REPORT
OF THE
COMPTROLLER AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2000

No.1

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

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Prefatory Remarks

This Report for the year ended 31 March 2000 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1999-2000 as well as those noticed in earlier years which could not be included in previous Reports.

Overview

This Report contains 30 paragraphs including 4 reviews relating to non-levy/short levy of taxes, duties, interest and penalty *etc.*, involving Rs. 1044.00 crore. Some of the major findings are mentioned below :

1. General

- The total receipts of the State during the year 1999-2000 amounted to Rs. 25247.38 crore of which revenue raised by the State Government was Rs. 21179.73 crore and receipts from the Government of India were Rs. 4067.65 crore. The revenue raised by the State Government comprised tax revenue of Rs. 17264.95 crore and non-tax revenue of Rs. 3914.78 crore. The revenue raised constituted 84 *per cent* of the total receipts of the State and showed an increase of 19 *per cent* over the previous year 1998-99.

- The receipts from the Government of India included Rs. 2608.67 crore on account of State's share of divisible Union taxes and Rs. 1458.98 crore as Grants-in-aid registering a decrease of 11 *per cent* and an increase of 3 *per cent* respectively over 1998-99.

{Paragraph 1.1}

- At the end of 1999-2000, the arrears in respect of some taxes administered by the departments of Finance, Home and Energy amounted to Rs. 6511.54 crore of which Sales Tax etc., alone accounted for Rs. 6019.41 crore.

{Paragraph 1.5}

- In respect of the taxes administered by the Finance Department such as Sales Tax, Profession Tax and Tax on Works Contracts *etc.*, 8.32 lakh assessments were completed during 1999-2000 leaving a balance of 21.56 lakh assessments as on 31 March 2000.

{Paragraph 1.6}

- Test check of records of Sales Tax, State Excise, Motor Vehicles Taxes, Land Revenue and other departmental offices conducted during the year 1999-2000 revealed under-assessment, short levy, loss of revenue *etc.*, amounting to Rs. 1379.86 crore in 13418 cases. The concerned departments accepted under-assessment, short levy *etc.*, of Rs. 16.80 crore in 3896 cases pointed out in 1999-2000 and earlier years and recovered Rs. 12.29 crore.

{Paragraph 1.10}

- 12591 paragraphs involving Rs. 502.10 crore relating to 5271 inspection reports issued upto 31 December 1999 remained outstanding at the end of June 2000.

{Paragraph 1.11}

2. Sales Tax

➢ **Review on financial benefits granted to co-operative sugar factories.**

➢ The review revealed the following :

Purchase tax aggregating to Rs. 190.54 crore was in arrears as on 31 March 1999.

{Paragraph 2.2.5 (a)}

Failure to complete assessments resulted in non-realisation of Rs. 41.18 crore from 43 sugar factories.

{Paragraph 2.2.6}

Purchase tax liability of Rs. 72.85 crore was neither converted into loan nor pursued for recovery in respect of 45 factories.

{Paragraph 2.2.7}

Failure to include provision for levy of interest on delayed payments of instalments resulted in loss of Rs. 7.44 crore.

{Paragraph 2.2.10}

➢ Failure of the assessing authorities to scrutinise the declaration in Form 'C' in 33 cases resulted in short levy of revenue of Rs. 13.97 crore.

{Paragraph 2.3}

➢ Incorrect grant of set-off under various provisions resulted in under-assessment of Rs. 29.43 crore.

{Paragraph 2.4}

➢ Short levy of tax due to application of incorrect rates of tax resulted in under-assessment of Rs. 3.96 crore.

{Paragraph 2.6}

➢ Incorrect allowance of sales in the course of import involved revenue of Rs. 14.86 crore.

{Paragraph 2.8}

➢ Allowance of claims of deductions as per returns in exparte assessment orders attracted tax liability of Rs. 1.09 crore.

{Paragraph 2.12}

- Non/short levy of interest and penalty amounted to Rs. 2.90 crore.

{Paragraph 2.13}

3. Motor Vehicles Taxes

- **Review on assessment and collection of taxes in the Motor Vehicles Department**

- The review revealed the following :

Tax arrears of Rs. 71.81 crore were not processed for recovery as arrears of land revenue.

{Paragraph 3.2.6}

Non-inspection of transport vehicles resulted in loss of revenue of Rs. 3.29 crore.

{Paragraph 3.2.8}

Three fleet owners incorrectly retained passengers tax and surcharge aggregating to Rs. 170.90 crore due to Government.

{Paragraph 3.2.11}

4. Stamps and Registration Fees

- **Review on determination of market value of the properties for the purpose of levy of stamp duty**

- The review revealed the following :

Stamp duty of Rs. 155.05 crore was not recovered in 7.52 lakh cases valued during 1980-81 and 1998-99.

{Paragraph 3.4.5}

As of 31 March 1999, 3.27 lakh cases were pending for valuation for periods ranging from one to twenty years.

{Paragraph 3.4.6}

Failure to refer cases to the Collector for determination of market value resulted in short levy of stamp duty and registration fees of Rs. 30.69 crore in 159 cases.

{Paragraph 3.4.7}

Levy of stamp duty on the basis of apparent values of the properties certified by the income tax department resulted in loss of revenue of Rs. 33.11 crore.

{Paragraph 3.4.9}

Adoption of incorrect rates for valuation of properties covered in 187 instruments resulted in short levy of stamp duty and registration fees amounting to Rs. 3.49 crore.

{Paragraph 3.4.10}

5. Land Revenue

- Non-levy/short levy of non-agricultural assessment, increased land revenue, conversion tax and cesses resulted in non-realisation of revenue amounting to Rs.3.09 crore.

{Paragraph 4.2}

- Non-levy of occupancy price and interest on Government land allotted for establishing 'Film City' resulted in non-realisation of revenue of Rs.108.38 crore.

{Paragraph 4.3}

- Adoption of incorrect rate of occupancy price for regularisation of encroachment of Government land at Pune resulted in short levy of Rs. 1.74 crore.

{Paragraph 4.5}

- Delay in removal or regularisation of encroachments resulted in non-realisation of ordinary occupancy price, non-agricultural assessment, penal occupancy price etc., amounting to Rs. 25.42 crore.

{Paragraph 4.6}

6. Other Tax Receipts

- The Maharashtra State Electricity Board incorrectly retained Government revenue collected from consumers aggregating to Rs. 513 crore.

{Paragraph 5.2}

- Government revenue amounting to Rs. 12.40 crore collected by Aurangabad, Nagpur, Pune and Solapur Municipal Corporation on account of State Education Cess and Employment Guarantee Cess was not credited to Government Account.

{Paragraph 5.3}

7. Non-Tax Revenue

- **Review on levy and collection of guarantee fee.**

- The review revealed the following :

The Finance Department did not have information on the amount of loans guaranteed by Government nor the guarantee fee pending collection at the end of the financial year.

{Paragraph 6.2.7 (i)}

Arrears in collection of guarantee fee from two offices inspected during audit amounted to Rs. 30.42 crore.

{Paragraph 6.2.7 (ii)}

Incorrect exemption from payment of guarantee fee in respect of 8 bonds issued by the Maharashtra State Financial Corporation resulted in loss of Rs. 3.53 crore.

{Paragraph 6.2.9}

Non-levy of penal interest on delayed payments of guarantee fee amounted to Rs. 5.21 crore.

{Paragraph 6.2.10}

CHAPTER 1 : General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Maharashtra during the year 1999-2000, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below :

		(In crore of rupees)		
		1997-98	1998-99	1999-2000
I.	**Revenue raised by the State Government**			
(a)	Tax revenue	13719.26	14202.36	17264.95
(b)	Non-tax revenue[1]	3640.89 (3613.16)	3552.71	3914.78
	Total	17360.15 (17332.42)	17755.07	21179.73
II.	**Receipts from the Government of India**			
(a)	State's share of divisible Union taxes	1732.06	2921.90	2608.67
(b)	Grants-in-aid	1224.36	1040.13	1458.98
	Total	2956.42	3962.03	4067.65
III.	**Total receipts of the State**	20316.57 (20288.84)	21717.10	25247.38
IV.	**Percentage of I to III**	85	82	84

[1] Lottery receipts included in non-tax revenue for the year 1998-99 and 1999-2000 are net of expenditure on prize winning tickets. To make the figures comparable, the figure for the year 1997-98 net of expenditure on prize winning tickets is shown in brackets.

Note : For details, please see Statement No. 11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Maharashtra for the year 1999-2000. Figures under the head "0021 - Taxes on Income other than Corporation Tax - share of net proceeds assigned to States" booked in the Finance Accounts under tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this Statement.

(a) The details of tax revenue raised during the year 1999-2000 alongwith the figures for the preceding two years are given below :

	Head of Revenue	1997-98	1998-99	(In crore of rupees) 1999-2000	Percentage of increase (+) or decrease (-) in 1999-2000 over 1998-99
1.	Sales Tax				
	(a) State Sales Tax etc.	6547.20	6731.73	8853.84	(+) 32
	(b) Central Sales Tax	1278.28	1334.88	1655.18	(+) 24
2.	State Excise	1650.89	1748.74	1875.68	(+) 7
3.	Stamps and Registration Fees	1690.35	1607.87	1939.83	(+) 21
4.	Taxes and Duties on Electricity	535.64	711.23	377.71	(-) 47
5.	Taxes on vehicles	752.07	636.95	708.30	(+) 11
6.	Taxes on Goods and Passengers	341.03	281.02	331.94	(+) 18
7.	Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	396.05	546.27	807.96	(+) 48
8.	Other Taxes and Duties on Commodities and Services	435.66	491.21	536.52	(+) 9
9.	Land Revenue	92.09	112.46	177.87	(+) 58
10.	Taxes on Agricultural Income	Negligible	Negligible	0.12	--
	Total	**13719.26**	**14202.36**	**17264.95**	**(+) 22**

(b) The details of the major non-tax revenue raised during the year 1999-2000 alongwith the figures for the preceding two years are given below :

	Head of Revenue	1997-98	1998-99	(In crore of rupees) 1999-2000	Percentage of increase (+) or decrease (-) in 1999-2000 over 1998-99
1.	Interest Receipts	1694.14	1653.89	1724.16	(+) 4
2.	Dairy development	709.56	735.90	795.53	(+) 8
3.	Other Non-Tax Receipts	327.15	328.77	370.98	(+) 13
4.	Forestry and Wild Life	147.38	130.31	134.74	(+) 3
5.	Non-ferrous Mining and Metallurgical Industries	264.12	256.65	266.09	(+) 4

	Head of Revenue	1997-98	1998-99	(In crore of rupees) 1999-2000	Percentage of increase (+) or decrease (-) in 1999-2000 over 1998-99
6.	Miscellaneous General[2] Services (including lottery receipts)	114.34 (86.61)	70.86	149.12	(+) 110
7.	Power	70.70	75.51	75.42	Negligible
8.	Major and Medium Irrigation	52.07	33.65	61.63	(+) 83
9.	Medical and Public Health	79.76	81.46	84.91	(+) 4
10.	Co-operation	44.16	43.49	49.61	(+) 14
11.	Public Works	46.81	55.36	74.99	(+) 35
12.	Police	41.85	42.71	83.55	(+) 96
13.	Other Administrative Services	48.85	44.15	44.05	Negligible
	Total	**3640.89**	**3552.71**	**3914.78**	**(+) 10**

1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 1999-2000 in respect of the principal heads of tax and non-tax revenue are given below :

	Head of Revenue	Budget estimates	Actuals	(In crore of rupees) Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales Tax	9703.00	10509.02	(+) 806.02	(+) 8
2.	State excise	1900.00	1875.68	(-) 24.32	(-) 1
3.	Stamps and Registration Fees	1980.00	1939.83	(-) 40.17	(-) 2
4.	Taxes and Duties on Electricity	700.00	377.71	(-) 322.29	(-) 46
5.	Taxes on vehicles	587.00	708.30	(+) 121.30	(+) 21
6.	Taxes on Goods and passengers	398.20	331.94	(-) 66.26	(-) 17

[2] Figure is net of expenditure on prize winning lottery tickets for 1998-99 and 1999-2000. To make the figures comparable for the three years the figure for the year 1997-98 net of expenditure on prize winning lottery tickets is shown in brackets.

(In crore of rupees)

	Head of Revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
7.	Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	620.00	807.96	(+) 187.96	(+) 30
8.	Other Taxes and Duties on Commodities and Services	507.69	536.52	(+) 28.83	(+) 6
9.	Land Revenue	145.00	177.87	(+) 32.87	(+) 23
10	Taxes on Agricultural Income	Nil	0.12	(+) 0.12	--
11.	Interest Receipts	1163.48	1724.16	(+) 560.68	(+) 48
12.	Dairy Development	592.36	795.53	(+) 203.17	(+) 34
13.	Other Non-tax Receipts	304.41	370.98	(+) 66.57	(+) 22
14.	Forestry and Wild Life	185.00	134.74	(-) 50.26	(-) 27
15.	Non-ferrous Mining and metallurgical Industries	308.00	266.09	(-) 41.91	(-) 14
16.	Miscellaneous General services (including lottery receipts)	63.12	149.12	(+) 86.00	(+) 136
17.	Power	75.99	75.42	(-) 0.57	(-) 0.75
18.	Major and Medium Irrigation	45.97	61.63	(+) 15.66	(+) 34
19.	Medical and Public Health	84.86	84.91	(+) 0.05	Negligible
20.	Co-operation	43.79	49.61	(+) 5.82	(+) 13
21.	Public Works	59.48	74.99	(+) 15.51	(+) 26
22.	Police	65.00	83.55	(+) 18.55	(+) 29
23.	Other Administrative Services	43.44	44.05	(+) 0.61	(+) 1
		19575.79	**21179.73**	**(+) 1603.94**	

The reasons for variations between Budget estimates and actuals have not been received from the concerned departments (October 2000).

1.3 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessment of Sales Tax, Motor Spirit Tax, Profession Tax, Entry Tax and Luxury Tax for the year 1999-2000 and the corresponding figures for the preceding two years as furnished by the department is as follows :

(In crore of rupees)

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales Tax	1997-98	5982.13	437.63	108.75	175.51	6353.00	94
	1998-99	6008.83	344.25	27.21	209.54	6170.75	97
	1999-00	7861.96	532.26	55.92	230.09	8220.05	96
Motor Spirit Tax	1997-98	1498.57	Nil	Nil	Nil	1498.57	100
	1998-99	1621.62	Nil	Nil	Nil	1621.62	100
	1999-00	2292.20	Nil	Nil	Nil	2292.20	100
Profession Tax	1997-98	323.18	69.15	0.32	0.06	392.59	82
	1998-99	527.48	13.88	1.80	0.20	542.96	97
	1999-00	785.99	3.68	1.20	0.29	790.58	99
Entry Tax	1997-98	10.93	4.19	0.04	Nil	15.16	72
	1998-99	4.63	2.01	0.20	Nil	6.84	68
	1999-00	17.02	5.36	0.06	0.05	22.39	76
Luxury Tax	1997-98	105.19	4.17	0.69	0.09	109.96	96
	1998-99	127.66	6.81	0.29	0.05	134.71	95
	1999-00	130.72	2.49	0.69	0.01	133.89	98

1.4 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1997-98, 1998-99 and 1999-2000 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 1998-99 were as follows :

(In crore of rupees)

	Head of Revenue	Year	Collection[3]	Expenditure on collection of revenue[4]	Percentage of expenditure on collection	All India Average percentage for the year 1998-99
1.	Sales Tax	1997-98	7825.48	63.93	0.82	
		1998-99	8066.61	55.04	0.68	1.40
		1999-00	10509.02	136.08	1.29	
2.	Taxes on Vehicles and Taxes on Goods and Passengers	1997-98	1093.10	43.68	3.99	
		1998-99	939.03	48.18	5.13	3.22
		1999-00	1040.24	Information Awaited	--	
3.	State Excise	1997-98	1650.89	17.23	1.04	
		1998-99	1748.74	17.62	1.01	3.25
		1999-00	1875.68	29.48	1.58	

1.5 Arrears of revenue

The arrears of revenue as on 31 March 2000 in respect of some principal heads of revenue amounted to Rs. 6511.54 crore of which Rs. 1438.87 crore were outstanding for more than 5 years as detailed in the following table :

(In crore of rupees)

Sr. No.	Head of Revenue	Amount outstanding as on 31 March 2000	Amount outstanding for more than 5 years as on 31 March 2000	Remarks
1	Sales Tax etc.	6019.41	1433.66	1) Recovery amounting to Rs.2795.52 crore was pending in appeal with various appellate authorities. 2) Recovery proceedings in respect of Rs.643.96 crore were not initiated as the time limit was not over. 3) Recovery in respect of the balance of Rs. 2579.93 crore is under various stages of action.

[3] Figures as per Finance Accounts
[4] Figures as furnished by the department

(In crore of rupees)

Sr. No.	Head of Revenue	Amount outstanding as on 31 March 2000	Amount outstanding for more than 5 years as on 31 March 2000	Remarks
2	Taxes and Duties on Electricity	492.13	5.21	The concerned District Collectors have been directed to recover the dues as arrears of land revenue. Co-operation Department has also been instructed to deduct amounts while giving loan to concerned factories. For recovery of MSEB arrears, matter has been referred to government.
	Total	**6511.54**	**1438.87**	

The Home (Transport wing), Revenue and Forests, Irrigation and Public Works Departments which are responsible for collection of some of the major receipts had not furnished information (October 2000).

1.6 Arrears in assessments

The details of cases pending assessment at the beginning of the year 1999-2000, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 1999-2000 as furnished by the Sales Tax Department in respect of sales tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts are as follows :

Name of tax	Opening balance	New cases due for assessment during 1999-2000	Total assess-ments due	Cases disposed of during 1999-2000	Balance at the end of the year	Percentage of Column 5 to 3
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Finance Department						
Sales Tax	1379277	813692	2192969	638185	1554784	78
Motor Spirit Tax	5254	1267	6521	814	5707	64
Profession Tax	491335	208321	699656	161818	537838	78
Purchase tax on sugarcane	3317	1142	4459	1316	3143	115
Entry tax	3251	1203	4454	509	3945	42
Lease Tax	4831	1527	6358	2238	4120	146
Luxury Tax	3720	1516	5236	1195	4041	79
Tax on works contracts	49392	18732	68124	26114	42010	139
Total	**1940377**	**1047400**	**2987777**	**832189**	**2155588**	

The table indicates that the percentage of receipts was more than those of disposals in respect of all taxes, except in the case of purchase tax, lease tax and tax on works contracts.

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Sales Tax and State Excise Departments, cases finalised and the demands for additional tax raised as reported by the departments are given below :

Sr. No	Name of tax/duty	Cases pending as on 31 March 1999	Cases detected during 1999-2000	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2000
					No. of cases	Amount of demand (In lakh of rupees)	
1.	Sales Tax	3129	2300	5429	3150	4759.69	2279
2.	State Excise	11	26	37	27	3.62	10

1.8 Write-off and waiver of revenue

During the year 1999-2000, demands for Rs. 172.11 lakh (in 629 cases) and Rs. 0.11 lakh (in 4 cases) relating to Sales Tax and State Excise respectively were written off by the departments as irrecoverable. Reasons for the write-off of these demands as reported by the departments were as follows :

(Amount in lakh of rupees)

	Reasons	Sales Tax		State Excise	
		No. of cases	Amount	No. of cases	Amount
1.	Whereabouts of defaulters not known	562	37.90	--	--
2.	Defaulters no longer alive	29	3.46	--	--
3.	Defaulters not having any property	31	11.76	--	--
4.	Defaulters adjudged insolvent	1	0.55	4	0.11
5.	Other reasons	5	1.81	--	--
6.	Remission of penalty	1	116.63	--	--
		629	**172.11**	**4**	**0.11**

1.9 Refunds

The number of refund cases pending at the beginning of the year 1999-2000, claims received during the year, refunds allowed during the year and cases pending at the close of the year 1999-2000, as reported by the departments are given below :

(Amount in lakh of rupees)

		Sales Tax		Taxes and Duties on Electricity		State Excise		Works Contracts	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	2576	4855.00	56	117.15	82	17.56	20	47.00
2.	Claims received during the year	30544	23923.00	74	315.84	7	2.96	421	233.00
3.	Refund made during the year	30162	22725.00	43	242.96	4	2.26	419	223.00
4.	Balance outstanding at the end of the year	2958	6053.00	87	190.03	85	18.26	22	57.00

1.10 Results of audit

Test check of records of Sales Tax, Land Revenue, State Excise, Motor Vehicles Tax, Stamps and Registration Fees, Electricity Duty, Other Tax Receipts, Forest Receipts and other Non-tax Receipts conducted during the year 1999-2000 revealed under-assessment/short levy/loss of revenue amounting to Rs. 1379.86 crore in 13418 cases. During the course of the year the departments accepted under-assessment of Rs. 16.80 crore in 3896 cases pointed out in 1999-2000 and earlier years and recovered Rs. 12.29 crore. No replies have been received in respect of the remaining cases.

This Report contains 30 paragraphs including 4 reviews relating to non-levy/short levy of taxes, duties, interest and penalties etc., involving Rs. 1044.00 crore. The Department/Government have accepted audit observations involving Rs. 8.36 crore of which Rs. 1.46 crore had been recovered upto 31 October 2000. No reply has been received in other cases.

1.11 Failure of Senior officials to enforce accountability and protect interest of Government

Principal Accountant General (Audit)-I Mumbai and Accountant General (Audit)-II, Nagpur arrange to conduct periodical inspection of the various

offices of the Government departments to test check the transactions of tax and non-tax receipts and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed by Inspection Reports (IRs) issued to the Heads of the offices with a copy to the next higher authorities. Government of Maharashtra Finance Department circular dated 10 July 1967 provides for response within one month by the executive to the IRs issued by the Accountants General after ensuring action in compliance of the prescribed Acts, rules and procedures and fixing accountability for the deficiencies, lapses, etc., noticed during audit inspection. Serious irregularities are also brought to the notice of the head of the Department by the office of the Principal Accountant General (Audit)-I, Mumbai and Accountant General (Audit)-II Nagpur. A half yearly report is sent to the Secretary of the Department in respect of pending IRs to facilitate monitoring of the audit observations by the Government.

Inspection Reports issued upto 31 December 1999 pertaining to offices under the Finance, Home, Revenue and Forests, Industries Energy and Labour, Housing and Special Assistance, Urban Development, Public Works, Co-operation and Textiles and Irrigation Departments disclosed that 12591 objections relating to 5271 IRs involving Rs. 502.10 crore remained outstanding at the end of June 2000. Of these, 1911 IRs containing 3951 objections involving Rs. 110.80 crore had not been settled for more than 4 years. The yearwise position of the outstanding IRs and Paragraphs are detailed in the Appendix-I.

In respect of 2372 paragraphs relating to 350 IRs involving Rs. 43.01 crore issued upto December 1999, even the first replies, which were required to be received from the Heads of offices within one month had not been received.

A review of the IRs which were pending due to non-receipt of replies, in respect of the various departments, revealed that the Heads of the offices and the Heads of the Departments (Secretaries) failed to discharge due responsibilities as they did not send any reply to a large number of IRs/Paragraphs indicating their failure to initiate action to rectify the defects, omissions and irregularities pointed out in the IRs issued by the AGs. The Secretaries of the Department, who were informed of the position through half yearly reports, also did not ensure prompt and timely action. Such inaction would result in continuation of serious financial irregularities and loss of revenue to the Government despite these having been pointed out in Audit.

It is recommended that Government should look into this matter again and ensure that procedure exists for (a) action against the officials who failed to send replies to IRs/paras as per the prescribed time schedule, (b) action to recover loss/under-assessments in a time bound manner and (c) revamping the system of proper response to the audit observations in the department.

The details of outstanding inspection reports were reported to Government in June 2000; their reply had not been received (October 2000).

1.12 Departmental Audit Committee Meetings

In order to expedite the settlement of outstanding audit observations contained in the Inspection Reports, Departmental Audit Committees are constituted by the Government. These Committees are chaired by Joint Secretary/Deputy Secretary of the concerned Administrative Departments and attended among others by the concerned officers of the State Government and the Offices of the Principal Accountant General (Audit)-I, Mumbai/ Accountant General (Audit)-II, Nagpur.

In order to expedite the clearance of the outstanding audit observations, it is necessary that the Audit Committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 1999-2000 only two out of the concerned eight Government departments convened meetings of the Audit Committee. This indicates that some of the Government departments have not been taking initiative in using the machinery created for settling the outstanding audit observations.

1.13 Response of the departments to Draft Audit Paragraphs

The Finance Department issued directions to all departments in July 1967 to send their response to the Draft Audit Paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The Draft paragraphs are always forwarded by the respective Audit offices to the Secretaries of the concerned departments through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2000 were forwarded to the secretaries of the respective departments between March 2000 and November 2000 through demi official letters.

The Secretaries of the departments did not send replies to any of the 72 Draft Paragraphs as indicated in Appendix-II. These 72 paragraphs have been included in this Report without the response of the Secretaries of the departments.

1.14 Follow up on Audit Reports- summarised position

According to instructions issued by the Finance Department, all departments are required to furnish explanatory memoranda duly vetted by audit to the

Maharashtra Legislative Secretariat in respect of paragraphs included in the Audit Reports within one month of their being laid on the table of the House.

Review of outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor general of India (Revenue Receipts) as on 31 October 2000 disclosed that the departments had not submitted remedial explanatory memoranda on 46 paragraphs for the years from 1996-97 to 1997-98 (Appendix III).

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee lays down in each case the period within which action taken notes (ATN) on its recommendations should be sent.

The Public Accounts Committee had discussed 99 selected paragraphs pertaining to Audit Reports for the years from 1986-87 to 1993-94 and given their recommendation on 56 paragraphs which have been incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, and 14th Report (1996-97). However, action taken notes have not been received in respect of 42 recommendations of the Public Accounts Committee from the concerned departments as detailed in Appendix IV.

CHAPTER 2 : Sales Tax

2.1 Results of audit

Test check of records of sales tax conducted during the year 1999-2000 revealed under-assessment/short levy/loss of revenue amounting to Rs. 33244.87 lakh in 1591 cases, which broadly fall under the following categories :

Sr. No.	Category	No. of cases	Amount (in lakh of rupees)
1.	Non-levy/short levy of tax	781	11404.57
2.	Incorrect allowance of set-off	377	3295.29
3.	Non-levy/short levy of interest/penalty	136	757.12
4.	Other irregularities	295	3258.20
5.	Non-compliance of procedures for assessment and collection of sales tax	1	1478.54
6.	Review on financial benefits granted to co-operative sugar factories	1	13051.15
	Total	**1591**	**33244.87**

During the course of the year 1999-2000, the department accepted under-assessments of Rs. 478.19 lakh involved in 1061 cases, of which 126 cases involving Rs.79.02 lakh had been pointed out during 1999-2000 and the rest in earlier years. Of these, department recovered Rs. 27.91 lakh.

A few illustrative cases having financial effect of Rs. 6013.14 lakh and a review on financial benefits granted to co-operative sugar factories involving financial effect of Rs. 262.34 lakh are given in the following paragraphs:

2.2 Review on financial benefits granted to co-operative sugar factories

2.2.1 Introduction

In order to assist the sugar factories in the co-operative sector in the initial period after their establishment, Government decided (April 1976) to convert the purchase tax liability under the Maharashtra Purchase Tax on Sugarcane Act, 1962 into interest free loan. Accordingly, the liability of purchase tax for the first five years of operation, converted into interest free loan, was repayable in five equal annual instalments from the sixth year onwards. Similar benefits are available to factories which expand their existing capacity to 2500 metric tonnes per day (MTD) or above on the increased capacity. The names of the beneficiary units and the amount of loan on conversion are notified by Government from time to time.

The scheme is implemented by the Co-operation Department. Proposals for grant of loans are processed by the Commissioner of Sugar on the basis of purchase tax liability certified by the Sales Tax Department and recommendations submitted to the Co-operation Department for sanction of loans after concurrence of the Finance Department.

2.2.2 Organisational set-up

The Commissioner of Sales Tax, Maharashtra, is concurrently designated as the Commissioner of Purchase Tax (Sugarcane) for the purpose of levy, collection and assessment of tax under the Act. He is assisted by Additional Commissioners of Sales Tax at zonal level and Deputy Commissioners and Assistant Commissioners of Sales Tax at divisional level. Assessments are done by the Sales Tax Officers who are also designated as Purchase Tax Officers (Sugarcane). The Commissioner of Sugar is responsible for recovery of the loans.

2.2.3 Scope of Audit

The records maintained by 20 out of 22 Purchase Tax Officers (Sugarcane) in 5 divisions[5] where the sugar factories are located were test checked between September 1999 and January 2000 to examine the adequacy of the systems/procedures evolved by the department for assessment and collection of purchase tax. Records maintained by the Commissioner of Sugar relating to conversion of purchase tax liability into interest free loans and its subsequent recovery were also seen. In addition, records in the Co-operation Department and in the office of the Chief Engineer (Electrical), Maharashtra were seen to study the manner of extending financial assistance, concession and exemption to co-operative sugar factories. Results of the test check are mentioned in the succeeding paragraphs :

[5] Aurangabad, Kolhapur, Nashik, Pune II, Nagpur.

2.2.4 Highlights

- **Purchase tax aggregating to Rs 190.54 crore was in arrears as of 31 March 1999.**

(Paragraph 2.2.5(a))

- **Nine sugar factories which were in arrears of loans aggregating to Rs. 6.87 crore were closed.**

(Paragraph 2.2.5(b))

- **Electricity duty aggregating to Rs 3.19 crore were due from 27 co-operative sugar factories for over five years.**

(Paragraph 2.2.5(c))

- **Failure to complete assessments resulted in non-realisation of Rs. 41.18 crore from 43 sugar factories.**

(Paragraph 2.2.6)

- **Purchase tax liability of Rs. 72.85 crore was neither converted into loan nor pursued for recovery in respect of 45 factories.**

(Paragraph 2.2.8)

- **Interest not levied on delayed payment of loan instalments by five factories amounted to Rs. 1.65 crore.**

(Paragraph 2.2.10)

- **Failure to include provision for levy of interest on delayed payments of instalments resulted in loss of Rs. 7.44 crore.**

(Paragraph 2.2.11)

2.2.5 Arrears of revenue

(a) Arrears of purchase tax

According to the department, the amount of purchase tax pending recovery as on 31 March 1999 was Rs. 190.54 crore which was under the following stages of action :

Sr. No.	Stage of action	No. of Cases	Amount (In crore of rupees)
i)	Pending with Government for conversion into loan	120	59.04
ii)	Recoverable as arrears of land revenue	190	44.40
iii)	Outstanding instalments in cases where such instalments have been fixed by Government	112	28.67
iv)	Recovery held in abeyance in respect of sick mills	72	7.16
v)	Stay by the appellate authorities	13	0.86
vi)	Defaulters having no property/Defaulters whereabouts not known	4	0.40
vii)	Other cases	306	50.01
	Total :	**817**	**190.54**

Though dues of Rs. 44.40 crore was shown as recoverable as arrears of land revenue in 190 cases, no revenue recovery certificate was issued (January 2000).

(b) **Arrears of loan**

Recovery of loans aggregating to Rs. 25.23 crore from 23 co-operative sugar factories was in arrears as on 31 March 1999. Of this, Rs. 6.87 crore was due from 9 factories which had been closed.

(c) **Arrears of Electricity Duty**

As per the Chief Engineer (Electrical) Maharashtra, Mumbai, 27 co-operative sugar factories were in arrears in payment of electricity duty aggregating to Rs. 3.19 crore for over five years as on 31 March 1999. The department stated (October 1999) that the collectors had been directed to recover the arrears as arrears of land revenue.

2.2.6 Delay in completion of assessments

The Maharashtra Purchase Tax on Sugarcane Act, 1962 does not prescribe a time limit for completion of assessments. In respect of 43 sugar factories located in 19 districts,[6] assessments for various periods falling between 1988-89 and 1998-99 involving tax liability of Rs. 130.44 crore were pending (December 1999). As against this tax liability, the factories had paid or deferred against loan entitlements amounts aggregating to Rs. 89.26 crore

[6] Ahmednagar, Aurangabad, Dhule, Jalgaon, Kolhapur, Latur, Nanded, Nashik, Osmanabad, Parbhani, Pune, Sangli ,Satara, Amravati, Akola, Buldhana, Bhandara, Nagpur and Wardha.

against anticipated loan entitlements as indicated in the returns submitted by them. Failure to complete the assessments resulted in demands for Rs. 41.18 crore not being raised upto the date of audit. Seven factories with outstanding liability of Rs. 7.33 crore were closed in 1996-97 and 1997-98.

2.2.7 Conversion of tax liability into loan

According to the policy of Government, the tax liability for the first four years was to be converted into interest free loans on the basis of the amount certified by the Commissioner of Purchase Tax and for the fifth year on the basis of the final assessment and subject to adjustments as may be necessary.

The conversion was, however, subject to the conditions such as payment of purchase tax in respect of original capacity, payment of instalments of previous other loans if any and repayment of instalments to financial institutions etc.

In respect of 28 sugar factories in 12 districts[7] which commenced production or expanded their capacity between 1989-90 and 1998-99 and whose assessments were pending, the purchase tax liability of Rs. 41.24 crore adjusted in the returns was not converted into interest free loans by the Government as they did not fulfil the conditions for grant of loan. Further, in respect of 17 sugar factories in 9 districts[8] where assessments for the period from 1989-90 to 1997-98 were completed, the purchase tax liability of Rs. 31.61 crore was also not converted into loan for the same reason. Consequently, the amounts were recoverable as arrears of purchase tax. However, the Commissioner of Purchase Tax continued to show the amount as due for conversion into interest free loan and did not take any action to recover the amount.

2.2.8 Short levy of Purchase Tax

As per the provision of Section 3 of the Maharashtra Purchase Tax Act, 1962, tax on the turnover of purchases of sugarcane for manufacture of sugar in a factory or unit was to be levied at the rate of Rs.25 per metric ton with effect from 1 April 1994.

Audit scrutiny of assessment records of M/s Balaji Sahakari Sakhar Karkhana Limited, Akola revealed that the Purchase Tax officer had levied tax at the rate of Rs.15 per metric ton on 157841.087 metric ton of sugarcane crushed during the period from November 1994 to May 1995. This resulted in short levy of purchase tax of Rs.15.78 lakh.

On this omission being pointed out by Audit (December 1999), the Purchase Tax Officer stated that the amount short levied would be verified and action taken to recover the amount.

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[7] Ahmednagar, Aurangabad, Dhule, Jalgaon, Kolhapur, Nanded, Nashik, Parbhani, Pune, Sangli, Satara and Solapur

[8] Ahmednagar, Aurangabad, Dhule, Kolhapur, Nanded, Parbhani, Pune, Satara and Solapur

2.2.9 Non-levy of interest on delayed payment of instalments by expanded units

According to the terms and conditions for sanctioning interest free loans to the units which increased their capacity to 2500 MTD or above, interest at 13 *per cent* was leviable if the instalments were not paid in time. Scrutiny of the loan ledger maintained by the Commissioner of Sugar revealed that interest amounting to Rs. 1.65 crore calculated upto 31 March 1999 was not recovered from 5 sugar factories in 4 districts[9], and the delay ranged from 18 months to 114 months in respect of various periods falling between 1989-90 and 1997-98 as detailed in the following table :

(Amount in lakh of rupees)

Sr. No	Name of the factory	Period	Total amount of loan Rs.	Amount of installment due Rs.	Due date	Date of payment	Delay in months	Interest Rs.
1	Datta Shetkari S.S.K. Ltd. Shirol, Kolhapur	1990-91 to 1991-92	115.54	56.52	01/10/95 to 01/10/96	04/05/98	19 to 31	15.66
2	Warna S.S.K Ltd. Kolhapur	1990-91	77.55	46.53	01/10/95	16/08/97	22	11.07
3	Dyaneshwar S.S.K Ltd. Ahmednagar	1990-91 to 1991-92	86.55	42.99	01/10/95 to 01/10/96	12/08/98	22 to 34	13.50
4	Samarth S.S.K Ltd. Jalna	1984-85 to 1990-91	127.76	127.76	01/10/89 to 01/10/95	Not paid	42 to 114	107.55
5	Someshwar S.S.K Ltd. Pune	1989-90 to 1992-93	99.61	53.79	01/10/94 to 01/10/97	Not paid	18 to 54	17.54
							Total :	**165.32**

2.2.10 Absence of provision for levy of interest on delayed payment of instalments by new factories

Provision for levy of interest on default in payment of dues is necessary to ensure timely repayment of loan. Government had imposed interest at the rate of 13 *per cent* per annum in case of default in repayment of instalments of interest free loan granted to sugar factories for expansion of capacity in January 1990.

Government sanctioned (March 1992) interest free loans aggregating to Rs. 21.94 crore to 32 new co-operative sugar factories set up during the period from 1980-81 to 1989-90. However, the sanction did not contain any provision for levy of interest. Interest calculated at the rate of 13 *per cent* in respect of 8 sugar factories in 8 districts[10] which defaulted in the payment of dues worked out to Rs. 7.44 crore.

[9] Kolhapur, Ahmednagar, Jalna, Pune

[10] Solapur, Kolhapur, Sangli, Dhule, Akola, Yavatmal, Osmanabad, Ahmednagar

2.2.11 Incorrect deferment of action to levy interest

Under the Maharashtra Purchase Tax on Sugarcane Act, 1962, if a sugar factory failed to pay the tax dues in time, penalty is leviable at the rate of one and one half *per cent* of the amount due for the first three months and at two *per cent* thereafter for the period of default. In addition to tax and penalty, every defaulter is liable to pay penalty at the rate of one and one half *per cent* for each month of the period of default.

In Dhule, in the assessment of two sugar factories (January 1995) for the period from 1 October 1990 to 30 September 1991, penalty and interest on the purchase tax dues of Rs. 52.70 lakh and Rs. 28.54 lakh were not levied (December 1999).

On this being pointed out the department levied (January 2000) penalty of Rs. 29.26 lakh and interest of Rs. 22.57 lakh in one case. Further report on recovery and action taken in the other case has not been received (March 2000).

The above points were reported to the department and Government in May 2000; their reply has not been received (October 2000).

2.3 Sales against declarations

According to the provisions of the Central Sales Tax Act, 1956 for availing the benefit of concessional rate of tax of 4 *per cent* (or lower if notified under the Act) in respect of inter-State sales by a registered dealer, production of C form is mandatory. In the event of failure to produce C forms, tax is leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of the goods inside the State whichever is higher.

It was noticed that in the assessments (completed between 1995-96 and 1998-99) of 33 dealers in 5 divisions[11] for various periods falling between 1992-93 and 1995-96, claims of inter-State sales aggregating to Rs. 147.17 crore were subjected to concessional rate of tax even though the C forms furnished by the dealers were defective/incomplete for reasons such as absence of purchase order no., and date, name and address of the purchasing dealer in full, registration certificate no. of the purchasing dealer , bill no./challan no. and value of goods and name of the State in which the goods were delivered. Allowance of the claims despite failure on the part of the assessing authorities to have the deficiencies in the declarations complied, rendered the claim inadmissible. This involved a possible short levy of revenue amounting to Rs.13.97 crore (including penalty of atleast Rs. 5.10 crore).

[11] Aurangabad, Kolhapur, Nashik, Pune and Thane

2.4 Incorrect grant of set-off

(a) According to the Bombay Sales Tax Act, 1959 and Rule 42 I of the Bombay Sales Tax Rules, a registered dealer was entitled to full set-off with effect from 1 September 1990 upto 30 September 1995 of the purchase tax levied on purchases of certain goods used by him in the manufacture of taxable goods for sale within the State. There was no provision in Rule 42 I to allow set-off if the taxable goods so manufactured were sold in the course of inter-State trade or in the course of export out of the territory of India. The set-off was also not admissible to the extent that the dealer used the purchased goods for manufacture of non-taxable products.

(i) During the course of audit between June 1998 and December 1999 in fourteen divisions it was observed that while assessing 72 dealers the assessing officers allowed set-off of tax paid on purchases incorrectly in respect of manufactured goods which were sold in the course of inter-State trade or commerce or in the course of export outside the country during the assessment periods falling between 1 April 1991 and 31 March 1996. This resulted in under-assessment of Rs. 192.29 lakh (including interest of Rs. 57.97 lakh) as detailed in the following table :

(Amount in lakh of rupees)

Sr. No.	Name of the division	No. of dealers	Assessment year Month of assessment	Set-off of purchase tax		Excess Set-off allowed	Interest	Total
				Allowed	Allowable			
1	Andheri	12	Between 1993-94 and 1994-95 Between September 1997 and February 1999	24.23	10.96	13.27	6.08	19.35
2	Aurangabad	5	Between 1992-93 and 1995-96 Between March 1997 and August 1998	26.15	5.06	21.09	4.39	25.48
3	Bandra	5	Between 1991-92 and 1995-96 Between October 1997 and January 1999	13.86	5.94	7.92	6.70	14.62
4	Borivali	8	Between 1993-94 and 1995-96 Between July 1997 and January 1998	24.57	12.95	11.62	1.09	12.71

Sr. No.	Name of the division	No. of dealers	Assessment year Month of assessment	(Amount in lakh of rupees) Set-off of purchase tax		Excess Set-off allowed	Interest	Total
				Allowed	Allowable			
5	Churchgate	7	Between 1993-94 and 1995-96 Between August 1997 and July 1998	17.95	2.43	15.52	8.89	24.41
6	Ghatkopar	2	1994-95 March 1998 and June 1998	4.95	2.76	2.19	0.26	2.45
7	Kolhapur	1	1994-95 March 1998	2.60	0.39	2.21	--	2.21
8	Mazgaon	2	1994-95 and 1995-96 November 1997 and September 1998	1.92	1.02	0.90	--	0.90
9	Mandvi	2	1994-95 and 1995-96 September 1998 and November 1998	12.38	2.49	9.89	7.92	17.81
10	Nashik	6	Between 1993-94 and 1995-96 Between February 1997 and March 1999	67.13	59.52	7.61	4.34	11.95
11	Nariman point	7	Between 1992-93 and 1995-96 Between December 1995 and March 1998	35.78	15.06	20.72	9.29	30.01
12	Pune	6	Between 1993-94 and 1995-96 Between November 1997 and February 1999	18.02	7.62	10.40	6.36	16.76
13	Thane	6	Between 1993-94 and 1995-96 Between June 1997 and July 1998	8.20	4.47	3.73	2.65	6.38
14	Worli	3	1995-96 Between July 1998 and December 1998	9.53	2.28	7.25	--	7.25
	Total :	**72**		**267.27**	**132.95**	**134.32**	**57.97**	**192.29**

On these cases being pointed out the department in 4 cases accepted the under-assessment and raised additional demands of Rs. 8.05 lakh. In two cases the dealers had filed (January 1999 and January 2000) appeals. However, the Commissioner of Sales Tax issued (November 1999) a trade circular stating that inter-State sale/export is a sale within the State as per judgement[12] of the Supreme Court. The contention of the department was not tenable in the absence of specific explanation of the term sale and/or export in Rule 42 I.

The cases were reported to Government in April 2000 and May 2000; their reply has not been received (October 2000).

(ii) It was noticed in audit (between January 1998 and August 1998) that while assessing (between October 1996 and March 1998) 6 dealers in 4 divisions for assessment periods falling between 1 April 1992 and 31 March 1995, set-off was incorrectly allowed resulting in under-assessment of Rs. 25.62 lakh (including interest and penalty of Rs. 12.96 lakh). Some illustrative cases are detailed below :

Sr. No.	Name of the Division	Goods manufactured	Assessment period Month of assessment	Nature of irregularity	Under-assessment including interest/ penalty (In lakh of rupees)
1	Churchgate	Cloth	1 April 1992 to 31 March 1995 October 1996 and March 1997	Full set-off allowed despite manufactured goods being tax free	1.41
2	Ghatkopar	Pharmaceutical products	1 April 1993 to 31 March 1994 April 1994	Full set-off of Rs. 0.67 lakh was allowed without proportionate deduction on account of branch transfers of manufactured goods	1.02
3	Nariman point (i)	Engineering goods	23 February 1994 to 31 March 1994 February 1998	Replenishment licence (Rs. 1.03 lakh) used for import of raw material treated as goods used in manufacture	3.97
	(ii)	HDPE/LDPE bags	1 April 1993 to 31 March 1994 January 1998	Replenishment licence (Rs. 1.02 lakh) used for import of raw material treated as goods used in manufacture	3.91
4	Pune	Fertilizer	1 April 1994 to 31 March 1995 March 1998	Set-off allowed despite the goods being exempt from tax.	14.39

[12] Onkarlal Nandlal vs State of Rajasthan (60 STC 314)

On these being pointed out in audit (between January 1998 and August 1998), the department raised (between August 1998 and October 1998) additional demands aggregating to Rs. 25.11 lakh. In two cases as against demands amounting to Rs. 2.43 lakh recovery of Rs. 0.77 lakh was effected and the balance of Rs. 1.66 lakh waived under the amnesty scheme. Information on action taken in the remaining cases has not been received (October 2000).

The cases were reported to Government in April 2000; their reply has not been received (October 2000).

(b) Under Rule 41 F of the Bombay Sales Tax Rules, 1959 a manufacturer of non-ferrous metal goods is entitled to full set-off of taxes paid on purchases of non-ferrous metals used in the manufacture of taxable goods (other than waste goods or scrap or byproducts). Similarly, the manufacturer is also entitled to set-off under Rule 42 I of the purchase tax of 2 *per cent* levied under Section 13 AA provided the goods are used in the manufacture of taxable goods for sale. However, as per condition (4) of Rule 45 no claim for set-off in respect of the same purchases shall be granted under more than one rule. Interest is leviable on the amount due as per provision of the Act.

It was noticed (between August 1997 and December 1999) that in assessing 24 dealers in 11 divisions for the periods falling between 1 April 1992 and 31 March 1996, set-off was allowed twice under Rule 41 F and 42 I on the same purchases in contravention of Rule 45(4) resulting in under-assessment of Rs. 201.54 lakh (including interest of Rs. 38.04 lakh).

On these cases being pointed out, Government inserted (April 2000) sub rule (5) under Rule 45 allowing set-off of purchase tax levied under Rule 13 AA, if admissible, even if it resulted in claiming set-off under any two rules, which is prohibited under sub rule (4).

By allowing retrospective set-off of purchase tax (with effect from 1 September 1990) on purchases of non-ferrous metal goods, Government disclaimed revenue of Rs. 1186.17 lakh (including Rs. 984.63 lakh pointed out vide paragraphs 2.5 (a), 2.4 (a) and 2.3 (b) of the Reports of the Comptroller and Auditor General of India for the years 1996-97, 1997-98 and 1998-99 respectively).

(c) (i) Under the provisions of the Bombay Sales Tax Act, 1959 and the rules made thereunder, a manufacturer who has paid taxes on the purchases of goods specified in Part II of the Schedule "C" to the Act and used them within the State in the manufacture of taxable goods for sale or export or in the packing of goods so manufactured, is allowed set-off of taxes paid in excess of four *per cent* of the purchase price (2 *per cent* in the case of raw material). Where the purchase price is inclusive of tax, a formula has been prescribed for calculating the amount to be set-off. Where the manufacture results in production of taxable goods as well as goods other than taxable goods, the set-off shall be apportioned between taxable goods and goods other than taxable

goods on the basis of the sale price of manufactured goods and shall be allowed only to the extent of taxable goods manufactured.

It was noticed (between August 1996 and March 2000) that in assessing 25 dealers in 10 divisions for various periods falling between 1 April 1992 and 31 March 1996, set-off was allowed in excess owing to mistakes in computation resulting in under-assessment of Rs. 367.39 lakh (including interest of Rs. 78.51 lakh). A few illustrative cases are detailed in the following table :

Sr. No.	Name of the Division	No. of dealers	Assessment period Month of assessment	Nature of irregularity	Under-assessment including interest/ penalty (In lakh of rupees)
1	Aurangabad	1	1994-95 August 1998	Inadmissible set-off on purchases of furnace oil was allowed.	1.49
2	Ghatkopar (i)	1	1995-96 August 1998	Set-off was allowed at Rs. 29.26 lakh instead of at Rs. 11.35 lakh owing to calculation mistake.	17.91
	(ii)	1	1995-96 March 1999	Set-off admissible was Rs. 4.50 lakh as against Rs. 11.10 lakh allowed.	6.60
3	Churchgate	1	1994-95 January 1998	Set-off of Rs. 1.24 lakh was not reduced in proportion to tax free goods sold and additional tax was levied short by Rs. 0.49 lakh.	1.73
4	Kolhapur	3	1994-95 and 1995-96 June 1998 March 1999 November 1998	Inadmissible set-off on purchases of furnace oil was allowed.	3.48
5	Nagpur	1	1994-95 January 1998	Set-off of Rs. 5.80 lakh was not reduced in proportion to branch transfers.	5.80

Sr. No.	Name of the Division	No. of dealers		Assessment period Month of assessment	Nature of irregularity	Under-assessment including interest/ penalty (In lakh of rupees)
6	Nashik	(i)	1	1994-95 October 1996	Set-off of Rs. 1.47 lakh was not reduced in proportion to tax free goods sold.	1.47
		(ii)	2	1995-96 October 1998 December 1998	Inadmissible set-off on purchases of furnace oil was allowed.	23.14
		(iii)	1	1998-99 June 1999	Set-off was allowed at the rate of 9 *per cent* instead of 4 *per cent.*	28.49
7	Pune	(i)	3	1995-96 March 1999	Inadmissible set-off on purchases of furnace oil was allowed	242.23
		(ii)	1	1995-96 March 1999	Set-off was allowed after deducting 2 *per cent* instead of 4 *per cent.*	11.31
8	Thane		4	1995-96 September 1998 March 1999 October 1999	Inadmissible set-off on purchases of furnace oil was allowed.	20.70

On this being pointed out (between August 1996 and March 2000) the department accepted the mistakes in 10 cases and raised additional demands for Rs. 36.55 lakh. In five cases the department recovered Rs. 10.17 lakh and in one case the liability of Rs. 0.63 lakh was adjusted under the package scheme of incentives. Report on recovery and action taken in the remaining cases has not been received (October 2000).

The matter was reported to Government in April and May 2000; their reply has not been received (October 2000).

(ii) When the manufactured goods are transferred outside the State otherwise than by way of sale, set-off of taxes paid on raw materials including packing materials is allowed in excess of six *per cent* instead of four *per cent* of the purchase price on production of a declaration in Form 31-C issued by the branch manager/agent outside the State declaring that the goods will be sold there.

In 4 divisions in respect of 15 dealers, set-off of Rs. 2117.00 lakh was allowed for various periods falling between 1992-93 and 1995-96 (assessed between 1995-96 and 1998-99) in respect of despatches made by them to their branches/agents outside the State though the requisite certificates in Form 31-C had not been produced.

d) Under Rule 41 E of the Bombay Sales Tax Rules, a registered dealer is entitled to full set-off of taxes paid on the purchase of raw material, falling within the group of iron and steel (specified in Entry 6 of Schedule 'B' to the Act) when such raw material is used for manufacture, for sale or export, of goods which also fall within the same group of iron and steel provided no deduction on account of claim of resale is allowed.

In 2 divisions[13] in the assessments of 4 dealers for periods falling between 1992-93 and 1995-96, set-off of Rs. 26.85 lakh was incorrectly allowed on purchases of ferro-alloys treating the same as covered under Entry 6 of Schedule 'B', though actually ferro-alloys are not so covered. The total under-assessment including interest amounted to Rs. 39.08 lakh as detailed in the following table:

(Amount in lakh of rupees)

Sr. No.	Name of Division	Assessment year/ Month of assessment	Purchases of Ferro alloy considered for set-off	Excess set-off allowed	Interest/ Penalty	Total
1	Churchgate	(i) 1993-94 September 1996	56.99	1.96	--	1.96
		1994-95 November 1997	95.56	3.29	2.10	5.39
		1995-96 March 1999	101.38	2.89	--	2.89
		(ii) 1992-93 November 1995	60.37	1.95	1.24	3.19
2	Pune	(i) 1995-96 March 1999	7.77	0.31	0.11	0.42
		(ii) 1992-93 November 1995	72.45	2.90	1.85	4.75
		1993-94 September 1996	233.71	9.35	5.42	14.77
		(iii) 1995-96 March 1999	104.92	4.20	1.51	5.71
			733.15	**26.85**	**12.23**	**39.08**

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

[13] Churchgate and Pune-I

2.5 Non-recovery/ Excess availment of sales tax incentives

The Bombay Sales Tax Act, 1959 and the Rules made thereunder, provide for package schemes of incentive to industrial units, in terms of an eligibility certificate given by prescribed authorities like the SICOM, Regional Development Corporation etc., followed by an entitlement certificate issued by the Sales Tax Department. Such units are eligible for sales tax incentives such as exemption/deferment of sales tax, purchase tax and central sales tax on purchase of raw material and/or on sales of finished products during the period covered by the certificates of eligibility and entitlement subject to terms and conditions specified in the schemes. If any eligible unit closes down prematurely, the sales tax incentives availed of are recoverable forthwith alongwith interest/ penalty.

It was noticed (March 1999) that 3 dealers in Dhule District who had availed of sales tax incentives to the extent of Rs. 93.19 lakh had closed their business prematurely during the period between 1995-96 and 1996-97. However, the incentives availed of were not recovered. On this being pointed out, the assessing officer stated that in one case RRC was issued to the Collector for recovery and in the remaining cases action would be initiated.

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

2.6 Short levy of sales tax

The Bombay Sales Tax Act, 1959 provides for levy of tax on the turnover of sales or purchases of any goods at the rates specified in Schedule B or Schedule C to the Act. The Act also provides for levy of turnover tax and additional tax on sales or purchases of goods covered by Schedule C (upto 30 September 1995). Schedule B covers declared goods on the sale or purchase of which the States are prohibited from imposing tax at a rate higher than four *per cent*. The Government is empowered to exempt any tax payable under the Act by issue of a notification subject to conditions, if any, mentioned therein.

(a) It was noticed (between August 1996 and July 1999) in audit that in assessing 27 dealers in 11 divisions[14] due to application of incorrect rate of tax, there was under-assessment of Rs. 396.31 lakh. A few illustrative cases are shown in the following table :

[14] Andheri, Aurangabad, Ghatkopar, Kolhapur, Mandvi, Mazgaon, Nagpur, Nariman point, Pune, Thane and Worli

Sr. No.	Name of Division	Assessment year/ Month of assessment	Name of commodity	Taxable sale	Percentage rate of tax/tax		(Amount in lakh of rupees) Under-assessment				
					Leviable	Levied	Tax	T.O Tax	Addl. Tax	Interest /Penalty	Total
1	Andheri (i)	1992-93 March 1996	T.V. and Tape recorders	118.37	10	4	7.10	--	0.85	5.73	13.68
	(ii)	1994-95 and 1995-96 February 1998 and February 1999	Gas lighters	57.52	10	8	1.12	--	0.17	0.75	2.04
	(iii)	1990-91 January 1997	Baxin Syrup	50.12	4	Nil	2.87+	--	--	4.03	6.90
	(iv)	1996-97 November 1998	Gum	26.55	13	4	2.39	--	--	1.05	3.44
2	Aurangabad	1990-91 and 1991-92 September 1995	Scrapped buses	24.08	15	4	2.65	--	--	3.64	6.29
3	Ghatkopar	1989-90 September 1996	Stainless steel utensils	34.26	8	4	1.37	0.43	0.33	3.16 0.11	5.40
4	Kolhapur	1992-93 February 1996	Chemicals	9.08	10	4	0.54	--	--	0.62	1.16
5	Mazgaon	1994-95 March 1998	Bulk drugs	20.50	4	Nil	0.82	--	0.12	0.68	1.62
6	Nariman point (i)	1992-93 June 1996	Cassette covers	83.19	10	4.23	4.80	--	0.58	4.19	9.57
	(ii)	1994-95 January 1998	Electrical goods	19.76	4	Nil	0.79	--	0.12	0.61	1.52
	(iii)	23/01/1995 to 31/03/1995 June 1996	Electronic photo-copying machines	18.14	15	10	0.91	--	0.14	0.31	1.36
7	Pune	1993-94 1994-95 and 1995-96 March 1996 and December 1996	Food and non-alcoholic drinks	19.24 20.82 20.61	0.75* 1.67* 1.85*	0.32* 0.38* 0.85*	0.44 1.29 1.00	-- 0.26 0.13	-- 0.25 0.12	0.21 0.43 0.14	4.27
8	Worli (i)	1994-95 March 1998	Cables	31.36	4	Nil	1.26	0.95	0.19	1.72	4.12
	(ii)	1995-96 March 1999	Plastic scrap	177.87	13	12	1.78	--	--	0.64	2.42
	(iii)	1992-93 October 1997	Perfumery compound	259.36	15	4	28.53	--	3.42	35.15	67.10
9	Thane	1992-93 and 1993-94 December 1995 and November 1996	Food and non-alcoholic drinks	11.43 14.80	1.14* 1.48*	0.25* 0.51*	0.89 0.97	0.14 0.19	0.14 0.18	0.77 0.75	4.03
10	Mandvi	1993-94 December 1997	Ferro Alloy	71.58	10	4.73	3.78	0.89	0.86	4.91	10.44

+ Includes purchase tax levied

* Figures represent tax leviable and tax levied

Sr. No.	Name of Division		Assessment year/ Month of assessment	Name of commodity	Taxable sale	Percentage rate of tax/tax Leviable	Levied	(Amount in lakh of rupees) Under-assessment Tax	T.O Tax	Addl. Tax	Interest /Penalty	Total
11	Nagpur	(i)	1994-95 and 1995-96 May 1997	Transmission line Tower	2085.00	202.75*	80.17*	122.58	20.94	20.94	71.79	236.25
		(ii)	1994-95 March 1998	Aluminium collapsible tubes	85.52	7.77*	3.28*	4.49	--	0.67	3.61	8.77

On the cases being pointed out in audit (between August 1996 and July 1999) the department raised (between October 1997 and December 1999) additional demands aggregating to Rs. 73.75 lakh (including turnover tax of Rs. 2.10 lakh, additional tax of Rs. 3.34 lakh, interest and penalty of Rs. 31.35 lakh) in 23 cases. In five cases the department recovered Rs. 7.57 lakh after waiving Rs. 5.21 lakh under amnesty scheme in two cases. In seven cases dealers had filed appeals. Information on action taken in the remaining cases has not been received (October 2000).

The cases were reported to Government in April and May 2000; their reply has not been received (October 2000).

2.7 Under-assessment of tax

Under the provisions of the Central Sales Tax Act, 1956 the last sale or purchase of any goods preceding the sale or purchase occasioning the export of goods out of the territory of India shall be deemed to be in the course of export, if the last sale or purchase took place and was for the purpose of complying with the agreement or order for such export, provided the selling dealer produces a certificate in Form H (Form 14 B in case of a dealer within the State) duly filled and signed by the exporter alongwith evidence of export of the goods.

It has been judicially[15] held that packing materials which are used as ordinary mode for packing and transportation of goods are not subject matter of export and hence not eligible for exemption from tax.

(i) It was noticed in audit (between April 1998 and July 1999) that in the cases of 10 dealers (four in Bandra, two in Churchgate and one each in Andheri, Aurangabad, Nariman point and Thane Divisions) for various periods falling between April 1991 and March 1996, sales of packing material worth Rs. 255.84 lakh supported by declaration in Form 14 B/Form H were allowed exemption from tax. The material sold was used as ordinary packing for goods exported out of India. This resulted in under-assessment of Rs. 45.76 lakh.

* Figures represent tax leviable and tax levied

[15] M/s. Packwel Industries Private Ltd. vs State of Tamil Nadu

On this being pointed out (between April 1998 and July 1999) the department revised (between January 1997 and January 2000) the assessments in respect of 9 dealers raising additional demands aggregating to Rs. 45.76 lakh (including interest of Rs. 17.13 lakh). In one case interest of Rs. 1.31 lakh was not levied but deferred by the assessing authority. The department recovered Rs.1.56 lakh in one case and in 7 cases dealers filed appeals. Report on action taken in the remaining cases and progress of recovery has not been received (October 2000).

(iii) Further in 8 divisions[16] in the assessments of 22 dealers for various periods falling between 1990-91 and 1995-96, claims of sales of Rs. 38.74 crore were allowed as in the course of export on mere production of certificates in Form H/ Form 14B which did not mention the details of pre-existing order or agreement for or in relation to the export nor were these forms supported by copies of bills of lading *etc.*, evidencing export of the goods. The claims allowed incorrectly by the assessing authorities involved tax liability of Rs. 4.50 crore (including interest and penalty of Rs. 1.69 crore).

The above cases were reported to Government in April and May 2000; their reply has not been received (October 2000).

2.8 Incorrect allowance of sales in the course of import

Under the provisions of the Central Sales Tax Act, 1956 a sale or purchase of goods shall be deemed to take place in the course of import of the goods into the territory of India, only if, the sale or purchase occasions the import of those goods into the territory of India or is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India. It has been judicially[17] held that sales in the course of import of goods into the territory of India comes to an end when a bill of entry is presented for clearance of goods to the customs authority and the customs duty payable thereon is assessed by the said authority. Any sale of goods thereafter cannot be allowed as sale in the course of import by transfer of documents of title to the goods. It has also been judicially[18] held that sales of imported goods kept in customs bonded warehouse are sales within the State liable to sales tax under the State Law. In case of sale in the course of import effected by a transfer of document of title to the goods before the goods have crossed the customs frontier of India, the customs duty is leviable on the sale value as per the agreement for sale/sale invoice.

i) It was noticed in the assessments of 15 dealers in 7 divisions[19] for periods falling between 1989-90 and 1996-97 that claims of sale in the course

[16] Aurangabad, Churchgate, Kolhapur, Mazgaon, Nariman point, Nashik, Pune-I and Worli

[17] Minerals & Metals Trading Corporation v/s State of Andhra Pradesh (18 MTJ 458)

[18] Fairmacs Trading Co. v/s State of Andhra Pradesh (36 ST 260)

[19] Aurangabad, Churchgate, Mandvi, Nariman point, Nashik, Pune-I and Thane

of import of Rs. 46.06 crore were allowed by the assessing authorities despite the claims not being admissible for one reason or another of the following :

a) copies of bills of lading were not endorsed in favour of the high sea buyers,

b) bills of entry were drawn by the importers themselves instead of the buyers without payment of customs duty on enhanced sale value, and

c) the goods were cleared ex-bond.

The claims admitted incorrectly involved revenue of Rs. 7.23 crore (including interest and penalty of Rs. 4.63 crore).

ii) In the cases of 31 dealers in 3 divisions[20] for various assessment periods falling between 1989-90 and 1996-97, claims of sales in the course of imports aggregating to Rs. 99.97 crore were allowed but the relevant documents such as copies of bills of lading duly endorsed in the name of buyer, copies of bill of entry, sale agreements and invoices in support of the claims, were not kept on record. The correctness of the exemption of tax to the extent of Rs. 7.63 crore could not, therefore, be verified in audit.

On this being pointed out the department revised (November 1999) the assessment in one case raising additional demand of Rs. 10.79 lakh (including interest and penalty of Rs. 4.13 lakh). Report on recovery and action taken in the remaining cases has not been received (October 2000).

2.9 Non-levy/short levy of turnover tax/additional tax

Upto 30 September 1995, every dealer whose annual turnover of sales or purchases exceeded Rs. 12 lakh, was liable to pay turnover tax under the Bombay Sales Tax Act, 1959 at the rate of 1.25 *per cent* of the taxable turnover. The rate of turnover tax became 1.50 *per cent* of the taxable turnover with effect from 1 April 1993 where the turnover of sales or purchases exceeded Rs. 1 crore. Turnover tax was also leviable on the turnover of sales effected against declarations issued under Section 12 of the Act. Besides, additional tax at 15 *per cent* (12 *per cent* upto 31 March 1994) of the sales tax / purchase tax payable was leviable where the turnover of either sales or purchases exceeded Rs. 10 lakh.

It was noticed (between August 1996 and July 1999) that while assessing 16 dealers in 9 divisions for various assessment periods falling between 1 April 1992 and 31 March 1996, though the gross turnover of sales/purchases of the dealers had exceeded the prescribed limits for levy of turnover tax/additional tax, the same were not levied. This resulted in under-assessment of Rs. 71.36

[20] Churchgate, Mandvi and Nariman point

lakh (including interest of Rs. 21.66 lakh). A few illustrative cases are shown below :

(Amount in lakh of rupees)

Sr. No.	Name of Division	Assessment year/ Month of assessment	Name of commo-dity	Turnover tax		Additional Tax		Short levied		Interest	Total
				Levi-able	Levied	Levi-able	Levied	T.O. tax	Addl. Tax		
1	Aurangabad	1993-94 March 1997	Fertilizers	6.23	Nil	--	--	6.23	--	--	6.23
2	Kolhapur	1993-94 and 1994-95 September 1997	Fibre glass	0.43	0.19	0.49	0.22	0.24	0.27	0.56	1.07
3	Mazgaon	1993-94 October 1998	Ferrous and non-ferrous metals	3.75	3.13	--	--	0.62	--	0.68	1.30
4	Nashik	1992-93 October 1995	Road Rollers and spare parts	1.58	Nil	1.52	Nil	1.58	1.52	--	3.10
5	Nariman point	1994-95 September 1997	Fans	4.41	Nil	--	--	4.41	--	0.05	4.46
6	Pune	(i) 1995-96 June 1997	Engineer-ing goods	1.40	0.77	0.89	0.43	0.63	0.46	0.96	2.05
		(ii) 1995-96 June 1997	--do--	0.73	0.49	0.66	0.36	0.24	0.30	0.48	1.02
		(iii) 1993-94 March 1997	Fertilizers	4.73	--	0.12	--	*4.73	0.12	4.30	9.15
7	Worli	1994-95 and 1995-96 March 1999	Software	1.27	--	--	--	1.27	--	1.10	2.37
8	Nagpur	(i) 1994-95 March 1998	Electrical goods	2.71	Nil	1.74	--	2.71	1.74	4.62	9.07
		(ii) 1993-94 and 1994-95 April 1996 March 1998	Fertilizers	19.35	Nil	--	--	--	--	7.40	26.75

On these being pointed out, the department revised/reassessed (between January 1998 and June 2000) the assessments/dealers and raised additional demands aggregating to Rs. 71.36 lakh (including interest of Rs. 21.66 lakh).

In four cases, the dealers had made payments of Rs. 7.39 lakh, of which in one case Rs. 0.51 lakh was waived under the amnesty scheme. In two other cases the liability of Rs. 9.33 lakh was adjusted against the notional tax liability under the incentive scheme. Four dealers had filed appeals. Report on recovery in the remaining cases has not been received (October 2000).

The cases were reported to Government between March 2000 and May 2000; their reply has not been received (October 2000).

* This includes purchase tax of Rs. 1.09 lakh which was not levied.

2.10 Incorrect determination of taxable turnover

(a) Under the Bombay Sales Tax Act, 1959 sales tax is leviable at the rates specified in the Schedules to the Act on the net taxable sales determined after permissible deductions. The premium received on sales of replenishment licence/exim scrips etc., is taxable at the rate of 4 *per cent*. Besides, turnover tax, additional tax, interest and penalty are also leviable as per provisions of the Act.

It was noticed (between January 1997 and March 1999) in audit that in assessing 7 dealers in 6 divisions, taxable turnover of sales were determined short to the extent of Rs. 234.38 lakh resulting in under-assessment of Rs. 20.31 lakh for the reasons shown in the following table :

Sr. No.	Name of Division	Assessment year/ Month of assessment	Name of commo-dity	Nature of irregularity	(Amount in lakh of rupees) Tax short levied	T.O Tax	Addl. Tax	Interest /Penalty	Total
1	Pune	1991-92 and 1992-93 June 1996	Exim scrip/REP licence	Premium of Rs. 27.25 lakh received on the REP licence was not included in the taxable sales	1.09	0.34	0.13	0.75	2.31
2.	Bandra	1992-93 June 1996	--do--	Premium of Rs. 14.73 lakh received on the REP licence was not included in the taxable sales	0.59	0.18	0.07	0.95	1.79
3.	Worli	1992-93 September 1995	--do--	Premium of Rs. 13.61 lakh received on sale of the REP licence was not included in the taxable sales	0.52	0.16	0.07	0.45	1.20
4.	Thane	1995-96 January 1998	Beer	Tax levied at Rs. 4.78 lakh instead of Rs. 8.32 lakh on beer, owing to exclusion of excise duty of Rs. 104.42 lakh paid.	3.54	--	--	1.77	5.31
5.	Ghatko-par (i)	1992-93 January 1996	Exim scrip	Receipts of Rs. 19.62 lakh from sales of REP licence/exim scrip not included in the taxable sales	0.78	0.25	0.10	1.48	2.61
	(ii)	1991-92 and 1992-93 May 1995 June 1995	Replenish-ment licence/ exim scrips	Receipts of Rs. 6.81 lakh from sales/ purchases of REP licence/exim scrip not included in the taxable sales	0.27	0.09	0.03	0.24	0.63
6.	Auranga-bad	1994-95 March 1997	Corrugated Boxes	Taxable sales of Rs. 47.94 lakh escaped assessment	2.68	--	--	3.78	6.46
	Total :				**9.47**	**1.02**	**0.40**	**9.42**	**20.31**

On this being pointed out in audit, the department revised (between March 1998 and September 1999) the assessments raising additional demands aggregating to Rs. 20.31 lakh (including interest of Rs. 9.42 lakh). In four cases out of demands amounting to Rs. 10.86 lakh, Rs. 7.52 lakh was recovered and Rs. 3.34 lakh waived under the amnesty scheme. In two cases the dealers had filed appeals. Report on recovery in the remaining cases has not been received (October 2000).

The cases were reported to Government in April and May 2000; their reply has not been received (October 2000).

(b) Under the Bombay Sales Tax Act, 1959 sale of food or any other article for human consumption or any non-alcoholic drinks served for consumption in hotels having gradation of three star and above is taxable at the rate of 15 *per cent.*

In Nariman Point and Pune II Divisions, in the assessments of 4 hotels having gradation of three star and above for the years 1994-95 and 1995-96, a deduction of Rs. 1.32 crore from the taxable turnover was allowed as resale which was not admissible. This involved a short levy of the order of Rs. 60 lakh (including interest and penalty).

The cases were reported to Government in May 2000; their reply has not been received (October 2000).

2.11 Under-assessment due to incorrect allowance of sales on declaration

Under the Bombay Sales Tax Act, 1959 sales to a dealer holding recognition certificate issued by the Department were subjected upto 30 September 1995, to concessional rate of tax of 4 *per cent* provided the purchasing dealer furnished a declaration (in Form 15) to the effect that the goods would be used in the manufacture of taxable goods for sale.

In Pune Division, in the assessment (March 1999) of a manufacturer of oil engine and auto parts for the year 1995-96, sales of Rs 12.74 lakh effected against declaration during April 1995 and May 1995 were subjected to tax at the concessional rate of 4 *per cent.* Since the recognition certificate of the purchasing dealer was valid only from 15 June 1995, the sales prior to this date supported by declaration were inadmissible for the concessional rate of tax. This resulted in under-assessment of Rs. 1.30 lakh (including interest).

The case was reported to Government in May 2000; their reply has not been received (October 2000).

2.12 Claims allowed in ex-parte assessments

As per provisions of Sections 8, 12 and 12 A of the Bombay Sales Tax Act 1959, the production of original sales invoice containing prescribed certificates or the prescribed declaration is a statutory condition for allowing deduction from the turnover of sales.

In Pune I, Thane and Worli Divisions it was noticed that in respect of assessments of 6 dealers for various periods falling between 1992-93 and 1995-96, notices in Form 27 for verification of books of accounts were issued (between March 1995 and July 1998) by the assessing officers as they were not satisfied with the correctness of the returns filed by the dealers. However, ex-parte assessment (July 1995 to March 1998) orders were passed without disallowing the claim of deductions aggregating to Rs. 10.46 crore which attracted a tax liability of Rs. 1.09 crore.

The cases were reported to Government in May 2000; their reply has not been received (October 2000).

2.13 Non/short levy of interest and penalty

Under the Bombay Sales Tax Act, 1959, if any tax is found payable by a dealer in respect of any period as a result of an order of assessment or re-assessment passed under the Act, such dealer is liable to pay simple interest at the rate of 2 *per cent* on such amount for each month or part thereof from the first date after the end of the period for which the dealer has been so assessed till the date of such order of assessment. The dealer is also liable for penalty at the same rate with effect from 21 April 1987. Further, by an amendment effective from 15 May 1997, no interest is payable if the dealer has filed all the returns by the due date and if the tax amount remaining unpaid is less than 10 *per cent* of his tax liability. Interest is leviable for a maximum period of 18 months provided there is no concealment of transactions or deliberate furnishing of inaccurate particulars liable to tax. The same provisions for levy of penalty are also applicable to assessments under the Central Sales Tax Act, 1956.

It was noticed that in the assessments of 24 dealers in 8 divisions[21] for various periods falling between 1 April 1995 and 31 March 1999, the dealers had not filed all the returns but interest was either levied incorrectly for 18 months only or not levied at all on the ground that the tax found due was less than 10 *per cent* of the tax assessed. This resulted in non-levy of penalty of Rs. 289.92 lakh as detailed below:

[21] Andheri, Churchgate, Kolhapur, Mazgaon, Nashik, Nariman point, Pune II and Thane

(Amount in lakh of rupees)

Sr. No.	Name of the Division	No. of dealers	Period/ month of assessment	Nature of irregularity	Interest/ penalty leviable Rs.	Interest/ penalty levied Rs.	Short levy of interest/ penalty Rs.
1.	Thane	6	1995-96 Between January 1999 and June 1999	All returns were not filed	401.46	199.47	201.99
		2	1994-95 and 1995-96 Between February 1999 and March 1999	Penalty under Section 9 (2) of CST Act not levied	23.95	--	23.95
2.	Nariman point (i)	1	1994-95 December 1999	Interest was not levied eventhough the assessment resulted in additional demand	0.89	--	0.89
	(ii)	2	1994-95 and 1995-96 June 1997 and November 1998	Penalty under Section 9 (2) of CST Act not levied	6.00	--	6.00
3.	Churchgate	1	1995-96 November 1998	--do--	1.65	--	1.65
4.	Pune II	6	1992-93 to 1994-95 March 1998 to June 1999	--do--	21.34	--	21.34
5.	Nashik	2	1992-93 to 1995-96 June 1998 to September 1998	--do--	24.75	--	24.75
6.	Andheri	2	1994-95 February/ March 1999	--do--	2.36	--	2.36
7.	Kolhapur	1	1995-96 February 1999	--do--	0.35	--	0.35
8	Mazgaon	1	1995-96 February 1999	--do--	6.64	--	6.64
		24			489.39	199.47	289.92

On this being pointed out the department rectified (between May 1999 and November 1999) the assessments in five cases raising additional demands aggregating to Rs. 10.23 lakh. In four cases the dealers filed (1999) appeals. Report on action taken in the remaining cases has not been received (October 2000).

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

2.14 Non-levy of purchase tax

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, with effect from 1 September 1990 where a dealer purchases any goods specified in Part I of Schedule 'C' there shall be levied in addition to sales tax or purchase tax, a purchase tax at the rate of two paise in the rupee on the turnover of such purchases unless the goods so purchased are resold by the dealer. Further, additional tax and interest are payable as per the provisions of the Act.

It was noticed (between December 1998 and January 1999) that while assessing 2 dealers in Bandra and Aurangabad Divisions, purchase tax and additional tax though leviable were not levied on purchases of goods valued at Rs. 297.66 lakh during the years falling between 1993-94 and 1995-96. This resulted in under-assessment of Rs 6.70 lakh (including interest of Rs. 0.47 lakh).

On this being pointed out in audit, the department raised (between June and August 1999) additional demands for Rs. 6.70 lakh (including interest of Rs. 0.47 lakh). In one case the demand of Rs. 5.64 lakh was adjusted against the notional tax liability under the incentive scheme and in the other case dealer had filed appeal.

The matter was reported to Government in April 2000; their reply has not been received (October 2000).

2.15 Incorrect grant of refund

(a) As per the provisions of the Bombay Sales Tax Act, 1959 the maximum permissible period for completion of fresh assessment of a case remanded by an appellate authority is 3 years from the date of such remand. Otherwise the case is barred by limitation.

It was noticed in audit (June 1999) that a dealer in Nashik whose assessment for the period from October 1984 to April 1985 was remanded (July 1991) back to the assessing authority by the Maharashtra Sales Tax Tribunal, was re-assessed (February 1999) after a period of 7 years resulting in refund of Rs. 3.26 lakh.

On it being pointed out in audit (June 1999) that the re-assessment order was bad in law as it was barred by limitation, the department revised (December 1999) the re-assessment order withdrawing the refund of Rs. 3.26 lakh granted to the dealer against which the dealer had filed appeal.

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

(b) Under the provisions of the Bombay Sales Tax Act, 1959 a registered dealer who has not collected any amount by way of tax separately but has included the element of sales tax in the sale price itself, may claim reduction of it from the sale price. However, if subsequently it is found that his tax liability is less than the amount of tax claimed as deduction, then such excess amount except for the amounts refunded to the purchasers shall be forfeited and transferred to the Maharashtra Consumer Protection and Guidance Fund.

It was noticed during audit (between April 1996 and December 1997) that while assessing 3 dealers (1 in Nashik and 2 in Mumbai) for the periods falling between 1 April 1992 and 31 March 1994, excess claim of deductions in the returns amounting to Rs. 2.79 lakh was refunded instead of being forfeited.

On this being pointed out, the department revised (between October 1998 and January 2000) the assessments raising additional demands aggregating to Rs. 3.07 lakh (including interest of Rs. 0.28 lakh). Two dealers had filed appeals against the demands and in the third case report on recovery has not been received (October 2000).

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

2.16 Sales in transit

Under the Central Sales Tax Act, 1956 a sale in the course of inter-State trade or commerce of any goods is effected by a transfer of documents of the title to the goods, during their movement from one State to another. Subsequent sales to registered dealers made while the goods are in movement, are exempt from tax provided such goods are included in the registration certificate of the vendor and supported by declarations in Form 'C'.

In Pune, in the assessment (March 1997) of a dealer for 1993-94, sales of Rs. 15.88 lakh were supported by declaration in Form 'H' instead of on Form 'C'. The incorrect declaration was accepted and the dealer's inadmissible claim was allowed resulting in under-assessment of Rs. 1.59 lakh. Besides interest of Rs. 1.14 lakh was also leviable.

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

2.17 Incorrect exemption granted to an edible oil manufacturer

With effect from 1 August 1985, Government of Maharashtra withdrew tax benefits to edible oil manufacturing units covered by the 1979 Package Scheme of Incentive. Further, as per a Government circular issued in January 1991, soyabean oil obtained by the expeller process in a refined or an unrefined state falls under the category of edible oil with effect from September 1990. Hence, the exemption from payment of tax under the 1979 scheme was not available to soyabean oil manufacturers from September 1990.

In Wardha, in the assessment (November 1994) of a manufacturer of soyabean oil, tax including turnover tax was not levied on sales valued at Rs.39.93 lakh effected from 1 September 1990 to 31 March 1991. Purchase tax was also not levied. This resulted in short levy of tax of Rs.5.44 lakh.

On this being pointed out (February 1995), the Deputy Commissioner of Sales tax, Nagpur accepted the facts and stated that a revised order raising demand of Rs. 5.44 lakh against the dealer had been issued.

The matter was reported to Government in May 2000, their reply has not been received (October 2000).

2.18 Non-levy of tax

Under the provisions of the Maharashtra Sales Tax on the Transfer of property in goods involved in the execution of Works Contracts (Re-enacted) Act, 1989 resale of goods other than declared goods are allowed with effect from 1 January 1992 as deduction from the turnover of sales. The deduction is permissible provided the goods resold are purchased from dealers registered under the Bombay Sales Tax Act, 1959 and used in the execution of Works Contracts. Prior to 1 January 1992, such deduction was not allowable and therefore resale of goods other than declared goods was taxable at the rate of 8 *per cent.*

In Nagpur, while assessing six dealers for various periods falling between 1 October 1986 and 31 December 1991, deductions aggregating to Rs.167.41 lakh were allowed on account of resale from the turnover of sales instead of subjecting it to tax at the rate of 8 *per cent.* This resulted in under-assessment of Rs.24.80 lakh (including interest).

On this being pointed out in audit (June 1999), the department stated that the action for revising the assessment orders were being taken in all the six cases (April 2000). Report on action taken has not been received (October 2000).

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

CHAPTER 3 : Taxes on Motor Vehicles and Stamps and Registration Fees

SECTION A
TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of records of departmental offices conducted during the year 1999-2000 revealed short realisation or losses of revenue amounting to Rs. 29414.82 lakh in 960 cases as stated below :

Sr. No.	Category	No. of cases	Amount (In lakh of rupees)
1.	Non-levy/short levy , incorrect exemption etc. of motor vehicles taxes	951	84.50
2.	Miscellaneous items	8	93.54
3.	Review on working of the motor vehicles tax department	1	29236.78
	Total	**960**	**29414.82**

During the course of the year 1999-2000, the department accepted under-assessments *etc.*, in 752 cases involving Rs.64.77 lakh, of which 104 cases involving Rs.9.12 lakh had been pointed out during 1999-2000 and the rest in earlier years.

A few illustrative cases and a review on the working of the motor vehicles tax department involving financial effect of Rs. 173.23 crore are given in the following paragraphs :

3.2 Review on assessment and collection of taxes in the Motor Vehicles Department

3.2.1 Introduction :

Motor Vehicles Taxes are levied and collected in the State under the provisions of the Bombay Motor Vehicles Tax Act, 1958, the Bombay Motor Vehicles, (Taxation of Passengers) Act, 1958 and the Rules made thereunder. Besides, fees for licence, registration, fitness certificate, permit, appeal and amounts for compounding of offences are levied and collected under the provisions of the Motor Vehicles Act, 1988 and the Rules made thereunder by the Central Government and State Government.

3.2.2 Organisational Set-up :

The Transport Commissioner, Maharashtra State, Mumbai is the head of the Motor Vehicles Department and is assisted by a Joint Commissioner and eight Deputy Commissioners of Transport at Mumbai. For the administration and enforcement of the provisions of the Acts, the State is divided into ten regions[22] each under the charge of a Regional Transport Officer. Twelve sub-offices[23] under the charge of Deputy Regional Transport Officers and thirteen sub-offices[24] under the charge of Assistant Regional Transport Officers are also functioning. Besides, there are sixteen border check posts[25].

3.2.3 Scope of audit :

A test check of the records in the Motor Vehicles Department was conducted between August 1999 and March 2000 with a view to examining the correctness of assessments and collection of taxes. For this purpose, records in the office of the Transport Commissioner Mumbai, eight Regional Transport offices[26], seven Deputy Regional Transport offices[27], four Assistant Regional Transport offices[28] and two border check posts[29] for the years from 1996-97 to 1998-99 were test checked. The results of test check during review and short recovery/non-recovery noticed during local audit are detailed in the following paragraphs :

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[22] Amravati, Aurangabad, Kolhapur, Mumbai (C), Mumbai (E), Mumbai (W), Nagpur, Nashik, Pune and Thane

[23] Ahmednagar, Akola, Chandrapur, Dhule, Jalgaon, Kalyan, Pen, Pimpri-Chinchwad, Sangli, Satara, Shrirampur and Solapur

[24] Beed, Buldhana. Gadchiroli, Gondia, Jalna, Latur, Nanded, Osmanabad, Parbhani, Ratnagiri, Sindhudurg, Wardha and Yavatmal

[25] Achad, Borgaon, Chorwad, Deori, Dharni, Insuli, Kagal, Mandrup, Manegaon, Navapur, Omerga, Palasner, Pimpalkutti, Purnad, Rajura and Warur

[26] Mumbai (West), Mumbai (Central), Thane, Pune, Kolhapur, Aurangabad, Amravati and Nagpur.

[27] Dhule, Jalgaon, Kalyan, Raigad, Satara, Akola and Chandrapur

[28] Buldhana, Gondia, wardha and Gadchiroli

[29] Achad and Chorwad

3.2.4 Highlights

- **Tax arrears of Rs. 71.81 crore were not processed for recovery as arrears of land revenue.**

(Paragraph 3.2.6)

- **Non-levy/short levy of tax in respect of 733 vehicles amounted to Rs. 88.35 lakh.**

(Paragraph 3.2.7)

- **Non-inspection of transport vehicles resulted in loss of revenue of Rs. 3.29 crore.**

(Paragraph 3.2.8)

- **Incorrect assessment of tax in respect of 5 vehicles providing sleeping facility resulted in loss of Rs. 9.38 lakh.**

(Paragraph 3.2.10)

- **Three fleet owners incorrectly retained passengers tax and surcharge aggregating to Rs. 170.90 crore due to Government.**

(Paragraph 3.2.11)

- **Non-compounding/non-launching of prosecution proceedings for offences committed on road resulted in non-realisation of revenue of Rs. 52.19 lakh.**

(Paragraph 3.2.13)

3.2.5 Trend of Revenue

The Budget estimates, actuals and percentage of increase/decrease of revenue for the years from 1996-97 to 1998-99 were as under :

(Amount in crore of rupees)

Year	Budget estimates	Actuals	Variation increase (+) decrease (-)	Percentage of variation
1.	2.	3.	4.	5.
1996-97				
Taxes on vehicles	455.00	613.74	(+) 158.74	(+) 35
Taxes on passengers	315.42	200.87	(-) 114.55	(-) 36
1997-98				
Taxes on vehicles	540.00	752.07	(+) 212.07	(+) 39
Taxes on passengers	331.32	341.03	(+) 9.71	(+) 3
1998-99				
Taxes on vehicles	600.00	636.95	(+) 36.95	(+) 6
Taxes on passengers	358.64	281.02	(-) 77.62	(-) 22

Increase in receipts of taxes on vehicles was due to introduction of one time tax on cars (October 1996). The decrease in passengers tax during the years 1996-97 and 1998-99 was due to non-payment of full amount of tax by the Maharashtra State Road Transport Corporation.

3.2.6 Recovery of tax dues as arrears of land revenue

The Bombay Motor Vehicles Tax Act, 1958 provides for seizure and detention of a motor vehicle, in case of non-payment of tax.

In such cases the department issues demand notice to the registered owner of the motor vehicle stating that in the event of non-payment of tax within 10 days of receipt of the notice, recovery would be effected as per provisions of the Maharashtra Land Revenue Code, 1966.

According to the Revenue and Forests Department resolution dated 17 January 1991 the Collector of the District on the basis of information furnished by the Transport Commissioner has to notify the authority competent to exercise the powers under the Maharashtra Land Revenue Code.

However, demand notices continue to be issued upto a period of 36 months and even thereafter the revenue recovery certificates (R.R.C.) are rarely issued.

According to information furnished by ten offices[30] arrears of tax aggregating to Rs. 72.57 crore in respect of 258422 cases relating to the period upto 31 March 1999, were recoverable as arrears of land revenue. However, only 711 cases (0.27 *per cent* of total cases) involving tax of Rs. 75.80 lakh were referred to revenue authorities for recovery, of which Rs. 62.57 lakh in 465 cases were recovered. The remaining 257711 cases involving Rs. 71.81 crore were neither referred nor processed for recovery. Further, as per information furnished by four offices,[31] only 329 motor vehicles had been seized between October 1989 and March 1999 for default in payment of tax dues.

Failure to exercise the powers conferred under the Act resulted in non-recovery of the tax dues.

3.2.7 Non-levy/short levy of tax.

Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that the tax leviable shall be paid in advance by the registered owner of the vehicle. With effect from 1 October 1996, One Time Tax (O.T.T) is leviable in respect of four wheeler vehicles as a percentage of cost at the time of registration of the vehicle. In respect of

[30] Regional Transport offices - Aurangabad, Kolhapur, Mumbai (C), Mumbai (W), Pune Dy. Regional Transport offices – Dhule, Jalgaon, Kalyan, Pen and Satara.
[31] Aurangabad, Kolhapur, Kalyan and Mumbai (West)

vehicles owned by other than individuals, tax is levied at three times the rate of tax. Interest at the rate of two *per cent* of the amount of tax for each month is payable in case of default in payment of tax dues.

A test check of records in six Regional Transport Offices[32] and eight Deputy Regional Transport Offices[33] and six Assistant Regional Transport Offices[34] revealed that in respect of 693 vehicles, tax amounting to Rs. 82.82 lakh was neither paid by the vehicle owners nor any demand notices were issued by the department and in 40 cases tax aggregating to Rs. 5.53 lakh was short recovered as indicated in the following table :

(Amount in lakh of rupees)

Sr. No.	Location of the Office	No. of vehicles		Period of default	Amount due	
		Non-recovery	Short recovery		Non-recovery	Short recovery
1	Ahmednagar	14	--	October 1988 to September 1997	2.17	--
2	Aurangabad	27	13	November 1973 to February 1999	1.82	1.36
3	Beed	29	--	March 1996 to May 1998	1.32	--
4	Dhule	7	3	May 1992 to December 1998	0.17	0.13
5	Jalgaon	6	--	December 1995 to October 1996	0.30	--
6	Jalna	26	--	February 1996 to November 1998	1.55	--
7	Kalyan	32	1	July 1988 to April 1999	2.08	0.25
8	Mumbai (C)	17	4	August 1992 to October 1998	2.46	1.22
9	Mumbai (E)	180	2	June 1992 to October 1997	26.05	0.24
10	Mumbai (W)	78	--	December 1995 to June 1999	9.93	--
11	Nanded	52	--	July 1995 to May 1998	4.77	--
12	Osmanabad	5	--	January 1995 to May 1997	0.52	--

[32] Aurangabad, Mumbai (C), Mumbai (E), Mumbai (W), Pune and Thane

[33] Ahmednagar, Dhule, Jalgaon, Kalyan, Pen, Pimpri-Chinchwad, Satara and Solapur

[34] Beed, Jalna, Nanded, Osmanabad, Parbhani and Ratnagiri

Sr. No.	Location of the Office	No. of vehicles Non-recovery	No. of vehicles Short recovery	Period of default	(Amount in lakh of rupees) Amount due Non-recovery	Amount due Short recovery
13	Parbhani	75	--	July 1995 to April 1998	6.30	--
14	Pune	52	7	November 1996 to February 2000	13.46	1.07
15	Pen	18	--	May 1995 to November 1999	1.46	--
16	Pimpri-Chinchwad	10	--	March 1995 to April 1997	1.19	--
17	Ratnagiri	6	--	October 1996 onwards	0.38	--
18	Satara	--	2	December 1996 onwards	--	0.29
19	Solapur	59	--	April 1994 to February 1998	6.89	--
20	Thane	--	8	February 1995 to September 1997	--	0.97
	Total	**693**	**40**		**82.82**	**5.53**

On this being pointed out, the department recovered (between June 1998 and April 2000) Rs. 67.29 lakh (including interest) in respect of 401 vehicles. Report on action taken in the remaining cases has not been received (October 2000).

3.2.8 Non-Inspection of transport vehicles

Under the provisions of the Motor Vehicles Act, 1988 and Rules made thereunder, a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness. A fitness certificate granted under the Act in respect of a newly registered transport vehicle is valid for two years and is required to be renewed every year thereafter, on payment of the prescribed fee applicable to the category of the vehicle. Departmental instructions provide that the number of vehicles due for inspection every month be worked out and notices issued for physical production of the vehicles.

As per information made available by eleven offices the total number of inspections actually conducted was far less than the number of inspections required to be conducted during the years from 1996-97 to 1998-99 as shown in the following table :

Office	M.Vs. due for Inspection			M.Vs. Inspected			Balance		
	1996-97	1997-98	1998-99	1996-97	1997-98	1998-99	1996-97	1997-98	1998-99
Akola	6715	7961	9676	4960	4209	3377	1755	3752	6299
Amravati	7962	7339	9989	6635	6051	5405	1327	1288	4584
Buldhana	5346	4398	8843	3554	3197	7685	1792	1201	1158
Jalgaon	18906	21694	24161	6122	6727	6222	12784	14967	17939
Kolhapur	26482	19434	19458	13342	13055	12332	13140	6379	7126
Mumbai (West)	50587	59892	69354	37258	37258	41802	13329	22634	27552
Nagpur	52509	60303	63492	29125	30466	29654	23384	29837	33838
Pune	76809	92204	103125	9817	10825	8460	66992	81379	94665
Raigad	19526	33431	35282	6142	6306	6770	13384	27125	28512
Satara	7521	10147	12839	6134	7693	8592	1387	2454	4247
Thane	78865	92951	106297	51334	55162	79689	27531	37789	26608
Total :	**351228**	**409754**	**462516**	**174423**	**180949**	**209988**	**176805**	**228805**	**252528**
Grand Total :		**1223498**			**565360**			**658138**	

Four offices[35] did not furnish the required information.

On this being pointed out the department stated that the inspection could not be done due to non-production of motor vehicles for renewal of fitness as the vehicles were either under repairs, or tax was in arrears or were sold out of the State/Region or were under non use. The reply of the department was not tenable as in respect of 5 offices[36] as against 99451 vehicles in tax arrears, inspections were in arrears in 151529 cases as on 31 March 1999.

Non-inspection of the motor vehicles had not only resulted in the vehicles plying without valid fitness certificates jeopardising public safety but also non-recovery of Rs. 3.29 crore on account of inspection fees calculated at the minimum rate of Rs. 50 per inspection per vehicle.

3.2.9 Transfer of ownership without payment of tax

As per provisions of the Bombay Motor Vehicles Tax Act, 1958 a registered owner or any person having possession or control of a motor vehicle has to intimate in writing, in advance, to the taxation authority in the prescribed manner, that the vehicle will not be used or kept for use in the State during the period, specified in the declaration. If the vehicle on verification is not found at the address of non-use or is found to be used, the taxation authority can recover the tax for the period of non-use.

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[35] Mumbai (C), Dhule, Kalyan and Aurangabad

[36] Mumbai (W), Jalgaon, Kolhapur Pune and Satara

Further, if the tax leviable in respect of any motor vehicle remains unpaid by the person liable for the payment thereof, and such person before having paid the tax, transfers the ownership of such vehicle or ceases to be in possession or control of such vehicle, both the transferor and transferee are liable for payment of the tax (and interest due if any) to the Taxation Authority.

On scrutiny of records in 3 offices it was noticed that tax of Rs. 14.01 lakh was not levied and the motor vehicles were sold without payment of tax as detailed in the following table :

Sr. No.	Name of the office	M.V.No.	Period involved	Type of irregularity	(Amount in lakh of rupees)
1	Transport Commissioner Mumbai	MH-10-A 1503	1 September 1995 to 31 March 1996	The period of non use was not disallowed on the bus not being found at the declared place of garage during non- use. The bus was sold in March 1999.	2.63
2	RTO Thane	MH-04-G 1005	1 October 1996 to 3 August 1997	The vehicle hypothecated with New India Cooperative Bank was sold without payment of tax though non use period was not accepted by the Transport Commissioner .	7.52
3	RTO Pune	MH-12-FA 44 MH-12-FA 55	1 October 1997 to 18 August 1998	Despite the vehicles being brought on road from Nashik to Pune for obtaining fitness certificate during non-use period, non use certificate was not cancelled and tax recovered. The M.V.s were sold in September 1998.	3.86
				Total :	**14.01**

3.2.10 Loss of revenue in respect of sleeper coaches

Under the Bombay Motor Vehicles Tax Act, 1958 tax at the rate of Rs.4100 per annum, per passenger permitted to be carried as per seating arrangement is levied in respect of an Air Conditioned Contract Carriage (Tourist vehicle) owned by a private operator.

In Regional Transport Office Kolhapur, scrutiny of records of tourist vehicles revealed that 5 buses which were issued tourist permits, altered the seating arrangement into sleeping arrangement with the permission of the department and paid tax on the basis of the reduced carrying capacity after alteration.

The provisions in the Indian Motor Vehicles Act, 1988 do not provide for sleeping arrangement in tourist buses. The loss of revenue sustained owing to levy of tax on the basis of sleeping capacity for various periods falling between June 1996 and February 2000 worked out to Rs. 9.38 lakh.

3.2.11 Incorrect retention of Government money

As per Section 4 read with Section 5 of the Bombay Motor Vehicles (Taxation of passengers) Act 1958, every stage carriage operator is required to file a return in the prescribed form and pay the tax to the Tax Officer on or before the prescribed dates, failing which the tax officer at his discretion can levy penalty not exceeding 25 *per cent* of the tax due under Section 8 in addition to the tax.

A scrutiny of the records in Transport Commissioner's office revealed that the Passengers Tax and Surcharge of Rs.170.90 crore was collected by the fleet owners in the bus fares but was not credited to Government Account as detailed in the following table :

(Amount in crore of rupees)

Sr. No.	Name of the Fleet owner	Period	Amount not remitted		Total
			Tax	Surcharge	
1	Maharashtra State Road Transport Corporation , Mumbai (M.S.R.T.C.)	1996-97	107.96	0.19	108.15
		1998-99	56.96	--	56.96
2	Pune Municipal Transport (P.M.T.)	1997-98	1.35	1.23	2.58
	--do--	1998-99	1.52	1.17	2.69
3	Kolhapur Municipal Transport (K.M.T.)	1996-97	0.24	0.28	0.52
	Total :		**168.03**	**2.87**	**170.90**

There is a need for introducing a provision for levy of interest at the rate of 2 *per cent* per month on the amounts due as provided in the Bombay Motor Vehicles Tax Act, 1958 in addition to the discretionary provision for levy of penalty, to discourage retention of Government revenue by fleet owners. In Gujarat, the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 as in force provides for levy of interest at the rate of 12 *per cent* per annum.

3.2.12 Loss due to incorrect waiver of penalty.

Under the provisions of the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 the State Government on application call for and examine the record of any order made by any officer under this Act and pass necessary order. However, no application under this section shall be entertained if it is not made within a period of four months from the date of the order sought to be revised

A scrutiny of records relating to Pune Municipal Transport in the Transport Commissioner's office, Mumbai revealed that penalty of Rs. 53.57 lakh was imposed for default in payment of passengers tax of Rs. 214.29 crore for the period from August 1981 to September 1984. Similarly, for default in payment of taxes aggregating to Rs. 41.23 lakh for July 1989, October 1989 and November 1989, penalty of Rs. 10.31 lakh was levied. While the tax dues were paid, penalty aggregating to Rs. 63.88 lakh was not paid.

The operator had in his letter dated 8 June 1990 admitted delay in payment of tax and requested for waiver of the penalty of Rs. 63.88 lakh. This request was accepted by the Government (March 1999).

Since the application was not made within the period of four months, the waiver of penalty was without basis. This resulted in loss of Rs. 63.88 lakh.

3.2.13 Non-compounding and non-launching of prosecution under "On road enforcement function"

The Motor Vehicles Tax Act, 1988 prescribes the procedure for compounding of offences. The rate of compounding amount prescribed for each type of offence is notified by Government from time to time.

(a) A test check of records of prosecution cases under "On road enforcement function" revealed that the monthly progress reports prescribed by the department did not indicate the number of cases pending for compounding of offences or launching prosecution proceedings at the end of the month. Consequently, there was no control to ensure that the cases were not barred by limitation of six months for taking cognizance of offences.

According to information furnished by seven offices of the department the number of cases of offences detected and pending during the years from 1996-97 to 1998-99 were as under:

Sr. No.	Location of office	1996-97		1997-98		1998-99	
		Detected	Pending	Detected	Pending	Detected	Pending
1	Thane	2672	1003	2255	995	1181	384
2	Pune	8151	441	13362	5360	14522	5321
3	Pen	2767	185	3023	148	3384	402
4	Dhule	2083	1205	2137	955	1992	1154
5	Satara	1505	--	1906	--	5176	14360*
6	Kolhapur	4125	--	3451	--	8277	15974*
7	Aurangabad	2890	203	2398	407	9268	3695
	Total :	**24193**	**3037**	**28532**	**7865**	**43800**	**41290**

* *Indicates total cases pending as on 31/03/1999.*

Except for two offices located at Satara and Kolhapur none of the other offices had maintained record of the pending prosecution cases. Therefore the pendency for earlier years in respect of other offices was not available. Even at the minimum rate of Rs. 100 for compounding of offence the revenue that could have been realised would amount to Rs. 52.19 lakh in respect of these 52192 cases.

On this being pointed out in audit the department stated that prosecution could not be launched as the court insisted on production of the registered owner and driver, which could not be ensured. This however affirms the audit observation that compounding could have been resorted to in these cases bringing revenue to the Government.

(b) The amount recoverable for compounding of offence of driving a motor vehicle whose laden weight exceeds the gross vehicle weight specified in the certificate of registration was revised (with effect from 24 June 1996) to Rs. 2000 plus Rs. 500 per tonne or part thereof of excess load.

During the course of audit of records maintained in the offices of the Deputy Regional Transport Officer, Pen, Dhule, Kalyan and Regional Transport Officer, Aurangabad, it was noticed (between October 1999 and February 2000) that in 88 cases, offences were compounded between 24 June 1996 and 2 September 1996 at the pre revised rate resulting in short recovery of Rs. 5.14 lakh.

On this being pointed out (between October 1999 and February 2000), the departmental officers stated that as the notification was received late the offences were compounded at pre revised rate. Failure to levy and recover amounts at the revised rate for compounding of offences resulted in loss of revenue of Rs. 5.14 lakh.

The above points were reported to Government between April 2000 and June 2000; their reply has not been received (October 2000).

SECTION B

STAMPS AND REGISTRATION FEES

3.3 Results of Audit

Test check of records of Stamps and Registration fees conducted during the year 1999-2000 revealed under-assessment/short levy/non-levy of duty etc., of Rs. 8418.15 lakh in 570 cases which broadly fall under the following categories :

Sr. No.	Category	Number of cases	Amount (in lakh of rupees)
1.	Short levy due to misclassification of documents	47	126.26
2.	Incorrect grant of exemption from payment of duty and fees	57	47.45
3.	Short levy due to under valuation of property	45	46.64
4.	Non-levy of stamp duty and registration fees on instruments executed by a co-operative society	1	0.94
5.	Other irregularities	419	631.19
6.	Review on determination of market value of the properties for the purpose of levy of stamp duty	1	7565.67
	Total	**570**	**8418.15**

During the year 1999-2000, the department accepted under-assessments/short levy etc., of Rs. 144.37 lakh in 382 cases pointed out in earlier years and recovered the same.

A few illustrative cases highlighting non-realisation of stamp duty and registration fees of Rs. 181.37 lakh and a review on "Determination of market value of the properties for the purpose of levy of stamp duty" involving financial effect of Rs. 75.66 crore are given in the following paragraphs.

3.4 Review on determination of market value of the properties for the purpose of levy of stamp duty

3.4.1 Introduction

To safeguard the financial interest of the Government against evasion of stamp duty by under valuation of properties, Sections 31(3), 32-A, B, C and 53 of the Bombay Stamp Act, 1958 empowers the Collector to undertake valuation of the market value of the properties. If a registering officer while registering any instrument of conveyance, certificate of sale or power of attorney etc., has reason to believe that the market value of the property given in the instrument has not been truly set forth, he may, before registering such instrument, refer the instrument to the Collector for determination of the true market value and proper stamp duty payable thereon.

The Bombay Stamp (Determination of True Market Value of Property) Rules, 1995 prescribes the procedure to be followed by the registering officer for determining the market value of the property with the help of an annual statement of average rate (also called guidelines or ready reckoner) prepared by the Joint Directors of Town Planning and Valuation. The Joint Directors of Town Planning and Valuation have been preparing the annual statement of average rates every year since 1989. Further, as per circular dated 17 March 1993 issued by the Inspector General of Registration, where vast differences between the market rate as per the aforesaid statement and the rate determined by the Collectors exist, the cases are to be referred to the Joint Director of Town Planning and Valuation for his advice.

3.4.2 Organisational set up

The Joint District Registrars (Class I) posted in each District function as Collector and work under the administrative control of six Regional Deputy Inspector Generals of Registration and Deputy Controllers of Stamps. The Superintendent of Stamps works as Collector for Greater Mumbai and its suburbs. The registration of the documents are done in the offices of the Sub-Registrars. The overall control of the department rests with the Inspector General of Registration, Pune.

3.4.3 Scope of Audit

A test check of records relating to determination of the market value of properties referred to the Joint District Registrars (Class I) for the period from January 1994 to December 1999 was conducted between January 2000 and

April 2000 in six[37] out of the thirty one registration districts to assess the effectiveness of determination of the true market value and levy/collection of proper stamp duty. Results of the test check are mentioned in the following paragraphs.

3.4.4 Highlights

- **Stamp duty of Rs. 155.05 crore remained un-recovered in respect of 7.52 lakh cases valued during 1980-81 and 1998-99.**

(Paragraph 3.4.5)

- **As of 31 March 1999, 3.27 lakh cases were pending for valuation for periods ranging from one to twenty years.**

(Paragraph 3.4.6)

- **Failure to refer the cases to Collector for determination of market value resulted in short levy of stamp duty and registration fees amounting to Rs.30.69 crore in 159 cases.**

(Paragraph 3.4.7)

- **Levy of stamp duty on the basis of apparent values of the properties certified by the income tax department resulted in loss of revenue of Rs.33.11 crore.**

(Paragraph 3.4.9)

- **Adoption of incorrect rates for valuation of properties covered in 187 instruments resulted in short levy of stamp duty and registration fees amounting to Rs.3.49 crore**

(Paragraph 3.4.10)

3.4.5 Recovery

As on 31 March 1999 recovery of Rs. 79.38 crore (in 385568 cases) where RRCs were issued and Rs. 75.67 crore (in 366034 cases) where RRCs were not issued were pending collection.

The yearwise position of the cases where recovery of duty was pending is detailed in the following table :

[37] Nagpur, Amravati, Nashik, Solapur, Pune and Mumbai.

(Amount in lakh of rupees)

Year	No. of cases pending as on 31 March	Cases valued but recovery not effected			
		Cases where RRCs issued		Cases where RRCs not issued	
		No. of cases	Amount involved Rs.	No. of cases	Amount involved Rs.
upto 1989-90	527697	1673	75.74	6730	99.11
1990-91	659392	663	11.92	1263	15.54
1991-92	746235	799	13.93	1441	24.08
1992-93	840152	1183	27.95	782	27.54
1993-94	1194246	964	33.18	865	30.32
1994-95	884929	472	8.76	483	12.47
1995-96	671803	270	2.94	90	3.14
1996-97	44275	108252	2577.59	103050	2498.64
1997-98	456974	134335	1778.58	126483	1675.18
1998-99	327475	136957	3407.60	124847	3180.95
		385568	**7938.19**	**366034**	**7566.97**

3.4.6 Delay in disposal of the cases pending for valuation

Under the provisions of Section 32-A of the Bombay Stamp Act, 1958, if the registering officer while registering any instrument, had reason to believe that the market value of the property had not been truly set forth, he could, before registering such instrument, refer a true copy of the instrument to the Collector for determination of true market value and proper duty payable thereon. In respect of instruments for registration after 14 September 1996, the registering authority would have to refer such cases to the Collector after issue of notices to the concerned parties. No time limit has been prescribed for completion of valuation by the Collectors in the cases referred to them after action has been initiated.

(i) As of March 1999, 3.27 lakh valuation cases were pending for 1 to 20 years. The agewise details of the pending cases were not available with the department. However, it was noticed by audit that in Mumbai and its Sub-urban area, 22236 cases registered in six sub-registries and referred to the Superintendent of Stamps, Mumbai for determination of true market value between 1980 and 1999 for levy of stamp duty and registration fees were pending as of March 2000, despite notices having been served to the concerned parties. Non-finalisation of these cases resulted in non-levy of stamp duty of Rs.7.51 crore.

(ii) In the offices of the Joint District Registrars, Nashik, Pune and Amravati, 23 cases of conveyance executed between 1988 and 1998 and received from various sub-registrars were kept pending for 2 to 12 years without determining the true market value. This resulted in non-realisation of stamp duty of Rs.18 lakh and registration fees of Rs.1 lakh on the valuation made with reference to the ready reckoner. On this being pointed out by Audit (February and April 2000), the Joint District Registrars stated that notices are being issued again to the concerned parties and action would be taken as early as possible.

3.4.7 Cases not referred to the Collector

Short levy of duty due to non-determination of market value

In Mumbai, 159 instruments of conveyance relating to sale of properties measuring 3628326 square feet registered by the Sub-Registrar 'Bom' series, and 'S' series Mumbai and Andheri for considerations lower than the market value during the period between 1994 and 1999 were not referred to the Superintendent of Stamps, Mumbai for determination of the true market value. The cases were pending for one year to six years though they were required to be referred to the Superintendent of Stamps, Mumbai within one month. As against the stamp duty and registration fees of Rs. 70.84 crore leviable with reference to the market rate specified in the ready reckoner, stamp duty of Rs. 40.15 crore only was levied resulting in short levy of stamp duty and registration fees of Rs. 30.69 crore.

On this being pointed out (January to March 2000) the Sub Registrar accepted the omission. Report on action taken has not been received (October 2000).

3.4.8 Cases time barred-Loss of revenue due to inaction of the department

Government vide circular dated 9 February 1989 prescribed that action in valuation cases referred to the Collector should be taken within six years which was subsequently extended to eight and ten years with effect from 1 March 1989 and 14 May 1997 respectively. Cases where no action was taken during the prescribed period would become time barred.

During audit it was noticed that no action for finalisation was taken on 15198 cases involving deficit stamp duty of Rs.66.70 lakh pending in the offices of the Joint District Registrars, Wardha, Bhandara, Chandrapur and Nagpur since 1981 and 1982 (March 2000). Since the cases were pending for more than 10 years (17 to 19 years) they were time barred. In addition, 1387 cases where deficit stamp duty was not determined were also time barred due to inaction on the part of the department from 1981-82. The revenue involved in these 16585 cases was a loss to Government.

3.4.9 Loss due to determination of stamp duty on value certified by the Income Tax Department

Under proviso to sub-rule 6 of Rule 4 of the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995 with effect from 14 August 1995 the market value of the property for the purpose of levy of stamp duty was the same as certified by the Appropriate Authority under the Income Tax Act, 1961. Prior to this market value was based on the ready reckoner approved by the Chief Revenue Authority. However, as per Section 269 UL of the Income Tax Act, 1961 the certificate is required to be issued based on the apparent value and not on actual market value. On this being pointed out by audit (December 1997), the Inspector General of Registration, Pune after examination recommended (4 May 1999) to Government to cancel the said provision as the certificate furnished by the Income Tax department was for apparent value of the property and in many cases, the apparent value was much lower than the market value and hence detrimental to the interest of revenue.

A test check of the records in Mumbai revealed that in 44 instruments of conveyances/ agreements for sale registered by the Sub-Registrars 'Bom' and 'S' series, Mumbai, between the years August 1995 and 1999, the market value certified by the appropriate authority under the Income Tax Act, 1961 was based on the apparent value of Rs.603.61 crore while the market value of the instruments amounted to Rs.996.46 crore as per annual statement of average rate (ready reckoner). This resulted in loss of stamp duty and registration fees of Rs.33.11 crore.

3.4.10 Short levy of stamp duty and registration fees due to under valuation of properties

(a) Under the provisions of Section 32-A of the Bombay Stamp Act, 1958 in cases of vast difference between the market value fixed as per the annual statement of rates and as determined by the registering officers or collector, such cases are to be referred to the concerned Joint Director of Town Planning and Valuation for his advice.

(i) In Nagpur and Mawal, the value of properties stated in 12 instruments registered by the Sub-Registrars and finalised/decided by the Joint District Registrars, of Nagpur and Pune, between 1988 and 1999 involved deficit stamp duty of Rs.9.22 lakh due to adoption of inappropriate rates as indicated in the following table :

Sr. No.	Name of the Sub-Registrar/ JDR	Document No.	Area in Sq. mtr.	Rate applicable Rs.	Rate applied Rs.	Amount of difference/ under valuation Rs.	Short levy		Remarks
							Stamp duty Rs.	Registration Fees Rs.	
1	S.R. Nagpur No.1	5776 30/06/99	70600	230500 per hectare	68400 per hectare	1144426	45773	11440	Rate applicable to Jangal and Pahad adopted.
2.	S.R. Mawal Pune	506 14/11/91	3000	1200 per square metre	337.50 per square metre	1627500	162750	--	Rates applicable to survey No. not applicable to municipal limits adopted.
3.	S.R. Nagpur No.6	1726 (P) 05/11/98	23600	265 per square metre	90 per square metre	1583000	134555	10010	Rates applicable to the zone not adopted.
4.	S.R. Nagpur No.1	3531 22/04/99	7000	275 per square metre	83 per square metre	583772	23200	5730	Rate applied for document registered in 1994 adopted.
5.	S.R. Nagpur No.7	499 10/03/99	278.708 square metre 200 square feet kachha house	1910 per square metre for plot 2000 per square metre	1120 per square metre for plot 2000 per square metre for built up area	201687	18127	2020	Auction value of NIT for plot in Bidipeth adopted.
6	S.R. Nagpur No.1	6672 13/07/98	8100	220 per square metre	25 per square metre	660803	26420	6620	Rate applied for document of 1994 increased by 10 *per cent* for every year and decrease by 30 *per cent* adopted.
7	S.R. Nagpur No.1	1765 (P) 24/02/98	6900	265 per square metre	73 per square metre	544132	35990	5440	Rate applicable to the zone/ward not adopted
8	-do-	1832 (P) 27/02/98	6900	265 per square metre	73 per square metre	5444132	35990	5440	-do
9	S.R. Nagpur No.6	2359 (P) 24/12/98	8300	265 per square metre	90 per square metre	791200	67235	7910	No documentary evidence for rate of Rs.90 per square metre adopted.
10	S.R. Nagpur No.9	962 19/04/99	552.435 per square metre 390.189 built up	5280 per square metre 1970 per square metre	1890 and 2170 per square metre 1700 per square metre	1759354	158820	1130	Rate of Rs.1241 per square metre applied for document of 1995 adopted.
11	S.R. Mawal Pune	1315 30/03/88	11800	360 per square metre	105 per square metre	1571700	78600	---	Market value of Rs.300 per sq metre reduced by 65 *per cent* adopted.
12	S.R. Mawal Pune	4079 26/08/88	11800	360 per square metre	105 per square metre	1571700	78600	---	--do--
						Total :	**866060**	**55740**	

(ii) In Mumbai, in 25 cases (deficit stamp duty of Rs.2.19 crore) decided by the registering officers 'Bom' series and 'S' series and 148 cases (deficit stamp duty of Rs.41.53 lakh) registered by the registering officers at Nagpur, Kamptee, Amravati, Mawal . Pandharpur, Nashik and Jalgaon and decided by the Joint District Registrars, Nagpur, Amravati, Jalgaon, Pune, Nashik and Solapur, adoption of rates lower than the rates prescribed in the ready reckoner were noticed. As a result of adoption of inappropriate rates from the ready reckoner, the market rates determined by the authorities were much lower than the correct rates. This resulted in undervaluation of the properties. Consequently, stamp duty and registration fees of Rs.2.63 crore were short levied. The variation between the value determined by the Joint District Registrars and the true market value as per ready reckoner in these cases varied from 11 *per cent* to 59 *per cent* of the true market value.

On this being pointed out by Audit (November 1999 and February 2000), the Sub-Registrar, Mumbai agreed to recheck the valuation of the cases in consultation with the Assistant Director of Town Planning. In the other cases the Joint District Registrars concerned stated that they are competent to deal with the valuation under Section 32 A of the Bombay Stamp Act, 1958 by applying various methods of valuation instead of relying on the annual statement of rates. The contention of the department was not tenable as the cases where vast differences between the annual statement of rates and the departmental rates were noticed were required to be referred to the Joint Director of Town Planning and Valuation for his advice.

(b) As per circular instructions (May and September 1999) of the Inspector General of Registration, if the purchaser of the property is a person other than the tenant, the value of the property is to be determined on the basis of the ready reckoner for levy of stamp duty. However, if the purchaser is a protected tenant (prior to 1 February 1973), the market value is to be determined at the concessional rate prescribed in the instructions of 1 January 1998.

In two instruments of conveyance registered by the Sub-Registrar 'S' series, Mumbai, on 9 October 1998 and 22 October 1998, stamp duty on the consideration decided between the vendors and the purchasers other than the tenants was levied at Rs.6.30 lakh instead of at Rs.82.97 lakh leviable on the market value of Rs.829.67 lakh. This resulted in short levy of stamp duty of Rs. 76.67 lakh and registration fees of Rs.0.08 lakh.

On this being pointed out by audit (January 2000) the department stated that the market values of the properties is determined on the terms of tenancy as the tenants are under tenancy right after 1973. The reply was not tenable as the properties were sold to persons other than tenants as shown in the deeds.

3.4.11 Non-maintenance of records

In January 1986, the Inspector General of Registration, Pune issued instructions to the Sub-Registrars to maintain scrutiny sheets and a register for keeping records of the scrutiny of the documents and references made to the

Joint District Registrars. In March 1996, the Inspector General of Registration supplied the proforma in which the register of pending cases was to be maintained. Audit scrutiny revealed that none of the six offices of Sub-Registrars test checked maintained the prescribed register. Therefore, the nature of scrutiny exercised by the Sub-Registrars and the correctness of cases referred or not referred to the Joint District Registrars could not be verified in audit.

Similar instructions for maintenance of valuation Register and the proforma in which the register of pending cases was to be maintained were issued to the Joint District Registrars in January 1986 and March 1996 respectively. None of the six offices of Joint District Registrar test checked maintained the said Register. In the absence of maintenance of the prescribed register, the correctness of the monthly return being sent to the Inspector General of Registration could not be checked by audit.

The above points were reported to the department and Government in July 2000; their reply has not been received (October 2000).

3.5 Short levy of stamp duty due to undervaluation of property

As per Article 25 (b) (vi) (a) of Schedule I to the Bombay Stamp Act, 1958 in respect of a property situated within the limits of Municipal Corporation of Greater Bombay, stamp duty is leviable on the market value of the property at the rate of fifty rupees per every five hundred rupees and part thereof.

Four[38] instruments of conveyance, gift and agreements to sell were registered in the offices of four[39] Sub-Registrars between October 1990 and January 1997. The Sub-Registrars levied stamp duty on the consideration of Rs.31.40 lakh set forth in the instruments instead of the market value of Rs.137.55 lakh. Consequently, as against stamp duty of Rs.13.76 lakh required to be levied, only Rs.2.99 lakh was levied. Further, in three[40] cases, the registration fees levied was Rs.0.18 lakh against Rs.0.35 lakh leviable. This resulted in short levy of stamp duty of Rs. 10.77 lakh and registration fees of Rs.0.25 lakh.

On this being pointed out in audit (April 1994, September 1997 and July 1998), the Inspector General of Registration accepted the omissions and stated that the amount short levied would be recovered. Report on action taken for recovery has not been received (October 2000).

The matter was reported to Government in June 2000; their reply has not been received (October 2000).

[38] BOM (1 No), S series (1 No.) Mumbai, Haveli-I (1 No) Pune, No.II Thane (1 No).

[39] BOM Series , S Series, Mumbai, Haveli-I Pune, S.R. No.II, Thane .

[40] BOM Series Doc No. P/BBE/2772, S Series Mumbai Doc. No. BBJ-191/96 and SR No. II, Thane Document No. 640/96

3.6 Short levy of stamp duty due to mis-classification of documents

(a) According to Explanation 1 below Article 25 of Schedule 1 to the Bombay Stamp Act, 1958 and Section 2 (g) of the Act, every instrument by which possession of immovable property or interest therein is transferred or agreed to be transferred to the vendee becomes a conveyance attracting stamp duty.

In six[41] Sub-Registries, ten agreements executed between October 1996 and February 1999, handing over possession of immovable properties by the vendors to the developers or transferring interests therein for consideration/market value of Rs.475.05 lakh were chargeable with stamp duty at the rates applicable to 'conveyance deed'. But they were incorrectly charged with stamp duty applicable to 'Agreement.' This resulted in short levy of stamp duty amounting to Rs. 40.85 lakh.

On this being pointed out (between January 1994 and December 1999) in audit, the Inspector General of Registration stated (April 2000) that in these agreements, the developers were entrusted with the work of development of lands for construction of flats/buildings and as such they were agreements for development and hence stamp duty as applicable to such agreements was levied. The reply of the Inspector General of Registration is not tenable as only agreements to develop the land without transferring possession of the land or interest therein can be treated as agreements for development. Further, in the above mentioned cases, the development work agreed to be done by the developers was actually carried out after transfer of possession of the land or interest therein .

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

(b) Under the provisions of the Bombay Stamp Act, 1958 and the Rules framed thereunder, stamp duty is leviable at concessional rate, if apartments/flats are used for residential purposes and at normal rate, if they are used for commercial purposes.

A test check of the records of Sub-Registry 'Bom' Series, Mumbai revealed that in the case of an instrument of conveyance (flat) executed for Rs. 4.00 crore, stamp duty was levied at Rs. 31.59 lakh at the rates applicable for residential purpose. However, a perusal of the deed revealed that the said property was used for commercial purpose for which market value was Rs. 9.34 crore and stamp duty of Rs. 93.40 lakh was leviable thereon. The stamp duty short levied amounted to Rs. 61.86 lakh.

On this being pointed out by audit in February 2000; the Sub-Registrar stated that notice would be served for recovery of the deficit stamp duty (February 2000).

[41] Borivali, Nagpur III and IX, Pune, Solapur and Thane.

3.7 Short levy of stamp duty on lease deeds

As per the explanation I below Article 36 (c) of Schedule I to the Bombay Stamp Act, 1958, where lease is granted after imposing a fine or premium or security deposit, in addition to the lease rent, duty under Article 25 of the Act is leviable on the fine or premium or security deposit.

(a) In Sub-Registry, 'S' Series, Mumbai and Nagpur-VII, in three lease deeds executed between November 1994 and May 1996 for considerations aggregating to Rs.174.32 lakh (comprising average annual rent of Rs.154.62 lakh, premium of Rs.5.70 lakh and security deposit of Rs.14 lakh), duty on the amount of premium and security deposit was not levied. As against leviable stamp duty of Rs.15.22 lakh , only Rs.8.68 lakh was levied resulting in short levy of stamp duty of Rs.6.54 lakh.

On this being pointed out (between May 1996 and October 1997) in audit, the Inspector General of Registration accepted the omission (November 1998 and April 1999). Report on action taken to recover the amount short levied has not been received (March 2000).

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

(b) Scrutiny of records of Superintendent of Stamps, Mumbai in February 2000 revealed that while adjudicating a case of lease deed executed in July 1997 between M/s Glaxo India Limited Works, Mumbai (lessor) and the Hongkong and Shanghai Banking Corporation Limited (lessee), the Superintendent of Stamps, Mumbai levied stamp duty of Rs.1.62 crore on the annual average rent of Rs.5.40 crore. However, the Superintendent of Stamps, Mumbai did not consider an advance of Rs.5 crore given by the lessee to the lessor as security for due performance, observance and compliance of the terms and conditions of the lease for the purpose of levying stamp duty. This resulted in short-levy of stamp duty of Rs 50 lakh.

On this being pointed out by Audit (February 2000), the Superintendent of Stamps, Mumbai stated that final reply would be furnished to Audit in due course after scrutiny. The comments of the Inspector General of Registration called for in March 2000 were awaited (October 2000).

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

3.8 Short levy of stamp duty due to incorrect calculation

Stamp duty is required to be levied at the rates prescribed in the Schedule I to the Bombay Stamp Act, 1958.

In one instrument conveying the property (flat) valued at Rs.680 lakh and registered by the Sub-Registrar 'Bom' Series Mumbai on 12 February 1996,

stamp duty of Rs.53.99 lakh was leviable as against Rs.42.89 lakh incorrectly calculated and levied resulting in short levy of stamp duty of Rs.11.10 lakh.

On this being pointed out (March 2000), the Sub-Registrar, Mumbai stated that the matter was under correspondence with the Deputy Inspector General of Registration.

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

CHAPTER 4 : Land Revenue

4.1 Results of audit

Test check of records of Land Revenue conducted during the year 1999-2000 revealed under-assessment/short levy of revenue etc., amounting to Rs.4128.84 lakh in 346 cases which broadly fall under the following categories :

Sr. No.	Category	No. of cases	Amount (In lakh of rupees)
1.	Non-levy/short levy of NAA, ZP/VP cess and conversion tax and royalty	247	2358.68
2.	Non-levy/short levy of increase of land revenue	19	760.02
3.	Non-levy/short levy of occupancy price etc.	29	358.20
4.	Short levy of measurement fees, Sanad fees etc.	51	651.94
	Total	**346**	**4128.84**

During the course of the year 1999-2000, the department accepted non-levy/short levy etc., of Rs. 238.31 lakh involved in 98 cases pointed out in audit during 1999-2000 and in earlier years and recovered the same.

A few illustrative cases, noticed during 1999-2000 and earlier years involving Rs.139.28 crore are mentioned in the following paragraphs.

4.2 Non-levy of non-agricultural assessment, increase of land revenue, Z.P./V.P.[42] cess and conversion tax

As per the Maharashtra Land Revenue Code, 1966 land revenue is assessed with reference to the use of land such as agricultural, residential, industrial, commercial or any other purpose. Further, the assessment or re-assessment of non-agricultural land remains in force during the guarantee period, if any, mentioned in the assessment order. After expiry of the guarantee period, the land revenue is to be revised in accordance with the standard rates applicable for non-agricultural purposes. As per the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974, a tax called increase of land

[42] Zilla Parishad, Village Panchayat Cess

revenue (ILR)) is leviable at 50 *per cent* of the land revenue on persons holding 8 to 12 hectares of land and at 100 *per cent* on those holding 12 hectares and above. Similarly, under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and the Bombay Village Panchayat Act, 1958 cess at prescribed rate is also leviable in the areas covered by the Acts. In cases where such land is situated within the areas of Municipal Corporation and A or B class Municipal Councils, conversion tax equal to three times the amount of non-agricultural assessment is also leviable when permission for non-agricultural use or change of use of the land is granted under the Maharashtra Land Revenue (Amendment) Act, 1979.

(a) In three[43] tahsils land measuring 141611 square metres situated within the limits of Municipal Corporation/A or B class Municipal Councils was put to non-agricultural use during 1979 to 1999, but non-agricultural assessment, increase of land revenue, conversion tax and cess were either not levied or levied short. This resulted in short levy of revenue amounting to Rs.33.74 lakh as indicated in the following table :

(Amount in lakh of rupees)

Name of Tahsil	Area in square metre/Purpose/Period	Non/short levy of land revenue			
		N.A.A	I.L.R.	Z.P./V.P. Cess	Conversion tax
Junner	16600 / Commercial 1981-82 to 1998-99	0.97	1.04	4.05	
Jintoor	106090 / Commercial 1-8-79 to 1998-99	14.76	7.39		
Udgir	18921 / Residential 1991-92 to 1998-99	4.10			1.43
		19.83	**8.43**	**4.05**	**1.43**

On this being pointed out (between July 1997 and February 1999), the Tahsildar Jintoor recovered Rs. 2.38 lakh (January and March 1999). Report on action taken to recover the balance of the amounts has not been received (October 2000).

The cases were reported to Government between March and May 2000; their reply has not been received (October 2000).

(b) In Karvir Tahsil, District Kolhapur, 6.55 hectares of agricultural land was put to residential use from 1 November 1994 by an individual. Audit scrutiny of the records of the Tahsildar, Karvir Tahsil in December 1996 disclosed that permission granted by the Collector, Kolhapur to the individual for using the agricultural land for non-agricultural purposes was not recorded by the Tahsildar in the records. Due to this omission, demand for Rs.4.89 lakh comprising non-agricultural assessment tax of Rs.0.46 lakh and Zilla Parishad/Village Panchayat cess of Rs.4.43 lakh for the period from 1994-95 to 1999-2000 was not raised.

[43] Jintoor, Junner, Udgir

On this being pointed out by Audit in December 1996, the Tahsildar, Karvir accepted the omission and stated that the demand would be raised (February 1999). Report on action taken has not been received (May 2000).

The matter was reported to Government in May 2000; their reply has not been received (October 2000).

(c) In Solapur Tahsil, agricultural land measuring 8.296 hectares was put to commercial use by three persons between 1968 and 1973, for which non-agricultural assessment was guaranteed upto July 1979 and July 1991. Audit scrutiny in February 1999 disclosed that after expiry of the guarantee periods in August 1979 and August 1991, the Tahsildar, Solapur incorrectly revised the non-agricultural assessment at the rate of twice the prevailing non-agricultural assessment tax instead of six times. This resulted in short levy of non-agricultural assessment tax of Rs.6.15 lakh.

On this being pointed out by Audit in May 1999, the Tahsildar, Solapur accepted the omission. Report on action taken has not been received (October 2000).

The matter was reported to Government in March 2000; their reply has not been received (October 2000).

(d) In 14[44] Tahsils, land measuring 48.34 lakh square metres held by 16 sugar factories were put to industrial use. However, land revenue was not assessed for non-agricultural use during the period from 1961-62 to 1999-2000. This resulted in non-levy of non-agricultural assessment of Rs. 27.41 lakh, increased land revenue of Rs. 27.34 lakh and cess of Rs.200.07 lakh.

On this being pointed out (January 2000), 4 Tahsildars (January and February 2000) accepted the non-levy to the extent of Rs. 181.63 lakh. In the remaining tahsils[45] the Tahsildars stated (February 2000) that action for recovery would be taken after verification.

(e) Lands measuring 3.18 lakh square metres situated in Bidri village of Kagal Tahsil and Loni village of Shrirampur Tahsil were put to industrial use by Co-operative Sugar Factories with effect from 1971-72. The land was assessed to land revenue during the guarantee period upto 1980-81. By notifications dated 27 November 1980 and 2 April 1981, the village Bidri and Loni were classified as class I villages and standard rates of assessment at 2 paise per square metre was fixed. However, the non-agricultural assessment on expiry of the guarantee period was not revised but continued to be recovered at the old rate. This omission resulted in short realisation of revenue of Rs.6.93 lakh consisting of non-agricultural assessment of Rs. 1.17 lakh, increase of land revenue of Rs. 1.07 lakh and cess of Rs. 4.69 lakh.

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[44] Ahmedpur, Baramati, Billoli, Islampur, Kagal (2), Karad, Kopergaon, Latur, Newasa, Nanded, Niphad, Panhala, Satara (2), Srigonda

[45] Ahmedpur, Billoli, Islampur, Karad, Kopergaon, Latur, Nanded, Newasa, Niphad, Satara (2)

On this being pointed out (January 2000) by Audit, the Tahsildar, Kagal Tahsil stated (January 2000) that the amount would be recovered. In the other case the Tahsildar replied that the action would be taken after verification.

(f) In 2[46] tahsils lands measuring 6.78 lakh square metres were put to industrial use by Co-operative Sugar Factories from 1990-91 onwards. Non-agricultural assessment was levied at the rate of Rs.0.06 per square metre, instead of the prescribed rate of Rs.1.02 per square metre, which resulted in short realisation of revenue amounting to Rs.2.57 lakh. The Tahsildars stated (January 2000) that the omission would be verified and action would be taken accordingly.

4.3 Non-levy of occupancy price and interest

Under the provisions of the Maharashtra Land Revenue Code, 1966 and the Rules framed thereunder, Government land may be allotted by the State Government for industrial or commercial purposes on payment of occupancy price as may be fixed by the Government. For failure to pay occupancy price in time, interest is also leviable.

In Borivali Taluka, land measuring 514.0408 acres was allotted to the Maharashtra Film Stage and Cultural Development Corporation Limited for establishing a 'Film City' between 1977 and 1980 through the Social Welfare, Cultural Affairs, Sports and Tourism Department. However, occupancy price was not fixed and recovered. This resulted in non-realisation of revenue of Rs.108.38 crore comprising occupancy price of Rs.32.99 crore and interest of Rs.75.39 crore.

The matter was reported to Government in January 2000. The Revenue and Forests Department stated (January 2000) that the connected file was missing. The Social Welfare, Cultural Affairs, Sports and Tourism Department had also not taken any action in this regard.

4.4 Non-recovery of premium and royalty

As per Section 176 of the Maharashtra Land Revenue Code arrears of land revenue can be recovered by serving a written notice of demand on the defaulter on or after the day following that on which the arrears accrue. Further, as per the Government resolution No.LND 1092 dated 30th June 1992, the outstanding government dues attract interest at the rate of fifteen *per cent* per annum.

[46] Billoli Tahsil (Nanded District) and Baramati Tahsil (Pune District)

Government of Maharashtra, Revenue and Forests Department vide resolution dated 14 March 1995, allotted 476.23 hectares of land located at Tahsil Palghar, District Thane, to M/s King Prawns Ltd. The land was allotted for manufacture of salt on 376.23 hectares and prawn farming in 100 hectares for 25 years and 30 years respectively. The possession of the land was given to the firm on 6 April 1995.

As per the terms and conditions of allotment of land, the firm was required to pay premium of Rs.125.00 lakh within eight years and royalty at the rate of Rs.3 lakh per annum. The first instalment of dues of Rs. 15.63 lakh was paid by the firm on 4 April 1996. However, it had not paid the subsequent instalments of premium of Rs.46.89 lakh for the periods from 1996-97 to 1998-99 and royalty of Rs.12 lakh for the periods from 1995-96 to 1998-99. Tahsildar, Palghar did not raise demands for premium of Rs. 46.89 lakh, royalty of Rs.12 lakh and interest of Rs. 18.57 lakh.

On this being pointed out in audit (October 1998) the Tahsildar, Palghar accepted the facts and issued (June 1999) demand notice for the outstanding dues from the firm.

The matter was referred to Government in May 2000; their reply has not been received (October 2000).

4.5 Short levy of occupancy price

Under the provisions of the Maharashtra Land Revenue Code, 1966 and the Rules framed thereunder, if an encroacher opts for regularisation of the encroached land on occupancy right, the same may be accepted by the Collectors on recovery of penal occupancy price not exceeding five times the value of the land and not lower than a minimum of two and half times the ordinary occupancy price.

Government lands measuring 1388.30 square metres located in Hadapsar, District Pune were encroached upon by two persons in the year 1952-53. These persons had constructed buildings on 619.50 square metres out of 1388.30 square metres of land. The Collector, Pune proposed for regularisation of the encroachment in 1994. While proposing for regularisation of the encroachment, instead of levying penal occupancy price on the complete area of land viz. 1388.30 square metres at the market rate prevailing in 1994, the Collector, levied penal occupancy price at five times the market value of the land prevailing in 1990 and charged penal occupancy price only in respect of 619.50 square metres leaving the balance 768.80 square metres of the encroached land uncharged. The restriction of penal occupancy price to 619.50 square metres of land and adoption of the market rate prevalent in 1990 instead of 1994 resulted in short levy of Rs. 1.74 crore.

On this being pointed out by Audit (January 2000), the Collector stated (January 2000) that the encroachments would be regularised with reference to the market value prevalent at the time of regularising the encroachment.

4.6 Delay in removal or regularisation of the encroachments

Under Sections 50 and 51 of the Maharashtra Land Revenue Code, 1966 the encroachments on government lands are required to be either removed by recovery of fine and ordinary land revenue or regularised by recovery of penal occupancy price, lease rent, penal land revenue, fine and ordinary land revenue. A few cases of abnormal delay in removal or regularisation of the encroachments are given below :-

1) Government land measuring 187572.56 square metres situated in survey number 100 of mouza Pimpri-Waghire was under encroachment of Primpri-Chinchwad Nagar Palika since 1979-80. With the intention of regularising the encroachment, the Collector, Pune sent a proposal to the Government in 1982 after levying ordinary occupancy price of Rs. 9.38 lakh on the market value of the land as was applicable in 1977 and non-agricultural assessment of Rs. 2.85 lakh. After eighteen years, the case was still (March 2000) under correspondence between the Collector and the Government.

2) Government land measuring 14260.62 square metres situated in Khasra number 49/1 of mouza Indora in Nagpur was encroached upon by Manseva Griha Nirman Sahakari Sanstha (Society), in 1990. The society had made housing plots on the land and sold them to its 108 members. With a view to removing the encroachment, the Collector in February 1999 ordered the City Survey Officer II, Nagpur to undertake measurement. Yet, there had been no removal of the encroachments or regularisation of the same. Had the encroachment been regularised on occupancy right, penal occupancy price (Rs.2388.65 lakh), penal assessment (Rs. 0.26 lakh) and ordinary assessment (Rs.1.43 lakh) Rs. 23.90 crore would have become recoverable. On this being pointed out by Audit (March 2000), the Nazul Officer did not furnish any reply.

3) In Kamptee Tahsil, 625 cases involving area of 35321.50 square metres of Nazul land were under encroachment for periods ranging from 5 to 60 years. Even though proposals for regularisation of these cases were submitted by the Tahsildar to the Nazul Officer in May 1999, these were yet to be regularised (April 2000) for want of some documents. The occupancy price, non-agricultural assessment and fine proposed to be levied by the department in the event of regularisation of the encroachments was Rs. 1.30 crore. On the delay being pointed out by Audit (March 2000), the Tahsildar Kamptee, stated that the cases would be submitted to the Nazul Officer again duly supported by the required documents.

4) In Baramati Tahsil, 8 cases involving area of 3320.10 square metres of government land were under encroachment for periods ranging from 5 to 17

years. These cases were still to be regularised, eventhough proposal for regularisation was submitted to the Government in May 1999. The penal occupancy price, penal assessment, ordinary assessment and fine recoverable as worked out by the department was Rs. 9.15 lakh. On this being pointed out (February 2000), the Collector, Pune stated that final decision on these encroachments was yet to be taken by Government.

CHAPTER 5 : Other Tax Receipts

5.1 Results of audit

Test check of records of departmental offices conducted during 1999-2000 revealed short realisation or losses of revenue amounting to Rs.59942.90 lakh in 9781 cases as listed below :

Sr. No.	Nature of receipt	No. of cases	Amount (in lakh of rupees)
1.	Electricity Duty	1123	57412.50
2.	Education Cess and Employment Guarantee Cess	193	2222.61
3.	Entertainments Duty	850	64.42
4.	Profession Tax	3350	58.61
5.	Residential Premises Tax	3959	158.03
6.	State Excise	306	26.73
	Total	**9781**	**59942.90**

During the course of the year 1999-2000, the concerned departments accepted and recovered under-assessments *etc.*, in 1599 cases involving Rs. 753.14 lakh of which 187 cases involving Rs. 15.36 lakh had been pointed out during 1999-2000 and the rest in earlier years. A few illustrative cases having a financial effect of Rs. 58216.43 lakh are given in the following paragraphs :

SECTION A
TAXES AND DUTIES ON ELECTRICITY DUTY

5.2 Incorrect retention of electricity duty

Under the Bombay Electricity Duty Act, 1958 every licensee who supplies electricity to the consumers is required to collect the electricity duty from the consumers together with his own charges and pay it to the State Government by the prescribed date. Further, if the duty collected is not deposited by the prescribed date, interest at the rate of 18 *per cent per annum* for the first three months and at the rate of 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

The Maharashtra State Electricity Board (MSEB) had collected electricity duty aggregating to Rs. 512.66 crore for the period from January 1999 to March 2000 from the consumers but had not credited the amount to Government Account. The interest payable on the unpaid duty upto the end of March 2000 amounted to Rs. 56.81 crore.

On being pointed out in audit (February 2000) the department confirmed the non-payment of the duty of Rs. 512.66 crore by the Board.

The matter was reported to Government in April 2000; their reply has not been received (October 2000).

SECTION B
THE MAHARASHTRA EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS

5.3 Non-remittance of education cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 the municipalities are authorised to collect the cess leviable under the Act and are required to credit the same to the Government within 7 days of its collection.

In Municipal Corporations of Aurangabad, Nagpur, Pune and Solapur it was noticed (between May and August 1999) that Government revenue amounting to Rs. 1240.32 lakh relating to Education Cess (Rs. 1108.45 lakh) and Employment Guarantee Cess (Rs. 131.87 lakh) collected during the years 1997-98 and 1998-99 had not been credited to Government Account.

On this being pointed out (between May and August 1999) in audit the Solapur Municipal Corporation credited (August 1999) Rs. 24.40 lakh to Government. Report on crediting the remaining amount to Government has not been received (October 2000).

The matter was reported to Government in March 2000; their reply has not been received (October 2000).

5.4 Short levy due to non-revision of rateable value

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, State Education Cess is leviable on lands and buildings in municipal area as a percentage of the rateable value. Employment Guarantee Cess is leviable where the premises is used for non-residential purposes. The cesses are collected by the Municipal Corporation alongwith

property tax. According to instructions issued (December 1982) by the Assessor and Collector, Brihan Mumbai Municipal Corporation the rateable value of a cinema theatre in Mumbai is to be fixed on the basis of average annual income of the previous three years and is to be revised after every three years.

A test check of records in 12 ward offices of the Brihan Mumbai Municipal Corporation revealed (March 2000) that the rateable value of 25 cinema theatres were not revised on the basis of the annual income of the previous three years. This resulted in short levy of State Education Cess and Employment Guarantee Cess amounting to Rs. 18.46 lakh for various periods falling between 1995-96 and 1999-2000.

The matter was reported to the Municipal Corporation and Government in May 2000. Final reply on action taken has not been received (October 2000).

SECTION C
ENTERTAINMENTS DUTY

5.5 Non-realisation of entertainments duty and surcharge from cable/dish antenna operators

Under the Bombay Entertainments Duty Act, 1923 cable and dish antenna operators were required to pay (upto 30 April 1998) entertainments duty at the rate of 25 *per cent* of the total amount received by them by way of contribution or subscription or installation and connection charges *etc.*, for the exhibition of films, moving pictures etc., by means of any type of antenna or cable T.V. In addition, surcharge at 10 *per cent* on the total collection was also payable. The entertainments duty and surcharge due at the prescribed rates are payable on or before 5th of the subsequent month.

During test check of records in three offices at Mumbai (Borivali Zone), Thane and Pune (G Zone), it was noticed (August and September 1998) that in respect of 19 cable and dish antenna operators, entertainments duty and surcharge amounting to Rs. 5.54 lakh was neither paid by the operators nor any demands were raised by the department for the periods falling between November 1995 and March 1998.

On this being pointed out (August and September 1998) in audit, the department recovered (between August 1998 and October 1999) Rs. 2.03 lakh from 15 cable/dish antenna operators.

The matter was reported to Government in March 2000; their reply has not been received (October 2000).

SECTION D
PROFESSION TAX

5.6 Non-realisation of profession tax

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 and the Rules made thereunder, every person liable to pay profession tax is required to obtain certificate of enrolment from the Profession Tax Officer and pay tax annually at the rates prescribed in the Schedule to the Act. The rate of profession tax was increased from Rs. 600 to Rs. 850 from 1994-95 and to Rs. 1000 from 1997-98.

During test check of the records in the offices of the Profession Tax Officer at Kalyan, Buldhana, Thane and Satara, it was noticed (between July 1997 and January 1999) that 149 Cable operators liable to pay profession tax were not enrolled and 143 persons enrolled had not paid profession tax for various periods falling between 1991-92 and 1997-98 resulting in non-realisation of profession tax amounting to Rs 5.11 lakh.

On this being pointed out (between July 1997 and January 1999) the department recovered Rs. 1.39 lakh in 74 cases (between December 1997 and January 2000). Report on recovery of the balance amount has not been received (October 2000).

The matter was reported to Government in April 2000; their reply has not been received (October 2000).

CHAPTER 6 : Non-Tax Revenue

6.1 Results of audit

Test check of the records of non-tax receipts conducted during the year 1999-2000, revealed under-assessment/short levy/loss of revenue etc., to the extent of Rs.2836.38 lakh in 170 cases which broadly fall under the following categories :

Sr. No.	Category	No. of cases	Amount (in lakh of rupees)
1.	Loss of forests revenue	18	264.96
2.	Loss of revenue due to deterioration in transit/ in sale/in resales/due to non-extraction/non-lifting of material other than tendu leaves and bamboo	7	20.73
3.	Loss of tendu leaves	2	18.57
4.	Other irregularities	142	1624.96
5.	Review on levy and collection of guarantee fees	1	907.16
	Total	**170**	**2836.38**

During the course of the year 1999-2000, the department accepted under-assessment etc., of Rs.0.84 lakh involved in 4 cases pointed out in earlier years and recovered the same. A review on levy and collection of guarantee fees having financial effect of Rs. 907.16 lakh is given in the following paragraph:

6.2 Review on levy and collection of guarantee fees

6.2.1 Introduction

According to Article 293 of the Constitution of India, a State Government can give guarantee on the Consolidated Fund of the State to various lending institutions to assure them of repayment of loans made by them to various borrowers. Such guarantees constitute contingent liabilities on the State Revenue. No limits have been fixed by the legislature by law to the giving of guarantees by the executive power of the State. The Government charges fee for guarantees given to various categories of borrowers at rates prescribed from time to time.

6.2.2 Organisational set-up

Proposals for grant of guarantees are processed by the Heads of Departments and recommended to the Administrative Departments, for issue of sanction orders with the concurrence of the Finance Department. Recovery of guarantee fee is watched by the officer designated for the purpose.

6.2.3 Scope of audit

A test check of records was conducted during November 1999 and December 1999 covering guarantees given by the Industries, Energy & Labour, Co-operation and Textiles and Water Supply and Sanitation Departments during the years from 1994-95 to 1998-99. The recoveries of the guarantee fees in respect of these Departments are monitored by the Commissioner of Co-operation and Commissioner of Sugar at Pune, Director of Handlooms, Powerlooms and Textiles at Nagpur and Deputy Secretary in the Co-operation and Textiles Department, the Deputy Secretaries in the Industries, Energy and Labour Department and the Chief Accounts and Finance Officer in the Maharashtra Jeevan Pradhikaran under the Water Supply and Sanitation Department.

The results of the test check are mentioned in the succeeding paragraphs:

6.2.4 Highlights

- **The Finance Department did not have information on the guarantee fee pending collection at the end of the financial year. Despite recommendations of the Public Accounts Committee none of the departments covered by the review had maintained systematic and upto date records.**

{Paragraph 6.2.7(i)}

- **Arrears in collection of guarantee fee from two controlling officers aggregated to Rs. 30.42 crore.**

{Paragraph 6.2.7(ii)}

- **Non-levy of guarantee fee on the interest paid on the cash credit facility availed of by the Maharashtra State Co-operative Cotton Growers Marketing Federation amounted to Rs. 32.78 lakh.**

{Paragraph 6.2.8}

- **Incorrect exemption from payment of guarantee fee in respect of 8 bonds issued by the Maharashtra State Financial Corporation (MSFC) resulted in loss of Rs. 3.53 crore.**

{Paragraph 6.2.9}

- **Non-levy of penal interest on delayed payments of guarantee fee amounted to Rs. 5.21 crore.**

{Paragraph 6.2.10 (a) and (b)}

6.2.5 Guarantees given by Government

Details of guarantees issued by Government for repayment of loans etc., raised by statutory corporations, co-operative societies including banks, Government companies, local bodies including municipal corporations and others and outstanding as on 31 March 1999 were as under :

Sr. No.	Guarantees issued in favour of	Maximum amount guaranteed	(Amount in crore of rupees) Sum guaranteed outstanding on 31 March 1999
i	State corporations including statutory boards	15121.62	9199.14
ii	Co-operative banks	6130.14	1331.88
iii	Government companies	1978.89	493.44
iv	Sugar factories	1640.42	Information not furnished
v	Municipal corporations/ Municipalities/ Zilla parishads and other local bodies	918.77	80.49
vi	Other co-operative institutions and banks	1633.17	47.20
		27423.01	**11152.15**

Note : For details see statement No. 6 in the Finance Accounts of the Government of Maharashtra for the year 1998-99.

6.2.6 Budget estimates and actuals

The Budget estimates and actual receipts of guarantee fees during the years from 1994-95 to 1998-1999 were as under:

Year	Budget Estimates	Actual receipts	(Amount in crore of rupees) Difference (+) Increase (-) Decrease	Percentage of variation col. (4) to col. (2)
1.	2.	3.	4.	5.
1994-95	34.00	32.08	(-) 1.92	(-) 6
1995-96	36.00	37.11	(+) 1.11	(+) 3
1996-97	33.96	39.50	(+) 5.54	(+) 16
1997-98	38.72	44.62	(+) 5.90	(+) 15
1998-99	97.33	45.39	(-) 51.94	(-) 53

The increase in revenue during 1997-98 was attributed by the Government to enhancement of the rate of guarantee fee with effect from 1 April 1997. The shortfall in 1998-99 was attributed to proposals of raising money through public sector undertakings by issue of bonds not materialising.

6.2.7 Arrears of revenue

(i) The necessity for maintenance of systematic and proper records by the Finance as well as other Departments of Government was pointed out in para 2.9 of the Report of the Comptroller and Auditor General of India for the year 1979-80 (Revenue Receipts). The Public Accounts Committee (PAC) in its Fourteenth Report (1982-83) vide para 2.35 had recommended for the maintenance of systematic and uptodate records by all the Departments and the Finance Department was to undertake a review of the cases of the concerned Administrative Departments to rule out the possibility of non-levy or short levy of guarantee fee. The follow up action by Finance Department and position of maintenance of records was to be intimated to the Committee within six months. The Finance Department issued (August 1983) instructions for maintenance of records and furnishing of information regarding guarantees given, recovery of guarantee fee *etc.* /

During test check of records it was revealed that records pertaining to levy and collection of the guarantee fee were not maintained by the Finance department. Consequently, the amount of loans guaranteed by Government and the guarantee fee due each year from each institution could not be ascertained.

On this being pointed out (April 2000) the Finance Department stated that required information was not readily available and action was being taken to consolidate the arrears after obtaining the same from the Administrative Departments.

(ii) According to the information furnished by the Commissioner of Sugar, Pune the guarantee fee due but not received as on 1 October 1999 amounted to Rs. 2600.29 lakh during the years 1994-95 to 1999-2000.

Similarly guarantee fee aggregating to Rs. 442 lakh was due as on 31 March 2000 in respect of the units under the administrative control of the Director of Handlooms, Powerlooms and Textiles, Maharashtra, Nagpur.

Thus the arrears of guarantee fee from just two controlling officers aggregated to Rs. 30.42 crore.

6.2.8 Non-levy of guarantee fee on interest

The Maharashtra State Co-operative Cotton Growers Marketing Federation was given (November 1998) guarantee on the cash credit facility availed from the Maharashtra State Co-operative Bank Ltd., Mumbai for monopoly cotton procurement scheme during 1997-98 season.

As per the Government Resolution of 15 April 1997, guarantee fee at the rate of 2 *per cent* per annum was to be worked out on the basis of the maximum cash credit availed of by the federation during a quarter. Guarantee fee was also chargeable on the amount of interest payable to the bank.

It was noticed in audit (December 1999), that though guarantee fee was paid by the Federation on the maximum cash credit availed of during a quarter, no guarantee fee was paid on the amount of interest. The non-levy of guarantee fee on the interest of Rs. 1639.15 lakh paid on the cash credit availed during the period from January 1998 to December 1998 worked out to Rs. 32.78 lakh.

On this being pointed out, the Co-operation and Textiles Department stated that action to recover the guarantee fee would be taken (January 2000).

6.2.9 Loss of revenue

A scrutiny of the resolutions issued by the Industries, Energy and Labour Department extending guarantees for issue of market bonds from November 1987 onwards revealed that guarantee fee was being paid by the Maharashtra State Financial Corporation. However, in respect of 8 Market Bonds issued between July 1983 and June 1987, guarantee fee was incorrectly exempted on the ground that guarantees given were notional in terms of statutory obligation under the State Financial Corporations Act, 1951 which did not stipulate levy of guarantee fee.

Incorrect exemption from payment of guarantee fee resulted in loss of revenue of Rs. 3.53 crore as of 31 March 1999.

6.2.10 Non-levy of penal interest on delayed payment.

Guarantee fee on the amount outstanding as on 31 March and 30 September is to be credited to Government account on 1 April and 1 October respectively every year. For delay in payment of guarantee fee, penal interest is payable at the rate of 16 *per cent* per annum for the first 3 months and at the rate of 24 *per cent* per annum thereafter.

(a) Government allowed (August 1999) the Maharashtra State Electricity Board (MSEB) to pay guarantee fee of Rs. 16.42 crore and Rs. 25.24 crore which were due for payment on 1 October 1998 and 1 April 1999 respectively in ten equal monthly instalments commencing from the month August 1999. However, the Government resolution was silent about the levy and recovery of penal interest.

A scrutiny of records revealed that upto end of November 1999 four instalments aggregating to Rs. 16.16 crore which had fallen due in terms of the

Government resolution, had not been paid by MSEB. The total penal interest calculated from the due dates i.e. 1 October 1998 and 1 April 1999 upto July 1999 amounted to Rs.4.47 crore.

In reply to the audit observation Government stated (December 1999) that in case of further default by MSEB, action would be taken as per rules for recovery of penal interest.

(b) In the following cases there was either delay in payment or non-payment of the guarantee fee but penal interest of Rs. 74.38 lakh for the period between 1993-94 and 1998-99 had not been demanded and recovered:

(Amount in lakh of rupees)

	Year	Name of the Institution	Amount for which guarantee was given Rs.	Amount of guarantee fee payable Rs.	Amount of guarantee fee paid Rs.	Period of delay	Rate of penal interest	Amount of penal interest Rs.
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(1)		Maharashtra State Financial Corporation						
	1995-96 to 1998-99	(A) Share Capital	20164.91	104.50	104.50	6 months	16 % and 24%	10.45
	1995-96 to 1998-99	(B) Market Bonds	122476.57	482.84	482.84	--do--	--do--	48.28
(2)	1997-98	Maharashtra State Handloom Corporation Ltd., Nagpur	528.00	6.25	6.25	21 months	16 % and 24%	2.50
(3)	1993-94 to 1998-99	Nav Maharashtra Spinning Mills, Ichalkaranji	877.00	23.43	9.00	6 months to 40 months	16 % and 24 %	13.15
							Grand total :	**74.38**

6.2.11 Delay in issue of Government resolutions

A scrutiny of the Government Resolutions issued by the Industries, Energy and Labour Department revealed that in respect of 2 open market bonds of Rs. 18.50 crore each issued by MSFC on 23 October 1997 and 22 January 1998, the Government resolutions extending guarantee were issued on 2 December 1998 and 30 July 1998 respectively after delays of 14 and 6 months. Consequently, the payment of guarantee fees due on 1 April 1998 and 1 October 1998 amounting to Rs. 65.78 lakh got postponed and was paid on 4 April 1999.

Similarly, the Co-operation and Textiles Department issued (March 1999, October 1999 and November 1999) resolutions extending guarantee on loans aggregating to Rs. 51.60 crore to 3 Co-operative sugar factories given by banks after delays ranging from 6 months to one year. The guarantee fee on

the outstanding amount of loan as on 31 March 1999 amounting to Rs. 97.14 lakh therefore could not be paid on the due date viz. on 1 April 1999.

6.2.12 Monitoring and control

As per the provision of the Bombay Financial Rules, 1956 the departmental controlling officers should see that all sums due to Government are regularly received and checked against demand and paid into treasury.

As per the provisions laid down in Rule 98(2)(v) of the Maharashtra Treasury Rules, 1968, all the moneys received by a Government Officer on behalf of Government and remitted into treasury are required to be reconciled with the figures booked by the concerned Treasury Officer every month and a certificate to that effect obtained from the Treasury Officer and kept on record. Further, as per the Finance Department's Resolution of 15 April 1997 the concerned Administrative Department is responsible for the verification and submission of the verified copies of the challans of the guarantee fee paid to the Finance Department.

Except for the Water Supply and Sanitation Department the other two departments covered by this review had neither carried out reconciliation of the guarantee fee received with the records maintained in the concerned treasury office nor submitted copies of the verified challans to the Finance Department (December 1999).

The above points were reported to Government in February 2000; their reply has not been received (October 2000).

(UTPAL BHATTACHARYA)
Principal Accountant General (Audit)-I, Maharashtra

Mumbai,
The 22 DEC 2000

Countersigned

(V. K. SHUNGLU)
Comptroller and Auditor General of India

New Delhi,
The 4 JAN 2001

APPENDICES

APPENDIX-I

YEARWISE DETAILS OF OUTSTANDING INSPECTION REPORTS AND AUDIT OBSERVATIONS UNDER VARIOUS RECEIPTS AS OF 30TH JUNE 2000

(Reference : Paragraph 1.11; Page No.10)

(Amount in lakh of rupees)

Sr. No.		Upto 1995-96			1996-97			1997-98			1998-99			1999-2000			Total		
		IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount
1.	Sales Tax	566	934	349.16	276	573	261.83	355	996	677.37	442	1391	2570.04	354	1384	1756.18	1993	5278	5614.58
2.	Land Revenue	403	916	4064.74	188	498	8699.29	133	332	398.25	165	374	12312.83	188	404	1436.72	1077	2524	26911.83
3.	Stamps and Registration fees	429	1352	1641.09	114	258	225.38	120	208	141.77	163	522	370.16	197	522	1044.82	1023	2762	3423.22
4.	Taxes on Motor Vehicle	39	58	114.80	14	23	14.47	27	59	76.37	41	115	183.16	9	23	146.44	130	278	535.24
5.	Forests Receipts	201	287	4430.11	35	68	1097.24	38	97	2256.03	38	82	1518.45	45	134	1340.73	357	668	10642.56
6.	Entertainments duty	26	32	10.03	34	47	6.20	28	39	20.25	38	68	68.71	18	33	15.30	144	219	120.49
7.	State Excise	23	27	3.91	16	18	0.30	17	22	12.02	19	35	11.15	5	11	7.00	80	113	34.38
8.	Electricity Duty	4	6	27.10	--	--	--	6	8	4.09	5	6	3.45	4	9	6.61	19	29	41.25
9.	State Education Cess	66	105	86.28	10	12	6.24	17	28	313.35	21	34	1299.80	4	11	74.45	118	190	1780.12
10.	Tax on Professions	69	130	38.11	26	47	26.04	27	62	40.96	22	44	23.88	16	35	23.51	160	318	152.50
11.	Tax on Residential Premises	6	6	3.76	2	2	1.30	1	1	0.18	6	6	31.78	2	5	6.81	17	20	43.83
12.	Repair Cess	7	7	2.26	1	1	0.22	3	3	--	5	8	0.58	--	--	--	16	19	3.06
13.	Other Non-tax receipts	72	91	309.12	6	7	7.78	2	2	3.57	36	43	0.28	21	30	586.35	137	173	907.10
	Total :	**1911**	**3951**	**11080.47**	**722**	**1554**	**10346.29**	**774**	**1857**	**3944.21**	**1001**	**2728**	**18394.27**	**863**	**2601**	**6444.92**	**5271**	**12591**	**50210.16**

IRs - Inspection Reports

Objs. - Objections

APPENDIX II

Departmentwise details of the draft paragraphs sent.

(Reference : Paragraph 1.13; Page No.11)

Sr. No.	Name of the department	Total
1.	Finance	50
2.	Revenue and Forests	17
3.	Home	4
4.	Industries, Energy and Labour	1
	Total	72

APPENDIX III

Statement showing department wise position of paragraphs in respect of which explanatory memoranda have not been received

(Reference : Paragraph 1.14; Page No.12)

Sr. No.	Name of the department	1996-97	1997-98	Total
1.	Finance	--	--	--
2.	Revenue and Forests	24	16	40
3.	Industries, Energy and Labour	--	4	4
4.	Urban Development	2	--	2
	Total	**26**	**20**	**46**

APPENDIX IV

Statement showing department wise pendency of action taken notes on recommendations of the Public Accounts Committee

(Reference : Paragraph 1.14; Page No.12)

Sr. No.	Name of the department	1989-90	1990-91	1991-92	1992-93	1993-94	Total
1.	Home	1	8	1	-	-	10
2.	Revenue and Forests	1	--	--	15	10	26
3.	Finance	2	4	--	--	--	6
	Total	**4**	**12**	**1**	**15**	**10**	**42**