax leviable under this Act 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.

(a) In respect of eleven goods vehicles in Mirzapur sub-region, goods tax and road tax were not assessed and recovered for various periods between January 1984 and December 1988. Tax not recovered amounted to Rs 3.08 lakhs, computed on lump sum basis under Rule 5 of U.P. Motor Gadi (Mal-kar) Rules, 1964. Assessments of goods tax for the period prior to January 1986 became time barred and due to inaction of the department amount to the extent of Rs 18,731 became irrecoverable.

This was pointed out in audit in December 1988. Reply of the department has not been received (April 1990).

The matter was reported to Government in May 1989; their reply has not been received in spite of reminder issued in April 1990.

(b) Under the Uttar Pradesh Motor Vehicles Taxation Act, 1935, no motor vehicle can be used in any public

place unless its owner has paid road tax at the appropriate rate specified in the first Schedule to the Act. Under the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964, a tax on all goods carried by road in the State is to be levied and paid to the State Government. The Public Accounts Committee (1985-86) in their Fifth Report (Para 173) had recommended that in order to avoid escapement of tax, assessment of both these taxes should be arranged to be carried out at one and the same place. The recommendations of the Public Accounts Committee have not been implemented as yet.

In Rae Bareli sub-region, in the case of two goods transport vehicles, road tax for the period from October 1986 to June 1988 was not collected though goods tax was realised. On the other hand, in Etawah, Rae Bareli, Banda, and Bahraich sub-regions, in the case of 13 goods transport vehicles for February 1985 to August 1988 and in Lucknow region in the case of one goods transport vehicle for January 1983 to December 1987, road tax was realised whereas goods tax was not assessed and realised. Lack of co-ordination between the two sections of the concerned office of the Assistant Regional Transport Officer administering the road tax and goods tax resulted in non-realisation of revenue amounting to Rs 87,820.

On this being pointed out in audit (February-November 1988), the department stated that demand notices would be issued for recovery of road and goods taxes which escaped assessment in these cases. Report on action taken has not been received (April 1990).

The matter was reported to Government in January 1989; their reply has not been received in spite of reminder issued in April 1990.

(c) Under the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964 and the rules made thereunder, an operator of a goods vehicle is required to pay goods tax at the prescribed rates. The goods tax officer is, however, empowered to accept a lump sum payment at prescribed rates (based on the authorised carrying capacity of the vehicle) in lieu of goods tax. In the event of his failure to make payment of goods tax within the prescribed period, the vehicle owner is liable to pay, in addition to tax, penalty not exceeding 25 per cent of the amount of tax payable by him.

In cases of 14 goods vehicles (Pauri region: 3; Rae Bareilly sub-region: 8 and Lakhimpur Kheri sub-region: 3), goods tax was either not assessed or assessed short for various periods between July 1985 and September 1987. Tax not realised (computed at lump sum rates) amounted to Rs 56,382.

Besides, penalty not exceeding 25 per cent of the amount of tax payable was also recoverable from the operators.

On this being pointed out in audit (May 1987-August 1987), the Regional Transport Officer, Pauri and Sub-Regional Transport Officers, Rae Bareilly and Kheri accepted the mistake. Report on action taken has not been received (April 1990).

The cases were reported to Government between July 1987 and September 1987 and again in May 1989; their replies have not been received in spite of reminder issued in April 1990.

(d) Under the U.P. Motor Vehicles Taxation Act, 1935, road tax payable by a stage carriage depends, inter alia upon the class of route, viz., special class, 'A' class, 'B' class and 'C' class on which the vehicle plies. Vehicles plying on a special class route attract the highest rate of tax. The rates of tax of A, B and C class routes are comparatively lower. If a stage carriage covers a route falling in different classes, it is liable to pay road tax for the entire route at the rate applicable to the route of the highest class.

In sub-region Mirzapur, eight stage carriages were plying on Ahraura-Punnuganj via Hinduari; Ahraura-Robertsganj via Hinduari; Ahraura-

Shahganj Via Hinduari and Ahraura-Hinduari routes. The route Ahraura-Hinduari, which was common to all the routes, was classified as 'special class' and the rest of the routes fell in 'A' class category. For plying vehicles on these routes, the operators were, therefore, liable to pay tax at the rate applicable to special class route but the department continued to realise tax at the lower rate, as applicable to 'A' class route. The mistake resulted in short recovery of road tax amounting to Rs 26,996 during the period from January 1985 to December 1988.

The matter was reported to the department in December 1988 and to Government in March 1989; their replies have not been received in spite of reminder issued in June 1989.

CHAPTER 5

STAMPS AND REGISTRATION

5.1. Results of Audit

Test check of the accounts and relevant records of District Registrars and Sub-Registrars, conducted in audit during 1988-89, brought out short levy of stamp duty and registration fee amounting to Rs 22.33 lakhs in 180 cases, which fall broadly 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 property	146	18.25
2. Short levy of Stamp duty due to misclassification of documents	19	2.42
3. Other cases	15	1.66
Total	180	22.33

A few important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

5.2. Short levy of stamp duty due to undervaluation of lands

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of property forming subject of the deed or on the value of consideration set forth therein, whichever is higher. As per U.P. Stamp Rules 1942, market rate of various categories of land situated in a district are to be fixed and notified biennially by the Collector concerned for the guidance of the registering authorities.

(a) In Sahibabad (district Ghaziabad), an instrument relating to sale of land (measuring 7,466 sq. yards) was registered in June 1984. On the basis of the rates fixed by the Collector, value of the land amounted to Rs 26.88 lakhs, but the registering authority adopted the value of land as Rs 14.25 lakhs. The undervaluation of property by Rs 12.63 lakhs resulted in short levy of stamp duty amounting to Rs 1.33 lakhs.

On this being pointed out in audit (April 1985), the District Registrar stated. (February 1988) that additional

stamp duty amounting to Rs 1.35 lakhs had since been levied along with penalty of an equal amount.

The case was reported to Government in June 1989.

(b) In respect of 39 deeds of conveyance (relating to plots of land measuring 68,323 sq ft.) registered at Nawabganj (district Barabanki) and Mahmoodabad (district Sitapur) during November 1982 to August 1983, valuation of plots of land was determined at lower rates than the rates fixed and notified by the Collector. The undervaluation of the plots of land resulted in short levy of stamp duty by Rs 40,635 and registration fee of Rs 1,049.

On this being pointed out in audit (May 1983 and February 1984), the department stated (May 1989 and February 1989) that additional stamp duty amounting to Rs 30,978 and registration fee of Rs 2,147 had been levied by the Collector, besides imposing penalties amounting to Rs 12,069; out of this amount, Rs 19,353 had since been recovered.

The case was reported to Government in March 1989 and June 1989.

5.3 Non-levy of stamp duty at revised rates

Under the Indian Stamp Act, 1899 as amended in its application to Uttar Pradesh, stamp duty on a deed of conveyance is leviable on the market value of the property forming the subject matter of the deed or on the consideration set forth therein, whichever is higher. Government by an Ordinance No. 6 of 1988 revised the rates of stamp duty in respect of conveyance (Article 23), prescribed under schedule 1-B of the Stamp Act *ibid*, with effect from 24th June 1988

At Bansi (district Basti), Deoria and Patti (district Pratapgarh), on 160 instruments of conveyance registered between 24th June 1988 and 5th July 1988, stamp duty was levied at pre-revised rates. This resulted in short levy of stamp duty amounting to Rs 60,726.

The matter was reported to the department between August 1988 and October 1988 and to Government in March 1989; their replies have not been received in spite of reminders issued in April 1990.

5.4 Inordinate delay in finalisation of case by the Collector

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar

Pradesh), the proper chargeability of an instrument with stamp duty is determined not by the title given by the executor but according to its subject matter. Conveyance includes a conveyance on sale by which property, whether movable or immovable, is transferred.

In the office of the Sub-registrar, Kanpur, it was noticed (November 1982) that an instrument, by which a plot of land (measuring 17 bigha, 3 biswas and 16 biswansis) was given by 'A' to 'B' on a monthly rent of Rs 1,666 for ten years, was registered (October 1982) as 'lease'. Stamp duty amounting to Rs 3,150 only was levied on the instrument and realised. As the instrument authorized extraction of earth from the land for the purpose of manufacturing bricks, and it was a transfer of right over the soil of the land, it attracted stamp duty as 'conveyance'. Accordingly, the consideration for the said document worked out to Rs 2 lakhs, on which Stamp duty leviable amounted to Rs 17,000. The misclassification of the document resulted in short realisation of stamp duty by Rs 13,850.

On this being pointed out in audit (December 1982), Government directed the Collector, Kanpur in June 1983 to expedite action thereon, followed by a reminder in September 1983. Although the rules stipulated that the enquiry

should be completed, as far as possible, within a period of three months, it took the collector, Kanpur more than 5 year to finalise the case (On 30th March 1989). The Collector intimated in May 1989 that stamp duty and penalty aggregating Rs 21,000 (duty Rs 13,850 and penalty Rs 7,150) had since been levied.

CHAPTER 6

LAND REVENUE

6.1. Results of Audit

Test check of the accounts and relevant records of the offices of the Revenue Department, conducted in audit during 1988-89, brought out non-levy/short levy of land revenue and short realisation of collection charges, etc., amounting to Rs 56.09 lakhs in 282 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 non-recovery of land development tax	108	35.91
2. Short recovery of Collection charges	89	12.88
3. Other cases	85	7.32
Total	282	56.09

A few important cases, noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

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6.2. Non-recovery of collection charges

In terms of the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972, the revenue authorities, on receipt, from a corporation or banking company, of certificates for recovery, shall proceed to recover the amount stated therein together with cost of proceedings (collection charges) as arrears of land revenue. Collection charges at the rate of 10 per cent of the dues collected are realisable by the revenue authorities.

In 21 Tahsils of 16 districts, in respect of dues recovered after issuance of recovery certificates, collection charges amounting to Rs 6.10 lakhs were not realised during the period from 1986-87 to 1988-89, as detailed below:

Nature of Dues recovered	Amount of Collection Charges not realised (in lakhs of rupees)
1. Repayment of banking loans (18 Tahsils)	2.81
2. Employers' contribution to the Employees' State Insurance Corporation (2 Tahsils)	2.45

3.	Others(9 Tahsils)	0.84
	Total	8.10

On this being pointed out in audit (between April 1986 and December 1988), the Tahsildars concerned stated that action was being taken for recovery of collection charges. Further report has not been received (April 1990).

The above cases were reported to Government in July 1989; their replies have not been received (April 1990).

6.3. Non-assessment/non-realisation of land rent from unauthorised occupants

At the time of settlement made in Kumaon and Uttarakhand regions during 1956-65, certain land holders were incorrectly recorded as Sirtans i.e. unauthorised occupants of Government land. Consequently, after abolition of Zamindari in that region sometime in 1960, these land holders were deprived of the Bhumidhari rights and no demand for land revenue was assessed and raised in respect of such land. During the audit of Tahsildar, Ranikhet, district Almora, in June 1976, such unauthorised occupation of agricultural land since 1363 fasli (July 1975 to June 1976) was noticed. When this was pointed out, the Government stated in June 1978 that the problem had since come to their notice and a decision

would be taken soon. After a lapse of about nine years, it was decided by the Government in March 1985 that pattas be granted to such landholders upto a ceiling of 12.5 acres in each case under the Government Grants Act, 1895. The conditions, inter alia, were that from the date of application of the Act, of 1960 to the districts of Garhwal and Chamoli viz. 19th June, 1965 and to the districts Almora, Pithoragrah and Nainital, viz. 30th June, 1966 and amount computed at double the village rate in force and from 1st July 1976 an amount equal to land revenue (Malguzari) worked out at revised rates, would be payable as land rent to the State Government.

In spite of the decision of Government in March 1985, cases of non-assessment and non-realisation of land rent in respect of unauthorised occupants were noticed by audit (between May 1986 and June 1988) as mentioned below:

Tahsil	Month and year of Audit	Objection in brief ----- Areas under unau- thor- ised	Period	Land rent not ass- essed/ real- ised	Reply of the depart- ment/ Govern- ment
(Rupees in lakhs)					
(1)	(2)	(3)	(4)	(5)	(6)
(i) Didihat (Pitho ragarh district)	May 1986	762	July 1986 to June 1986	0.51	The Tah- sildar stated (December 1987) that the land rent had been ass- essed but the arr- ears could not be real- ised for want of lease deed proforma and orders of the Board of Revenue
(ii) Tharali (Chazoli)	May 1986	258	July 1985 to	0.11	The district

(1)	(2)	(3)	(4)	(5)	(6)
district)			June 1986		officer, Chamoli intimated (May 1987) that the matter was under corres- pondence with the Board of Revenue and Gov- ernment
(iii)Sadar (Pithora 1988 garh district)	June 1988	3239.91	July 1986 to June 1988	2.37	The District officer Pithora garh intimated (May 1987) that a sum of Rs 0.20 lakh had since been recovered
(iv) Dhar chula	June 1988	500.05	July 1988 to	0.21	The Govern-

(1)	(2)	(3)	(4)	(5)	(6)
(Pitho ragarh district)			July 1985		ment stated (March 1989 that a sum of Rs 0.11 lakh had since been recovered
		Total		3.20	

The first three cases were brought to the notice of the Government between July 1986 and February 1989; their reply has not been received (April 1990)

6.4. Irregularities in awarding fishing rights

In terms of paragraph 62 of the U.P. Gaon Sabha and Bhumi Prabhandhak Samiti Manual, lease for fishing rights is awarded for a period not exceeding one year, on the basis of auction, to the highest bidder(s) on the condition that one-fourth amount of the lease money would be paid immediately on the acceptance of the bid and the remaining

three-fourth in three equal quarterly instalments. In case of default in payment of the instalments, the lease is liable to be cancelled and fishing rights reauctioned. Non-observance of prescribed procedure and delay on the part of the department, in taking remedial measures deprived Government of revenue amounting to at least Rs 56,067 as indicated below:

(a) In tahsil Deoband (district Saharanpur), a lease for fishing rights was given to the highest bidder, on an annual rent of Rs 16,500, for a period of ten years, instead of one year, from 21st June 1986. However, advance equal to only 1/4th amount of the lease money for one year instead of 10 years was taken. The bidder paid rent of Rs 16500 for the year 1986-87 and thereafter did not make any further payments, yet was allowed to enjoy the fishing rights till the bid was cancelled on 23rd February 1988. Delay in cancellation of the bid deprived Government of the revenue of Rs 11,092 as rent for the period 21st June 1987 to 22nd February 1988. No action was taken by the department to reauction the fishing rights from the date of cancellation (25th February 1988) to 18th January 1989 and realise the amount of Rs 11092 from the bidder.

The matter was reported to the department in June 1988 and Government

in September 1989; their replies have not been received (April 1990).

(b) In Ramsanehighat tahsil, (district Barabanki), a lease for fishing rights was awarded for Rs 32,000 in January 1987 but no amount was paid by the lessee till the date of audit (August 1988). The department neither pressed for payment nor did it cancel and reauction the bid rights. In another case, in the said tahsil where a lease was awarded for Rs 17,300, in January 1987, one-fourth of the lease money amounting to Rs 4,325 was paid by the lessee on 25th February 1987, the balance amount of Rs 12,975 (towards payment of the remaining three instalments) remained unrealised till the date of audit (August 1988). The department did not take any action to realise the balance amount or to cancel the bid and reauction the rights.

The matter was reported to the department in September 1988 and to Government in September 1989; their replies have not been received (April 1990).

CHAPTER-7

OTHER TAX RECEIPTS

A-ELECTRICITY DUTY

7.1. Results of Audit

Test check of the accounts of the Assistant Electrical Inspectors / Appointed Authorities, conducted in audit during the year 1988-89, revealed non-levy or short levy of electricity duty amounting to Rs 34.23 lakhs in 22 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-payment of electricity duty on supply of electric energy	7	13.16
2. Short levy of electricity duty due to incorrect application of rates	5	0.85
3. Non-realisation/ short realisation of inspection fees of electric installations	4	12.70

(244)

4. Non-realisation/ short realisation of interest	3	7.33
5. Other cases	3	0.19
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TOTAL	22	34.23
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The findings of a review on "Realisation of electricity duty and fees" are mentioned in the following paragraph.

7.2. Realisation of electricity duty and fees

7.2.1. Introductory

Electricity duty is levied under the Uttar Pradesh Electricity (Duty) Act, 1952 at such rates as are fixed, from time to time, by the State Government, on the energy sold to a consumer by a licensee, the Board, the State Government or the Central Government, or consumed by a licensee or the Board or State Government in or upon premises used for commercial or residential purposes or in or upon any other premises except in the construction, maintenance or operation of his or its works, or on energy consumed by any other person from his own source of generations.

The licensee, the Board and the Appointed Authority (on behalf of the State Government / Central Government, as the case may be), and in case the energy is consumed by any other person such person, shall deposit the amount of duty payable within two calendar months following the close of the month in which meter reading was recorded.

Fees for testing and inspection of installations, connected to the supply system of the supplier, is levied and paid to the State Government under the Indian Electricity Act, 1910 and Indian Electricity Rules, 1956 at such rates as may, from time to time, be fixed by the State Government in order to regulate the levy of fees for testing and inspection and generally for services by Director (Electrical Safety) Uttar Pradesh (formerly Chief Electrical Inspector to Government, Uttar Pradesh).

The actual collection of electricity duty during 1987-88 was Rs 41.78 crores which increased during 1988-89 to Rs 62 crores, making it a major source of revenue to the State.

7.2.2. Scope of Audit

The object of the review was to study the procedure adopted in the assessment and collection of Electricity Duty with reference to the prescribed provisions in the above

mentioned Act and Rules; and adequacy and effectiveness of inspections of installations, and realisation of fees as prescribed in the Indian Electricity Rules, 1956. The review was undertaken during the period January 1989 to May 1989 and covered the offices of 11 out of 42 Assistant Director (E.S.), 10 out of 32 Appointed Authorities, 3 licensees (sanction holders) and the office of the Director (E.S.), Lucknow. The review also includes certain cases noticed during earlier years.

7.2.3. Organisational set up

The Power Department of the Uttar Pradesh Government administers the provisions of Uttar Pradesh Electricity (Duty) Act, 1952, Uttar Pradesh Electricity (Duty) Rules, 1952 Indian Electricity Act, 1910 and Indian Electricity Rules, 1956 through the Director (E.S.) Uttar Pradesh, who is the head of the organisation. He is assisted by the Deputy Director (E.S.) Uttar Pradesh (formerly known as Dy. Electrical Inspector to Government of Uttar Pradesh) at Headquarters and in the regions. The regions are subdivided into zones with one or more districts under the charge of Assistant Director (E.S.) Uttar Pradesh (formerly known as Assistant Electrical Inspector to Government of Uttar Pradesh). The Director (E.S.) Uttar Pradesh is responsible for watching the recovery and keeping proper accounts of

electricity duty realised and deposited by the licensees, the Board, appointed Authorities or other persons; and for inspecting the installations connected to the supply system of the supplier and for levy and realisation of inspection fee for such inspections.

7.2.4. Highlights

(i) There was persistent under-estimation in budgeting the receipts from 'Taxes and Duties on Electricity'. Thus, during 1984-85 to 1987-88 receipts were more by Rs 14.70 crores (on an average of Rs 3.675 crores per year) than those envisaged in the budget estimates. Arrears of uncollected revenue at the end of March 1988 amounted to Rs 24.00 crores.

(ii) About ninety per cent of the total amount of duty is realised from the Uttar Pradesh State Electricity Board (U.P.S.E.B.). There is, however, no system to verify the correctness of the amount of duty paid by the U.P.S.E.B. with reference to the units consumed.

(iii) A sum of Rs 20.71 crores was paid/adjusted in 1987-88 on account of difference due to revision of rates of duty from the U.P.S.E.B. However, test check in one zonal office revealed non-inclusion of an estimated amount of differential duty amounting to Rs 3.67 crores in the said amount in the

demands raised by the Director (E.S.). Further, there was a difference of Rs 7.27 crores between the duty as assessed by the Director (E.S.) and that paid as per annual statements of the Board during the years 1984-85 to 1987-88. This amount was treated as arrears, which has not been paid so far (November 1989).

(iv) In the case of six appointed authorities, one licensee (sanction holder) and two distribution divisions of U.P.S.E.B., there was short realisation of electricity duty amounting to Rs 24.77 lakhs due to application of incorrect rates of electricity duty.

(v) Duty amounting to Rs 75.44 lakhs was pending recovery in case of one appointed authority, one licensee (sanction holder) and 22 other persons even after delays ranging from 10 months to 25 years,

(vi) In cases of three licensees (Sanction holders), interest amounting to Rs 76.17 lakhs on belated payment of electricity duty was not charged.

(vii) Interest amounting to Rs 1.76 crores on belated payment of duty upto March 1975 has not been paid so far by the U.P.S.E.B.. Interest amounting to Rs 3.44 crores for the period from 1975-76 to 1979-80 was waived by Government though there is no provision

to that effect in the Act. The Director (E.S.) stopped calculating interest for delayed payments from April 1986 onwards on the plea that it was ultimately to be waived by Government.

(viii) Periodical inspections and testing of installations was carried out by the Director (E.S.) only to the extent of 16 per cent. Non-inspection of electric installations involved safety risks and hazards apart from the net loss of revenue of Rs 4.76 crores by way of inspection fees for the years 1984-85 to 1987-88.

(ix) The initial inspection of high or extra high voltage electrical installation of U.P.S.E.B. was not carried out by the Director (E.S.) due to non deposit of prescribed fee to the tune of Rs 1.79 crores for the year 1969-70 to 1986-87.

7.2.5. Trend of revenue

(i) The budget estimates of duty vis-a-vis the actual receipts for the five years ending 1988-89 were as under.

Year	Budget estimate	Actuals	Variation Increase (+)	Percentage of variation Increase (+)
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(In crores of rupees)

1984-85	14.14	17.85	(+) 3.71	(+) 26
1985-86	28.08	30.79	(+) 2.71	(+) 10
1986-87	33.80	36.21	(+) 2.41	(+) 7
1987-88	35.91	41.78	(+) 5.87	(+) 16
1988-89	40.02	62.00	(+) 21.98	(+) 55

(ii) Arrears

Arrears on account of uncollected duty at the end of March 1988 amounted to Rs 24.00 crores. the details of amounts due from the U.P.State Electricity Board, Appointed Authorities and other persons consuming energy from their own source of generation were as under:

Amount
(In crores
of rupees)

1.U.P.State Electricity Board	7.27
2.Appointed Authorities	0.05
3.Other persons	16.68

Out of Rs 16.68 crores coming under 'other persons', Rs 15.79 crores were due since 1982 from a Power Company, a licensee, in respect of generation and consumption of energy from its own sources. This amount was recovered in October 1988 after the decision of the Hon'ble Supreme Court in July 1988. The recovery of Rs 0.39 crore due from other persons (ten sugar factories) were stayed either by the Supreme Court or the High Court.

7.2.6. Irregular method of payment and non-verification of the amount of duty paid by the U.P.S.E.B.

The U.P.S.E.B. paid electricity duty upto the year 1974-75 through its Distribution Divisions who deposited the amounts into the treasury. Payments were made generally late and resulted in accumulation of huge arrears of duty and interest. However, consequent to a decision taken at a meeting held between the representative of the Government and the State Electricity Board in 1975-76 payment of duty from the year 1975-76 onwards was adjusted by deduction from the loan granted to the Board by the State Government. For this purpose, the Assistant Director (E.S.) of each zone collects the figures of the electricity duty due for each month from the statements in Form No.(C.S.4) prepared by each Distribution Division of the Board and forwards the same to the

Director (E.S.) Lucknow, where the figures for whole of the State are consolidated. This consolidated figures is taken as a demand of duty and action for deduction of this amount of demand from the loan given to the Board, is initiated by the Director (E.S.). This procedure is, however, not consistent with the provisions of the rules, as mentioned in Para 7.2.8. infra. Further, the Assistant Directors of the Zones, while intimating the amount of duty to the Director (E.S.) do not check the correctness of the amount of duty shown in these statements with reference to the category-wise number of units of energy consumed. The result is that the correctness of the demand of duty compiled by the Director (E.S.) is not verified at any stage with reference to the number of units actually consumed by different categories of consumers.

Test check of 21 monthly statements (C.S.4) pertaining to 6 Distribution Divisions in the offices of five Assistant Directors showed short levy of electricity duty of Rs 1.30 lakhs as shown below:

Name of the Electricity Distribution Division	Month of C.S. 4 State- ment ----- (Category of Consump- tion)	Total number of units consumed as shown in C.S. 4	Rate of Electricity duty per unit	Amount of duty due (in rupees)	Assessed amount of duty actually shown in C.S. 4 (in rupees)
Mirzapur	4/86	13,39,634	2 paise	28,792.68	20,044.20
" "	(Domestic)				
" "	4/86	8,606	2 paise	132.12	323.18
" "	(Commercial)				
" "	4/86	7,56,566	4 paise	30,262.64	19,543.28
" "	(Industrial)				
" "	(i) Small and heavy power				
" "	(ii) Large and heavy power	58,80,937	6 paise	352,856.22	455,401.76
" "	4/86	29,477	2 paise	589.54	850.86
" "	(Public lamps)				
" "	4/86	80,810	2 paise	1,616.20	2,194.74
" "	(Public Water work)				
Varanasi	2/88	10,96,826	4 paise	43,873.04	32,399.48
" "	(Domestic)				
" "	2/88	96,987	4 paise	3,879.48	4,519.00
" "	(Commercial)				

	2/88	12,69,059	6 paise	76,143.54	8,109.60
	(Industrial)				
	Large and heavy power				
Azamgarh	10/86	10,87,593	4 paise	43,503.72	14,457.70
	(Domestic)				
	10/86	7,14,192	4 paise	28,567.68	14,440.96
	(Industrial)				
	Small and medium power				
I Deoria	1/88	6,39,617	5 paise	31,980.85	20,460.00
	(Domestic)				
	1/88	3,98,298	6 paise	23,897.88	23,585.47
	(Industrial)				
	Large power				
II Deoria	9/86	5,47,901	4 paise	21,916.04	7,392.40
	(Domestic)				
	9/86	7,54,725	6 paise	45,283.50	17,252.70
	(Industrial)				
	Large power				
I Shahjahanpur	5/87	7,90,157	5 paise	39,507.85	7,457.43
	(Domestic)				
	5/87	5,03,455	5 paise	25,172.75	17,776.00
	(Industrial)				
	Small and medium power				
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			TOTAL	795,975.73	668,008.56
			-----	-----	-----

Short levy

Rs 1,29,967.17

Thus, the correctness of the amount of duty realised from the U.P.S.E.B. which accounts for about 90 per cent of the total amount of electricity duty is not being checked by any authority as there is no internal audit system in the department. Further, the C.S.4 statement, on the basis of which the amount of duty is being arrived at, does not contain complete information necessary to arrive at the correct rate of duty leviable to different categories of consumers, such as units consumed category-wise, unit exempted from duty etc. and is, therefore, error-prone.

7.2.7. Non-assessment of differential duty

(a) The rates of electricity duty were revised by the State Government vide notification dated 29th March 1985 (effective from 1st October 1984) and dated 1st August 1985 (effective from 1st August 1985). The U.P.S.E.B., however, enforced the revised rate with effect from 1st February 1986 in respect of certain categories of consumers and with effect from 1st August 1986 in respect of remaining categories of consumers. As a result, the differential amount of duty for the period from 1st October 1984 to 31st July 1986 was realisable from the Board, but this has neither been

assessed by the Commercial wing of the Board nor by the Director (E.S.) so far (May 1989). A sum of Rs 20.71 crores on this account was paid to/adjusted by the Government during 1986-87 as stated by the accounts wing of the U.P.S.E.B. Details of the said adjustment was also not available with the Directorate.

In the course of test check of Zonal office at Kanpur, it was noticed (April 1989) that an estimated amount of differential of duty of Rs 3.67 crores due for the period from October 1984 to July 1986 pertaining to Kanpur Electric Supply Authority was not intimated to the Director (E.S.) by the Zonal Assistant Director (E.S.). In the absence of details, the accuracy/correctness of the amount of Rs 20.71 crores paid/adjusted towards the differential duty as mentioned above could not be vouchsafed.

(b) Non-reconciliation of the figures of duty assessed by different wings of Board

The amount of duty payable by the Board is assessed by the Director (E.S.) on the basis of C.S.4 statements prepared by the various Distribution Divisions of the Board. The Commercial Wing and the Accounts Wings of the Board also make their own assessments of the duty payable by the Board separately. However, the three sets of

figures do not tally nor were reconciled at any stage.

A difference of Rs 7.27 crores between the amount assessed by the Director (E.S.) and that paid as per the annual statements of accounts wing of the Board, during the years 1984-85 to 1987-88 (as per details given below), was treated as arrears, but has not so far been recovered from the Board (November 1989).

Year	Amount of duty assessed By the Direc- tor (E.S.)	By Comm- ercial wing of the Board	By Acc- ount of the Board	Duty paid as per annual statement of acc- ounts of S.E.B.
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(In crores of rupees)

1984-85	17.96	12.39	12.47	15.62
1985-86	28.00	15.95	16.06	28.00
1986-87	35.00	29.11	50.07	33.00
1987-88	42.04	32.09	35.16	39.07
TOTAL	122.96	89.54	113.76	115.69

7.2.8. Procedure prescribed for levy and payment of duty not followed

(a) Under the U.P. Electricity

(Duty) Act, 1952, and the rules made thereunder, the amount of electricity duty is required to be deposited in Government treasury by a licensee, appointed authority or other person, within two calendar months following close of the month in which meter readings were recorded. He is also required to submit to the Assistant Director (E.S.) concerned the receipted copy of the treasury challan within ten days of the expiry of the aforesaid period of two months. In the event of failure to deposit the amount of duty within the period prescribed, interest at the rate of 18 per cent per annum is chargeable from the licensee, the Board or other person on the amount of electricity duty remaining unpaid until payment thereof is made.

In the office of the Assistant Director (E.S.) Bareilly, it was noticed that Garrison Engineer (M.E.S.) Bareilly, an appointed authority, paid electricity duty for the period from November 1977 to March 1981 in the month of March 1986 i.e., after a delay of about 5 to 9 years. Information regarding payment of duty from April 1981 and onwards was not available in the office. No effective action was taken by the Assistant Director in this regard nor towards charging of interest on the delayed payment.

(b) U.P. Electricity Duty Rules, 1952 further provide that in case where

the supply is afforded on mixed load tariff unless proper arrangement for metering different categories of consumption exists to the satisfaction of the Assistant Director (E.S.), 20 per cent of total consumption for the said tariff is dutiable at the rate fixed for light and fan and other purposes and the rest 80 per cent of the consumption is dutiable at the rate fixed for levy on industrial consumption.

(i) In the office of the Garrison Engineer (M.E.S.), appointed authority at Bareilly, it was noticed that from September 1988 onwards payment of duty was billed by the Electricity Distribution Division of U.P.S.E.B. and duty was also being paid to the U.P.S.E.B., whereas it should have been deposited into the Treasury direct as per the prescribed procedure.

It was also observed that along with the bill for November 1988, arrears for April 1986 to August 1988 amounting to Rs 3.20 lakhs were also paid. As per bills prepared by the Distribution Division, of U.P.S.E.B. energy consumed during the period from April 1986 to January 1989 aggregated 4,36,97,697 units. The duty was, however, levied only on 20 per cent (87,39,539 units) of the total consumption for light and fans, whereas duty on 3,49,58,158 units (being 80% of the total consumption) amounting to Rs

16.76 lakhs at the minimum rate for levy on industrial consumption, was not levied at all. On this being pointed out, the Director (E.S.) admitted that the distribution division of the U.P.S.E.B should not have realised duty from the appointed authority, and that non-levy of duty on 80 per cent consumption and levy of duty on 20 per cent consumption was not in conformity with the rules. It was also stated by him that action was being taken for rectifying the irregularity.

(ii) In case of a distribution division at Pithoragarh, it was noticed that during the period from February 1986 to January 1988, 48,27,450 units of energy were sold to a consumer on mixed load tariff. The electricity duty on the entire units of consumption was levied and realised at the rate of 2 paise per unit i.e., at rate fixed for light and fan consumption whereas on 80 per cent of total consumption, the rate fixed for industrial consumption should have been charged. This resulted in short realisation of duty amounting to Rs 1.90 lakhs.

On this being pointed out (June 1988), the Executive Engineer of the distribution division accepted the mistake and stated that bill will be raised for the amount short charged.

7.2.9. Short realisation of duty due to application of incorrect rates

Under the Uttar Pradesh Electricity (Duty) Act, 1952 and the rules made thereunder, electricity duty is leviable at the rates as may from time to time, be fixed by the State Government by *notification in the Gazette*. Rates of electricity duty were revised by the Government by issue of notifications in March 1985, August 1985 and December 1986 and revised rates came into effect from October 1984, August 1985 and 23rd December 1986 respectively.

In the offices of a licensee, two distribution divisions of U.P.S.E.B. and six appointed authorities, test check (June 1987 to April 1989) revealed that that electricity duty was levied and deposited at pre-revised rates instead of at the prevailing correct rates, during the period from October 1984 to January 1989, resulting in short realisation of duty amounting to Rs 24.77 lakhs.

On this being pointed out in audit, the Distribution Division, Moradabad realised the amount of short charge of Rs 6.72 lakhs in October 1987. Information regarding recovery and additional demand in respect of the remaining cases have not been received (April 1990).

7.2.10. Non-levy of electricity duty on supply of energy free of charge

Under the U.P. Electricity (Duty) Act, 1952, electricity duty is leviable on energy sold to a consumer, at rates notified by the State Government from time to time. The Act further provides that for the purpose of calculation of electricity duty, energy supplied free of charge or at concessional rate to certain categories of consumers by a licensee or the Board shall be deemed to be energy sold at rates applicable to other consumers of the same category. In September 1984, Government clarified that in respect of energy supplied at concessional rate to Military Officers by the appointed authorities (Defence department) as well, the rate charged for energy consumed would be deemed to be the full rate applicable to other consumers of the same category (as the difference between the ordinary rate and the concessional rate was being borne by the Defence department). In this connection, the Director (E.S.) also issued (August 1986) a circular to all appointed authorities of Defence department to realise electricity duty, in respect of energy supplied free of charge, at the rate applicable to the ordinary consumers.

In the case of four appointed authorities test checked in audit (March and April 1989) it was noticed

that electrical energy was being supplied 'free of charge to certain categories of defence personnel at the prescribed scale for domestic use. The rate of electricity duty applicable to supplies made for domestic purposes was 4 paise per unit (effective from 1st October 1984) and 5 paise per unit (effective from 23rd December 1986). The approximate consumption of energy supplied by these appointed authorities during the period October 1984 to March 1989 aggregated 2,21,13,370 units and electricity duty incorrectly not levied amounted to Rs 9.75 lakhs for various periods between 1st October 1984 and 31st March 1989.

In the case of another appointed authority at Kanpur (Garrison Engineer, Air Force, Chakeri), the prescribed scale of free consumption was stated to be 135 and 80 units per month for one category of persons and 80 and 55 units per month for another category of persons for summer and winter respectively. The number of staff to whom free supply was made was, however, not made available to audit. The duty not levied in this case, therefore, could not be worked out.

7.2.11. Non-levy/short levy of electricity duty on consumption of energy in street lights and public lamps

In the case of energy consumed for street lights and public lamps, where the supply was unmetered, the rate of duty upto 22nd December 1986 was dependent on the total wattage of the bulbs and from 23rd December 1986 the duty was leviable at the rate of 10 per cent of the rate fixed for such consumptions by the U.P.S.E.B. Where the supply was metered, the rate applicable was that for light and fan consumption as fixed by the State Government from time to time.

In 9 Electricity Distribution divisions and one Electric Supply Undertaking of the Board, it was noticed that on the energy sold by the Board for consumption in street lights and public lamps, to 698 consumers (1 Nagar Mahapalika, 8 Nagar Palika, 1 Cantonment Board, 1 Project Engineer, 1 Industrial Estate, 2 Panchayat Raj Adhikaris, 51 Town Areas, 610 Gram Sabhas and 23 blocks), electricity duty amounting to Rs 8.78 lakhs was not levied or short levied for various periods between August 1986 and October 1988.

7.2.12. Non-levy of electricity duty on consumption of energy by a Government undertaking

Under the U.P. Electricity (Duty) Act, electricity duty is leviable on the energy supplied for consumption in the residential colony of an Undertaking of Central or State Government.

In the Electricity Distribution division, Robertsganj of U.P.S.E.B., electricity duty, on energy supplied to the residential colony of a Central Government Undertaking, was not levied upto October 1988. The duty not levied during the period from April 1985 to October 1988, the period for which the records were made available to audit, amounted to Rs 7.04 lakhs. Further, duty was being levied from November 1988 onwards based on audit observation.

7.2.13. Non-recovery of electricity duty

Under the Uttar Pradesh Electricity (Duty) Act, 1952, any sum due on account of electricity duty, if not paid to the State Government within the prescribed period of time, is recoverable as arrears of land revenue from the licensee or the other person as the case may be.

In the case of one licensee (sanction holder) and 22 other persons, electricity duty amounting to Rs 75.25 lakhs for the period from January 1964 to September 1988 was pending recovery even after delays ranging from 6 months to 25 years. A sum of Rs 0.18 lakh representing duty for the period from June 1986 to March 1988, payable by a Central Government Appointed Authority, was also remaining unrecovered.

On this being pointed out in audit, the Assistant Director (E.S.) concerned, responsible to watch the recovery of these outstandings, stated that the recovery proceedings were in progress. However, no documentary details in support of this action could be produced to audit.

7.2.14. Non-realisation of interest on belated payment of electricity duty

Under the provisions of U.P. Electricity (Duty) Act, 1952, and Rules framed thereunder, if the amount of electricity duty due is not deposited by the licensee, the Board or any other consumers in Government treasury within the prescribed period, interest at the rate of 18 per cent per annum is chargeable on the amount of duty remaining unpaid, until payment thereof is made.

Three licensees (sanction holders), one each at Mirzapur,

Gorakhpur and Lucknow, deposited electricity duty for the various periods between October 1984 and May 1988, amounting to Rs 4.06 crores, after delays ranging from 5 days upto 23 months from the due dates. Interest to the tune of Rs 76.17 lakhs, calculated at the rate of 18 per cent per annum, was chargeable from these licensees for delays in payment of duty, but was not charged.

7.2.15. Irregular waiver of interest on belated payment of duty by the U.P.S.E.B.

An amount of Rs 1.76 crores representing interest on the delayed payments of duty for the period upto March 1975 has not been paid by the Board so far (November 1989). From the year 1975-76, the amount of duty was to be paid by deduction from the loan given to the Board by the State Government. According to this mode of payment the duty for the years 1975-76 to 1979-80 was also paid late (at the time of release of loan) on which, according to the Director (E.S.), interest amounting to Rs 3.44 crores was chargeable from the Board. This amount of interest was, however, waived by the Government vide their letter dated 24th April 1982, under Section 3(1)(7) of the U.P. Electricity Duty (Amendment) Act, 1970. The orders of the Government for waiver of this

amount of interest were not correct as there was no such provision in the Act.

The Director (E.S.), Lucknow, had stopped calculating the amount of interest on the late payments of duty from the year 1980-81 onwards on the presumption that the payment of interest was to be ultimately waived by the Government, which was irregular.

7.2.16. Irregular grant of exemption from payment of electricity duty

Under the U.P. Electricity (Duty) Act, 1952, as amended in the year 1977, no electricity duty was leviable with effect from 1st June 1976, on supplies of energy (consumed in light) made under Janta-service Connection Scheme to Harijans, landless labourers, farmers (whose holding is one acre or less), active and ex-service men and war widows and other weaker sections in districts as may be notified by the State Government in this behalf. The Government vide Notification dated 22nd April 1977 exempted the energy consumed under the Janta Service Connection Scheme from levy of electricity duty in five districts of Allahabad, Banda, Basti, Mirzapur and Rae Bareilly with effect from 1st June 1976.

As intimated by the U.P. State Electricity Board, 1,13,972 connections were given under the Janta Service Connection Scheme, during the years

1984-85 in whole of the State. The electricity duty on energy consumed by these connections, except those in the five districts as mentioned above, was required to be assessed by the Board for making payments to the State Government. However, duty on the consumption of energy in respect of these connections excepting those of 5 districts, was not assessed since inception of the scheme and all districts of the State were allowed exemption from levy of duty, which was irregular. As the consumption of energy under this scheme was not assessed, the amount of irregular exemption of duties allowed in the State except the said five districts could not be worked out.

On this being pointed out in audit (May 1989) the Director (E.S.) confirmed (May 1989) that electricity duty on energy consumed in Janta Service Scheme was not being levied in the entire State. This was in contravention of the provisions of the Government notification which allowed exemption in respect of five districts only.

7.2.17. Periodical inspections and testing of consumer's installations not done

Under the Indian Electricity Rules, 1956, where an installation is already connected to supply system of

the supplier, every such installation is required to be periodically inspected and tested by the Assistant Director (E.S.) at intervals not exceeding five years. Such inspections and tests are carried out with a view to ensuring that consumer's installation does not have any leakage which is likely to affect injuriously the use of energy by the supplier or which is likely to cause danger. The fee for such inspection and test is determined by the State Government in case of each class of consumer and is payable by the consumer in advance. The State Government prescribed the following periodicity of inspection and test in respect of different classes of installations:

<u>Class of installations</u>	Periodicity of inspection and test
(i) For high or extra-high voltage installations-supply above 650 volts	Annual
(ii) For medium voltage installation-supply above 250 volts and upto 650 volts	Triennial
(iii) For low voltage installations-supply upto 250 volts	Quadrennial

The inspection fee payable by each class of consumer is linked with the load of the installation as fixed by the State Government from time to time.

As per data made available by the department, the position of consumer's installations due for inspection each year and the installations actually inspected during the year 1984-85 to 1987-88 was as under:

Year	Number of installa- tions due for inspection	Number of installa- tions actually inspected	Shortfall
1984-85	3,13,355	36,136	2,77,219
1985-86	3,13,355	47,263	2,66,092
1986-87	3,13,355	56,650	2,56,705
1987-88	3,13,355	60,948	2,52,407
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TOTAL	12,53,420	2,00,997	10,52,423
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Thus on an average, inspection was done only to the extent of 16 per cent with 84 per cent of the installations remaining unchecked.

Category-wise figures of installations to be checked each year and actually checked were not available with the Director (E.S.), Lucknow. On

the basis of the figures supplied by the department, the average rate of fee for inspection of each installation worked out to Rs 199.45 as against average cost of Rs 154.24 for each inspection for the year 1984-85 to 1987-88 as shown in the table given below:

	1984- 85	1985- 86	1986- 87	1987- 88	Total
Number of Inspection carried out	36,136	47,263	56,650	60,948	2,00,997
Revenue received on account of inspection fee (in lakhs of rupees)	72.26	92.34	121.49	114.23	400.34
Expenditure on the inspections done (in lakhs of rupees)	63.08	67.12	81.12	95.81	307.13
Average rate of fee per inspection (in rupees)	200.00	195.83	214.57	187.42	199.45
Average rate of expenditure	174.56	142.01	143.20	157.20	154.24

per inspection

Based on this average rate of fee per inspection, the revenue involved on inspections of 10,52,423 installations for 1984-85 to 1987-88 not checked work out to Rs 20.99 crores. Against this, the expenditure involved at the average rate of Rs 154.24 per inspection of these installations comes to Rs 16.23 crores. Thus apart from the attendant risks involved in non-inspection of electrical installations, revenue of Rs 4.76 crores has also been lost to Government.

On this being pointed out in audit, the Director (E.S.), Lucknow stated that it was not possible to complete the inspections and tests to the required extent with the existing staff.

7.2.18. Initial inspection of high or extra high voltage installations of the U.P.S.E.B. not carried out

Under the Indian Electricity Rules, 1956, before supply of energy at high or extra high voltage to any person, the supplier had to seek permission from the Director (E.S.) and the supply of energy shall not be commenced unless and until the inspector is satisfied about the fulfillment of various provisions regarding such installations. For

initial inspection of such installations the supplier (i.e. the Board) has to pay fee in advance at the rates prescribed by the State Government from time to time. Rule 141 ibid provides for penalty upto Rs 300 for every breach of any provision of the said Rules and Rs 50 per day for continuing breach of any such provision.

In the course of test check of the office of Assistant Director, Lucknow, it was stated that no action is taken by the U.P.S.E.B for depositing the inspection fee in advance and for getting their installations inspected. Information regarding newly installed installations is also not furnished to the Directorate by U.P.S.E.B. After considerable lapse of time since the completion of these installations, information is collected by personal effort of the department and on that basis inspection fee is demanded from the Board. However, the fee is not being deposited by the Board, with the result that the initial inspections of the installations were also not being carried out. The department did not take any action for breach of the provisions of the Rules.

On this being pointed out, the Director (E.S.) confirmed the above position. It was further stated by him that inspection fees amounting to Rs 1.75 crores demanded for the years

1969-70 to 1986-87 for initial inspection of installations had not been deposited by the Board so far (November 1989), and consequently inspections were not carried out. The exact number of installations in respect of which the above amount of fee was not deposited could not be collected; but, it was verified that approximately 45,000 installations of the above type are installed by the Board each year.

7.2.19. Non-conduct of audit and deposit of audit fees in respect of a licensee (sanction holder) generating electrical energy

Under the provisions of Indian Electricity Rules, 1956, a licensee, generating electrical energy, is required to submit the accounts to audit authorities of the Directorate (E.S.) for audit, and deposit the audit fee which will not exceed Rs 25,000 in any one case. The accounts are required to be submitted each year by 30th September and for any delay in submission, it is necessary for the sanction holder to obtain the permission of the Government. For continued breach of the aforesaid provisions, the licensee was liable for penalty at the rate of Rs 50 per day.

The audit of accounts of a sanction holder, engaged in generating electrical energy, was started from the

year 1967-68 and was completed upto 1970-71 for which period, audit fee was also deposited. The accounts for the years 1971-72 to 1976-77 were submitted after delays ranging from 1 year 3 months to 6 years. However, the audit fees for this period, computed at the rate of Rs 25,000 per account, amounting to Rs 1.50 lakhs have not been deposited as yet. Further, the accounts for 1976-77 onwards were not submitted to audit. Despite this, no action was taken by the Director (E.S.) to levy penalty as required under the rules.

On this being pointed out, the Director (E.S.) stated that the Directorate had no information regarding permission, if any, granted by the Government for non-submission of the accounts by the company for the year 1976-77 onwards, and that demand for the outstanding amount of the audit fee had been raised and that the sanction holder had been asked to submit the accounts for 1976-77 and onwards.

7.2.20. Other points of interest

(a) Non-encashment of cheques

Uttar Pradesh Electricity (Duty) Act, 1952 and the rules made thereunder do not permit acceptance of cheques towards payment of electricity duty. In Lucknow zone, an appointed authority

made payment of electricity duty amounting to Rs 19,069.77 for the period from October 1980 to March 1981 through two cheques no.B-038804 dated 6th November 1981 for Rs 17,272.87 and B-038964 dated 23rd January 1982 for Rs 1,796.90. The encashment of these cheques could, however, not be confirmed by the department even after a lapse of more than seven years.

(b) Payment of duty could not be verified in audit

Under the rules, complete records regarding payment of duty should be maintained by the appointed authorities.

An appointed authority at Agra, assessed duty amounting to Rs 34,975 for the year 1987-88 and intimated this amount to the concerned section for payment. However, no challan or other document in support of this amount was available in his office, even after one year, and the payment of said amount could not be verified in audit (March 1989)

(c) Non-submission of returns

Under the Indian Electricity (Duty) Rules, 1952, a licensee, appointed authority or other person is required to submit the following returns to the Assistant Director of the zone concerned.

(i) Return in duplicate in form A (showing information regarding energy supplied or consumed, electricity duty leviable thereon and actually paid to Government and amount of duty written off), within sixty days after expiry of the half year to which the return pertains.

(ii) Return in duplicate in form B (showing the opening and closing balances, amount of electricity duty, interest and penalty accrued and actually paid, adjusted and written off), within three months of the close of the financial year on 31st March.

The above returns are not being submitted by the appointed authorities.

(d) Non-levy of duty on energy consumed by the State Government

On energy consumed by the State Government or sold to the State Government for consumption by that Government, electricity duty became leviable at 2 paise per unit with effect from 1st October 1984 (prior to this duty was exempt) and at 3 paise per unit with effect from 23rd December 1986.

It was noticed that Electricity duty on consumption of energy by State Government was, however, not levied by Electricity Distribution Division I and

11, Jaunpur for the period from 1st October 1984 onwards even though a period of more than four years had elapsed since introduction of the levy of duty on consumption of energy by the State Government.

On this being pointed out in audit the Assistant Director (E.S.) Jaunpur Zone, Jaunpur stated that in spite of the orders of the .U.P.S.E.B. and even after vigorous pursuance by the Directorate (Office of the Assistant Director), the area of consumption by State Government had not been listed by the said Division, which was violative of the provisions of the U.P. Electricity (Duty) Act and Rules.

The foregoing points were reported to Government in July 1989; their reply has not been received (April 1990)

B. PURCHASE TAX ON SUGARCANE**7.3. Results of Audit**

Test check of the accounts and relevant records of sugar factories and khandsari units, conducted in Audit during the year 1988-89, brought out non-levy/short-levy of purchase tax on sugarcane amounting to Rs 202 lakhs in 22 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Clearance of sugar without payment of tax	5	149.00
2. Short assessment due to non- observance of rules	5	4.00
3. Deferment of purchase tax on sugarcane	3	44.00
4. Other irregularities	9	5.00
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TOTAL	22	202.00
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A few important cases noticed during 1988-89 are given in the succeeding paragraphs.

7.4. Arrears caused due to incorrect fixation of rate of tax

Section 3 of the U.P. Sugarcane (Purchase Tax) Act, 1961 provides for levy and collection from a sugar factory a tax at the rate of Rs 1.25 per quintal on the sugarcane purchased by it.

At the end of the crushing season, the assessing officer is required to revise the rate of payment per bag of sugar by taking into account the quantity of sugarcane purchased by the factory and the sugar produced in the factory during the season as reduced by the amount recovered at the provisional rate, and spread the undischarged liability of purchase tax over the remaining bags of sugar in stock, the revised rate, therefore, is so determined that the entire amount of tax is realised from the factory with the clearance of last bag of sugar produced in the season by the factory.

(a) A sugar factory in Moradabad district purchased 24.37 lakhs quintals of sugarcane during the season 1986-87 on which a tax of Rs 30.45 lakhs was leviable. The assessing officer fixed a provisional rate of Rs 11 per bag on 16th December 1986 and the final rate

of Rs 21 per bag on 8th October 1987. The entire stock of sugar bags was cleared by May 1988 but purchase tax to the tune of Rs 3.81 lakhs remained unrecovered, as a result of incorrect fixation of the final rate.

In August 1988, the Sugarcane Inspector and Asstt. Sugar Commissioner ordered adjustment of Rs 10,145 lying in the Personal Ledger Account of the factory against the tax due. Payment of the balance in lump sum was not made by the factory. However, in September 1989, i.e. towards the end of a subsequent crushing season (1988-89), the assessing officer ordered recovery of the aforementioned amount of tax by enhancing the rate of tax by Rs 8 per bag of sugar produced during 1988-89 and lying in stock at the time of such order. Instead of recovering the undischarged liability of tax in lump sum, the assessing officer extended indirect financial concession to the sugar factory in contravention of the provisions of the Act.

(b) For the season 1987-88, the said factory purchased 24.20 lakh quintals of sugarcane on which purchase tax amounting to Rs 30.24 lakhs was payable. The provisional rate for sugar bags was fixed at Rs 15 per sugar bag and the final rate was fixed on 8th August 1988 at Rs 16 per bag. Purchase tax amounting to Rs 25.27 lakhs was recovered till November 1988 and

balance of Rs 4.97 lakhs was due on 29,198 sugar bags left in stock. On 29,198 bags, tax at the rate of Rs 16 per sugar bag worked out to Rs 4.67 lakhs. This would leave Rs 29,987 uncovered as a result of incorrect fixation of the final rate.

On this being pointed out in audit (December 1988), the final rate of Rs 16 per sugar bag was revised to Rs 17.50 per sugar bag by the assessing officer on 24th May 1989, in order to realise the balance of Rs 29,198.

The matter was reported to Government in May 1989.

7.5. Non-payment of sugarcane purchase tax on sugarcane grown at factory's own farms

The supply of sugarcane to sugar factories in U.P. is arranged from areas assigned to each factory through Ganna Samities located within the areas. On the quantity of sugarcane purchased, the sugar factories pay commission at the rate of 20 paise per quintal of sugarcane purchased to Ganna Samities/ Ganna Vikas Parishads. As certain sugar factories were found to be using sugarcane grown in their own farms directly which was resulting in loss of sugarcane purchase tax to Government as well as loss of commission to Samities/ Parishads, the Cane commissioner in terms of a Government order of 1971

issued a circular on 21st March 1983 directing all occupiers of sugar factories to procure supply of sugarcane grown even in factory's own farms through the agency of Ganna Samities concerned and pay purchase tax and the commission payable on such sugarcane to the latter

Contrary to the orders of the Cane Commissioner, a sugar factory in Bareilly district directly utilised 66,711.41 quintals and 78,344.99 quintals of sugarcane grown in factory's own farms as seen from R.G.4 (Cane Account) Register for production of sugar during 1986-87 and 1987-88 seasons, on which sugarcane purchase tax amounting to Rs 1.81 lakhs was payable, but was not paid.

The matter was reported to the department in June 1989 and to Government in July 1989; their replies have not been received in spite of reminders issued in April 1990.

CHAPTER-8

FOREST RECEIPTS

8.1 Results of Audit

Test check of the divisional records, conducted during 1988-89, revealed irregularities involving revenue of Rs 3128.82 lakhs in 263 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Incorrect fixation of royalty	29	1738.52
2. Irregularities in collection and disposal of <i>Tendu</i> leaves	5	227.38
3. Allotment of Forest produce at concessional rate	25	215.13
4. Non-levy/Short levy of penalty	35	149.60
5. Irregularities in extraction of	22	88.12

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6. Non-realisation of lease rent	15	27.38
7. Loss of revenue due to non-levy of Stamp duty	29	18.24
8. Loss of revenue due to non- registration of saw mills	19	6.71
9. Other Irregu- larities	84	657.74
Total	263	3128.82

A few of the important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

8.2. Incorrect fixation of rate of royalty

(i) The royalty on the major forest produce of the year 1981-82 was, originally, fixed by the Department on the basis of average royalty of the preceding three years. This was subsequently increased in April 1984 by Government by 41.08 per cent in respect of all the species.

According to the Government order of September 1983, the royalty of the year 1982-83 and subsequent years was to be fixed on the basis of following formula:-

Add to royalty of previous year-

- (i) Percentage of increase in the price of timber sold by Uttar Pradesh Van Nigam in the previous year over that of its preceding year, and
- (ii) Extraordinary increase, if any, in the current year, i.e., the year for which royalty is to be fixed.

Further, the Royalty Fixation committee recommended (August 1984) that the rates of royalty of the species of Sal, Sain, Sheesham, Khair, etc., allotted to the Uttar Pradesh Van Nigam from the Shivalik circle during 1982-83 be fixed by allowing 20 per cent increase and for Chir 3 per cent increase on the rates of 1981-82. The recommendation was accepted by the chief Conservator of Forests (Management) in September 1984.

In the course of audit (April 1988) of the Shivalik Forest division and Rajaji National Park, Dehradun, it was noticed that rates of royalty on the forest produce allotted to the Nigam during 1982-83 were fixed by the Department by allowing increase on the original rates instead of on the

revised rates of 1981-82 (incorporating increase of 41.08 per cent prescribed by Government in April 1984). The mistake resulted in loss of revenue of Rs 2.59 lakhs in the Shivalik Division and Rs 14.84 lakhs in the Rajaji National Park Division during 1982-83.

Owing to fixation of incorrect rates of royalty for 1982-83, there was cumulative effect on the royalty of the subsequent years resulting in further loss of revenue of Rs 153.83 lakhs in the Shivalik Division during 1983-84 to 1987-88 and Rs 66.84 lakhs in the Rajaji National Park Division during 1983-84 to 1985-86.

On this being pointed out in audit (April 1988), the Chief Conservator of Forests (Planning) intimated (April 1989) that additional demands for Rs 154.99 lakhs (upto 1985-86) had been raised against the Nigam between December 1988 and January 1989.

The matter was reported to Government in July 1988; their reply has not been received inspite of reminder issued in January 1990.

(ii) According to the Government orders of September 1978, in case a forest lot is allotted to the Uttar Pradesh Forest Corporation and work in the lot is not started in the allotment year, royalty will be

charged at rates applicable to the year in which the work is actually done.

Mention was made in paragraph 8.3(b) of the Audit Report on Revenue Receipts for the year 1987-88 about short realisation of royalty amounting to Rs 14.25 lakhs on Chir lots from the Uttar Pradesh Forest Corporation due to raising of demand at the rates applicable to the year in which the lots were allotted instead of at the rates applicable to the year in which lots were actually worked.

It was further noticed that in the Chakrata Forest Division, one Deodar lot (Volume: 420.367 cubic metres) and one Chir lot (Volume : 332.163 cubic metres) were allotted to the Corporation in January 1984 and October 1984 for exploitation in the year 1983-84 and 1984-85 respectively. The rate of royalty of Deodar for 1983-84 was Rs 364 per cubic metres and that of Chir for 1984-85 was Rs 326 per cubic metre. Both the lots were worked by the Corporation in the year 1986-87 when the rate of royalty for Deodar and Chir was Rs 737 and 477 per cubic metre respectively. The Division, however, demanded royalty of Rs 2.61 lakhs on the said lots at the rates applicable to the year of allotment instead of Rs 4.68 lakhs calculated at the rates for the year in which the lots were actually worked as required under Government orders of September 1978,

resulting in short-realisation of Rs 2.07 lakhs.

On this being pointed out in audit (April 1988), the Divisional Forest Officer raised (September 1988) additional demand for Rs 2.07 lakhs.

The matter was reported to Government in June 1988.

8.3. Loss due to non-observance of rules

According to the Uttar Pradesh Tendu Patta (Vyapar Viniyaman) Niyamavali, 1972, a person on appointment as an agent shall execute an agreement within 15 days of the receipt of the order of appointment, failing which the appointment shall be liable to be cancelled. Further, if the agent defaults in complying with the provisions of the agreement, the Government may terminate the agreement and recover the dues as arrears of land revenue.

For collection of *Tendu patta* of 1987 crop of five forest divisions (Lalitpur, East and West Mirzapur, Obra and Renukoot), Tarai Anusuchit Jan Jati Vikas Nigam was appointed as an agent vide Government orders of February 1987. According to the orders, royalty of Rs 468.36 lakhs was payable by the agent in three equal instalments on 1st December 1987, 1st March 1988 and 1st

June 1988 respectively. The Nigam, however, paid only Rs 234.08 lakhs as royalty and Rs 24.86 lakhs as sales tax by June 1988; but the export of the entire material was allowed under orders (April 1988) of the Government. Audit scrutiny (July 1988 to January 1989) disclosed that in contravention of the rules, the Nigam did not execute any agreement and consequently, no action could be initiated to recover the balance royalty of Rs 234.28 lakhs and sales tax of Rs 26.64 lakhs due thereon as arrears of land revenue. Besides, stamp duty of Rs 44.49 lakhs could also not be realised due to non-execution of agreement.

The matter was reported to the Department and to Government between August 1988 and April 1989; their replies have not been received in spite of reminders issued in January 1990.

8.4. Loss of revenue due to incorrect estimation of outturn

(i) As per Departmental orders (November 1956 and October 1969), *Khair* trees were to be classified into two categories viz. 'Fit' and 'Unfit' only. An unfit *khair* tree was to be taken as half of the fit tree for purposes of calculating outturn and charging royalty.

It was noticed during audit of two forest divisions in Lakhimpur Kheri and

Nainital districts during December 1988-March 1989 that the outturn of the *khair* trees was worked out on the basis of two-third and one-third respectively instead of one and one half of the prescribed outturn for 'Fit' and 'Unfit' trees respectively, resulting in loss of revenue of Rs 15.21 lakhs as shown below:-

Division, year and no. of lots	Outturn on which Royalty levied by Department	Outturn as per prescri- bed norms	Outturn short worked out by Depart- ment	Rate of Royalty (per cum)	Loss of Revenue (Rupees in lakhs)
(1)	(2)	(3)	(4)	(5)	(6)
(in cubic metres)					
				(Rs)	
(1) North Kheri Forest Division Lakhimpur Kheri, 1985-86 1 lot	53.959	100.294	46.335	1,696	0.79
(2) Terai East Forest Division, Haldwani 1985-86, 23 lots 1986-87, 19 lots	569.977	968.635	398.658	2,209	8.81
	392.886	644.289	251.403	2,231	5.61
Grand Total	1,016.822	1,713.218	696.396	----	15.21

The matter was reported to the department and Government in March 1989; their replies have not been received (February 1990) in spite of reminders issued in January 1990.

(iii) Estimates of yield of forest produce are prepared on the basis of outturn factors prescribed (June 1978) by the Additional Chief Conservator of Forests (Management). Royalty realisable from the Uttar Pradesh Forest Corporation for extraction of timber is fixed on the basis of those estimates.

It was noticed (December 1988) in audit of the North Kheri Forest Division, Lakhimpur Kheri that 13 *khair* lots (4 of 1986-87 and 9 of 1987-88) were allotted to the Uttar Pradesh Forest Corporation. The division estimated the outturn in these lots at 410.462 cubic metres and realised royalty of Rs 7.70 lakhs, whereas on the basis of the prescribed outturn factors, the outturn worked out to 1,135.152 cubic metres, for which royalty of Rs 21.14 lakhs was realisable. Incorrect estimation of outturn resulted in loss of revenue of Rs 13.44 lakhs.

The matter was reported to the department and to Government in March 1989; their replies have not been received in spite of reminders issued in January 1990.

8.5. Loss of revenue due to non-execution of contract deeds

For sale/allotment of forest produce, a contract/agreement is required to be executed as per para 149A-5(i) of Uttar Pradesh Forest Manual. As clarified (30th April 1986) by Deputy Commissioner, Bareilly Region, Bareilly, with effect from 20th January 1982, stamp duty became leviable on instruments of contracts/agreements deeds executed for collection of minor produce, barks etc. for value exceeding Rs 5,000 as per Government notification dated 14th January 1982 issued under the Indian Stamp Act, 1899.

In five forest divisions (Chakrata, Garhwal, Purola, Pithoragarh and Tehri), resin, a minor forest produce, was sold by allotment to industrial units and cooperative societies between 1984-85 and 1987-88 at the price fixed from time to time.

In the course of audit of the said divisions, during April to June 1988, it was noticed that the contract deeds were not executed with the allottees, although the value of resin supplied in each case exceeded Rs 5,000, and consequently stamp duty was not realised. The amount of stamp duty realisable from the units worked out to Rs 14.43 lakhs.

On this being pointed out in audit in June 1988, stamp duty of Rs 5.65 lakhs was realised from the concerned units in Pithoragarh Forest Division between September 1988 and March 1989 by way of F.D.Rs /Bank Pass Books, but the amount was not credited to Government (April 1989). Reply in respect of other divisions have not been received (January 1990).

The matter was reported to Government between June and August 1988; their replies have not been received inspite of reminder issued in January 1990.

8.6. Loss of revenue due to non-disposal of drift wood lots

As per orders (April 1985) of the Principal Chief Conservator of Forests, the sale list* of drift wood (BAHTI) lots was required to be made available to the Uttar Pradesh Forest Corporation by 31st December each year.

During audit of the North Kheri Forest Division, Lakhimpur Kheri in December 1988, it was noticed that in contravention of the orders of the Principal Chief Conservator of Forests, sale list for 1985-86 of nine drift

*"Sale list shows location of lots to be sold/allotted and species wise details viz. numbers, girth and class of trees in each lot.

wood lots of the Division was prepared in March 1986 and sent to the Corporation for exploitation in April 1986. The estimated value of the material in the lots was Rs 1.46 lakhs. The Corporation refused (April 1986) to work out the lots as the sale list was not made available to it by the prescribed date. The alternative proposal of the Division to dispose of the material either by auction or by departmental working was not accepted by the Conservator of Forests, Central Circle, Lakhimpur Kheri (April 1986). Meanwhile, the entire material was washed away in the rains of 1986, resulting in a loss of revenue of Rs 1.46 lakhs.

The matter was reported to the department and Government in March 1989; their replies have not been received in spite of reminders issued in February 1990.

8.7. Short realisation of lease rent

As per Standing Orders of October 1976 of the Additional Chief Conservator of Forests, Kumaon, Nainital, which were made applicable to Uttar Pradesh Van Nigam also from 7th September 1978, lease rent at the rate of Rs 1,000 per hectare per year was realisable for the forest land used by contractors for keeping their material.

In the Tarai East Forest Division, Haldwani, lease rent was recovered from the Nigam at Rs 500 instead of Rs 1,000 per hectare per year for 24.1765 hectares of Forest land occupied by it for its sale depots from 1st November 1982 to 31st October 1988. This resulted in short realisation of lease rent amounting to Rs 0.73 lakh.

On this being pointed out in audit (between January and March 1989), the department intimated (September 1989) that rate of Rs 500 per hectare per year was decided in a meeting of Forest Officers held on 4th December 1984. Revised orders were not made available to audit. Moreover, the decision at local level tantamounted to violation of standing orders issued by the Additional Chief Conservator of Forest, Kumaon, Nainital.

The case was reported to Government (between January and May 1989); their reply has not been received (April 1990).

CHAPTER 9

OTHER DEPARTMENTAL RECEIPTS

A-IRRIGATION DEPARTMENT

9.1. Results of Audit

Test check of the accounts and records of 30 divisions of Irrigation Department, conducted in audit during 1988-89, brought out irregularities (pertaining to levy and collection of revenue) involving revenue of Rs 112.52 lakhs in 95 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Unauthorised use of canal water	5	8.73
2. (a) Non-recovery of rent from transferred employees	5	1.56
(b) Non-revision of rent of Government residential buildings	4	8.30
3 Non-realisation of stamp	32	7.48

(300)

duty

4. Loss on closure of tubewells due to mechanical defects	8	5.60
5. Loss due to non-leasing of <u>Arazi</u> (Production) lands	4	5.57
6. Non-recovery of water tax from occupants of Government buildings	3	3.16
7. Loss due to non-claiming of electricity rebate	5	2.50
8. Non-realisation of tender fee at revised rates	3	0.18
9. Other irregularities	26	69.44
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TOTAL	95	112.52
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A few of the important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

9.2. Delay in repair of tubewells leading to loss of revenue

As per standing order of the Director of Tubewells, Irrigation Department, U.P., issued in the year 1965, the maximum closure period permitted for repairs/rectification of mechanical defects in State tubewells varies from 48 hours to 7 days. Orders also envisage obligatory imposition of penalties like termination of service, reversion etc. on staff (at different levels) in case tubewells remaining closed beyond the maximum period allowed for repairs.

In the course of audit (1987-88 and 1988-89) of five Tubewell Divisions, it was noticed that during the rabi seasons 1394 fasli to 1395 fasli (1986-87 to 1987-88) and kharif season 1395 fasli (1987-88), 259 State tubewells remained closed beyond the permitted period of closure for repairs, periods of closure varying from 6 days to 130 days due to mechanical defects. These delays in rectification of defects in tubewells occurred during the peak season of demand for water for irrigation in spite of the fact that every Tubewell Division is required to maintain a workshop for proper maintenance of tubewells. As a result of delay in repairs, cultivators were deprived of irrigation facilities during the period of peak requirement and Government also

lost revenue of Rs 3.06 lakhs (at the rate of Rs 1.20 per 5,000 and 10,000 gallons respectively for rabi and kharif fasals), calculated for the periods during which power supply was available. No action was taken against the persons responsible for making repairs within the prescribed time.

The matter was reported to the department between September 1987 and September 1988 and to Government in February 1989; their replies have not been received in spite of reminder issued in April 1990.

9.3. Non-observance of rules in respect of lease agreements for water-mills on canals

Under the provisions of the Manual of Orders of the Irrigation Department, in the case of water mills on canals, which are auctioned for a fixed period of one year, the rent shall generally be recovered from the contractors fortnightly and this shall be stipulated in the agreement itself. The Mills should be auctioned about three months before the existing lease is due to expire. Paragraph 326 of the Manual also provides that agreements for lease of mills on all canals should be stamped with the same duty as on bond for the whole amount payable or delivered under the lease where lease rent is fixed and no premium is paid.

In the Irrigation Division, Haldwani, it was noticed (May 1988) that in a number of cases of mill contracts (for a period of one year each) entered into between 1967-68 and 1986-87, the contractors failed to deposit the full amount of rent by the dates fixed in the agreements. They were however, allowed to run the mills on the canals for full period of the lease. As a result, mill rent amounting to Rs 2.37 lakhs was not realised. It was also seen that in case of 50 agreements (executed by the department with the contractors between April 1980 and March 1988) involving rent of Rs 3.51 lakhs, stamp duty levied was Rs 297 only as against the leviabale amount of Rs 15,627, resulting in a loss of revenue of Rs 15,330, besides non-recovery of mill rent of Rs 2.37 lakhs.

The matter was reported to the department in July 1988 and to Government in February 1989; their replies have not been received in spite of reminder issued in April 1990.

9.4. Non-realisation of water tax from occupants of Government residential buildings

Under the Uttar Pradesh Fundamental Rules, Municipal and Other taxes payable by the occupants in respect of Government residential building are paid to the local body by

the concerned Government department in the first instance, and recovered subsequently from the Government employees occupying the buildings, alongwith the monthly licence fee i.e. rent.

In Jaunpur and Faizabad Irrigation Divisions, it was noticed (October and November 1988) that water tax (Rs 1.56 lakhs), in respect of residential buildings belonging to Irrigation Department occupied by the staff, for the period from 1981-82 to 1987-88 paid by Government to the Municipal Board was not recovered from the employees and credited to revenue under the head "Rent of Buildings Water Tax".

The matter was reported to the department in November 1988 and December 1988 and to Government in January 1989; their replies have not been received in spite of reminders issued in April 1990.

9.5. Non-recovery of tender fee at revised rates

With effect from 31st August 1982, Government revised the rate of tender fee for tenders. In respect of tenders, cost of which was upto Rs 1,00,000, revised rates were higher than the existing rates. Even though Government forwarded the above orders to all departments for immediate necessary action, the Irrigation

Department failed to circulate the orders to the various offices under its administrative control.

During the audit of ten Irrigation Divisions between 1986-87 and 1988-89, it was noticed that the tender fee in respect of tenders with cost upto Rs one lakh was being realised at the pre-revised rates. Non-enforcement of the revised rates of tender fee resulted in loss of revenue amounting to Rs 51,100 during the period September 1982 to May 1988.

The matter was reported to the department between June 1986 and December 1988 and to Government in February 1989; their replies have not been received in spite of reminders issued in April 1990.

B-PUBLIC WORKS DEPARTMENT

9.6.Results of Audit

Test check of the accounts and relevant records of 38 divisions of the Public Works Department, conducted in audit during the year 1988-89, revealed irregularities involving Rs 92.48 lakhs in 99 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)	
1. Non-realisation of Stamp duty on agreements	44	36.81	2
2. Non-realisation of rent of buildings	20	30.32	3
3. Non-realisation of departmental charges	2	6.29	
4. Loss of revenue in auction of mexpfalt drums	7	5.03	
5. Non-recovery of compensation for delay in payment of Government dues	2	2.56	
6. Sales of tender forms at pre-revised rates	8	1.04	1
7. Non-realisation of water tax from occupants of Government buildings	2	0.81	
8. Other irregularities	14	9.53	
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Total	99	92.48	
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A few of the important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

9.7. Stamp duty not correctly paid on lease agreements

Under the Indian Stamps Act, 1899 (as amended in its application to Uttar Pradesh) and instructions issued in October 1953, Stamp duty on leases for ferry services and toll collections is to be levied, treating the total amount (part paid in advance and rest agreed to be paid in instalments) as premium for which the lease has been granted since there is no rent reserved. *

In the course of audit of ten Public Works Divisions at Fatehgarh (two divisions), Etah, Pratapgarh, Moradabad, Robertsganj (Mirzapur), Pilibhit, Gonda, Jaunpur and Jhansi, it was noticed that in respect of 18 lease agreements for toll collections on one ferry and 19 road bridges, executed by the Executive Engineers with the lessees between December 1981 and August 1988, stamp duty was paid by the lessees treating the prescribed instalments as fixed rent (and not

*Shri Gajay Pal Singh Vs.

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(A.I.R.1977 Allahabad 79 Full Bench)

premium) under article 35(a) of the Act ibid, which was not correct. This resulted in short payment of Stamp duty to the extent of Rs 18.89 lakhs in the said cases.

The cases of short payment of stamp duty were reported to the department between May 1988 and January 1989 and to Government in February 1989; their replies have not been received in spite of reminders issued in April 1990.

9.8. Non-recovery of departmental charges

Under the provisions of the Financial Hand Book, Volume VI, in respect of deposit works undertaken by the department on behalf of non-Government bodies, departmental charges at the rate of 15 per cent of the actual expenditure incurred on the works are to be recovered and credited to Government account.

In the course of audit of two P.W.Divisions at Allahabad (August 1986), and Sultanpur (November 1988), it was noticed that on deposit works (construction of roads and schools) of Zila Parishads and Municipal Boards undertaken during 1981-82 (Allahabad) and 1984-85 to 1986-87 (Sultanpur), departmental charges amounting to Rs 7.30 lakhs (at the prescribed rate) had not been levied and recovered.

On this being pointed out in audit (August 1986 and November 1988), in respect of the Allahabad Division (Rs 4.83 lakhs, the department stated (August 1987) that steps would be taken to realise the amount from the Nagar mahapalika, Allahabad. Report on action taken has not been received. (November 1989)

The cases were reported to Government in January 1989; their reply has not been received (April 1990).

9.9 Non recovery of rent from occupants of Government houses.

As per Government notification issued in September 1976, allotment of Government houses of the pooled housing scheme to non-entitled persons could be made only with the prior approval of the State Government. In such cases, rent at the market rate or double the standard rent, whichever is higher, is chargeable.

In Rae Bareilly, Dehradun, Gorakhpur, Fatehgarh, Etawah and Unnao, 47 persons not entitled for allotment of Government houses such as employees of Nigams, undertakings, Central Government Schools, judges, etc, had been allotted pooled Government residences on payment of rent at 10 per cent of pay or standard rent only, instead of rent recoverable at the market rate or double the standard

rent, whichever was higher. The consequent short realisation of rent amounted to Rs 5.22 lakhs computed on the basis of the said notification, during the period from September 1976 to November 1988.

On this being pointed out in audit (between April 1987 and December 1988), the Divisional Officer stated that the allotments had been effected by the District Magistrate and that recovery of rents at higher rates was not contemplated in the allotment orders issued by him.

Government, to whom the matter was reported in January 1989, directed (March 1989) the Chief Engineer to expedite comments, which have not been received in spite of reminder issued in April 1990.

9.10. Non recovery of rent from transferred employees

Under the rules regulating allotment of Government accommodation, officials who have been allotted Government accommodation are required to vacate them on their transfer to other stations, before the expiry of their joining time. If permitted to stay thereafter, rent is recoverable at the normal rate (standard rent or 10 percent of pay whichever is less) for the first month, standard rent for the next two months, double the standard

rent for the following two months and triple the standard rent thereafter. In case of unauthorised occupants (i.e. staying without permission) rules provide for taking action in accordance with the law on the subject. In such cases department has been demanding rent at market rate as applicable to private persons through civil suit.

At Rampur, Bijnore, Muzaffarnagar, Fatehgarh, Unnao and Basti, 38 employees, who had been transferred to other stations between July 1981 and May 1986, continued to retain Government accommodations allotted to them for periods ranging from 13 to 91 months beyond the dates of their transfer without payment of higher rent, as contemplated in the rules. Differential rent due but not paid in these cases amounted to Rs 3.41 lakhs. No action was taken by the department to recover this amount from the employees concerned.

The cases were reported to the department between July 1987 and March 1989 and to Government in January 1989; their replies have not been received in spite of reminders issued in November 1989.

9.11. Non-recovery of compensation for delay in payment of Government dues

As per Government orders of January 1980 , every toll collection

barrier under the control of the department is required to be auctioned and lease deed entered into with the contractor concerned. According to condition No. 11(1) of the lease deed, if a contractor fails to deposit monthly instalments of the annual rent (as agreed to in lease deed) on due dates mentioned in the lease deed or within the grace period of seven days, he is liable to pay to the department compensation ranging from one per cent to 10 per cent of the amount of annual rent for such default, as may be decided by the Executive Engineer.

In four public Works Divisions at Fatehpur, Muzaffarnagar, Ranikhet and Etawah, it was noticed (between July 1987 and July 1988) that the contractors deposited the instalments of annual rent, relating to various periods between 1984-85 and 1987-88, late by 3 to 36 days beyond the grace period of seven days but no action was taken to recover compensation for the delay in payment of Government dues. This resulted in loss to Government at least to the extent of Rs 2.57 lakhs (calculated at the minimum rate of one percent of amount of annual rent).

The matter was reported to the department in August 1987 , March 1988 and July 1988 and to Government in March 1989; their replies have not been received in spite of reminders issued in April 1990.

9.12. Mis-utilisation of departmental receipts

As per the provision of the Financial Hand Book, Volume VI, cash realised by departmental officers should be remitted, as soon as possible, into the nearest treasury. 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.

Mention was made in paragraph 10.4 of the Report on revenue receipts for the year 1986-87 about mis-utilisation of receipts of Rs 70,585 by the Provincial Division, Faizabad.

It was further noticed that in Temporary Departmental construction Unit, Ballia, a sum of Rs 30,410, realised during 1988-89, was not credited to Government account but was utilised to meet departmental expenditure. No cheque for the amount so utilised was sent to the treasury, as required under the Financial Rules.

On the mistake being pointed out in Audit (March 1989), the amount was credited into Government on 29th March 1989 and 31st March 1989,

The matter was reported to Government in May 1989.

C.AGRICULTURE DEPARTMENT

9.13. Results of Audit

Test check of the accounts and relevant records of the Agriculture Department, conducted in audit during the year 1988-89, revealed irregularities involving Rs 19.50 lakhs in 26 cases, which broadly fall under the following categories

	Number of cases	Amount (in lakhs of rupees)
1. Shortfall in production on Government Agricultural farms	9	12.15
2. Irregular grant of subsidies on sale of Fertilisers	4	3.07
3. Loss due to non-utilisation of full cultivable lands	1	1.33
4. Non-realisation of stamp duty on	2	0.11

agreements

5. Other Irregularities	10	2.84
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Total	26	19.50
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A few important cases noticed during 1988-89 and earlier years are mentioned in the succeeding paragraphs.

9.14. Shortfall in farm produce

According to the instruction issued in March 1977 by the Director of Agriculture, before harvesting the crops in government farms, an estimate of production is required to be prepared on the basis of actual crop cutting in selected areas by a committee to be constituted by the Regional Deputy Director of Agriculture. As per norms fixed by the Director of Agriculture, variation between the estimated and actual farm produce should not be more than ten per cent and any loss in excess thereof is recoverable from the Farm Superintendent.

In the course of audit (between June 1987 and September 1988) of the District Agriculture Offices at Varanasi, Fatehgarh and Moradabad, it was noticed that the variation between the estimated and actual produce in the

State owned farms in respect of wheat and paddy for the years 1985-86 to 1987-88 was in excess of the permissible limit of ten per cent, the shortfall in revenue amounting to Rs 13.80 lakhs. The reasons or justification for not achieving the norms fixed by Government was also not on record. There was also nothing on record to show that any action was taken against the Farm Superintendents concerned to recover the loss

The cases were reported to the department in April 1988 and September 1988 and to Government in January 1989; their replies have not been received in spite of reminders issued in April 1990.

9.15. Irregular grant of subsidy on sale of fertilisers

The State Government vide its wireless message dated 3rd February 1986, directed all concerned District Officers to discontinue subsidy on sale of agricultural inputs, viz., seeds, fertilisers, insecticides, pesticides etc., to small and marginal farmers as a flood relief measure, with immediate effect. No bills of subsidy on agricultural inputs issued after 3rd February 1986 were to be honoured as per the said orders.

In six District Agriculture
Offices At Mainpuri, Aligarh,

Kanpur(city), Unnao, Rae Bareli and Hardoi, subsidy was, however, allowed on the sale of fertilizers up to 28th February 1986 although orders in 4 offices were received on 4th February 1986, in Aligarh office on 5th February 1986 and in Kanpur city on 18th February 1986. This resulted in irregular grant of subsidy amounting to Rs 8.25 lakhs.

On this being pointed out in audit (between July 1987 and January 1989) the District Officers stated that the Government orders were received late.

The matter was reported to the department between September 1987 and February 1989 and to Government in February 1989; their replies have not been received in spite of reminders issued in April 1990.

D. CO-OPERATION DEPARTMENT**9.16 Results of Audit**

Test check of the accounts and relevant records of the offices of two Assistant Registrars, conducted in audit during the year 1988-89, revealed irregularities involving Rs 2.39 lakhs in 3 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-deposit of collection charges into Government account	2	2.22
2. Non-realisation of execution fee	1	0.17
Total	3	2.39

E. FOOD AND CIVIL SUPPLIES DEPARTMENT**9.17. Results of Audit**

Test check of the accounts and relevant records of 12 District Supply Offices, conducted in audit during the year 1988-89, revealed irregularities involving Rs 12.19 lakhs in 30 cases, which broadly fall under the following categories:

	Number of cases/ instances	Amount (in lakhs of rupees
1. Non-crediting of lapsed securities of coal dealers to Government account	10	7.16
2. Non-realisation of the difference due to increase in issue price of levy sugar	4	0.29
3. Non-realisation of cost of ration cards	8	3.57
4. Non-realisation of licence fee/renewal fee from cloth dealers	5	0.88

5. Non-realisation of licence fee from Co-operative societies dealing in sugar trade	2	0.16
6. Other cases	1	0.13
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Total	30	12.19
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Cases of non-forfeiture of security deposits noticed during 1988-89 and earlier years, are mentioned in the succeeding paragraph.

9.18. Non-forfeiture of security deposits

As per Government notification dated 28th December 1977, each applicant for the grant of a licence for the wholesale and retail vend of coal and operation of brick-kilns should before the issue of the licence, furnish a security of Rs 1,000 in the case of coal agent, Rs 200 in the case of coal depot holder and Rs 300 in the case of owner of brick-kiln run with coal respectively in the form of fixed deposit receipt of a scheduled bank and duly pledged to the District Magistrate concerned. The whole or any part of the amount of the security, which is not forfeited, should, on an application being made for that purpose be refunded to the licensee on the termination of

his licence. No application for such refund would be entertained after one year from the date of termination of the licence and the security in whole or part as the case may be, all forfeited to Government.

In 13 District Supply Offices, it was noticed that security deposits in respect of 1,790 cases involving an amount of Rs 5.93 lakhs in which licences were terminated between April 1979 and April 1987, had not been forfeited and credited to Government although no application for refund was made within one year of the date of termination.

The cases were reported to Government between August 1984 and January 1989. In June 1989, Government stated that on scrutiny the actual number of cases was found to be 1215, involving Rs 4.12 lakhs (information given earlier by District Supply Officer, Kanpur in respect of his office was not correct). Out of this Rs 2.34 lakhs were stated to have since been credited into Government treasury. Report on recovery of the balance amount has not been received (April 1990).

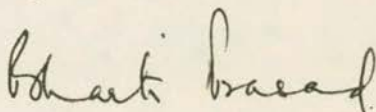
F. LABOUR DEPARTMENT**9.19. Non-levy of stamp duty on contracts**

In terms of a Government notification issued on the 14th January 1982 under the Indian Stamp Act, 1889, with effect from 20th January 1982, stamp duty became leviable on instruments in the nature of a memorandum, agreement or security bond furnished to or made or entered into by a contractor for the execution of work entrusted to him by, or for the due performance of any contract with labour department, among others. The Deputy commissioner, Stamps, Meerut in his letter dated 8th March 1983 clarified that contracts providing for deposit of security with Government for due performance thereof are chargeable under article 40 (a) or 40 (b) of Schedule I-B of the Act according as security deposit is in cash or in the form of fixed deposit receipts. Accordingly, stamp duty is leviable at the rate of Rs 85 or Rs 42.50 (raised to Rs 95 or Rs 47.50 from 17th October 1985) per thousand rupees as the case may be.

The Labour Commissioner executed 146 agreements for a total value of Rs 52.36 lakhs with various contractors between 1985-86 and 1987-88, for different items of work. Security

deposit of Rs 5.24 lakhs was deducted in cash from the bills of the contractors. Stamp duty amounting to Rs 45,503 was leviable thereon as per provisions of the Act mentioned above, but the agreements were executed on ordinary paper, which resulted in non-levy of stamp duty.

The matter was reported to the department in December 1986 and to Government in May 1989; their replies have not been received in spite of reminder issued in April 1990.

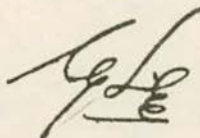


Lucknow
The

(Bharti Prasad)
Accountant General
(Audit)-II
Uttar Pradesh

26th March 1991

Countersigned



New Delhi
The

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

15th April 1991

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