







**REPORT**  
OF THE  
**COMPTROLLER**  
AND  
**AUDITOR GENERAL OF INDIA**  
FOR THE YEAR  
**ENDED 31 MARCH 1991**

**No. 2**

(REVENUE RECEIPTS)  
GOVERNMENT OF ORISSA



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## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Orissa for the year 1990-91 is presented in this separate volume. The material in the Report has been arranged in the following order :

Chapter 1 deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Budget Estimates and actuals in respect of principal heads of revenue, the position of arrears of revenue etc. are discussed in this Chapter.

Chapter 2 to 8 deal with certain cases and points of interest which came to notice in the audit of Sales Tax, Taxes on Motor Vehicles and Passengers, Forest Receipts, State Excise, Mining Receipts, Land Revenue, Stamp Duty and Registration Fees etc.

## OVERVIEW

### 1. General

(i) The total revenue raised by the Government of Orissa during the year 1990-91 from tax and non-tax sources was Rs.869.92 crores. While the tax revenue comprised mainly Sales Tax (Rs.354.58 crores), Taxes and Duties on Electricity (Rs.98.76 crores), Land Revenue (Rs.81.90 crores), Motor Vehicles Tax Rs.52.29 crores, State Excise (Rs.45.64 crores) and Stamp Duty and Registration Fees (Rs.30.94 crores), non-tax realisation came mainly from Forest (Rs.109.08 crores) and Mines and Minerals Receipts (Rs.22.72 crores).

[ Paragraph 1.1 and 1.2 ]

(ii) Arrears in collection of Taxes and Duties on Electricity registered an increase (27 per cent) from Rs.44.09 crores as on 31.3.1990 to Rs.55.88 crores as on 31.3.1991. Similarly arrears of the interest payable by Orissa State Electricity Board on various loans registered an increase (17 per cent) from Rs.165.72 crores as on 31.3.1990 to Rs.193.36 crores as on 31.3.1991. The arrears of the interest payable on loans by Industries Department to various Co-operative Societies and other Government undertakings increased (by about 161 per cent) from Rs.5.79 crores as on 31.3.1990 to Rs.15.15 crores as on 31.3.1991.

[ Paragraph 1.8 ]

(iii) As a result of test audit conducted during 1990-91, under assessment and losses of revenue amounting to Rs.20.81 crores, many of which occurred despite objections of a similar nature having been brought to the notice of Government in previous audit reports, were noticed. The cases of under-assessments etc., pertained to Sales Tax (Rs.5.72 crores),



Motor Vehicles Tax (Rs.4.99 crores), Forest Receipts (Rs.2.06 crores), State Excise (Rs.0.34 crore), Mining Receipts (Rs.0.27 crore), Land Revenue (Rs.7.24 crores), Stamp Duty and Registration Fees (Rs.0.02 crore) and Entertainment Tax (Rs.0.17 crore).

(iv) This report includes representative cases of non-levy/short levy of tax, duty interest, penalty etc. involving a financial effect\* of Rs.1636.86 lakhs noticed during test check in 1990-91 and in earlier years. Of these, under-assessment of Rs.85.32 lakhs were accepted and demands raised by the departments, of which Rs.4.89 lakhs were recovered till (January 1992). In respect of the cases of under-assessments amounting to Rs.10.08 lakhs, the departments have contested the audit points, for which refutations based on tax laws, facts/Government instructions have been incorporated in the relevant paragraphs. In respect of the balance amount of Rs.1541.46 lakhs comments/final replies of the departments/State Government have not been received (January 1992).

## 2. Sales Tax

(i) Audit Review on "Pendency of appeals at various levels and its impact on revenue collection" revealed the following :

(a) Sales tax arrears amounting to Rs.145.73 crores as on 31.3.1990 were pending collection due to grant of stay orders by appellate authorities/judicial courts.

[ Paragraph 2.2.5 ]

- (b) About 1.82 lakh appeal cases remained pending as on 31.3.1990 due to fixation of unrealistic targets not commensurate with the increase in receipts and accumulation of pending cases.

[ Paragraph 2.2.7(B) ]

- (ii) Review on "Working of Sales Tax Check posts including barriers" conducted in audit indicated

- (a) No system had been evolved to prevent evasion of tax by the dealers who declared that the goods were bound for other States but were infact subsequently unloaded inside the State for sale. The tax liability involved in the cases test checked (580 cases) amounted to Rs.338.64 lakhs.

[ Paragraph 2.3.6.1 ]

- (b) Executive instructions issued in the matter of despatch of way bills received at check posts to the concerned Circle Offices; cross verification of the way bills with the books of accounts of the dealers, filing of the way bills in the assessment records of the respective dealers were not followed scrupulously thereby rendering the evasion of tax by suppression of sales and purchases go undetected.

[ Paragraph 2.3.6.2 ]

- (c) Non-establishment of check posts at vulnerable points helped the vehicles to by pass the established check posts and evade tax.

[ Paragraph 2.3.9 ]



(iii) Irregular exemption to various Small Scale Industries on purchases/sales declared to be utilised as raw materials resulted in short levy of tax to the extent of Rs.6.28 lakhs.

[ Paragraph 2.4 ]

(iv) Application of incorrect/lower rates of tax in 4 cases resulted in under-assessment of tax amounting to Rs.10.66 lakhs.

[ Paragraph 2.8 ]

(v) Non-assessment of taxable turnover in respect of sale of timber felled and removed from Forest coupes in 3 Forest Divisions resulted in short levy of tax of Rs.64.76 lakhs.

[ Paragraph 2.9(a)(b) ]

(vi) In 665 cases, demands of arrears of tax amounting to Rs.268.94 lakhs were treated as finally settled without levy of interest of Rs.19.12 lakhs.

[ Paragraph 2.15 ]

### 3. Taxes on Motor Vehicles and Passengers

(i) Audit Review on "Motor Vehicles Offences" revealed the following :

(a) 30,116 cases of Motor vehicles offences registered in Miscellaneous Proceedings Register were pending disposal as at the end of 31 December 1990, the earliest cases relating to the year 1977.

[ Paragraph 3.2.6 ]

- (b) Non-disposal of 80 cases relating to off-road violations involving tax amounting to Rs.18.02 lakhs and penalty amounting to Rs.36.05 lakhs resulted in non-realisation of revenue of Rs.54.07 lakhs.

[ Paragraph 3.2.8(iii) ]

- (c) Non-finalisation of cases relating to vehicles plying without payment of tax and violating permit conditions resulted in non-realisation of compounding fees amounting to Rs.16.21 lakhs in 1,419 cases and tax amounting to Rs.2.29 lakhs in 117 cases.

[ Paragraph 3.2.9.1(a)(b) ]

- (d) Short realisation of compounding fees from goods vehicles plying with excess load amounted to Rs.6.75 lakhs in 130 cases.

[ Paragraph 3.2.11 ]

- (ii) Short realisation of composite tax in respect of 2,426 vehicles plying under National Permit Scheme amounted to Rs.16.23 lakhs.

[ Paragraph 3.3 ]

- (iii) Non-realisation of tax and additional tax in respect of 114 stage carriages amounted to Rs.18.32 lakhs.

[ Paragraph 3.8 ]

- (iv) In respect of 138 stage carriages, due to adoption of incorrect distances permitted by the



vehicle to be covered in day and/or by application of incorrect rate of tax, tax amounting to Rs.10.60 lakhs was realised short.

[ Paragraph 3.9 ]

(v) Non-application of higher rate of tax in respect of 181 stage carriages permitted to ply temporarily as contract carriages resulted in short realisation of tax of Rs.6.25 lakhs.

[ Paragraph 3.10 ]

(vi) Irregular grant of permits without insisting upon the production of tax clearance certificates resulted in non-realisation of tax of Rs.11.22 lakhs from 83 stage carriages.

[ Paragraph 3.18 ]

(vii) Non-levy of tax for intervening periods in respect of 366 vehicles amounted to Rs.22.68 lakhs.

[ Paragraph 3.21 ]

(viii) Non-raising of demands in respect of 1,268 vehicles found plying without payment of tax amounted to Rs.86.54 lakhs and the penalty leviable for the delay in payment of tax amounted to Rs.167.63 lakhs.

[ Paragraph 3.22 ]

#### 4. Forest Receipts

(i) Audit Review on "Working of Forest Coupes entrusted to Similipahar Forest Development Corporation Limited" indicated the following :



- (a) Arrears amounting to Rs.544.44 lakhs were outstanding against the Corporation as on 31 March 1990 pending collection.

[ Paragraph 4.2.5 ]

- (b) Royalty amounting to Rs.362.11 lakhs in respect of excess outturn of timber than the anticipated outturn on which royalty was fixed, was pending realisation as on 31.3.1990.

[ Paragraph 4.2.6 ]

- (c) Excess removal of timber over the passed quantity resulted in short realisation of royalty of Rs.190.47 lakhs.

[ Paragraph 4.2.7 ]

- (d) Incorrect adoption of unit content instead of actual measurement for fixation of royalty in respect of felled/stacked timber led to under-assessment/short realisation of royalty to the extent of Rs.38.77 lakhs.

[ Paragraph 4.2.8 ]

- (e) Interest amounting to Rs.15.33 lakhs was not levied for belated payment of royalty.

[ Paragraph 4.2.12 ]

- (f) Compounding fees amounting to Rs.13.26 lakhs realised by the Corporation for disposing of forest offence cases was not remitted to Government.

[ Paragraph 4.2.13 ]

- (g) Overhead charges amounting to Rs.34.68 lakhs on supply of railway sleepers were not realised from Railways and remitted to Government by the Corporation.

[ Paragraph 4.2.14 ]

- (ii) Non-realisation of shortfall of royalty on resale of 6 forest coupes from the defaulting contractors amounted to Rs.7.46 lakhs.

[ Paragraph 4.3 ]

- (iii) In 197 cases of belated payment of consideration money, interest amounting to Rs.6.99 lakhs was not levied.

[ Paragraph 4.7 ]

## 5. State Excise

- (i) An amount of Rs.53,255 towards cost of establishment for deployment of excise staff on supervision of the operations was realised from a warehouse on being pointed out in audit.

[ Paragraph 5.2 ]

- (ii) Non-disposal of India Made Foreign Liquor resulted in loss of revenue of Rs.93,630.

[ Paragraph 5.6 ]

## 6. Mining Receipts

- (i) In 39 cases of belated payment of dead rent and royalty, interest amounting to Rs.2.41 lakhs was not levied.

[ paragraph 6.5 ]

(ii) Irregular allowance of exemption on account of shortage of coal resulted in short levy of royalty amounting to Rs.1.38 lakhs.

[ Paragraph 6.6 ]

## 7. Land Revenue

(i) Premium, ground rent, cess and interest amounting to Rs.18.27 lakhs were not recovered from a Government Company (Rs.7.10 lakhs ) and one Electricity Board (Rs.11.17 lakhs).

[ Paragraph 7.2 and 7.3 ]

(ii) In 1,475 cases court fees amounting to Rs.4.96 lakhs were short realised.

[ Paragraph 7.4 ]



## CHAPTER 1

### GENERAL

#### 1.1 Trend of Revenue Receipts

The total receipts of the Government of Orissa for the year 1990-91 were Rs.2170.94 crores against the anticipated receipts of Rs.2331.45 crores. The total receipts during the year registered an increase of 24.72 per cent over those of 1989-90 (Rs.1740.72 crores). Out of the total receipts, revenue raised by State Government amounted to Rs.869.92 crores, of which tax revenue accounted for Rs.668.80 crores while the balance of Rs.201.12 crores was from non-tax revenue. Receipts from Government of India amounted to Rs.1301.02 crores.

#### 1.2 Analysis of Revenue Receipts

(a) An analysis of the receipts during the year 1990-91 alongwith the corresponding figures for the preceding two years is given below :

	1988-89	1989-90	1990-91
( Rupees in crores )			
I. Revenue raised by State Government			
a) Tax Revenue	442.73	524.84	668.80
b) Non-tax Revenue	<u>193.26</u>	<u>198.64</u>	<u>201.12</u>
<b>Total</b>	<b><u>635.99</u></b>	<b><u>723.48</u></b>	<b><u>869.92</u></b>

1988-89 1989-90 1990-91  
( Rupees in crores )

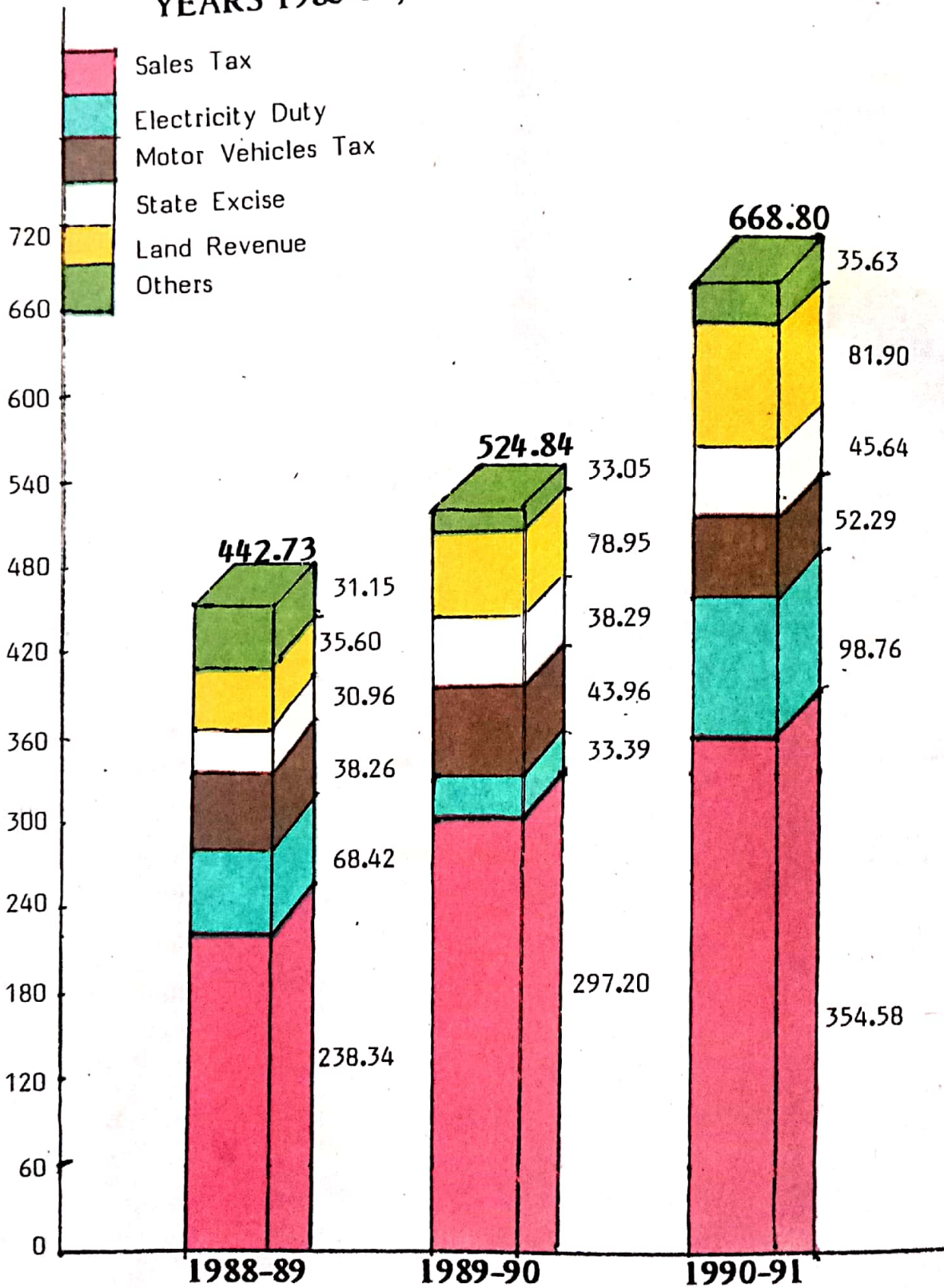
II. Receipts from Government of India			
a) State's share of divisible Union Taxes	428.71	572.59	694.09
b) Grants-in-aid	486.24	444.65	606.93
<b>Total</b>	<u>914.95</u>	<u>1017.24</u>	<u>1301.02</u>
III. Total receipts of the State [ (i) + (ii) ]	1550.94	1740.72	2170.94
IV. Percentage of (i) to (iii)	41.01	41.56	40.07

Thus, the State mobilised 40.07 per cent of its total receipts for 1990-91 and the remaining 59.93 per cent came from the Union Government.

(b) Tax revenue raised by the State Government constituted about 76.88 per cent of the State's own revenue receipts during the year 1990-91. An analysis of the tax revenue for the year 1990-91 and the preceding two years is given below :

[ Statement

**CHART I**  
**GROWTH OF TAX REVENUE DURING THE**  
**YEARS 1988-89, 1989-90 AND 1990-91**



Scale : 1 Cm. = Rs.60 crores (Amount in crores of rupees)

(PARAGRAPH 1.2(b))



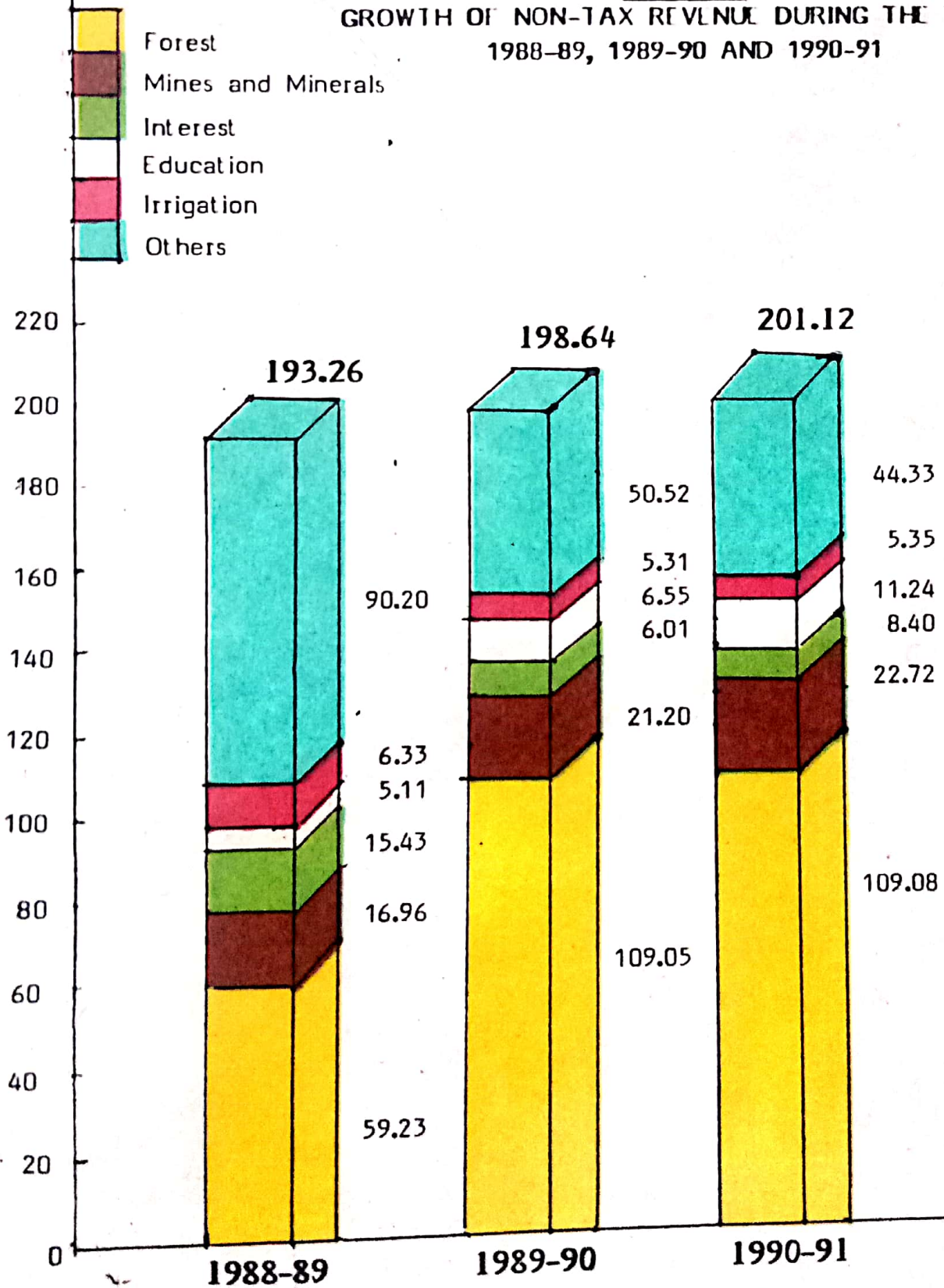
Nature of Revenue	1988-89	1989-90	1990-91	Increase (+) Decrease (-) in 1990-91 with refer- ence to 1989-90	
	( Rupees in crores )				
1. Sales Tax	238.34	297.20	354.58	(+)	57.38
2. Taxes and Duties on Electricity	68.42	33.39	98.76	(+)	65.37
3. Land Revenue	35.60	78.95	81.90	(+)	2.95
4. Taxes on Vehicles	38.03	43.90	52.29	(+)	8.39
5. Taxes on goods and passengers	0.23	0.06	0.08	(+)	0.02
6. State Excise	30.96	38.29	45.64	(+)	7.35
7. Stamp duty and Registration Fees	25.62	27.98	30.94	(+)	2.96
8. Other taxes and duties on commo- dities and services	5.53	5.07	4.61	(-)	0.46
<b>Total</b>	<u>442.73</u>	<u>524.84</u>	<u>668.80</u>	(+)	<u>143.96</u>

(c) Interest, Education Public Health Sanitation and Water Supply, Forest, Mines and Minerals, Irrigation, Navigation, Drainage and Flood control projects, and Police were the principal sources of non-tax revenue during 1990-91 which constituted about

23.12 per cent of total revenue raised by the State. An analysis of non-tax revenue under the principal heads of revenue for the year 1990-91 and the preceding two years is given below :

Nature of Revenue	1988-89	1989-90	1990-91	Increase (+) Decrease (-) in 1990-91 with refer- ence to 1989-90
	( Rupees in crores )			
1. Forest	59.23	109.05	109.08	(+) 0.03
2. Mines and Minerals	16.96	21.20	22.72	(+) 1.52
3. Education	5.11	6.55	11.24	(+) 4.69
4. Interest	15.43	6.01	8.40	(+) 2.39
5. Public Health Sanitation and Water Supply	4.64	6.00	5.37	(-) 0.63
6. Irrigation, Navigation, Drainage and Flood Control Projects	6.33	5.31	5.35	(+) 0.04
7. Police	3.29	3.88	4.37	(+) 0.49
8. Others	<u>82.27</u>	<u>40.64</u>	<u>34.59</u>	(-) 6.05
<b>Total</b>	<u>193.26</u>	<u>198.64</u>	<u>201.12</u>	(+) <u>2.48</u>

**CHART II**  
**GROWTH OF NON-TAX REVENUE DURING THE YEARS**  
**1988-89, 1989-90 AND 1990-91**



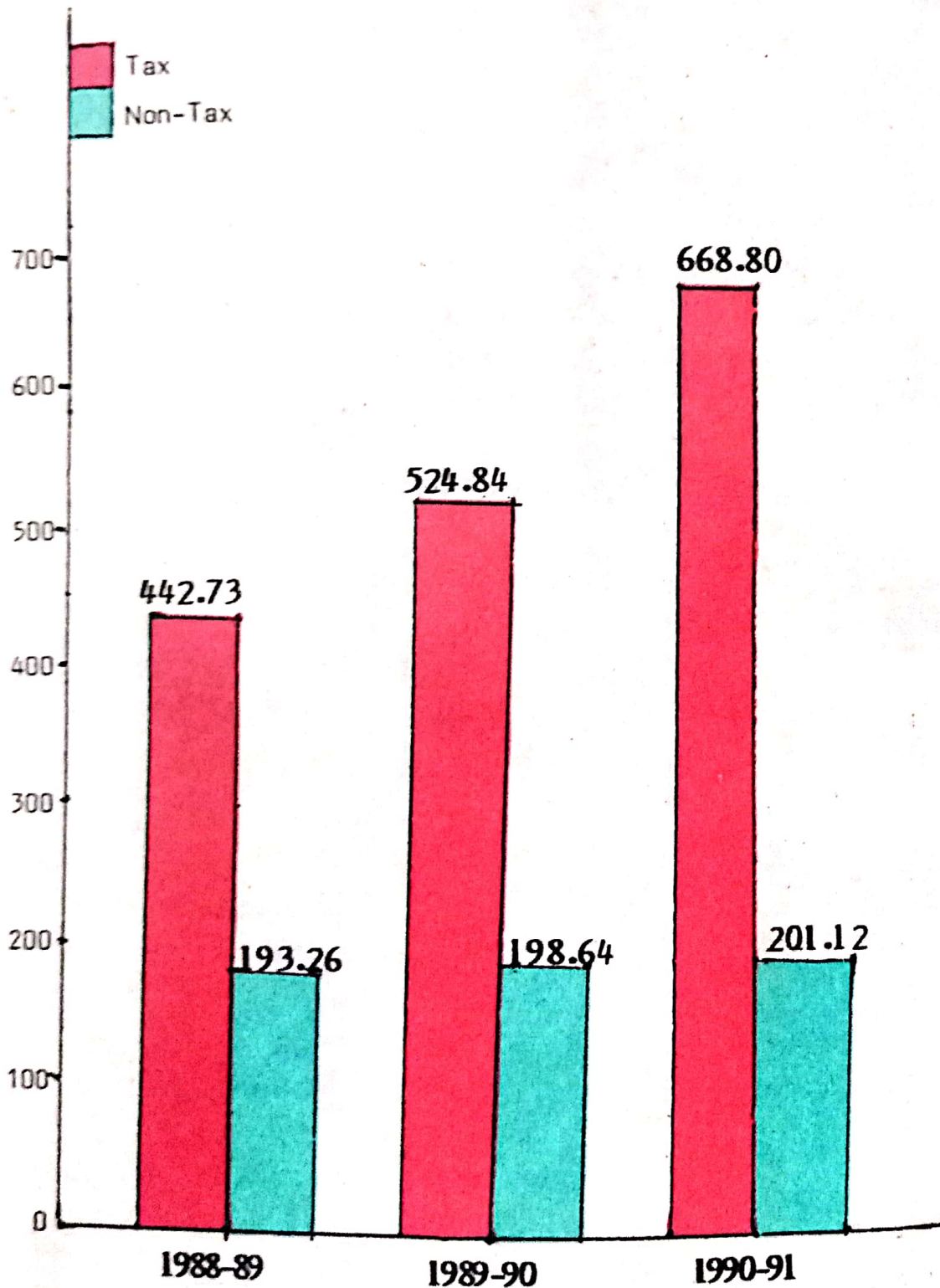
( Amount in crores of rupees )

Scale : 1 Cm. = Rs. 20 crores

( PARAGRAPH 12(c) )



CHART III  
TAX AND NON-TAX REVENUE DURING THE  
YEARS 1988-89, 1989-90 AND 1990-91



(Amount in crores of rupees)

Scale : 1.5 Cm. = Rs.100 crores.

### 1.3 Variations between Budget Estimates and actuals

(a) The variations between the Budget Estimates and actuals of tax revenue and non-tax revenue during the year 1990-91 are given below :

	Budget Esti- mates	Revised Esti- mates	Actuals	Variation (increase (+) Decrease(-) as compa- red with original Budget Estimates	Percentage of variation
--	--------------------------	---------------------------	---------	---	----------------------------

( Rupees in crores )

A. Tax Revenue	721.74	663.81	668.80	(-) 52.94	(-) 7.34
B. Non-Tax Revenue	281.17	197.58	201.12	(-) 80.05	(-) 28.47

The total variations between the Budget Estimates and the actuals during the year 1990-91 was Rs.132.99 crores and it comprised shortfall of Rs.52.94 crores (7.34 per cent) under tax revenue and Rs.80.05 crores (28.47 per cent ) under non-tax revenue.

(b) Variations between Budget Estimates and actuals under the principal heads of revenue are given below :

Head of Revenue	Budget Esti- mates	Revised Esti- mates	Actuals	Variations increase(+) of Decrease(-) with refe- rence to Budget Estimates	Percentage of variation with refe- rence to Budget Estimates
	( Rupees in crores )				
1. Sales Tax	414.10	380.17	354.58	(-) 59.52	(-) 14.37
2. Forest	85.10	105.10	109.08	(+) 23.98	(+) 28.18
3. Taxes and Duties on Electricity	94.83	80.83	98.76	(+) 3.93	(+) 4.13
4. Land Revenue	11.80	59.80	81.90	(+) 70.10	(+) 594.07
5. Taxes on Vehicles	51.57	51.57	52.29	(+) 0.72	(+) 1.40
6. State Excise	57.00	50.00	45.64	(-) 11.36	(-) 19.93
7. Stamp Duty and Regis- tration fees	36.00	35.00	30.94	(-) 5.06	(-) 14.06
8. Mines and Minerals	104.12	21.12	22.72	(-) 81.40	(-) 78.18
9. Education	7.36	7.43	11.24	(+) 3.88	(+) 52.72
10. Interest	26.93	6.65	8.40	(-) 18.53	(-) 68.81
11. Police	2.45	2.45	4.37	(+) 1.92	(+) 78.37



(b) Variations between Budget Estimates and actuals under the principal heads of revenue are given below :

Head of Revenue	Budget Esti- mates	Revised Esti- mates	Actuals	Variations increase(+) of Decrease(-) with refer- ence to Budget Estimates	Percentage of variation with refer- ence to Budget Estimates
	( Rupees in crores )				
1. Sales Tax	414.10	380.17	354.58	(-) 59.52	(-) 14.37
2. Forest	85.10	105.10	109.08	(+) 23.98	(+) 28.18
3. Taxes and Duties on Electricity	94.83	80.83	98.76	(+) 3.93	(+) 4.13
4. Land Revenue	11.80	59.80	81.90	(+) 70.10	(+) 594.07
5. Taxes on Vehicles	51.57	51.57	52.29	(+) 0.72	(+) 1.40
6. State Excise	57.00	50.00	45.64	(-) 11.36	(-) 19.93
7. Stamp Duty and Regis- tration fees	36.00	<del>35.00</del>	30.94	(-) 5.06	(-) 14.06
8. Mines and Minerals	104.12	<del>21.12</del>	22.72	(-) 81.40	(-) 78.18
9. Education	7.36	7.43	11.24	(+) 3.88	(+) 52.72
10. Interest	26.93	6.65	8.40	(-) 18.53	(-) 68.81
11. Police	2.45	2.45	4.37	(+) 1.92	(+) 78.37

Variations between Budget Estimates and actuals for the year 1990-91 under all the above receipts except 'Taxes and Duties on Electricity' and 'Taxes on Vehicles' were more than 10 per cent. The reasons for such variation as stated by the Finance department and other departments of the government are given below :

*Sales Tax* : The short fall of Rs.59.52 crores was due to (a) non-implementation or late implementation of additional taxation measures viz., rationalisation of rates of Sales Tax/levy of Sales Tax on Foreign Liquor (Rs.29.10 crores), (b) non-realisation of Rs.25 crores from M/s. Steel Authority of India Limited anticipated in the Budget Estimates and (c) deferment of collection of about Rs.4 crores from some companies etc.

*Forest* : The increase of Rs.23.98 crores was stated to be due to higher collection of revenue from M/s. Orissa Forest Development Corporation Limited on Sale of Kendu leaves.

*Land Revenue* : The increase (Rs.70.10 crores) was due to collection of arrear mining cess of Rs.67.49 crores which was not taken into account at the time of finalisation of Budget Estimates and better collection of Land Revenue during the year.

*State Excise* : An amount of Rs.16.03 crores was anticipated in the Budget Estimates on account of additional taxation measures like conversion of outstill system to country spirit system and increase of duty on country spirit. Due to non-implementation/part implementation of these additional taxation measures, the actual collection was only Rs.4.67 crores which accounts for the short fall of Rs.11.36 crores.

*Stamp duty and Registration fee :* The decrease (Rs.5.06 crores) was stated by the department to be due to decrease in number and value of the documents registered during the year.

*Mines and Minerals :* An amount of Rs.83 crores was anticipated from increase of royalty on major minerals excluding coal/sale of pelletized minerals. The shortfall was due to non-implementation of these measures.

*Education :* The increase of Rs.3.88 crores was stated to be due to increase in price of text books and excess sale proceeds from waste paper as also due to refund of excess amount drawn by College teachers during 1989-90 as a result of incorrect fixation of pay in the scales prescribed by the University Grants Commission.

*Police :* The increase in collection of revenue (Rs.1.92 crores) was stated to be due to collection of arrear and current dues towards cost of Police guards supplied to other Governments and Public Undertakings.

Reasons for shortfall of receipts under 'interest' (Rs.18.53 crores) were not furnished by the concerned departments (January 1992).

#### 1.4 Cost of collection

Expenditure incurred in collecting the major tax revenue receipts during the year 1990-91 and the corresponding figures for the preceding two years are given below :

[ Statement



Head of account	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average (percentage for 1989-90)
(1)	(2)	(3)	(4)	(5)	(6)
<b>(Rupees in crores)</b>					
1. Sales Tax	1988-89	238.34	5.38	2	
	1989-90	297.20	6.09	2	1.5
	1990-91	354.58	6.79	1.9	
2. Land Revenue	1988-89	35.60	32.57	92	
	1989-90	78.95	34.80	44	
	1990-91	81.90	35.74*	43.6	
3. Taxes on Vehicles	1988-89	38.03	0.85	2	
	1989-90	43.90	1.03	2	3
	1990-91	52.29	0.84	1.6	
4. State Excise	1988-89	30.96	2.73	10	
	1989-90	38.29	3.10	8	3
	1990-91	45.64	3.20	7	
5. Stamps and Registration Fees	1988-89	25.62	2.21	10	
	1989-90	27.98	3.09	11	5
	1990-91	30.94	3.46	11.2	

The expenditure incurred under "Land Revenue" was not only for collection of revenue but also for other administrative functions. The department has stated that *33 per cent* of the total expenditure can be apportioned towards collection of Land Revenue and the rest for other administrative functions.

### 1.5 Arrears in assessment of Sales Tax

The number of assessments of Sales Tax cases finalised by the department and the assessments pending finalisation as at the end of March 1991 and the preceding two years as reported by the department are indicated below:

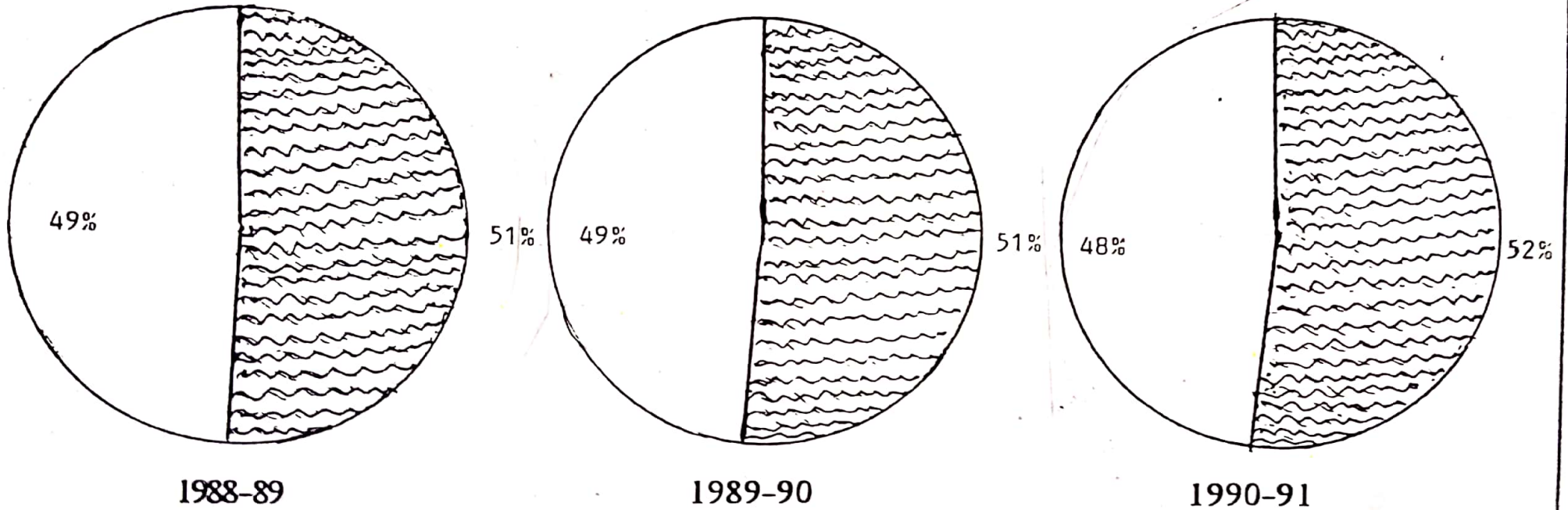
	1988-89	1989-90	1990-91
i) Number of cases due for assessment	3,68,939	3,75,581	3,81,813
ii) Number of assessments completed	1,82,059	1,84,749	1,81,936
iii) Number of assessments pending	1,86,880	1,90,832	1,99,877
iv) Percentage of pending cases to total cases (i.e. percentage of column (iii) to column (i))	51	51	52



The break up of arrear and current cases in respect of assessments completed and assessments pending as at the end of years though called for (July 1991) could not be furnished by the department.

The year-wise break up of the pending assessments as on 31 March 1991 could not also be furnished by the department.

**CHART IV**  
**PERCENTAGE OF PENDING CASES TO TOTAL CASES DUE FOR WORK**

Arrears in assessment of Sales Tax



 Pending  
 Clearance

( PARAGRAPH 1.5 )



## 1.6 Analysis of Sales Tax collection

During the year 1990-91, the total collection of tax was Rs.354.58 crores, the break up of which is as under :

		(Rupees in crores)
i)	Amount collected at pre-assessment stage	309.97
ii)	Amount collected after regular assessment	16.16
iii)	Amount of arrear demand collected	32.80
iv)	Other Miscellaneous receipts	<u>0.78</u>
	<b>Total</b>	<b><u>359.71</u></b>
v)	Amount refunded	<u>5.13</u>
vi)	Net collection	<u>354.58</u>

## 1.7 Arrears in disposal of sales tax refund cases

The position of pendency of sales tax refund cases at the end of March 1991, as reported by the department, is indicated below :

	Number of cases	Amount involved (Rupees in lakhs)
i) Refund cases pending	1,958	263.51
ii) Claims received during the year	2,206	1105.37
iii) Total	4,164	1368.88

	Number of cases	Amount involved (Rupees in lakhs)
iv) Cases disposed of during the year	1,586	512.68
v) Claims rejected during the year	178	410.14
vi) Balance outstanding at the end of March 1991	2,400	446.06

### 1.8 Uncollected revenue

Based on the information furnished by the departments, an analysis of arrears of revenue pending collection at the end of March 1991 in respect of the principal sources of revenue is given below. For purposes of comparison, arrears as at the end of March 1990 have also been indicated.

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
1. Sales Tax	33,353.70	33,264.42	The year-wise break up of the arrears is as follows: (Rupees in lakhs)  Upto 1985-86 2515.24

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
			1986-87 1483.07
			1987-88 2829.53
			1988-89 11126.08
			1989-90 10979.97
			1990-91 4330.53
			<u>33,264.42</u>
			Out of the above arrears, recovery of amounts exceeding Rs.2 lakhs in each case was outstanding in 186 cases (21 circles) involving an amount Rs.9,403.45 lakhs as on 31 March 1991. The various stages under which the arrears are pending is given below :
			(Rupees in lakhs)
			a) Recovery stayed by :
			i) High Courts and other judicial authorities 7372.53



Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
			(Rupees in lakhs)
			ii) Government/ Departmental authorities 13036.55
			b) Other stages:
			i) Under third party notices 3060.54
			ii) Under show cause notices 4829.13
			c) Demands covered by certificate proceedings 4726.09
			d) Amounts likely to be written off 239.58
			<b>Total</b> <u>33264.42</u>

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)

( Rupees in lakhs )

2. Land Revenue	644.71	657.21	Category-wise break up of arrears at the end of March 1991 is indicated below :
-----------------	--------	--------	---

	(Rupees (in lakhs)
Rent	110.82
Cess	208.15
Nistar Cess	3.94
Sairat	44.97
Miscella- neous Revenue	289.33
<b>Total</b>	<u>657.21</u>

The year-wise break up of the arrears could not be furnished by the department though called for in June 1991 as the accounting procedure

Source of Revenue	Amount of arrears pending collection as on 31 March 1990 (2)	Amount of arrears pending collection as on 31 March 1991 (3)	Remarks (4)
(1)	<b>(Rupees in lakhs)</b>		
3. State Excise	47.18	60.28	prescribed in the manual of Tahsil Accounts do not provide for the same.
			The year-wise break up of the arrears could not be furnished by the Department though called for in June 1991.
			The various stages under which the arrears are pending is given below:
			<b>(Rupees in lakhs)</b>
		i)	Demands covered under Certificate cases 41.00
		ii)	Amount covered by Distress Warrant 7.33



Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
	(Rupees in lakhs)		(Rupees in lakhs)
			iii) Under process of realisation 7.21
			iv) Amounts likely to be written off 4.25
			v) Recoveries stayed by High Courts and other judicial authorities and Government
			Total <u>0.49</u> <u>60.28</u>
4. Taxes and Duties on Electricity	4,408.78	5,587.90	The arrears at the end of March 1991 (Rs.5,587.90 lakhs) were nearly 27 per cent more than the arrears at the end of March 1990. The arrears as on 31 March 1991 were outstanding against the

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)

(Rupees in lakhs)

following :

	(Rupees in lakhs)
Orissa State Electricity Board	4,362.74
Private parties	1,201.68
Other appointed authorities	23.48
	<u>5,587.90</u>

The details of arrears outstanding against private parties/other appointed authorities are as follows :

<u>Private parties</u>	
'A'	4.81
'B'	210.44

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)

(Rupees in lakhs)

(Rupees in lakhs)

'C'	68.64
'D'	2.41
'E'	58.31
'F'	795.15
'G'	61.92

Other Appointed Authorities

'H'	23.48
<b>Total</b>	<u>1,225.16</u>

Out of the above arrears, an amount of Rs.33.94 lakhs was covered by certificate proceedings against the following :

'B'	29.74
'I' (Board Consumer)	4.13
'J' ( - Do - )	0.07
<b>Total</b>	<u>33.94</u>



Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
<b>(Rupees in lakhs)</b>			
5. Forest	2,134.02	1,888.93	The year-wise break up of the arrears as on 31 March 1991 could not be furnished by the Department as the information was not available with the department. Of the arrears, Rs.112.12 lakhs was covered under certificate proceedings and the balance of Rs.1,776.81 lakhs were covered under other cases.
6. Mines and Minerals	435.46	440.74	The year-wise break up of arrears as on 31 March 1991 is as follows :
			<b>(Rupees in lakhs)</b>
			Upto
			1985-86
			1986-87
			1987-88
			73.45
			12.46
			76.19

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
	<b>(Rupees in lakhs)</b>		
			<b>(Rupees in lakhs)</b>
			1988-89 91.99
			1989-90 105.82
			1990-91 81.83
			<b>Total</b> <u>440.74</u>

Out of the above arrears, recovery of Rs.41.15 lakhs was covered by certificate proceedings, Rs.17.35 lakhs under stay orders of High Court and other judicial authorities, Rs.19.95 lakhs under proposals for write off and the balance amount of Rs.362.29 lakhs is under process of recovery.

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)

(Rupees in lakhs)

## 7. Interest

## a) Interest payable

by 16,572.00  
Orissa  
State  
Electricity  
Board

19,335.55

The arrears at the end of March 1991 increased by Rs.2,763.55 lakhs (17 per cent approximate) as compared to the arrears at the end of March 1990. The arrears as on 31 March 1991 represent the following :

(Rupees  
in lakhs)

1. Interest on assets loan 9,052.57
2. Interest on Talcher Thermal Power Station Expansion perpetual Loan 4,324.80



Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
	<b>(Rupees in lakhs)</b>		<b>(Rupees in lakhs)</b>
			3. Interest on Talcher Thermal Expansion Cash Loan 3,602.69
			4. Interest on Cash Loan 1,941.75
			5. Interest recoverable from Government of Andhra Pradesh 413.74
			<b>Total</b> <u>19,335.55</u>

The year-wise break up of arrears as on 31 March 1991 is furnished below :

Upto	
1986-87	11,046.93
1987-88	1,356.93
1988-89	1,476.40

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
	(Rupees in lakhs)		(Rupees in lakhs)
			1989-90
			1990-91
			<b>Total</b>
			<u>19,335.55</u>

b) Interest on loans by Industries Department

579.46      1,514.73

The arrears at the end of March 1991 (Rs.1,514.73 lakhs) increased by about 161 per cent as compared to the arrears at the end of March 1990 (Rs.579.46 lakhs).

The year-wise break up of the arrears as on 31 March 1991 is given below :

Upto	
1988-89	1,312.87
1989-90	43.19
1990-91	158.67
<b>Total</b>	<u>1,514.73</u>

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)

(Rupees in lakhs)

The amounts are recoverable from Co-operative Societies (Rs.153.20 lakhs), Industrial Development Corporation (Rs.994.54 lakhs), Orissa Small Industries Corporation (Rs.45.11 lakhs), Orissa State Financial Corporation (Rs.187.58 lakhs) and other Bodies (Rs.134.30 lakhs).

c) Interest

on loans from Community Development

86.37

89.55

The year-wise break up of the arrears as on 31 March 1991 is furnished below :  
(Rupees in lakhs)

Upto	
1986-87	76.81
1987-88	3.27
1988-89	3.16
1989-90	3.13
1990-91	3.18
<b>Total</b>	<b><u>89.55</u></b>



Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
	(Rupees in lakhs)		
8. Stationery and Printing	120.47	118.33	The year-wise break up of the arrears on 31 March 1991 is given below :
			(Rupees in lakhs)
			Upto
			1985-86
			14.78
			1986-87
			0.37
			1987-88
			1.65
			1988-89
			21.43
			1989-90
			79.83
			1990-91
			0.27
			<b>Total</b>
			<b><u>118.33</u></b>
			Out of the above arrears an amount of Rs.11,000 only was covered by certificate proceedings.
9. Police	509.71	515.90	The year-wise break up of arrears as on 31 March 1991 is indicated below :

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)
	<b>(Rupees in lakhs)</b>		
			<b>(Rupees in lakhs)</b>
			Upto 1985-86            114.50 1986-87            33.14 1987-88            92.43 1988-89            55.04 1989-90            34.69 1990-91            186.10 <b>Total</b> <u>515.90</u>
			Substantial arrears were outstanding against the following:
			Balimela Hydro-Electricity Project            124.34
			South Eastern Railways            104.43
			Andhra Pradesh State Electricity Board            80.79

Source of Revenue	Amount of arrears pending collection as on 31 March 1990	Amount of arrears pending collection as on 31 March 1991	Remarks
(1)	(2)	(3)	(4)

(Rupees in lakhs)

(Rupees in lakhs)

Government of India (Aviation Research Centre)

44.91

Government of Assam

35.59

State Bank of India

24.52

Government of Bihar

19.52

Government of Andhra Pradesh

16.37

### 1.9 Frauds and evasion of tax

The number of cases of evasion of tax detected by Sales Tax Department during 1990-91, assessments finalised and demand for additional



tax raised are given below :

		Number of cases
A	(i) Cases pending as on 1st April 1990	18,162
	(ii) Cases detected during the year	<u>10,980</u>
	<b>Total</b>	<b><u>29,142</u></b>
B	Cases in which investigation/assessments were completed during the year	10,725
C	Cases which were pending at the end of the year	18,417

The amount of revenue involved in the above cases could not be furnished by the department.

### 1.10 Outstanding Inspection Reports

(a) Important irregularities and defects in assessment, demand, collection and accounting of State receipts, noticed during local audit, are intimated through Inspection Reports to the Departmental Officers, Heads of Departments and also to Government, where necessary with the request to furnish replies thereto within a month of their receipt. In addition, statements showing details of audit objections remaining outstanding for more than six months are sent to Government every six months in May and November, so that these may receive special attention.

(b) At the end of June 1991, 2,566 Inspection Reports containing 8,558 audit objections, involving

receipt of Rs.5838.26 lakhs issued upto December 1990 were awaiting settlement.

The year-wise break up of the outstandings as at the end of June 1991 is given below :

	<u>Number of outstanding</u>		Revenue involved
	<u>Inspection Reports</u>	<u>Audit Objections</u>	(Rupees in lakhs)
Upto 1988-89	2,206	6,406	4369.35
1989-90	202	1,187	736.88
December 1990	<u>158</u>	<u>965</u>	<u>732.03</u>
	<u>2,566</u>	<u>8,558</u>	<u>5838.26</u>

(c) The department-wise break up is given below :

Department	Nature of receipts	Number of reports	Number of audit objections	Revenue involved (Rupees in lakhs)
(1)	(2)	(3)	(4)	(5)
1. Revenue and Excise	Land Revenue	625	1,550	2327.87
	Stamp duty and Registration Fees	341	494	7.34
	State Excise	138	434	566.18

Department	Nature of receipts	Number of reports	Number of audit objections	Revenue involved (Rupees in lakhs)
(1)	(2)	(3)	(4)	(5)
2. Commerce and Transport (Transport)	Taxes on vehicles	152	1,537	979.14
	Taxes on Passengers	71	240	375.97
3. Finance	Sales Tax	572	2,519	640.44
	Entertainment Tax	182	293	10.74
4. Forest and Environment	Forest	398	1,345	541.19
5. Steel and Mines	Mining Receipts	87	146	389.39

(d) Out of reports issued upto December 1990, in respect of 231 reports containing 1441 audit objections, even first replies had not been received till 30th June 1991. The extent of delay in receipts of replies in these cases is shown below :

Period of delay	Number of Inspection Reports	Number of Outstanding audit objection	Revenue involved (Rupees in lakhs)
(1)	(2)	(3)	(4)
Upto 6 months	43	360	390.95
Over 6 months and upto 12 months	48	338	518.28
Over 12 months and upto 18 months	24	122	94.19



Period of delay	Number of Inspection Reports	Number of Outstanding audit obje- ction	Revenue involved (Rupees in lakhs)
(1)	(2)	(3)	(4)
Over 18 months and upto 24 months	23	195	95.08
Over 24 months	93	426	410.74
<b>Total</b>	<u>231</u>	<u>1,441</u>	<u>1509.24</u>

The above position was also brought to the notice of the Chief Secretary to the Government (September 1991 and October 1991).

### 1.11 Internal control and internal audit

#### *Commercial Tax Department*

The internal audit organisation of the Department started functioning from the year 1975-76. There are 27 Commercial Tax Circles, 16 assessment units, 36 check posts and 8 Railway Receipt Units in the State which are subject to check by internal audit wing. The auditorial function of these offices has been assigned to 7 Inspection Parties each consisting of one Commercial Tax Officer (Inspection), Junior Assistant, one Stenographer, one junior Typist and two Peons. During the year 1990-91, out of 7 Inspection Parties, two parties were engaged for the entire year, three parties were engaged for part of year and the remaining two parties did not function, as no personnel were posted to these parties.

The position of arrears of Internal Audit vis-a-vis programme fixed for the year 1990-91 indicated below:-

Name of Office	Number of offices to be audited	Number of years of audit to be completed (arrears in years multiplied by number of Offices)	Number of years audited	Arrears as on 31.3.91
Circle Offices	27	74	12	62
Assessment Units	16	30	11	19
Check posts	36	98	37	61
Railway Receipt Units -	<u>8</u>	<u>27</u>	<u>9</u>	<u>18</u>
	<u>87</u>	<u>229</u>	<u>69</u>	<u>160</u>

As at the end of 31 March 1991, 625 Inspection Reports containing 12,520 objections were pending settlement. The money value of these objections were not maintained by the department. The year-wise break up of the Inspection Reports and

audit objections pending settlement is indicated below:

Years	Number of Inspection Reports	Number of audit objections
Upto 1986-87	297	6,514
1987-88	96	2,490
1988-89	116	2,095
1989-90	47	835
1990-91	69	586
<b>Total</b>	<u>625</u>	<u>12,520</u>

#### *Transport Department*

The internal audit organisation of the department started functioning from 1968-69.

According to the information furnished by the Department (July 1991), internal audit wing with a sanctioned strength of 4 auditors is functioning in the Office of the State Transport Authority for conducting internal audit of the 16 Regional Transport Offices and State Transport Authority functioning in the State. At present 3 Auditors are working. The department stated that due to inadequate staff it could not be possible to complete audit in all the regions within a year. The Government have sanctioned 6 more posts of auditors in August 1991 but the posts have not yet been filled in.

The year upto which internal audit was completed by the end of 31 March 1991 in the



16 regions and State Transport Authority, Orissa is indicated below :

Serial number	Name of the Office	Year upto which internal audit was completed	Remarks
1.	Regional Transport Office, Balasore	1987-88	-
2.	Regional Transport Office, Bolangir	1985-86	-
3.	Regional Transport Office, Bhubaneswar	1987-88	-
4.	Regional Transport Office, Cuttack	1985-86	-
5.	Regional Transport Office, Chandikhol	-	The office was opened during the year 1986-87 and no internal audit was conducted since inception.
6.	Regional Transport Office, Dhenkanal	1987-88	-
7.	Regional Transport Office Ganjam	1987-88	-

Serial number	Name of the Office	Year upto which internal audit was completed	Remarks
8.	Regional Transport Office, Kalahandi	1985-86	-
9.	Regional Transport Office, Keonjhar	1985-86	-
10.	Regional Transport Office, Koraput	1985-86	-
11.	Regional Transport Office, Mayurbhanj	1986-87	-
12.	Regional Transport Office, Phulbani	1987-88	-
13.	Regional Transport Office, Puri	1986-87	-
14.	Regional Transport Office, Rourkela	1985-86	-
15.	Regional Transport Office, Sambalpur	1985-86	-
16.	Regional Transport Office, Sundargarh	1986-87	-
17.	State Transport Authority, Orissa, Cuttack	1987-88	-

The information regarding number of Inspection Reports and audit objections pending settlement with money value as on 31 March 1991 was not furnished by the department. It is stated (December 1991) that no registers/records are prescribed or maintained to watch the outstanding Inspection Reports and paras.

*Department of Steel and Mines*

The internal audit wing functioning in the department has four parties each party consisting of two Auditors. There is one Audit Officer and one Audit Superintendent in the Wing. Out of sanctioned strength of 8 Auditors, 2 posts are lying vacant. The Internal Audit Wing has to conduct audit of 23 Circle Offices functioning in the State under the control of Director of Mines, Orissa. According to the draft programme, the Internal Audit parties were required to complete audit of 12 offices during the year 1990-91 but 11 Offices only could be audited. In the case of 9 Offices audit of accounts upto 1989-90 was completed and in the remaining 2 Offices audit of accounts was completed upto 1988-89. The reasons for arrears in completion of audit was stated to be due to shortage of staff.



## CHAPTER 2

### SALES TAX

#### 2.1 Results of Audit

Test check of assessments and refund cases and the connected documents in the Commercial Tax Offices during the period from April 1990 to March 1991 revealed under-assessment of tax and loss of revenue amounting to Rs.571.89 lakhs in 1125 cases, which may broadly be categorised as under :

	Number of cases	Amount (Rupees in lakhs)
1. Irregular grant of exemptions	107	131.36
2. Short-levy due to incorrect computation of taxable turnover	100	125.49
3. Under-assessment due to application of incorrect rate of tax	50	28.07
4. Non-levy of interest	665	19.12
5. Other irregularities	203	267.85
	<u>1125</u>	<u>571.89</u>

Some of the important cases noticed during 1990-91 and earlier years are mentioned in the succeeding paragraphs.

## 2.2 Pendency of appeals at various levels and its impact on revenue collection

### 2.2.1 Introduction

Sales Tax is the principal source of revenue to the State and has been contributing the highest percentage of tax revenue of the State (55.29 per cent) over the last three decades. Levy of Sales Tax is governed by the Orissa Sales Tax Act, 1947, the Orissa Additional Sales Tax Act, 1975, the Central Sales Tax Act, 1956, and the relevant rules made thereunder. To redress the grievances of the assessee dealers, there is a regular forum for disposal of appeals filed by the aggrieved dealers.

A dealer, who is aggrieved by an order of assessment or an order directing payment of interest or imposition of penalty, can prefer an appeal within thirty days from the date of receipt of the copies of the assessment orders etc., before the 1st appellate authority (Assistant Commissioner of Sales Tax Appeals). The appellate authority may confirm, reduce or annul the assessment or the penalty or interest, or set aside the assessment or the penalty or interest and direct the assessing officer to pass a fresh order after such enquiry as may be directed. The dealer or the State Government, as the case may be dissatisfied with the appeal order, may within sixty days from the date of receipt of such order, prefer an appeal to the Sales Tax Tribunal against such order. The Commissioner of Commercial Taxes, Orissa is empowered to revise any order passed by the assessing officer or appellate authority (other than the Tribunal) for which there is no remedy by way of appeal. The dealer or as the case may be, the State Government, if they are not satisfied with the order of Tribunal, can file an appeal



before the High Court within sixty days from the date of receipt of the copy of order of the Tribunal.

Powers have been delegated by the Commissioner to Assistant Commissioners of Sales Tax who are the first appellate authorities under the Act to grant stay of the recovery of demanded tax etc., during the pendency of the first appeal. Powers for grant of stay of collection of demand during pendency of the second appeal before the Tribunal have been vested with the Commissioner.

### 2.2.2 *Scope of audit*

With a view to analysing the procedural efficiency of the system of appeals obtaining under the Orissa Sales Tax Act, 1947, and the rules made thereunder and other executive instructions issued on the subject from time to time and its impact on revenue collections of the Government, records of the Commissioner of Commercial Taxes, Orissa, Sales Tax Tribunal, 5 Ranges (Cuttack-I, Cuttack-II, Puri, Balasore and Ganjam) out of 9 ranges existing in the State and 11 Circle Offices (Cuttack-I East, Cuttack-I West, Cuttack-I Central, Cuttack-II Circle, Bhubaneswar-I, Ganjam-I, Ganjam-III, Sambalpur, Rourkela-I, Rourkela-II and Angul) out of 27 Circles in the State, for the years 1987-88, 1988-89 and 1989-90 were test checked by audit during the period from April 1991 to June 1991.

### 2.2.3 *Organisational set-up*

The State Government constituted 27 Circles into 9 ranges with an Assistant Commissioner of Sales Tax in-charge of each range who is assisted by one or two Additional Assistant Commissioners of Sales Tax to hear the appeal cases arising out of the assessment orders passed by the Circle Officers (Commercial



Tax Officers). They are the first appellate authorities under the Act. At the second appeal stage, there is a Sales Tax Tribunal consisting of two Judicial Members and one Accounts Member. The State Representative is to represent and argue on behalf of the State in the second appeals filed before the Tribunal. The State Representative is also entrusted with the functions of preliminary scrutiny of first appellate orders and to file second appeals on behalf of the State in deserving cases. There is a Standing Counsel for the department for tendering legal advice and to represent in the High Court on behalf of the department. The Commissioner of Commercial Taxes, Orissa as the Head of the Department is vested with revisionary powers and to grant stay orders for recovery of the demanded taxes, penalties, interest etc., pending finalisation of the appeal cases.

#### 2.2.4 *Highlights*

(i) Sales tax arrears aggregating Rs.145.78 crores as on 31.3.1990, were pending collection due to grant of stay orders by appellate authorities/judicial courts.

(ii) About 1.94 lakh appeal cases remained pending as on 31.3.1990 due to fixation of unrealistic targets and delays at various stages.

(iii) Prompt follow-up action was not taken on the cases set aside by the appellate authorities and remanded for re-assessment.

(iv) 1054 appeal cases, where the disputed amount of tax and penalty exceeded Rs.50,000 in each case, were pending with Sales Tax Tribunal as on 31.3.1990.

### 2.2.5 Total receipts, arrears and revenue involved in appeals

The position of total receipts, arrears and revenue involved in appeals under the Sales Tax receipts for the years 1987-88 to 1989-90 is indicated below :

Year	Total arrears upto end of the year	Receipts during the years	Revenue involved in appeals	percentage of Column 4 to 3	percentage of Column 5 to 2	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
( Rupees in lakhs )						
1987-88	12,361.21	20,606.33	2996.53	6953.92	14.5	56.3
1988-89	24,455.69	23,834.20	644.90	7597.02	2.7	31.1
1989-90	33,353.70	29,720.44	6981.34	14578.36	23.5	43.7

At the end of 31st March 1990, 1,96,476 appeal cases were pending with various appellate authorities. The year-wise details of appeals pending with various appellate authorities and courts were as follows:

[Statement

Name of the appellate	Number of cases pending as on 31.3.1990 relating to the years				Total
	Prior to 1986-87	1987-88	1988-89	1989-90	
Assistant Commi- sioners of Sales Tax (1st appellate authority)	4,684	12,588	34,696	1,30,638	182606
Sales Tax Tribunal (2nd appellate authority)	-	-	-	-	12914
High Court and other Judicial authorities	614	168	120	54	<u>956</u> <u>196476</u>

### 2.2.6 Growth of appeals

(a) The position of receipts, disposal and balance of appeal cases for the three years 1987-88 to 1989-90 under different appellate authorities is as follows :

[Statement



Name of the Appellate Authority	Year	Number of disposal at the beginning of the year	Addition during the year	Total	Disposal during the year	Number of cases at the end of the year	Percentage of Column 6 to Column 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Assistant Commissioner of Commercial Taxes	1987-88	57,990	58,575	1,16,565	28,219	88,346	24.2
	1988-89	88,346	76,319	1,64,665	29,218	1,35,447	17.7
	1989-90	1,35,447	75,316	2,10,763	28,157	1,82,606	13.4
Sales Tax Tribunal	1987-88	6,560	3,028	9,588	762	8,826	7.9
	1988-89	8,826	3,451	12,277	764	11,513	6.2
	1989-90	11,513	2,960	14,473	1,559	12,914	10.8
High Court/ Supreme Court	1987-88	614	706	1,320	538	782	40.8
	1988-89	782	531	1,313	411	902	31.3
	1989-90	902	474	1,376	420	956	30.5

(b) The details of disposal of appeal cases are indicated in the statement given below :

Year	Appeals set aside	Cases remanded to assessing Officers	Disposed of on the basis of written submission by the assesseees	By decisions on appeal		Total	
	Number	Money value (Rupees in lakhs)		Number	Money value (Rupees in lakhs)	Number	Money value (Rupees in lakhs)
1987-88	2909	582.93	No such cases	25310	6869.52	28219	7452.45
1988-89	3483	578.61	No such cases	25735	2659.93	29218	3238.54
1989-90	<u>3873</u>	<u>1412.66</u>	No such cases	<u>24284</u>	<u>5278.71</u>	<u>28157</u>	<u>6691.37</u>
	<u>10265</u>	<u>2574.20</u>		<u>75329</u>	<u>14808.16</u>	<u>85594</u>	<u>17382.36</u>

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(c) Out of 28219, 29218 and 28157 number of appeal cases decided by the first appellate authorities during the years 1987-88, 1988-89 and 1989-90 respectively, 2909 (10.3 per cent), 3483 (11.9 per cent) and 3873 (13.7 per cent) number of cases were set aside and remanded to assessing officers for re-assessment. A test check of 333 such cases set aside in five circle (Cuttack-I East, Cuttack-I West, Cuttack-I Central, Cuttack-II and Bhubaneswar-I Circles) revealed (June 1991) that these cases relating to the period from 1970 onwards were awaiting disposal as on 31.3.1990. A scrutiny of 33 cases disposed of indicated that the time taken for finalising these cases ranged between two to twelve years. Further, the Orissa Sales Tax Act, 1947, also does not provide for any time limit within which these cases are required to be disposed of.

2.2.7 *Executive instructions in regard to expeditious disposal of appeal cases and targets fixed for disposal of appeal cases by appellate authorities*

(A) The Commissioner of Commercial Taxes, Orissa in his Standing Order No.10 of 1962 observed that there was 'leisurely handling of appeal petitions resulting in huge pendency and slowing down of collection of Government revenue'. To remedy this unhealthy trend, instructions were issued by him prescribing suitable time limits for disposal of appeal petitions by the Range Officers, according to which an appeal should be disposed of within three months of its filing. The checking of the appeal petition should be completed within fifteen days of their receipt in the Office. Fifteen days time is allowed for getting any defects in the appeal petitions rectified. Fifteen days are allowed for calling for records with reports from the subordinate offices, and the appellants are allowed a fortnight's notice for production of evidence on



hearing. It had also been prescribed that the orders on appeal petition should be passed on the date of hearing or within a week of the conclusion of hearing at the latest.

The Assistant Commissioners were also required to draw up quarterly programmes of posting of appeals and prepare a cause list to be displayed in their office for the information of all concerned. In the Commissioner's Standing Order No.41 of 1963 instructions were also issued to appellate authorities to list out the appeals for disposal in the following order of importance -

- (i) appeals involving heavy amounts of stay ,
- (ii) appeals pending over an year and
- (iii) remanded appeals.

A test check in audit of 139 appeal cases disposed of during the years 1987-88 to 1989-90 in three Ranges (Cuttack-I, Cuttack-II and Puri) revealed (June 1991) delays ranging from 6 months to 165 months in the final disposal of appeal cases over the prescribed period of 3 months due to delays caused at the following stages :

- (i) In 55 cases, delays ranging from 12 months to 57 months were noticed in issuing appeal memos after receipt of the appeal case. In one case in Cuttack-II range the delay was even upto 165 months.
- (ii) Delays ranging from 3 months to 61 months were noticed in receipt of appeal memo with records in 80 cases.

(iii) Delays were also noticed in final disposal of the appeal cases after receipt of appeal memo with records. Such delays ranged from 2 months to 125 months in 93 cases.

(B) *Fixation of targets*

The Commissioner had fixed the following targets for each appellate officers from time to time in his Standing Orders mentioned below :

Monthly targets fixed as per Standing Order		
Number 9 of 1963 dated 5.4.1964	Number 23 of 1964 dated 19.6.1964	OO Number 28945 dated 22.11.75

Quarterly cases

Assistant Commissioner of Commercial Taxes	100	50	10
Additional Assistant Commissioner of Commercial Taxes	200	200	200

In December 1989, the above targets were revised according to which the Additional Assistant Commissioner should write 50 appeal orders and the Assistant Commissioner in-charge of the range should write 5 appeal orders per month irrespective of the number of appeals and the number of quarterly

cases involved in such orders (excluding disposal of stay petitioners, appeals against penalty and interest etc.).

A statement showing the targets fixed, number of appeal cases pending for disposal at the beginning of the year, appeal cases received during the year, their disposal and pendency at the end of the year, for the years 1987-88, 1988-89 and 1989-90 is given below :

Year	Targets fixed	Number of appeal cases pending at the beginning of the year	Number of appeal cases received during the year	Total	Number of appeal cases disposed of during the year	Number of appeal cases pending at the close of the year
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1987-88	29,880	57,990	58,575	1,16,565	28,219	88,346
1988-89	29,880	88,346	76,319	1,64,665	29,218	1,35,447
1989-90	29,880	1,35,447	75,316	2,10,763	28,157	1,82,606

It would be seen from the above that though the actual disposals during each year were more or less commensurate with the targets fixed, the pendency of appeal cases was increasing year after year. This is due to the fact that the targets fixed for disposal of appeal cases would not cover even 50 per cent of the appeal cases received during the year. Thus, there appears to be need to review the targets fixed in order to correlate the disposals with the receipts and accumulation of appeal cases.



2.2.8 *Efficacy of the monitoring and control mechanism for watching the receipt and disposal of appeals*

To watch the receipts and disposal of the cases at various stages a 'Register of Appeals' in the prescribed form is required to be maintained by each appellate authority for appeal cases arising under the Orissa Sales Tax Act, 1947 (Register No.88) and the Central Sales Tax Act, 1956 (Register No.89) separately. A scrutiny of the Register of Appeals maintained in two ranges (Cuttack-I and Cuttack-II) revealed that the registers were not being maintained properly, in as much as the dates of issue of notice for rectification of defects after checking the application memo, date of receipt after rectification, date of issue of appeal memo, date of issue of notice of hearing etc., were not being noted as and when they took place but were being noted, after final disposal of the appeal case, thus defeating the very purpose of maintaining the register.

(a) During test check it was also noticed (April to June 1991) in audit that the Register of Appeals does not contain a column to record the money value involved in the appeal cases so as to facilitate the appellate authorities to take up review of high demand appeal cases and to accord due preference for disposal of such cases.

(b) *Non-maintenance of prescribed registers by the assessing officers*

The following registers which are required to be maintained by the assessing officers have not been maintained :

- (i) Register showing movement of records in connection with Appeals and Revisions (Registers No. 84)
- (ii) Original Jurisdiction cases Register.
- (iii) Special Jurisdiction Cases Register.

### 2.2.9 Cases pending with High Court and Supreme Court

As on 31.3.1990, 864 cases involving Rs.103.02 crores and 92 cases involving Rs.28.09 crores were pending disposal with the High Court and Supreme Court since 1980 and 1971 respectively. The break-up of figures are as under :

High Court			Supreme Court		
Year	Number of cases	Amount involved (Rupees in crores)	Year	Number of cases	Amount involved (Rupees in crores)
1980			1971		
to			to		
1986	549	95.50	1986	65	18.25
1987	154	1.81	1987	14	7.57
1988	113	3.42	1988	7	0.12
1989	48	2.29	1989	6	2.15
	<u>864</u>	<u>103.02</u>		<u>92</u>	<u>28.09</u>

### 2.2.10 Disposal of appeals involving large demands

Total disputed amount of tax and penalty involved in a case exceeding rupees fifty thousand should be heard by a full bench consisting of all



the members of the Sales Tax Tribunal as per the provisions made vide section 3(2e)(i) of the Orissa Sales Tax Act. As reported by the Tribunal in their letter dated 2.4.1991 to the Government, 854 cases involving revenue of more than Rs.50,000, were pending disposal as on 31.3.1990 at the second appellate stage (544 cases, ranging from Rs.50,001 to Rs.1,00,000; 166 cases ranging from Rs.1 lakh to Rs.2 lakhs, and 58 cases ranging from Rs.2 lakhs to Rs.5 lakhs, 33 cases ranging from Rs.5 lakhs to Rs.10 lakhs and 53 cases for Rs.10 lakhs and above ).

The Commissioner in his Standing Order No.41 of 1963 stipulated a monthly review of appeals involving heavy amounts of stay. As it was seen from 68 numbers of cases involving large amounts and awaiting disposal as on 31.3.1990, such monthly reviews were not being conducted regularly and as such these cases were not being given any special attention. It was stated that the shortage of staff at appellate levels as well as the large number of adjournments availed of by the dealers had led to delay in finalisation of such cases. It is observed that though the executive instructions circulated vide Standing Order No.10 of 1962 by the Commissioner limits the period of disposal of appeal to three months, there is no mandatory provision under Orissa Sales Tax Act in so far as availing of adjournments by the dealer is concerned.

The above points were reported to Government in July 1991, followed by reminder (September 1991); their reply has not been received (January 1992).



## 2.3 Working of Sales Tax Check-posts including barriers

### 2.3.1 Introduction

Under the Orissa Sales Tax Act, 1947, (as amended with effect from 28th October 1961) the State Government were empowered to set up check posts at places considered necessary with a view to preventing or check evasion of tax under the Act. The Government have accordingly started establishing from February 1962 onwards, check posts at the strategic points along the borders of the neighbouring States and on National and State Highways. There were 36 such road check posts in the State during the period from 1987-88 and 1989-90 and one more check post (Imamnagar) was created with effect from 1st October 1990. In addition, the Act and Rules provide that no person shall transport by road, river, craft or Mulia from any Railway Station any consignment of such goods exceeding such quantity as may be specified by notification. For this purpose, Government established eight Railway Receipt Units (Cuttack, Berhampur, Kantabhanji, Sambalpur, Jharsuguda, Rourkela, Rayagada and Bargarh) functioning in the State.

The Act empowers the Officer-in-Charge of the check posts to (i) to stop any vehicle transporting goods through the Check post for any period as may reasonably be necessary, (ii) examine the contents of the vehicles and (iii) inspect all records and documents in possession of the drivers of the concerned vehicles relating to the goods carried, to verify (a) whether there has been sale or purchase of goods, (b) whether tax payable on sale or purchase, has been paid and (c) whether the transaction has been properly accounted for and supported by requisite documents

and way bills duly filled in, issued by the person who consigns the goods in such form and containing such particulars as may be prescribed. If it appears on such examination that tax payable on sale or purchase of any goods has not been paid or if the goods transported are not supported by proper documents, the Officer-in-charge may detain the goods until the tax due thereon is paid or may seize and confiscate any goods which are under transport by a goods vehicle and realise the tax by selling the confiscated goods in the prescribed manner after giving the owner of the goods or the driver a reasonable opportunity of being heard, as also a receipt for the goods seized.

### 2.3.2 *Scope of audit*

A review on the working of the Check posts and Railway Receipt Units in the State was undertaken by audit during March 1991 to May 1991, with a view to assessing the overall efficiency and efficacy of the systems and procedures regulating their working and also with a view to verifying as to what extent the objective underlying the establishment of Check posts and barriers has been achieved viz., prevention and checking of evasion of tax. The review covered 13 out of 36 Check posts and 3 out of 8 Railway Receipt Units functioning in the State. On the basis of information collected during the review of check post records for the years 1987-88 to 1989-90, efforts were made to verify the follow-up action taken in 9 out of 27 assessment circles in order to ascertain the position of final disposal of the materials collected at the check posts.



### 2.3.3 *Organisational set-up*

The Commissioner of Commercial Taxes, Orissa being the head of the Commercial Tax Department is in overall control on the check posts. The administrative control and superintendence of the check posts vests with the Commercial Tax Officers of the Circles functioning in the respective areas. The day to day work of the check posts is looked after by one to three Additional Commercial Tax Officers, according to the work load, duly assisted by Inspectors, Clerks and other staff wherever necessary.

### 2.3.4 *Highlights*

(i) No system had been evolved to prevent evasion of tax by the dealers who declared that the goods were being bound for other States but subsequently unloaded these inside the State for sale. The tax liability involved in the cases test checked amounted to Rs.338.64 lakhs.

(ii) Executive instructions issued in the matter of despatch of the way bills received at check posts to the concerned circle offices; cross verification of the way bills with the books of accounts of the dealers; filing of the way bills in the assessment records of the respective dealers were not followed scrupulously.

(iii) Consignment of goods released from goods/parcel sheds without countersignature of Railway Receipts by the authorities of Railway Receipt Units rendered clandestine business by unscrupulous dealers possible.





2.3.6 In para 2.4 of the Report of the Comptroller and Auditor General of India, Revenue Receipts, for the year 1977-78, Government of Orissa, irregularities noticed in the course of review conducted during January - March 1978 on "Working of Sales Tax check posts in Orissa" were reported. The said Report was discussed by the Public Accounts Committee in their meeting held in 1985-86. The Committee in their 11th Report (Ninth Assembly), 1986-87 made recommendations on certain points brought out therein which are included in the relevant paras. "Action taken notes" had not been received from Government on these recommendations (January 1992) and the same irregularities and omissions inherent in the system continued to persist as brought out in the succeeding paragraphs.

2.3.6.1 *Evasion of tax due to non-monitoring of goods vehicles passing through the State*

Under the Orissa Sales Tax Act, 1947, at every check post, the driver or the person in charge of the vehicle shall stop the vehicle for inspection of all documents and records relating to goods carried and to search the vehicle by the officer in charge of the check post. The transporter is also required to submit a way bill in triplicate in the prescribed Form No. XXXII required to be supplied by the Department giving particulars of the quantity, value and nature of the goods transported, destination, name of the consignor and consignee etc. The details of all incoming vehicles, as furnished in the way bills are entered in the Incoming Registers (Form 160) maintained by check posts. After entering the particulars in the register, two copies of the way bills are retained by the check post officer and third copy duly stamped with the seal of check post is returned to the transporter for showing it at the exit check



posts, where the details of the way bills are entered in Outgoing Register (Form 161) and vehicle is allowed to pass.

A test check was conducted (March to May 1991) with a view to correlating the entries made in both the Incoming and Outgoing Registers, in six border check posts (Girisola, Jamsola, Bahalda, Sohella, Sunki and Borigumma) for one month (October 1989) at the entry and exit check posts respectively, with regard to 1459 vehicles. It was noticed that in 580 cases, the trucks which entered the State at four different points (Girisola, Jamsola, Sohella and Sunki) carrying goods valued at Rs.42.33 crores, did not pass out of Orissa either at the points of exit declared by them while entering the State or through other points of exit in the State. The fact of their not passing through the exit check posts indicated that the contents of these trucks could have been unloaded for sale in Orissa. The tax liability involved calculated at the general rate of 8 per cent amounted to Rs.338.64 lakhs. No system had been evolved to correlate the information furnished in the way bills given by the owner/drivers of the vehicles entering the State at one point and going out from another point at the various border check posts which is essential for guarding against evasion of tax.

When these cases were pointed out in audit (between April 1991 and May 1991), the Additional Commercial Tax Officers, Jamsola, Sohella and Borigumma confirmed the factual position (April and May 1991) but could not, however, state as to what were the antievasion measures having been taken to plug these substantial amounts of possible leakage of revenue. Since there was no system to correlate the information collected at the entry and exit check posts and also since there was no system of issuing



any documents/transit passes to these vehicles at the point of entry and to vehicles having National Permits, it was not possible to monitor their movements to determine the point at which sales could have taken place within the State which were exigible to the levy of sales tax.

On a similar objection (included as para 2.4.6) of Audit Report 1977-78 (Revenue Receipts) the department had opined before the Public Accounts Committee (September 1983) that it would not be practicable to pursue each truck from its entry into the State to its exit from the State as the scheme of National Permits authorises them to remain inside the State as long as possible. However, it may be of interest to mention here that the possibility of such evasion of tax is precluded under the Uttar Pradesh Sales Tax Act, 1948, by virtue of a "transit pass system". Under the system, all vehicles carrying goods coming from any place outside the State and bound for places outside the State are to obtain 'transit passes' from the first check post, after its entry into the State and deliver it at the last check post before its exit from the State. Failure to do so will raise a presumption that the goods carried by the concerned vehicle had been sold within the State which would attract penal provisions.

#### 2.3.6.2 *Improper linking of way bills collected at the check posts*

The way bills are documents in Form XXXII which accompany vehicles carrying goods and contain particulars such as the vehicle number along with the name and address of the owner of the vehicle, the name and address of the consignor, the consignee, along with the number of the Registration Certificate, description of the goods carried with quantity and

value thereof and the destination of the vehicle. These forms are required to be obtained from the department by the dealers who intend to transport the goods from one place to another within the State. However, in practice these way bills are not being supplied by the department and the transporters are furnishing the way bills in their own stationery. In respect of registered dealers transporting goods, 2 out of 3 copies of the way bills are required to be surrendered at the first check post according to instructions contained in para 12 of Chapter 14 of the Orissa Commercial Tax Manual Vol.III, Part A. The way bills are then scrutinised by the check post staff and if they are found to be defective/incomplete, sales tax at the appropriate rate is collected by the Officer in charge of the check post from the driver or owner of the goods accompanying the vehicle and receipt to that effect is issued in favour of the dealer transporting the goods who makes adjustment of the tax paid at the check posts while filing the prescribed returns to the Sales Tax Officer of the Circle where he is assessed. However, if the way bills are found complete in all respects, the vehicles are released after retaining two copies of the way bills and the third copy is kept by the driver of the vehicle duly endorsed so as to enable the vehicle to proceed to its declared destination. The way bills retained at the check post are, thereafter, sent to the concerned circle in which the purchasing dealer is registered for cross verification with his books of accounts so that the dealer does not keep these transactions out of account with intention of evading tax.

A test check conducted in 13 check posts during March to May 1991 regarding receipt of way bills at the check posts and their final disposal in the circle office where the dealer purchasing the



goods is assessed disclosed, the following irregularities:

(i) It was noticed that the way bills were being submitted by the owners/drivers of the vehicles in their own stationery signed by them, instead of by the consignor as required, in the Form XXXII prescribed by Government. Such a system is fraught with the possibility of misuse and incorrect quoting of particulars with a view to evading tax. The issuance of machine numbered way bills by the Department would enable prompt identification of cases of mis-utilisation and initiation of suitable action against the fraudulent dealers.

(ii) According to Commissioner's Standing Order of 1963, copies of way bills should be sorted out at the check posts and despatched to the concerned circles within 3 days. The registers being maintained at the check posts do not contain a uniform format to ensure that all the way bills received have been duly entered in the Way Bill Register with full details and that the same have been despatched to the concerned Circle Officers within the stipulated period. Further it is only through a covering letter that a bunch of way bills containing certain numbers without the requisite details are despatched to the circle offices concerned. The delay in despatch of the way bills ranged from 2 days to 37 days in respect of 10 circles.

(iii) (a) The way bills after receipt from the check posts are required to be sorted out ward-wise and then distributed to the respective wards at least fortnightly after entering them in a register, as per the instructions of the Commissioner of Commercial Taxes, Orissa (May 1977). In the course of review, it was noticed (May 1991) that in one case (Koraput-I circle, Jeypore) 90,081 way bills received from 2 check



posts(Sunki and Borigumma) during 1988-89 and 1989-90 were neither entered in the Way Bill Register in the circle office nor made over to the concerned wards as per the details given below :

Year	Total number of Way Bills received in the circle office	Total number of Way bills entered in the Way Bill Register	Balance not entered
1988-89	67,293	36,975	30,318
1989-90	<u>74,015</u>	<u>14,252</u>	<u>59,763</u>
<b>Total :</b>	<b><u>1,41,308</u></b>	<b><u>51,227</u></b>	<b><u>90,081</u></b>

On this being pointed out by audit (May 1991), the Commercial Tax Officer, Koraput-I Circle, Jeypore replied (May 1991) that due to shortage of staff and pressure of work, all the way bills received from the check posts could not be sorted out and made over to the concerned wards for being kept in the assessment file.

This indicated that adequate checks were not being exercised by the assessing officers to cross verify the books of accounts of the dealers with the way bills at the time of assessment which could result in suppression of purchases and sales and consequential evasion of tax.

(b) In six circles (Cuttack-I East, Cuttack-II, Balasore, Baripada, Bargarh and Jeypore) it was noticed between March 1991 to May 1991 that even after entering the way bills in the Way Bill Register, 251019 way bills were not distributed to the respective wards

as at the end of 31 March 1990. The year-wise break up of their pendency, however, could not be furnished by the concerned Circle Officers.

Due to non-distribution of the way bills to the respective wards, there was no scope for the assessing officers to verify the genuineness of the books of accounts of the dealers in respect of purchases and sales effected by them and for detecting suppressions, if any, which could result in evasion of tax and consequential loss of revenue to the public exchequer.

On this being pointed out in audit (March to May 1991), three Commercial Tax Officers (Jeypore, Balasore and Cuttack-II Circle) did not state any reasons for the pendency of the way bills while the three other Commercial Tax Officers attributed the reasons for non-distribution of way bills to shortage of staff.

(iv) As per the instructions of the Commissioner (May 1977) referred to above, the Ward Officer, is required to make a scrutiny of the bills received by him and select a few bills for spot verification by himself or by the Inspector attached to the ward. The rest of the way bills are to be taken to the respective assessment records for utilisation of the same at the time of annual assessment.

While considering para 2.4.7 of Audit Report 1977-78 (Revenue Receipts) the Public Accounts Committee observed as follows :

"The Committee are unhappy to note that all way bills were not entered in the Register and there was no noting in the register to indicate that way bills selected for



Spot verification were actually got verified by Inspectors and the verified way bills were filed in the Assessment records of dealers etc.. This is a very serious thing. The Committee consider that it is a clear case of negligence on the part of the officers and recommend to the Government that necessary steps be taken to fix responsibility on the concerned officers for the negligence of their duties. The Committee also suggest that some device such as extending telephone or wireless facility to each check post should be adopted to speed up the process of verification".

However, it was noticed (March to May 1991) that in none of the 9 Circles visited during the period of review had the ward officers maintained any record of selection of way bills for the purpose of cross verification by the Inspectors. As such, due to improper maintenance of the way bills from the time of their receipt in the Circle Office till their final disposal at the assessment stage, it was not possible to ascertain as to whether all the way bills received in the Circle Office had been duly accounted for and necessary action taken as per the executive instructions of the higher authorities so as to guard against evasion of tax. It was also noticed (March to May 1991) that in the case of 161 dealers, 231 out of 275 way bills relating to the period from 1987-88 to 1989-90 valued at Rs.300.17 lakhs were neither available in the assessment records nor any discussion made in their case records about the manner of their disposal, if any.

On these omissions being pointed out, three Commercial Tax Officers (Sambalpur-II, Cuttack-II and Cuttack-I East) stated that they would have



the way bills searched out and have them filed in the assessment records after due verification. The Commercial Tax Officer, Jeypore, however, stated (May 1991) that it was not practicable to sort out the way bills, dealer-wise due to their voluminous receipts every month.

2.3.7 *Consignment of goods released from Railway goods/parcel sheds without countersignature of Railway Receipts*

Under the Orissa Sales Tax Rules, no person shall transport by road, river, craft or Mulla from any railway station or from any other place whatsoever notified in this behalf by the State Government any consignment of such goods, exceeding such quantity as may be specified in the notification under the Act unless he produces for countersignature before the Sales Tax Authority, the railway receipt or other document required for the purpose of obtaining delivery of such consignment from the public carrier. He shall also make a written declaration in Form XXXIII in duplicate duly signed to such Sales Tax Authority, furnishing therein the description, quantity and value of the goods so transported, the place from which the goods are being despatched, the consignor and the consignee with registration certificate number, if any.

A test check conducted in 3 out of 8 Railway Receipt Units (Cuttack, Berhampur and Sambalpur) functioning in the State for the last 7 years or more (6 created in December 1983 and 2 i.e. Rourkela and Kantabhanji created prior to 1983) revealed that in 2 Railway Receipt Units (Cuttack and Berhampur) consignment of goods (quantity and value not recorded) covered under 2,663 Railway Receipts were released between the period from 1987-88 to 1989-90 from

the goods shed without the Railway Receipts being countersigned by the concerned Additional Commercial Tax Officer. This came to notice when the Sales Tax Inspector of the concerned Railway Receipt Unit visited the Railway goods shed for cross verification of Railway Receipts released during a month as recorded in the Railway Receipt Register with those of the records of the Railway Department. The release of the consignments without the requisite countersignature would affect the sales tax revenue of the State in respect of goods imported by rail. There are no instructions for the release of goods without production of Railway Receipts duly countersigned by the competent sales tax authorities. Adequate steps were also not taken to establish barriers in front of the Railway Receipt Units, as in the case of check posts.

The year-wise break up of the Railway Receipts released without countersignature were as follows :

Year	Total number of Railway Receipts released	Number of Railway Receipts released after countersignature	Number of Railway Receipts released without countersignature
1987-88	2,818	2,094	724
1988-89	3,500	2,338	1,162
1989-90	<u>3,146</u>	<u>2,369</u>	<u>777</u>
<b>Total:</b>	<b><u>9,464</u></b>	<b><u>6,801</u></b>	<b><u>2,663</u></b>



The Additional Commercial Tax Officer in-charge of the Railway Receipt Unit, Sambalpur stated (June 1991) that due to non-co-operation of Railway Authorities in parcel and goods shed, cross verification of Railway Receipts issued were not done with those of the records maintained by the Railway Department.

In response to an audit observation made (March 1991), the Additional Commissioner of Commercial Taxes replied (June 1991) that despite instructions issued in March 1987 by the Railway Ministry to the General Managers of all Indian Railways to extend facilities to the officials of the Sales Tax Department of the State Government for extracting information from station records in order to enable them to detect fictitious transactions it was noticed that some Railway Authorities are not fully co-operating with regard to verification of Railway records.

### 2.3.8 *Inadequacy of physical verification*

According to the instructions of the Commissioner of Commercial Taxes, Orissa issued in July 1975 the officer-in-charge of the check post should ensure thorough check of minimum of two vehicles per day after full unloading.

In their 11th Report (1986-87), the Committee observed that they are not satisfied with the explanation furnished in the compliance report and desire to have a detailed note as to how clandestine transactions are checked without a thorough checking of some minimum number of vehicles that pass through the check post. The department should also take necessary action to provide men and materials to ensure the checking according to the instructions issued from time to time.



It was noticed in audit (March 1991 to May 1991) of 10 check posts that thorough checking conducted by full unloading was negligible during the period of six months test checked from October 1989 to March 1990 in comparison to the number of vehicles which passed through the check posts as shown below :

Number of vehicles passed through the check posts	Minimum number of vehicles that should have been checked	Number of vehicles checked by unloading	Shortfall in checking
(1)	(2)	(3)	(4)
2,50,708	3,640	632	3,008

The percentage of shortfall in checking by unloading thus worked out to 82.64 per cent.

The reasons for shortfall were attributed by the check post officers between March and May 1991 to resource constraints, inadequate manpower, scarcity of labour and want of police protection.

### 2.3.9 Location of check posts

The check posts are obviously to be located at strategic points so as to enable checking of all vehicles entering or leaving the territory of the State, and the location should be such that no vehicles either entering or leaving the State has a chance to escape check.

However, during the course of review, the Commercial Tax Officer/Additional Commercial Tax Officers of the following 5 check posts reported that due to the existence of by-passes the vehicles could escape without check thereby defeating the purpose for which they were set up.

Name of the check posts	Number of by-passes	Places where by-passes exist
Bahalda	1	Bahalda Town
Nalda	2	North and South side of the check post leading to Barbil Road
Champua	1	Two country routes near the check post
Jamsola	4	Banisagar, Hatibari, Camp No.1 Rasagobindapur, Baghara Road
Sohella	3	Jagadapur-Padampur-Ambobhana-Bhatli Road Loharchati - Sardhapali Road

Despite the department being aware of the existence of the above by-passes, no action has so far been taken (November 1991) either to shift the existing check posts to more suitable location or to establish new check posts.



The aforesaid points were reported to the Commissioner of Commercial Taxes and the Government in July 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

#### 2.4 Irregular grant of exemption from tax

As per the notification issued by Government in July 1980, under the Orissa Sales Tax Act, 1947, purchase or sale of raw materials, that is to say, goods which directly go into the composition of finished product when sold to or purchased by a registered dealer who is certified by the Director of Industries as a village/cottage/small scale industry starting production on or after 1st August 1980, is exempt from tax provided the finished product is sold inside the State or in the course of inter-State trade or export as per the declaration furnished in Form 1A by the manufacturing dealer. The exemption is allowable for a period of five years from the date of certification of the unit by the Director of Industries.

Under a Government Notification issued in February in 1987, under the Orissa Sales Tax Act, 1947 purchase and sale of goods which directly go into the composition of the finished product when sold to or purchased by a registered dealer who is certified by the concerned General Manager, District Industries Centre as village/cottage/small scale industry set up on or after 1st April 1986 and starting commercial production thereafter inside the State is exempt from tax, subject to furnishing a declaration in Form 1B obtained from the manufacturing registered dealer to the effect that the goods purchased shall be used as raw materials for the purpose of manufacture inside the State. This exemption shall be allowed for a period of five years from the date of commercial



production to be certified by the concerned General Manager, District Industries Centre.

If for any reason the turnover of a dealer has escaped assessment and where such escapement or under assessment is due to the dealer having concealed particulars of his turnover or having without sufficient cause has furnished incorrect particulars thereof that the dealer shall pay by way of penalty, in addition to the tax assessed, a sum not exceeding one and half times of the tax so assessed.

(a) In Bhubaneswar-II Circle, it was noticed (September 1990) in audit that in the assessment of a dealer for the years 1987-88 and 1988-89, sales turnover of Rs.2.60 lakhs were exempted from tax on the strength of declarations in Form 1A furnished by the dealer, though the sales amounting to Rs.2.60 lakhs were made after the expiry of five years from the date of certification as a small scale industry and sales amounting to Rs.857 were not covered by the declaration in proper form. The irregular exemption resulted in short levy of sales tax to the extent of Rs.20,832.

On this being pointed out in audit (September 1990) the assessing officer raised (October 1990) a demand of Rs.24,747 (including a penalty of Rs.1,000).

The Government to whom the matter was reported in December 1990 confirmed the above position in April 1991.

(b) In Ganjam-I Circle, purchases of raw cashew nuts weighing to 78,682 Kgs. worth Rs.11.80 lakhs, made by a registered dealer during the year 1987-88, were exempted from levy of tax, based on a declaration furnished by him to the effect that the goods shall be used as raw material for the purpose of manufacture in his unit which had started commercial production

of cashew kernels, after 1 April 1986 and that the finished products (Cashew kernel) would be sold in Orissa or in the course of inter-State trade or export from Orissa. A scrutiny in audit (August 1990) of the assessment records of the dealer, however revealed, that the dealer had sent 4170 Kgs. of cashew kernel outside the State for sale on commission basis and did not sell the finished product (Cashew kernel) inside the State of Orissa, or in the course of inter-State trade or export from Orissa, as declared by him. In view of the violation of the declaration he was liable to pay purchase tax on the purchase of raw cashew nuts (estimated to be 20,850 Kgs.) valued at Rs.3.13 lakhs. The purchase tax not levied amounted to Rs.25,020.

On this being pointed out in audit (August 1990) the assessing officer reopened (August 1990) the case. Further report has not been received (January 1992).

The matter was reported to Government in October 1990, followed by reminder (September 1991); their reply has not been received (January 1992).

(c) In Bolangir-II Circle, the sales of graphite ore worth Rs.14.99 lakhs made by a registered dealer during the years 1986-87 to 1988-89 to a small scale industry were exempted from tax, on the basis of a declaration furnished by the purchasing dealer that the ore was for use as raw material in the manufacture of graphite powder. Since conversion of graphite ore into graphite powder does not involve any manufacture of new commodity, the exemption allowed was irregular and resulted in short-levy of tax amounting to Rs.2.02 lakhs (including additional sales tax of Rs.7,497).



On this being pointed out in audit (September 1990) the assessing officer reopened (September 1990) the case for reassessment.

The Government to whom the matter was reported, has intimated (November 1991) that the assessment of the dealer had been completed (August 1991) raising an additional demand of Rs.2.02 lakhs (including additional sales tax of Rs.7,492).

(d) Under the Orissa Sales Tax Act, 1947, paddy is subject to tax at the first point of purchase inside the State.

In Sambalpur-III Circle, purchases of paddy valued at Rs.12.51 lakhs made by a dealer during the assessment year 1988-89 for use in the manufacturing of 'chuda' were exempted by the assessing authority (December 1989) from levy of purchase tax, by accepting the dealer's claim that the unit underwent expansion with effect from 18.6.1988 and was, therefore, eligible for the exemption under Government notification issued in February 1987. However, scrutiny of the assessment records revealed that the industry was certified as small scale industry with effect from 28.7.1983 and therefore the exemption period under the Government notification issued in July 1980 had expired on 27.7.1988. The exemption allowed beyond the stipulated period was therefore inadmissible.

On this being pointed out in Audit (September 1990), the assessing officer re-assessed the dealer and raised (May 1991) an additional demand of Rs.36,990; levying tax on the purchase turnover of paddy worth Rs.9.25 lakhs purchased beyond the period of exemption i.e. 27.7.1988. In addition, interest of Rs.2,260 was also charged for furnishing incorrect information regarding the tax payable by the dealer.



Report on recovery has not been received (January 1992).

The matter was reported to Government in January 1991.

(e) As per Item 27 of the Rate Chart of goods liable to sales tax, notified under section 5(1) of the Orissa Sales Tax Act, 1947, 'dal' and 'besan' when obtained from pulses that have not suffered tax earlier, is subject to tax at 4 per cent. According to Entry 8A of the tax free Schedule, the sale of dal and besan obtained from pulses that had already suffered tax under the Orissa Sales Tax Act, is exempt from tax.

In Puri-II Circle, two registered dealers purchased pulses amounting to Rs.59.71 lakhs during 1988-89 on furnishing the prescribed declarations in Form 1A, without payment of purchase tax, declaring that the same shall be used as raw materials for the purpose of manufacturing 'dal'. The assessing officer while completing the assessments of the dealers (November 1989 and February 1990) had also exempted the sales turnover of dal amounting to Rs.62.81 lakhs obtained from such pulses although the sales turnover was exigible to tax under Item 27 of the Rate Chart of goods liable to sales tax, since the pulses from which such dal was obtained had not suffered tax earlier. The irregular exemption resulted in under-assessment of sales tax of Rs.2.71 lakhs (@ 4 per cent on Rs.62.81 lakhs).

On this being pointed out in audit (June 1990) the assessing officer stated (June 1990) that as the dealer was entitled to purchase pulses as raw material, free of tax, under the exemption notification dated 31.7.1980, he treated that the pulses have suffered tax and accordingly exempted the sales of dal from

levy of sales tax under Entry 8A of the tax-free schedule. The reply of the assessing officer is, however, not acceptable in audit in as much as the pulses from which the dal was obtained have not met tax as per Entry 8A of the List of Exempted Goods and further that both pulses and dal obtained therefrom cannot be exempted from levy of tax.

The matter was reported to the Commissioner of Commercial Taxes, Orissa/Government in December 1990, followed by reminder (September 1991); their reply has not been received (January 1992).

(f) It was judicially held\* that by the process of converting the paper into exercise books, the assessee violated the declaration to the effect that the paper purchased free of tax, would be resold as such within the State of Orissa and attracted the liability to tax under the relevant provisions of the Orissa Sales Tax Act, 1947. This decision was, however, reversed by the Hon'ble Supreme Court (1982)\*\*.

In Ganjam-I Circle, it was noticed (February 1990) in audit that in the assessment of a registered dealer for the year 1987-88, sales of paper worth Rs.3.48 lakhs made to a small scale industry engaged in the business of converting paper into exercise books for sale, were exempted from tax under the exemption notification issued by Government in July 1980, on the strength of declarations in Form 1A furnished by the purchasing dealer to the effect that the paper shall be used as raw material in the

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\* Rameswarlal Muralidhar Vrs. State of Orissa (1980)-45-STC-115-Orissa.

\*\* Rameswarlal Muralidhar Vrs. State of Orissa (1982)-51-STC-401-(S.C)



manufacture of exercise books. On the ratio of the Supreme Court decision it was pointed out (February 1990) in audit that as the conversion of paper into exercise books does not materially change the nature of paper, the exemption of sales of paper as raw material for conversion into exercise books was irregular and resulted in short-levy of tax amounting to Rs.29,556 (including additional sales tax).

On this being pointed out in audit (February 1990), the assessing officer raised (January 1991) a demand of Rs.29,505 (including additional sales tax).

The matter was reported to Government in May 1990.

(g) In another case, in Cuttack-I East Circle, in the assessment of registered dealer for the year 1988-89, sales of paper worth Rs.4.78 lakhs made to small scale industries as raw material for manufacture of exercise note books were exempted from sales tax on the strength of prescribed declarations furnished by the dealer. The irregular exemption resulted in short levy of tax of Rs.42,331 including additional sales tax of Rs.4,125.

On this being pointed out in audit (May 1990), the assessing officer reopened (June 1990) the case and raised (December 1990) the demand of Rs.42,831 (including additional sales tax). Rectification order for the balance demand of Rs.500 was yet to be issued.

The matter was reported to the Government in December 1990.



## 2.5 Omission to levy tax on goods not utilised for the purpose declared

Under the Orissa Sales Tax Act, 1947 when a dealer who is certified by the Director of Industry as a village/cottage/small scale industry and started production inside the State on or after 1st August 1980 purchases raw materials for purposes of manufacture inside the State that is to say goods which directly go into the composition of finished products, free of tax on the strength of the prescribed declaration in Form 1A but utilises those goods for any other purpose, the price of the goods so purchased shall be included in his taxable turnover and he shall be liable to pay purchase tax thereon.

In the course of audit of Koraput-I Circle, it was noticed (December 1990) that a registered manufacturing dealer (SSI Unit) purchased Niger seeds valued at Rs.31.43 lakhs (4583.06 quintals) during the year 1988-89 inside the State, without payment of tax on furnishing a declaration in Form 1A that the goods would be utilised as raw material for purpose of manufacture inside the State. However, out of the above stock, the dealer sold goods valued at Rs.17.31 lakhs (2527 quintals) as such without utilising them in manufacture. Since non-utilisation of the raw material in manufacture within the State, was in contravention of the declaration furnished, it was includable in turnover. Non-inclusion in the taxable turnover resulted in non-realisation of purchase tax amounting to Rs.69,239.

On this being pointed out in audit (December 1990) the assessing officer reopened (December 1990) the case for examination. Further report has not been received (January 1992).

The matter was reported to Government in March 1991, followed by reminder (September 1991). The Government had intimated (November 1991) that the re-assessment proceedings had been completed (September 1991) raising a demand of Rs.69,314.

## 2.6 Irregular grant of exemption of sales

Under the Orissa Sales Tax Act, 1947, sale of goods produced by Small Scale Industries (excepting certain categories of industries notified by Government) set up on or after the 1st April 1986 and starting commercial production thereafter inside the State and certified by the concerned General Manager, District Industries Centre, are exempted from levy of sales tax for a period of 5 years from the date of commercial production.

The assessing officer while making assessment (February 1989) of a dealer (an SSI Unit) carrying on business of processing and selling of iron scrap, defective/rejected steel slabs, ingots semirolled plates etc. was allowed exemption of sales turnover of Rs.7.01 lakhs in the assessment for the year 1987-88. As the dealer did not produce any new commodity the exemption was not admissible and resulted in short-levy of tax of Rs.28,053.

On this being pointed out in audit (March 1990), the assessing officer raised (February 1991) a demand of Rs.28,053.

The matter was reported to Government in May 1990.



## **2.7 Non-levy of tax due to irregular exemption to a Co-operative Society**

Under Rule 5A of the Orissa Sales Tax Rules, 1947, the Commissioner may on application for exemption for payment of sales tax by any producer Co-operative Society duly registered as a dealer under the Orissa Sales Tax Act, 1947, and possessing a valid registration certificate, grant a certificate of exemption in the prescribed Form 1.

In Cuttack-I Central Circle, in the assessment of a Producer Co-operative Society for the year 1985-86, sales of wooden and brass toys, wooden craft, applique works etc. worth Rs.3.31 lakhs were exempted from sales tax, though no exemption certificate in Form 1 was issued by the Commissioner to the Society for the year 1985-86. The incorrect exemption resulted in non-levy of sales tax amounting to Rs.29,132 (including additional sales tax of Rs.1,656).

On this being pointed out in audit (November 1989), the assessing officer reopened the case and raised (January 1991) a demand of Rs.29,132 (including additional sales tax of Rs.1,656).

The matter was reported to Government in may 1990.

## **2.8 Short-levy due to application of incorrect rate of tax**

(i) Under the Orissa Sales Tax Act, 1947, with effect from 5th April 1986, tax on sale of minerals is leviable at the rate of 13 per cent. Prior to that date the rate of tax was 12 per cent.



In Bhubaneswar-II Circle, in the case of a dealer the taxable turnover of Rs.334.39 lakhs on account of sale of 'ores' for the year 1987-88 was taxed incorrectly at 12 per cent instead at the correct rate of 13 per cent. This resulted in a short levy of tax Rs.3.34 lakhs.

On this being pointed out in audit (September 1990), the assessing officer reopened (September 1990) the case for re-assessment and raised (September 1990) an additional demand of Rs.3.34 lakhs.

The matter was reported to Government in December 1990; in their reply (June 1991) Government has confirmed the above position.

(ii) Under the Orissa Sales Tax Act, 1947, 'Sale' includes transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. The hire charges of machineries constitute their depreciation value and by that amount the sale value of machineries are reduced and therefore it constitute part of sale price. The Commissioner of Commercial Taxes, Orissa in his circular dated 18 July 1988 clarified that hire charges should be taxed at the rate applicable to the goods involved. Under the Act, machineries are taxable at 12 per cent.

During the audit of Koraput-I Circle, it was noticed (November 1990) that the turnover of a dealer amounting to Rs.133.73 lakhs representing hire charges of machineries hired out to different Public Works Divisions and contractors during the years 1984-85 to 1988-89, was assessed to tax at the rate of 8 per cent (general rate of tax applicable to goods not specified in the schedule of rates of tax) instead of at the correct rate of 12 per cent applicable to machineries. This resulted in short levy of tax amounting to Rs.5.35 lakhs.

On this being pointed out in audit (November 1990), the assessing officer stated (November 1990) that the assessment cases of the dealer for 1984-85 to 1988-89 have already been reopened (February 1990) on other grounds and the points raised by audit would be taken into consideration at the time of disposal of the re-assessment proceedings. Further report has not been received (January 1992).

The matter was reported to Government in March 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

(iii) According to a Government Notification issued in March 1982, under the Orissa Sales Tax Act, 1947, on sale of goods which are not specified in the Schedule to the Act, tax is leviable at the general rate of 8 per cent with effect from 1st April 1982. Accordingly 'wirenails' are taxable at the rate of 8 per cent.

In Keonjhar Circle, the assessment of a registered dealer engaged in the business of manufacture and sale of wirenails, was completed exparte (March 1989) for the year 1985-86 and a sales turnover of Rs.7.20 lakhs was incorrectly assessed at 4 per cent, treating them as goods falling under the head "iron and steel". As the dealer was manufacturing wirenails only, the turnover was to be correctly taxed at 8 per cent. This resulted in short levy of tax of Rs.28,780.

On this being pointed out in audit (March 1990), the assessing officer reopened (March 1990) the assessment. Further report has not been received (January 1992).



The matter was reported to Government in January 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

(iv) Under the Central Sales Tax Act, 1956, on inter-State sales of goods other than declared goods by one registered dealer to another registered dealer, tax is leviable at the concessional rate of 4 per cent, if such sales are supported by declaration in Form C. Otherwise tax is leviable at the rate of 10 per cent or at the rate leviable on sale of such goods within the State under the State Law, whichever is higher. In the case of declared goods, sales not supported by declaration in Form C shall be taxed at twice the rate applicable to the sale or purchase of such goods inside the appropriate State. Under the Orissa Sales Tax Act, 1947 all kinds of oils are taxable at the rate of 4 per cent.

In Rourkella-II Circle, it was noticed (November 1990) in audit that in the assessments of a dealer for the year 1986-87 and 1987-88, the claim of the dealer as having despatched different kinds of 'oils' (non-declared goods) worth Rs.39.53 lakhs and Rs.44.24 lakhs respectively to his commission agents of other States for sale by way of transfer of stock, and not by way of sale, had been rejected (May 1989) by the assessing officer on the ground that the registration certificate did not indicate any additional places of business of the dealer and after scrutiny of the agreements, treated these transactions as sales in the course of inter-State trade and commerce. However, the assessing officer while levying tax on these sales levied (May 1989) tax at the rate of 8 per cent as applicable to declared goods instead of at the correct rate of 10 per cent. The application of incorrect rate of tax resulted in short levy of tax by Rs.1.68 lakhs.



On this being pointed out in audit (November 1990), the department intimated (August 1991) that the re-assessment for the year 1987-88 was completed in January 1991 raising an additional demand of Rs.88,480 and that the Assistant Commissioner of Commercial Taxes, Sundargarh Range has been requested to take up *suo-motu* revision of the orders of assessment for 1986-87 as the period was barred by limitation for reassessment.

The matter was reported to Government in January 1991.

## 2.9 Escapement of taxable turnover

(a) Under Section 5(1) of the Orissa Sales Tax Act, 1947, the State Government can notify the rate of tax subject to the conditions prescribed. Accordingly, under a Notification dated 22nd March 1982, purchase tax is payable at 10 per cent on standing trees agreed to be severed. However, it has judicially been held\* that timber contracts are not transactions of sale or purchase of standing trees agreed to be severed; they were mere agreements for sale of such trees. In Orissa, as each stage of felling and removal operations is governed by the Forest Contract Rules and is under the control and supervision of the Forest Officers and the property passes on to the buyer after the trees are felled and timber removed, the transaction is only sale of timber. Tax on sale of timber after such felling and removal operations is leviable at 8 per cent under the residual item 101 of another notification dated 22nd March 1982.

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\* State of Orissa Vs. M/s Titagarh Paper Mills Limited; and another (1985)-60-STC-213 (SC).

In the course of audit of two Circles (Phulbani and Ganjam-II), it was noticed (July 1990 and August 1990) that the consideration money amounting to Rs.307.50 lakhs received by the two Divisional Forest Officers (Rs.146.14 lakhs and Rs.161.36 lakhs) during the years 1986-87 to 1988-89 in respect of sale of forest coupes where the timber available therefrom had been removed was not assessed to sales tax though the assessments for these years were completed between July 1989 and March 1990. The escapement of this turnover had resulted in short-levy of tax amounting to Rs.26.28 lakhs (including additional sales tax of Rs.1.68 lakhs).

On this being pointed out in audit (July 1990 and August 1990), two assessing officers (Ward C of Ganjam-II Circle and Phulbani Circle) reopened (July 1990) the cases for the years 1986-87 to 1988-89. Government intimated (April 1991) that the Commercial Tax Officer, Phulbani Circle, had raised (October 1990) a demand of Rs.12.40 lakhs including additional sales tax of Rs.70,182 against Divisional Forest Officer, Boudh. One assessing officer (Ward A Ganjam-II Circle) stated (August 1990) that as the Hon'ble Supreme Court held that timber contracts were not transactions of sale or purchase of standing trees agreed to be severed, levy of purchase tax was illegal and that as per the provisions of Section 3B of the Orissa Sales Tax Act any goods declared to be liable to tax on the turnover of purchases, such goods automatically cease to be liable to sales tax. So in view of the above decision neither purchase tax nor sale tax is leviable. However, the reply of the assessing officer is not acceptable in view of the fact that the right to property in goods i.e. timber passed on to the purchaser soon after the trees were felled and removed. The transaction is, therefore, one of sale of timber only and sales tax at the rate of 8 per cent is leviable.



The matter was reported to Government in December 1990.

(b) During the audit of Koraput-I Circle, it was noticed (March 1991) that the consideration money amounting to Rs.452.71 lakhs received by the Divisional Forest Officer during the years 1986-87 to 1988-89 in respect of sale of forest coupes where the timber available therefrom had been removed, after the trees were felled, was not assessed to sales tax, although the assessments for these years were completed in October 1989. The escapement of this turnover had thus resulted in short-levy of tax amounting to Rs.38.48 lakhs (including additional sales tax of Rs.2.26 lakhs).

On this being pointed out in audit (March 1991), the assessing officer reopened (March 1991) the cases for reassessment. The Government to whom the matter was reported have further intimated (August 1991) that the re-assessment of the dealer was completed (May 1991) by raising an additional demand of Rs.39.50 lakhs (including additional sales tax of Rs.3.29 lakhs) for the period from 1986-87 to 1988-89 and that the demanded tax has not yet been realised (January 1992).

## 2.10 Irregular deduction towards sale of first point tax paid goods

(i) Under the Orissa Sales Tax Act, 1947, Government may notify the points in a series of sales by successive dealers, at which any goods may be taxed or exempted from taxation. It is also provided that the same goods shall not be taxed at more than one point in the same series of sales by successive dealers. Accordingly, Government under various notifications issued from 14.5.1963 onwards declared several goods to be taxed at the point at which the first



of such sale is effected by a dealer liable under the Act, with the stipulation that dealers other than those by whom the sale of such goods are effected at the aforesaid point, may for the purpose of computing their taxable turnover, deduct from their gross turnover, the turnover in respect of sales of such goods. "Furnace Oil" is, however, not notified by the Government as taxable at the first point of sale in Orissa in any of the notification issued so far.

In the course of audit of Cuttack-I East Circle, it was noticed (November 1990) that in the assessment of a registered dealer for the year 1988-89 the sales turnover of furnace oil amounting to Rs.8.36 lakhs was allowed as deduction from the gross turnover, as relating to the sales of first point tax paid goods. This irregular deduction resulted in short-levy of tax of Rs.66,851.

On this being pointed out in audit (November 1990), the assessing officer reopened (December 1990) the case. Further report has not been received (January 1992).

The matter was reported to Government in February 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

(ii) Under the powers vested in section 8 of the Orissa Sales Tax Act, 1947, Government notified (December 1977) that High Speed Diesel is taxable at the first point in a series of sales, with effect from 1.12.1977. The Act provided by an amendment with effect from 11th October 1983 that in respect of goods subject to levy of tax at the first point of sale, a dealer who sells such goods at a subsequent point shall not be allowed to claim deduction of sale price of such goods from the gross turnover

unless he furnishes a declaration in the prescribed form obtained from the previous selling dealer to the effect that the tax has been paid/will be paid by them on the goods. Though the amendment came into effect from 11th October 1983. Government framed rules prescribing the form of such declaration in April 1989 only. Although the burden is on the department to show that the turnover is liable to tax under the Act, the onus of showing that a particular turnover is exempt from tax lies with the dealer.

The assessing officer, while making ex-parte assessment (January 1990) of an unregistered dealer dealing in High Speed Diesel Oil in Mayurbhanj Circle for the year 1988-89, incorrectly allowed a deduction of sales turnover of High Speed Diesel Oil amounting to Rs.12.28 lakhs towards sales of first point tax paid goods for the reason that the dealer could not produce his books of accounts for verification. As the assessing officer could not verify in the absence of the books of accounts, whether the goods have actually suffered tax at the first point of sale, the deduction allowed was irregular and resulted in under-assessment of tax amounting to Rs.1.60 lakhs.

On this being pointed out in audit (June 1990), the assessing officer accepted the mistake, and stated (June 1990) that action would be taken on receipt of the assessment record which is stated to have been lying with the appellate authority. Since the appeal has been disposed of (March 1991) setting aside the assessment for re-assessment, the result of re-assessment is awaited (January 1992).

The matter was reported to Government in December 1990, followed by reminder (September 1991); their reply has not been received (January 1992).



## 2.11 Incorrect classification of goods

(a) Under the Orissa Sales Tax Act, 1947, water other than aerated or mineral water, sold in bottles or sealed containers, is exempted from levy of sales tax. It has been judicially held\* (April 1982) that "water for injection" (distilled water) is a commodity of which turnover was assessable to tax at the rate applicable under the item medicinal and pharmaceutical preparations. Under the Act medicines and pharmaceutical preparations are taxable at the rate of 8 per cent as an unspecified item.

In Sambalpur-I Circle, the sales of distilled water worth Rs.4.21 lakhs effected during the years 1987-88 and 1988-89 by a dealer engaged in the business of manufacture and sale of glucose saline and distilled water, was exempted from tax, treating the same as water falling under the exempted goods. But since the distilled water was sold by a chemical and pharmaceutical works for use as water for injection, the commodity fell in the description of medicinal and pharmaceutical preparations and was liable to be taxed @ 8 per cent as an unspecified item of the Schedule of Rates of goods liable to sales tax under the Act. This irregular exemption resulted in non-levy of tax of Rs.35,797 (including additional sales tax of Rs.2,105).

The Government to whom the matter was reported in April 1991, intimated (January 1992) that the re-assessment of the dealer for the years 1987-88 and 1988-89 has been completed (November 1991) raising an additional demand of Rs.36,358 (including additional Sales Tax of Rs.2,666).

\* Rashtra Deep Laboratory Vrs. Commissioner of Sales Tax U.P.(1983)-53-STC-419(All.)



(b) Under the Orissa Sales Tax Act, 1947, Cotton that is to say all kinds of cotton (indigenous or imported) in the manufactured State, whether ginned or unginned, baled, pressed or otherwise but not including cotton yarn and yarn waste, is taxable at the rate of 4 per cent. It has been judicially held\* (1976) that cotton and cotton waste have distinct meanings. The rate of tax prescribed for cotton is, therefore, not applicable to cotton waste. Being an unspecified item in the Schedule of Sales Tax rate, cotton waste is taxable at the general rate of 8 per cent with effect from 1.4.1982.

Mention was made in Para 2.11 of Report of Comptroller and Auditor General of India for the year 1982-83 (Revenue Receipts) about short-levy of tax on cotton waste. The Public Accounts Committee in its Report (9th Assembly) desired that the department should inform them the final result of the case. The reply of the department has not been received as yet (January 1992).

In the course of audit of Bhubaneswar-I Circle, it was, however, noticed (January 1991) that the sales turnover of cotton waste amounting to Rs.7.96 lakhs relating to the year 1988-89 of a dealer was incorrectly taxed at the rate of 4 per cent treating the same as falling under item cotton, instead of at 8 per cent, applicable to cotton waste as an unspecified item. This resulted in short-levy of tax of Rs.31,854.

On this being pointed out in audit (January 1991) the assessing officer reopened (January 1991) the case for re-assessment.

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\* Alimchand Tapan Das G.L.Mills Vrs. State of Andhra Pradesh 1976-77 - STC-PP--605.

The Government had intimated (December 1991) that the re-assessment proceedings had been completed (September 1991) raising an additional demand of Rs.31,773.

## 2.12 Incorrect computation of turnover

Under the Orissa Sales Tax, Act, 1947, Sales Tax is leviable on sale price i.e. the amount payable to a dealer as consideration for the sale or supply of any goods. It has been judicially held\* that the duty paid by the purchaser to meet the liability of the selling dealer was a part of the consideration for sale and was includable in the turnover of the selling dealer.

In the course of audit of Ganjam-I Circle, it was noticed (March 1990) that in the case of a registered dealer dealing in foreign liquor, assessed for the year 1987-88 in November 1988 the assessing authority had erroneously excluded excise duty amounting to Rs.4.19 lakhs paid by retailers separately to the Government while lifting the stock of liquor from his bonded warehouse. The exclusion of the said amount from the gross/taxable turnover resulted in short-levy of tax amounting to Rs.44,011 (including additional sales tax of Rs.2,095).

On this being pointed out in audit (March 1990), the assessing officer reopened the assessments for the year 1986-87 and 1987-88 and raised (February 1991) an additional demand of Rs.3,240 for the year 1986-87 and for the assessment year 1987-88 Rs.44,006 (including additional sales tax) as intimated (March 1991) by the Commissioner of Commercial Taxes, Orissa.

\* Mc.Dowell & Co. Ltd. Vrs. Commercial Tax Officer reported in (1985)-59-STC-227(S.C)



The case was reported to Government in July 1990.

### 2.13 Irregular grant of exemption from payment of Central Sales Tax

Under the Central Sales Tax Act, 1956, where a sale of any goods in the course of Inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by transfer of documents of title to such goods to the Government or to a registered dealer, shall be exempted from Central Sales Tax, provided the dealer effecting such subsequent sale furnishes to the assessing authority, a certificate in Form E-I or E-II from the registered dealer from whom such goods were purchased and also a declaration in form 'D' in case the subsequent sale is to Government and in Form C if the subsequent sale is to a registered dealer, to whom these goods were subsequently sold.

The scrutiny of records in Bolangir-I Circle, revealed (September 1990) that the assessing officer while making assessment (February 1990) of a registered dealer, exempted the subsequent inter-State sales of goods (Jute twine) valued at Rs.2.05 lakhs effected to Government departments (Divisional Forest Officer, Kendu leaves) during the year 1988-89 from levy of Central Sales Tax though the certificate in E-I Form furnished by the registered dealer was not in the prescribed form and were not supplied by the registering authority of the first selling dealer. The irregular exemption resulted in short-levy of tax of Rs.20,550 (calculated at the general rate of 10 per cent.



On this being pointed out in audit (September 1990), the assessing officer reopened (September 1990) the case for re-assessment. Further report in the matter has not been received (January 1992).

The matter was reported to Government in January 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

#### 2.14 Non-levy of penalty

(i) Under the Central Sales Tax Act, 1956 a registered dealer may purchase from a dealer in another State, goods at a concessional rate of 4 per cent by furnishing a declaration in prescribed Form C, provided such goods have been specified in his certificate of registration. Issue of Form C for purchasing goods, not covered by the registration certificate, is an offence for which the dealer is liable for prosecution. The taxing officer may, however, impose, in lieu of prosecution, a penalty not exceeding one and half times the amount of tax, which would have been levied in respect of sales made to him without Form C.

In Ganjam-I Circle, a dealer registered under the Central Sales Tax Act, 1956 purchased acid proof cement, bricks, mild steel plates, aluminium sheets etc. valued at Rs.2.10 lakhs during the years 1984 - 1989 and paid tax at the concessional rate of 4 per cent by furnishing ten declarations in Form C, though the goods so purchased were not covered by his certificate of registration. The assessing officer did not take any action for prosecution of the dealer nor did he impose any penalty therefor. The maximum penalty leviable in this case amounted to Rs.31,554.

On this being pointed out in audit (September 1989), the assessing officer levied (January 1991) a penalty of Rs.31,554.

The matter was reported to Government in February 1990.

(ii) In Dhenkanal Circle, a dealer registered under the Central Sales Tax Act, purchased audio cassette moulds valued at Rs.5.50 lakhs during the year 1988-89 and paid tax at the concessional rate, by furnishing the prescribed declarations in Form C even though the goods so purchased were not covered by his certificate of registration. The assessing authority did not take any action to prosecute the dealer nor was any penalty imposed. The maximum penalty leviable in this case amounted to Rs.82,563.

On the omission being pointed out in audit (November 1990), the assessing officer reopened (November 1990) the case. Further report has not been received (January 1992).

The case was reported to Government in February 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

## 2.15 Non - levy of interest on belated payment of tax

Under the Orissa Sales Tax Act, 1947 and the Central Sales Tax (Orissa) Rules, 1957, if a dealer defaults in making payment of any amount of tax by the due date specified in the notice issued to him, he would be liable to pay interest on the amount due at 18 per cent (6 per cent prior to 12th August 1983) per annum for the first three months and at 24 per cent (12 per cent prior to 12th August 1983) thereafter under the Orissa Sales Tax Act, 1947, and at 6 per cent for the first three months and at 12 per cent thereafter under the Central Sales Tax (Orissa) Rules, 1957. However, no interest shall be



charged in respect of any amount which remained unpaid at any time prior to 1st January 1971 under the State Act and prior to 1st July 1971 under the Central Act.

In 18\* Commercial Tax Circles local sales tax demands amounting to Rs.187.90 lakhs outstanding on or after 1st January 1971 (610 cases) and Central Sales Tax demands amounting to Rs.81.04 lakhs outstanding on or after 1st July 1971 (55 cases) were recovered in full during the years 1989-90, but interest amounting to Rs.19.12 lakhs due for the belated payments was not levied.

On the omission being pointed out in audit (between April 1990 and March 1991), the assessing officers stated (between April 1990 and March 1991) that the demand would be raised. Reports on final action taken has not been received (January 1992).

The cases were reported to Government between June 1990 and July 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

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- |                       |                    |
|-----------------------|--------------------|
| * 1. Cuttack-I(East)  | 2. Cuttack-I(West) |
| 3. Cuttack-I(Central) | 4. Cuttack-II      |
| 5. Cuttack-II         | 6. Bhubaneswar-I   |
| 7. Puri-II            | 8. Puri-I          |
| 9. Ganjam-I           | 10. Ganjam-II      |
| 11. Balasore-I        | 12. Balasore-II    |
| 13. Bolangir-I        | 14. Bolangir-II    |
| 15. Sambalpur-II      | 16. Keonjhar       |
| 17. Rourkela-I        | 18. Dhenkanal      |
- and



## CHAPTER 3

### TAXES ON MOTOR VEHICLES AND PASSENGERS

#### 3.1 Results of Audit

Test check of records relating to assessment and collection and refunds of Motor Vehicles Tax in the offices of the State Transport Authority, Orissa and Regional Transport Offices conducted in audit during 1990-91 revealed under-assessments and losses of revenue amounting to Rs.499.01 lakhs in 15818 cases, which may broadly be categorised as under :

	<u>Number of cases</u>	<u>Amount (in lakhs of rupees)</u>
1. Non-levy/non-realisation of motor vehicle tax/ additional tax	7966	319.29
2. Short-levy/short-realisation of motor vehicle tax/ additional tax	1363	38.73
3. Short/non-realisation of composite tax	4416	33.13
4. Short/non-realisation of trade certificate fees	33	0.85
5. Short/non-realisation of compounding fees	45	0.77
6. Loss due to other irregularities	<u>1995</u> <u>15818</u>	<u>106.24</u> <u>499.01</u>

Some of the important cases noticed in 1990-91 and earlier years are mentioned in the succeeding paragraphs..

### 3.2 Motor Vehicles offences

#### 3.2.1 *Introductory*

Under the Orissa Motor Vehicles Taxation Act, 1975, plying of vehicles without payment of tax or use of vehicles for purposes requiring payment of higher taxes and violation of off-road declaration constitutes offences whereas plying unregistered vehicles, plying vehicles without valid license and/or valid permit, and/or fitness certificate and vehicles plying with excess weight constitute offences under the Motor Vehicles Act, 1988 introduced with effect from 1st July 1989. With a view to implement these two Acts the State has been divided into 16 regions\*. The head of the department is the Transport Commissioner and also functions as the Chairman, State Transport Authority, Orissa under whom the Regional Transport Officers function as Secretaries of the Regional Transport Authorities under the Chairmanship of the Collector of the district in which the region is situated. To regulate the inter-State movement of the vehicles, 16 check-gates are established on the borders of the State.

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- \* 1. Balasore                      2. Bhubaneswar              3. Bolangir  
 4. Chandikhol                  5. Cuttack                      6. Dhenkanal  
 7. Ganjam                        8. Kalahandi                9. Keonjhar  
 10. Koraput                      11. Mayurbhanj              12. Phulbani  
 13. Rourkela                    14. Puri                        15. Sambalpur  
 16. Sundergarh



The Transport Department is the administrative department of the Government. The Transport Department of Orissa, although primarily a revenue earning organisation, is also *inter-alia*, entrusted with enforcement of the regulatory provisions contained in Motor Vehicles Act, 1939 (since repealed and a new Act Motor Vehicles Act, 1988 introduced with effect from 1st July 1989) and detection of offences through the enforcement wing with a view to control evasion of taxes as per the provisions of the Orissa Motor Vehicles Taxation Act, 1975 (as amended with effect from 18th October 1985) and the rules made thereunder. The former includes detection of offences in the nature of plying unregistered vehicles or of vehicles without valid permits or driving of vehicles without valid licences or fitness certificates and vehicles found plying with excess load etc. The latter covers checking of plying of vehicles without payment of tax or use of vehicles for purposes requiring payment of higher taxes and violation of off-road declarations etc. The efficient performances of this wing, in detecting Motor Vehicles offences would help prevent tax evasions and also result in augmenting additional resources by realisation of fines and compounding fees in lieu of punishments.

Mention was made in paragraph 3.16 of the Audit Report for the year 1982-83 (Revenue Receipts), Government of Orissa on "Activities of the enforcement wing of Motor Vehicles Department" bringing out, *inter-alia*, the large pendency of check reports, extent of checks conducted by the enforcement staff in regard to off-road vehicles and in respect of vehicles plying without permits. The paragraph was taken up for discussion by Public Accounts Committee (February - March 1987). However, the Transport Commissioner stated (February - March 1987) that action for compliance could





of the Deputy Commissioner, Transport (Enforcement) redesignated as Additional Commissioner, Transport (Enforcement) with effect from 26th September 1990; and at the regional level, the Regional Transport Officers (RTO) of the region concerned. Besides, the Additional Regional Transport Officer (General and Enforcement), the Motor Vehicle Inspector, one or more Assistant Regional Transport Officers, the Traffic Inspectors (TI) and Sub-Inspectors (TSI) and the constabulary constitute the Enforcement Wing.

#### 3.2.4 *Highlights*

(i) 30,116 cases of motor vehicles offences registered in the Miscellaneous Proceedings Register were pending disposal at the end of 31st December 1990, the earliest being cases relating to the year 1977.

(ii) 7,449 transport vehicles out of 18,999 vehicles declared off-road were not at all checked at their declared places of keeping.

(iii) Irregular disposal of off-road vehicles resulted in non-realisation of appropriate tax amounting to Rs.4.79 lakhs and penalty of Rs.9.58 lakhs in 27 cases.

(iv) Non-disposal of 80 cases relating to off-road violations involving tax amounting to Rs.18.02 lakhs and penalty amounting to Rs.36.05 lakhs resulted in non-realisation of revenue of Rs.54.07 lakhs.

(v) Non-finalisation of cases relating to vehicles plying without payment of tax and violating permit conditions resulted in non-realisation of compounding fees amounting to Rs.16.21 lakhs in 1,419 cases and tax amounting to Rs.2.29 lakhs in 117 cases.



(vi) Irregular disposal of cases relating to vehicles plying without permits resulted in non-realisation of compounding fees amounting to Rs.2.30 lakhs in 267 cases and tax amounting to Rs.1.07 lakhs in 53 cases.

(vii) Short-realisation of compounding fees from goods vehicles plying with excess load amounted to Rs.6.75 lakhs in 130 cases.

Some important points are discussed in the succeeding paragraphs.

### 3.2.5 Extent of checks conducted by enforcement staff

With a view to ascertaining whether the enforcement staff exercise minimum effective control in checking the motor vehicles offences and as a measure for safeguarding against leakage of revenue, the State Transport Authority had, *inter-alia*, fixed (May 1973) the minimum percentages of various types of vehicles to be checked in a month by various officers of the Enforcement Wing, as under :

Type of vehicles	Percentage of checks to be exercised by			
	Regional Transport Officer	Assistant Regional Transport Officer	Motor Vehicle Inspector (Technical)	Traffic Inspector
i) Passenger Transport Vehicles (Stage carriages)	10	15	5	30
ii) Goods transport vehicles	20	10	30	50
iii) Taxi and contract carriages	15	20	10	50
iv) Bus routes	20	30	10	50



Prior to June 1990, the Additional Regional Transport Officer (Enforcement) was required to submit a minimum of 30 Vehicle Check Reports (VCRs) per month and Traffic Inspectors/Traffic Sub-Inspectors were required to submit a minimum of 60 VCRs per month. However, in June 1990 the State Transport Authority had further determined (June 1990) the minimum Vehicle Check Report required to be submitted in a month by each of the officers of Enforcement Wing as shown below :

Name of Officer	Number of Reports to be submitted in a month
Regional Transport Officer	10
Motor Vehicle Inspector	10
Additional Regional Transport Officer (Enforcement)	50
Additional Commissioner Transport (Enforcement)	50
Additional Regional Transport Officer (General)	10
Assistant Regional Transport Officer	10
Traffic Inspector and Traffic Sub-Inspector	100

Test check of records (February to April 1991) at the State Transport Authority and in the 9 Regional Offices revealed that though the circular instruction issued in May 1973 prescribed the yardsticks for checking of motor vehicles by the Enforcement Wing it was only

in July 1984, a return was prescribed requiring the Traffic Inspectors/Traffic Sub-Inspectors only to submit a monthly work done statement showing *inter-alia*, the total number of days spent on checking during the month, surprise checks conducted, number of vehicles checked class-wise and the number of vehicle check reports issued etc. It was again in December 1986 a "Daily Motor Vehicle Checking Register" was prescribed to be maintained by the Enforcement Wing to record the details of the vehicles checked, nature of the offence noticed and action taken on the spot. As this "Daily Motor Vehicle Checking Register" would be unwieldy to be carried out by the Enforcement Wing each enforcement officer was asked to maintain a "Pocket Diary" in the prescribed proforma to detect second or subsequent offences committed by the vehicles in Transport Commissioner's circular dated June 1990 while fixing the revised yardsticks. However, these returns/registers were not maintained by the Enforcement Wing. Due to non-maintenance of these prescribed registers, the department could not furnish the information called for by audit (between February and April 1991) regarding the extent of checks actually exercised by each of the officers of the Enforcement Wing to see whether the prescribed yardsticks could be achieved. It was stated (between February and April 1991) by the concerned Regional Transport Officers that such information was not being maintained in their regions.

### 3.2.6 Pending Check Reports

The Transport Commissioner-cum-Chairman, State Transport Authority, Orissa issued instructions time and again latest being in June 1990, reiterating *inter-alia*, that non-disposal of Vehicle Check Reports expeditiously not only defeats the very purpose of checking but also results in loss of revenue to the State.

A test check of pendency and disposal of the number of cases registered in the Miscellaneous Proceedings Register on the basis of Vehicle Check Reports issued by the Enforcement Wing during the years 1987 to 1990 (February to April 1991) in 8 regions (Dhenkanal, Balasore, Mayurbhaj, Sambalpur, Ganjam, Puri, Cuttack and Bhubaneswar) and State Transport Authority revealed the following position :

Nature of offence	Number of cases reported in				
	1987	1988	1989	1990	Total
(a) Vehicles plying without valid permits etc.	1116	1445	1041	1514	5116
(b) Vehicles found plying violating off-road declaration	308	241	154	119	822
(c) Vehicles plying with excess passengers	281	357	302	593	1533
(d) Vehicles plying with excess load	2864	6436	6919	4695	20914
(e) Vehicles plying without registration or during the period for which Registration Certificate suspended	25	46	48	136	255
(f) Under-taxed/untaxed vehicles found plying	362	293	360	478	1493
(g) Class VI (Private) vehicles used as Class V (Transport) for hire/reward	567	663	703	936	2869
(h) Wilful disobedience of directions given by enforcement staff	67	56	67	92	282
(i) Other reasons	<u>1380</u>	<u>2953</u>	<u>1952</u>	<u>5250</u>	<u>11535</u>
<b>Total =</b>	<b>6970</b>	<b>12490</b>	<b>11546</b>	<b>13813</b>	<b>44819</b>
Cases disposed of	<u>4255</u>	<u>6909</u>	<u>8891</u>	<u>6516</u>	<u>26571</u>
Cases pending as on 31.12.90	2715	5581	2655	7297	18248
Percentage of pending cases to total number of cases registered	38.95	44.68	22.99	52.83	40.71



In respect of Chandikhol region, out of 11,181 cases registered in Miscellaneous Proceedings Register under different category of offences during the 4 years i.e. 1987 to 1990, 10,654 cases were disposed of leaving a balance of 527 cases pending for disposal at the end of 31.12.1990. The number of cases disposed of each year and the year-wise break-up of the pending cases could not be furnished.

In addition, 11,341 cases registered upto 31 December 1986 in all the 9 regions and STA were also pending disposal on 31.12.1990, the earliest cases relating to the year 1977.

The reasons for the heavy pendency was attributed by the Additional Commissioner of Transport (Enforcement) to be mainly due to shortage of staff. However, it was noticed that this aspect was not taken up by the department at any time with the Government.

### 3.2.7 *Irregular maintenance of Miscellaneous Proceedings Register*

The Transport Commissioner-cum-Chairman, STA, Orissa in May 1970 issued instructions to all the Regional Transport Officers to maintain a Miscellaneous Proceedings Register sub-divided into the various categories and given a serial number, wherein all the Vehicle Check Reports received from the officers of the Enforcement Wing are required to be entered, to facilitate collection of information about the extent of offences committed in the region and the type of offences being committed largely as also to watch the disposal of Vehicle Check Reports. The various categories included the details of vehicles plying off-road, untaxed and under-taxed, committing offences in Passenger Tax (since abolished), violation of permit conditions, cases of misconduct of conductors and drivers, suspension of registration and permits.

The register was, however, not maintained properly in separate groups as instructed in the Office of the State Transport Authority, Orissa and in 5 (Bhubaneswar, Ganjam, Cuttack, Chandikhol and Puri) out of 9 regions test checked.

On this being pointed out (February to April 1991) in audit, while the concerned Regional Transport Officers stated that the register would be maintained properly in future, the Additional Transport Commissioner, Transport (Enforcement) stated (March 1991) that it was neither desirable nor possible to maintain it offence-wise but did not proceed to clarify as to why it was neither desirable nor possible.

### 3.2.8 *Check of offences relating to off-road vehicles*

Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended with effect from 18th October 1985); motor vehicles tax and additional tax is not payable in respect of a vehicle which is not intended to be used for any period, provided an undertaking in the prescribed form specifying the period of non-use and the place where the motor vehicle will be kept during such period, is given to the taxing officer on or before the date of expiry of the period for which tax has been paid. If at any time during the period covered by such off-road declaration, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period of off-road and in such a case the owner of the vehicle would become liable to pay tax and penalty as prescribed for the entire period for which it was declared off-road. The taxing officer or any other officer of the department is required to conduct such check as he deems fit to satisfy himself that the vehicle is not being used. Verification of



off-road declarations (which enable owners of vehicles to get exemption from payment of Motor Vehicles Tax for that period) is one of the important functions of the Enforcement Wing.

The State Transport Authority prescribed (May 1973) 100 per cent check for off-road vehicles in each month. As these instructions were not complied with faithfully, thereby defeating the very purpose of checking the off-road declarations which could result in evasion of tax, the Transport Commissioner-cum-Chairman, State Transport Authority, Orissa in July 1990 directed that every month the Regional Transport Officer would prepare an area-wise distribution list of off-road declarations with regard to jurisdiction and that of the Additional Regional Transport Commissioner, Motor Vehicle Inspector, Assistant Regional Transport Officer and other enforcement officers. The area entrusted to a particular officer should be changed every month so that each month a different officer would check the particular vehicle. Every vehicle declared off-road should be verified/checked at its declared place of keeping atleast once in a month. If the vehicle is not found at its declared place of keeping or is found plying a note to this effect was to be made in the off-road Register against that serial number and action to realise the tax for the period immediately taken.

A test check of off-road Registers, Miscellaneous Proceedings Registers, the relevant Vehicle Check Reports and other connected records relating to the aforesaid nine regions revealed the following:

(i) In 9 regions (Dhenkanal, Balasore, Mayurbhanj, Ganjam, Cuttack, Chandikhol, Puri and Bhubaneswar) out of 18,999 off-road declarations received during the



period from January 1987 to December 1990; 7,449 Transport Vehicles were not at all checked at their declared places. In respect of vehicles checked, a note indicating the results of check was not kept in the Off-road Register against that particular serial number.

(ii) In 3 regions (Balasore, Mayurbhanj, Bhubaneswar) 27 cases where the vehicles were not found at the declared place of keeping or found plying during off-road period were disposed off without realisation of appropriate tax amounting to Rs.4.79 lakhs and penalty amounting to Rs.9.58 lakhs pertaining to the period from April 1987 to September 1990.

(iii) In 7 regions (Balasore, Mayurbhanj, Bhubaneswar, Sambalpur, Ganjam, Cuttack and Puri) 80 cases of off-road violations registered during the period from December 1987 to July 1990 were still pending disposal (April 1991) involving a leviable tax of Rs.18.02 lakhs and penalty of Rs.36.05 lakhs pertaining to the period from January 1987 to December 1990.

### 3.2.9 *Vehicles found plying without permit*

Under Section 123 of the Motor Vehicles Act, 1939 (Section 192 of the Motor Vehicles Act, 1988), plying a transport vehicle without a valid permit or in violation of any condition of such permit relating to the route, area, purpose, maximum number of passengers or luggage permitted to be carried, attracts punishment with a fine extending upto two thousand rupees for the first offence and to three thousand rupees for any second or subsequent offence. As per Government of Orissa, Commerce and Transport (Transport) Department Notification dated 27th June 1984, the minimum amount for compounding an offence shall not be less than half of the maximum provided there

for when such offence is committed for the first time and when the same offence is committed for the second time or subsequent to it, the compounding amount shall not be less than the maximum prescribed. Under the provisions of the Taxation Schedule appended to the Orissa Motor Vehicles Taxation Act, 1975 (as amended with effect from 18th October 1985), if any stage carriage is found to be plying without a permit, the tax payable shall be assessed on the basis of maximum number of passengers which the vehicle would have been permitted to carry, reckoning the distance covered by it each day as exceeding 320 kilometres for which higher rate is applicable.

A test check (February to April 1991) of cases booked in the Miscellaneous Proceedings Registers (MPRs) during the four years ending 31 December 1990; on the basis of Vehicle Check Reports issued by the Enforcement Staff revealed the following :

(i)(a) In five regions (Sambalpur, Ganjam, Cuttack, Chandikhol and Puri), 1,419 transport vehicles which included 888 buses had either plied without valid permits or violated permit conditions. Out of the above, 225 buses had committed the same offence for the second time or subsequent to it as was found out by audit by linking up cases registered in the Miscellaneous Proceedings Register. The cases were still pending for disposal (April 1991). There was no system prescribed by the department to ascertain whether an offence committed by the owner or person having possession or control of a vehicle was a first offence or a second or subsequent one. It was only in June 1990 that instructions were issued by the STA that every checking officer is required to maintain a pocket diary where he is expected to note down the date of checking and other particulars of vehicles to find out the number of the offence.



Due to non-finalisation of the cases, an amount of Rs.16.21 lakhs was due for realisation towards compounding fees for the period from 1987 to 1990. Delay in initiating prompt action to realise the same could result in substantial loss of revenue to the Government.

On this being pointed in audit (March - April 1991), the Regional Transport Officer, Puri and Cuttack stated (March - April 1991) that notices were issued to the owners of the vehicles but they were not coming forward to compound the offences. The Regional Transport Officer, Chandikhol stated (April 1991) that the cases would be taken up and disposed of on the merit of the cases.

(b) In 4 regions (Ganjam, Sambalpur, Puri and Cuttack) in 117 cases of stage carriages, differential Motor Vehicles Tax/Additional tax for the offence of plying without permit during the years 1987 to 1990 was also realisable, amounting to Rs.2.29 lakhs.

(ii)(a) In 267 cases relating to STA and 8 regions (Cuttack, Sambalpur, Ganjam, Mayurbhanj, Balasore, Dhenkanal, Puri and Bhubaneswar) which included 195 stage carriages (out of which 21 stage carriages committed same offence for second or subsequent time) Miscellaneous Proceedings cases for plying without permit, violation of permit conditions were finally disposed of during the period from January 1987 to January 1991 in respect of which compounding fees to the extent of Rs.2.30 lakhs were short-realised.

(b) In 53 cases of stage carriages in 7 regions (Puri, Cuttack, Ganjam, Sambalpur, Mayurbhanj, Balasore and Dhenkanal) non-realisation of Motor Vehicles Tax/Additional Tax at appropriate rates for plying without permit amounted to Rs.1.07 lakhs.



3.2.10 *Loss of revenue due to non-realisation of prescribed compounding fees from vehicles belonging to other States detected committing offences in Orissa*

Cases were registered in the Miscellaneous Proceedings Register against other State vehicles detected committing Motor vehicles offences like no route permits, excess load, excess passengers, violation of permit condition etc., while passing through different routes in Orissa, on the basis of Vehicle Check Reports issued by the enforcement staff. In such cases, either no compounding fees was realised on the spot of checking or the fees realised was meagre. The STA, issued instructions (June 1990) directing *inter-alia*, that as such action resulted in loss of State revenue, at least minimum amount of compounding fees due should be realised from such vehicles.

Test check in 6 regions (Sambalpur, Balasore, Ganjam, Cuttack, Puri and Chandikhol) revealed that 91 cases booked against transport vehicles belonging to other States for plying without permit/violation of permit conditions during the period between January 1987 and October 1990 were finally closed by forwarding the concerned Vehicle Check Reports to the RTOs/STAs of the concerned States for further action against the vehicles.

This resulted in loss of revenue to the State to the tune of Rs.78,200.

3.2.11 *Goods vehicles plying with excess load*

Under Section 124 of the Motor Vehicle Act, 1939 (Section 194 of the Motor Vehicles Act, 1988) whosoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention, of the

provisions of section 72(2)(b) *ibid* (Section 113(2)(b) of Motor Vehicles Act, 1988), i.e. in excess of Registered Laden Weight (RLW) applicable to goods transport vehicle, shall be punishable for the first offence with fine which may extend to two hundred rupees (two thousand rupees under Motor Vehicles Act, 1988) and for any second or subsequent offence with fine which may extend to one thousand rupees (five thousand rupees under Motor Vehicles Act, 1988).

In June 1990 the Transport Commissioner-cum-Chairman, STA, Orissa had issued instruction, that the compounding fees in cases of overloading under the Motor Vehicles Act, 1988 are to be realised according to the new slab as prescribed under Act *ibid*. It was further clarified therein that in case of compounding of first offence, the concerned officer should judiciously use his discretion in the matter of realisation of compounding fees which need not be restricted to 50 per cent of fine (as per Government Notification issued in June 1984), but should be more than that depending upon the degree of offence.

A test check of relevant records (February to April 1991) revealed that in 2 regions (Mayurbhanj and Sambalpur) and 2 Motor Vehicles check gates (Jamsola check gate under Mayurbhanj region and Girisola check gate under Ganjam region), compounding fees was short realised to the tune of Rs.6.75 lakhs in 130 cases (22 cases for first offence and 108 cases for second and subsequent offence) resulting in loss of revenue to the Government.

On this being pointed out in audit, the Regional Transport Officer, Mayurbhanj and Sambalpur replied (February and March 1991) that it was not possible to keep a note of offences and was also legally difficult to realise penalty on disposed of cases. The Assistant



Regional Transport Officer in charge of Jamsola check gate replied (February 1991) that it was not practicable to locate second and subsequent offence and that a register was being maintained, and the Assistant Regional Transport Officer of Girisola check gate replied (March 1991) that the offences could not be located due to heavy flow of vehicles and shortage of hands at the check gate.

It was, therefore, evident that the system prescribed for maintenance of pocket diary to note down daily checking particulars for consolidation in the register meant for use in locating the second or subsequent offence, prescribed in State Transport Authority Circular dated June 1990 was not being observed.

The foregoing points referred to were reported to the department/Government in May 1991; followed by reminder (September 1991); their reply has not been received (January 1992).

### 3.3 Short realisation of composite tax on vehicles plying under the National Permit Scheme

Under the National Permit Scheme, the operation of a public carrier goods vehicle authorised to ply in Orissa State but registered in another State is liable to pay composite tax at the rate of Rs.1500 per annum with effect from 1st April 1986 to the Government of Orissa. The composite tax which is in addition to the Motor Vehicle Tax and other taxes payable in the State of registration of the vehicle, is payable in advance, on or before the 15th March every year. The owner of the vehicle, may however at his option pay the composite tax in two equal instalments before 15th March and 15th September, covering the periods



from April to September and October to March respectively for the year. Such composite tax payable is to be deposited with the State Transport Authority of the home State through demand drafts in which the vehicle is registered for onward transmission to the State Transport Authority, Orissa.

In the course of audit of the records of the State Transport Authority, Orissa it was noticed (September and October 1990) that composite tax in respect of 2049 vehicles has been realised only for a part of the year instead of for the full year (1989-90) for which the vehicles were authorised to ply in Orissa and in respect of 377 vehicles composite tax had not been realised at the appropriate rates for the periods between October 1986 and March 1990. This resulted in short realisation of composite tax amounting to Rs.16.23 lakhs.

On this being pointed out in audit (September 1990 and October 1990), the State Transport Authority, Orissa took up the matter (October 1990) with the concerned Transport Authorities of other States for realisation and remittance of the balance dues. Further reports on realisation has not been received (January 1992).

The matter was reported to Government in April 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

#### **3.4 Non-realisation of penalty for belated payment of composite tax on vehicles plying under National Permit Scheme**

According to the instructions issued by Government of India in December 1980, the State Governments were required to make provisions for levy of penalty for belated payments of composite tax

in respect of vehicles covered under the National Permit Scheme. Under the scheme, if the composite tax is not paid within the due date i.e. 15th March and 15th September, the holder of the composite permit is liable to pay penalty at the rate of Rs.100 per month or part thereof in addition to the composite tax. In pursuance of the instructions issued by the Government of India, the Government of Orissa had amended Rule 9 of the Orissa Motor Vehicles Taxation Rules, 1976 and incorporated the penalty provision in May 1986 in respect of vehicles plying under National Permit Scheme.

It was noticed (September 1990) that in respect of 1516 vehicles of other States authorised to ply in Orissa under the National Permit Scheme during the period from March 1989 to March 1990, penalty for belated payment of tax, amounting to Rs.3.25 lakhs was not collected by other State Transport Authorities and remitted to State Transport Authority, Orissa. The State Transport Authority, Orissa had not taken any action to intimate the concerned State Transport Authorities of other States about the delays in payment of composite tax by the owners of the vehicles and to levy penalty on them for belated payment of tax and to remit the dues.

On this being pointed out in audit (September 1990), the State Transport Authority, Orissa took up the matter (October 1990) with the Transport Authorities concerned for realisation of the dues. Further report on realisation of the amount has not been received (January 1992).

The matter was reported to Government in April 1991, followed by reminder (September 1991); their reply has not been received (January 1992).



3.5 **Short/non-realisation of Motor Vehicles Tax and Additional Tax on stage carriages authorised to ply in Orissa under reciprocal agreement**

Where in pursuance of any agreement between the Government of Orissa and the Government of any other State, a stage carriage is plying on a route partly in the State of Orissa and partly in some other State, such stage carriage is liable to pay Motor Vehicles Tax and Additional Tax calculated on the total distance covered by the vehicles on such route in a day in the State of Orissa, at the rates and in the manner specified under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, and the Orissa Motor Vehicles Taxation Rules, 1976 as amended.

In the course of audit of the records of the State Transport Authority, Orissa and four regions (Cuttack, Keonjhar, Mayurbhanj and Rourkela) it was noticed (from July 1990 to March 1991) that Motor Vehicle Tax and Additional Tax in respect of 10 stage carriages authorised to ply on the inter-State routes under reciprocal agreements was not correctly computed with reference to the distance as notified in the agreements, thereby resulting in short/non-collection of motor vehicles tax and additional tax to the tune of Rs.66190 for the period from May 1986 to December 1990.

On this being pointed out in audit (between July 1990 and March 1991), the taxing officers stated (between July 1990 and March 1991) that action to realise the dues would be taken. Further reports have not been received (January 1992).



The cases were reported to Government between November 1990 and May 1991; followed by reminder (September 1991); their reply has not been received (January 1992).

### 3.6 Non-realisation of Composite Tax

Under the provisions of Section 3A of the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, read with Section 4 of the Orissa Motor Vehicles Taxation Act, 1975, where, in pursuance of any agreement between the Government of Orissa and Government of any other State, a goods vehicle entering the State of Orissa, is liable to pay additional tax to be calculated for each entry into the State at the rates specified therein. In respect of goods vehicles belonging to the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreements, Government of Orissa decided (August 1986) to levy Rs.1500 on each vehicle annually as composite tax (in lieu of the additional tax payable for each entry) being calculated and collected from July 1986. The composite tax is payable in advance in lump sum, on or before the 15th of April every financial year by crossed bank drafts to the State Transport Authority, Andhra Pradesh, for onward transmission to State Transport Authority, Orissa. In case of delay in payment of composite tax penalty of Rs.100 for each calendar month of default is also payable in addition to the composite tax.

In respect of 108 goods vehicles of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement, composite tax amounting to Rs.1.43 lakhs for the period from April 1989 to March 1990 was found (August 1990) to have not been collected. In addition, penalty of Rs.1.29 lakhs calculated upto March 1990 was also due for realisation.

On this being pointed out in audit (August 1990), the State Transport Authority, Orissa, Cuttack stated (October 1990) that State Transport Authority, Andhra Pradesh had been intimated (October 1990) for realisation and remittance of the dues. Report on realisation has not been received (January 1992).

The matter was reported to Government in April 1991; their reply has not been received (January 1992).

### **3.7 Short realisation of tax on transport vehicles of other States plying temporarily in Orissa**

According to a notification (1st October 1975) issued under the provisions of the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986), temporary tax tokens may be issued in respect of transport vehicles of other States plying temporarily in the State of Orissa on payment of tax at the prescribed rates. Additional tax at the prescribed rates is also leviable with effect from 10th October 1985. The tax/additional tax in respect of such vehicles is required to be collected by the State Transport Authority of the home State of the vehicles by means of crossed demand drafts, who in turn, is required to remit it to the State Transport Authority, Orissa. The latter is to check the correctness of the remittance received and account for it.

In the Office of the State Transport Authority, Orissa, it was noticed (July 1990) that motor vehicle tax and additional tax to the extent of Rs.1.10 lakhs was short realised, due to non-application of appropriate rate of tax in respect of 433 transport (goods) vehicles of other States which operated temporarily (between April 1988 to March 1990) in Orissa.



On this being pointed out in audit (July 1990), the State Transport Authority, Orissa stated (November 1990) that action would be taken to realise the tax. Further report of realisation has not been received (January 1992).

The matter was reported to Government in April 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### 3.8 Non-realisation of tax in respect of stage carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax payable in respect of a stage carriage is to be determined on the basis of the number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit.

In seven regions (Balasore, Chandikhol, Sambalpur, Bhubaneswar, Puri, Keonjhar and Cuttack), in respect of 114 stage carriages tax and additional tax was not realised for various periods between May 1986 and May 1990, even though permits were issued to these stage carriages. These periods were also not covered by off-road declarations. This resulted in non-realisation of tax amounting to Rs.18.32 lakhs (including additional tax).

On this being pointed out in audit (between July 1990 and February 1991), the taxing officers stated (between June 1990 and March 1991) that action would be taken to realise the tax dues. Further reports have not been received (January 1992).

The matter was reported to Government between October 1990 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).



### 3.9 Short realisation of tax in respect of stage carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986 the motor vehicles tax and additional tax payable in respect of a stage carriage is to be determined on the basis of number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per permit and the nature of the service of the vehicles i.e. express or ordinary.

(a) In the course of audit of the records of the State Transport Authority, Orissa it was noticed (January 1991) that in respect of 4 stage carriages, tax and additional tax for various periods between February 1987 and December 1990 was realised short by adopting incorrect slab rate for the period it was permitted to ply as an ordinary stage carriage and also for the period for which the vehicle was permitted to ply as an express bus for a certain period from October 1989 to March 1990 (1 vehicle) and in respect of the other 3 stage carriages tax was realised short by adopting incorrect distance. These mistakes resulted in short realisation of tax to the extent of Rs.1.76 lakhs.

On the mistakes being pointed out in audit (January 1991), the State Transport Authority stated (January 1991) that action would be taken to realise the balance tax and final outcome would be communicated to audit. Further report in the matter has not so far been received (January 1992).

(b) In eleven regions (Balasore, Chandikhol, Kalahandi, Sambalpur, Dhenkanal, Bhubaneswar, Puri, Phulbani, Bargarh, Keonjhar and Cuttack) in respect of 135 stage carriages, tax for various periods between February 1986 and December 1990, was computed

by adopting incorrect distances permitted to be covered by the vehicle in a day and/or by application of incorrect rate of tax. The mistakes resulted in short realisation of motor vehicle tax and additional tax amounting to Rs.8.84 lakhs.

On the mistakes being pointed out in audit (between June 1990 and February 1991), the taxing officer, Phulbani issued (August 1990) demand notice Rs.12,341) while the taxing officers (Balasore, Chandikhol, Kalahandi, Sambalpur, Dhenkanal, Bhubaneswar, Bargarh, Keonjhar and Cuttack) stated (between June 1990 and February 1991) that demand notices would be issued, Taxing Officer, Puri stated (March 1991) that necessary action to issue demand notices would be taken after verification of records. Further reports have not been received (January 1992).

The cases were reported to Government between October 1990 and June 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### **3.10 Short realisation of tax for stage carriages used as contract carriages**

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, when a motor vehicle in respect of which tax for any period has been paid as per registration, is proposed to be used in a manner for which higher rate of tax is payable, the owner of the vehicle is liable to pay the differential tax. In determining such differential tax, any broken period in a month is to be considered as a full month. The rates of motor vehicles tax in respect of contract carriages were revised with effect from 1.6.89 by Government of Orissa, Law Department's Notification dated 23.5.1989.



In eleven regions (Cuttack, Puri, Bargarh, Sundargarh, Kalahandi, Sambalpur, Ganjam, Balasore, Koraput, Chandikhol and Keonjhar) 181 stage carriages were permitted (for various periods between June 1989 and April 1990), to ply temporarily as contract carriages for which higher rate of tax was payable, which was neither demanded nor realised. This resulted in short realisation of tax amounting to Rs.6.25 lakhs.

On the omission being pointed out in audit (between June 1990 and March 1991), the taxing officers of Cuttack, Puri, Bargarh, Sundargarh, Kalahandi, Ganjam, Koraput and Chandikhol stated (between August 1990 and March 1991) that demand notices for realisation of the differential tax would be issued while the taxing officers of Sambalpur, Balasore, and Keonjhar stated (between July 1990 and January 1991) that the tax due would be realised after verification of the records.

The cases were reported to Government between December 1990 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### **3.11 Short realisation of tax in respect of contract carriages**

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986) the motor vehicle tax in respect of contract carriages is to be realised as per the rates specified at item 4(B) of the taxation schedule appended to the Act, on the basis of number of passengers permitted (excluding driver) to be carried as per the permit.

In 4 regions (Balasore, Dhenkanal, Kalahandi and Cuttack), in respect of 26 contract carriages tax



aggregating Rs.1.42 lakhs for various periods between April 1989 and March 1991 was realised short due to adoption of incorrect rates of tax.

On this being pointed out in audit (between June 1990 and December 1990), the taxing officers, Balasore, Dhenkanal and Cuttack stated (between June 1990 and December 1990) that demand notices would be issued while the taxing officer, Kalahandi issued (September 1990) a demand notice. Further report on realisation of the tax has not so far been received (January 1992).

The cases were reported to Government between December 1990 and April 1991 followed by reminder (September 1991); their reply has not been received (January 1992).

**3.12 Evasion of Motor Vehicles Tax and Additional tax in respect of a stage carriage due to irregular assignment of a new registration mark**

Under the provisions of the Motor Vehicles Act, 1988 and the rules made thereunder, when a motor vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of the vehicle shall, within a period of 30 days from the date of expiry of 12 months shall make an application for the assignment of a new registration mark in the prescribed form which shall be accompanied by a no objection certificate in the prescribed form issued by the previous registering authority. Provided that where a motor vehicle is intended to be kept in a State for a period exceeding 12 months and the owner of such vehicle makes a declaration to that effect, the application may be made at any time within the period of twelve months.

In Chandikhol region, one stage carriage was assigned (June 1989) with a new registration number on the basis of a declaration made by the owner of the vehicle that the vehicle was registered in Andhra Pradesh (Visakhapatnam) during the period from April 1985 to December 1988 and he kept the said motor vehicle in Orissa State from January 1989 without insisting on production of no objection certificate of the registering authority, as required under the Act. On scrutiny of the case by audit (February 1990) it transpired that the vehicle was originally registered (February 1979) in Cuttack region and that the owner of the vehicle did not obtain a no objection certificate from the taxing authority, Cuttack region at the time of migration to Andhra Pradesh. On further investigation of the matter it was noticed (August 1990) that the registration number quoted as assigned to the vehicle was a motor cycle and not a stage carriage. Thus, the irregular assignment of a new registration mark basing on the declaration of the owner of the vehicle without insisting on furnishing the no objection certificate as required under the rules and without making further enquiries, resulted in evasion of tax and additional tax amounting to Rs.1.83 lakhs for the period from April 1985 to December 1988.

On this being pointed out in audit (November 1990 and December 1990), the Regional Transport Officer, Cuttack issued (November 1990) a demand notice for realisation of the tax dues of Rs.1.83 lakhs and the Regional Transport Officer, Chandikhol also stated (January 1991) that necessary action to realise the tax would be taken by him. Further reports have not been received (January 1992).



The matter was reported to Government in February 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

**3.13 Short collection of tax in respect of contract carriages of other States permitted to ply in Orissa temporarily**

Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986) contract carriages of other States not covered by any reciprocal agreements and plying temporarily in the State of Orissa are liable to pay motor vehicles tax equal to twenty five *per cent* of the quarterly tax where the tax token relates to a period not exceeding fourteen days. The rates of quarterly tax in respect of contract carriages were revised from 1.6.1989 as per the Government notification dated 23rd May 1989.

During the audit of the records of the Office of the Additional Assistant Secretary, State Transport Authority (June and July 1990) of the border check gates at Jamsola and Bahalda, it was noticed (June and July 1990) that tax in respect of 34 contract carriages permitted to ply in Orissa temporarily during the period from June 1989 to August 1989 was realised at the pre-revised rates resulting in short collection of tax to the extent of Rs.53,948.

On this being pointed out in audit (June and July 1990), the taxing authority at the check gates stated (June and July 1990) that due to late receipt of Government notification (received at the check gate on 9.6.1989) tax could not be realised at the revised rate. No action was initiated for realisation of the differential tax. It was further noticed during audit (June and July 1990) that even after the receipt of the notification on 9.6.1989, tax at correct rates



was not realised in respect of 14 vehicles for whom tax tokens were issued after that date.

The matter was reported to Government in November 1990, followed by reminder (September 1991); their reply has not been received (January 1992).

### **3.14 Under-assessment of tax in respect of stage carriages plying without permits**

Under the provisions of Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, motor vehicle tax and additional tax in respect of stage carriages is leviable on the basis of the number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit. If any such vehicle is found plying without a permit, the tax payable shall be assessed on the basis of the maximum number of passengers which the vehicle would have been permitted to carry, reckoning the distance covered by it, in each day, as exceeding 320 kilometres, for which the highest rate of tax is applicable.

Scrutiny of records in audit of the Regional Transport Offices in eight regions (Balasore, Bhubaneswar, Phulbani, Sundargarh, Keonjhar, Koraput, Sambalpur and Puri) revealed that 50 stage carriages were found plying without any permits during various periods falling between March 1988 and March 1990, but tax in respect of these vehicles was not assessed and collected at the correct slab rates applicable in such cases. The omission resulted in under-assessment of tax amounting to Rs.99,271.

On this being pointed out (between June 1990 and March 1991) in audit, the taxing officers of Balasore, Sundargarh, Keonjhar and Koraput stated

(between July 1990 and March 1991) that demand notices for realisation of the tax due would be issued, while the taxing officers of Bhubaneswar, Sambalpur and Puri stated (between June 1990 and March 1991) that demand notices for realisation of the tax dues would be issued after verification of the records. The taxing officer, Phulbani however issued (August 1990) demand notice for Rs.3,578. Further reports have not been received (January 1992).

The cases were reported to Government between October 1990 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

**3.15 Non-realisation of additional tax in respect of a stage carriage (Town Bus)**

Under Section 3A of the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986) an additional tax shall be levied on all stage carriages at the rates specified in the taxation schedule to the Act, with effect from 18th October 1985.

In Regional Transport Office, Rourkela, it was noticed (March 1991) in audit that additional tax to the extent of Rs.34,680 in addition to the normal motor vehicle tax, in respect of one stage carriage was not realised for the period between October 1988 and March 1990.

On this being pointed out in audit (March 1991), the taxing officer stated (March 1991) that demand notice would be issued for realisation of additional tax. Report on realisation has not been received (January 1992).



The matter was reported to Government in May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### 3.16 Non-realisation of tax in respect of vehicles violating off-road declarations

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, motor vehicles tax and additional tax is not payable in respect of vehicles, which are not intended to be used for any period, if prior intimation of such non-use is given to taxing officer on or before the date of expiry of the period for which tax has been paid specifying *inter-alia* the period of non-use and the place where the motor vehicle is to be kept during such period. If at any time during the period covered by such intimation, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period and in such a case the owner of the vehicle would become liable to pay tax and penalty as prescribed for the entire period for which it was declared off-road.

In five regions (Sambalpur, Phulbani, Kalahandi, Keonjhar and Koraput), 26 motor vehicles which had been declared off-road by the owners of the vehicles for various periods between April 1988 and September 1990 were detected by the enforcement staff as plying on the road or not found at the declared place during such off-road periods. But, no action was taken by the taxing officers to realise the tax and penalty in respect of such vehicles for those periods for violation of the provisions of the Act. Tax leviable on those vehicles amounted to Rs.2.81 lakhs. Besides, penalty leviable at the rate of 200 per cent on the tax due amounted to Rs.5.61 lakhs.



On this being pointed out (between August 1990 and February 1991) in audit, the taxing officers (Phulbani, Kalahandi, Keonjhar and Koraput) stated (August 1990 and March 1991) that the tax dues would be realised while the Taxing Officer, Sambalpur stated (December 1990) that the tax dues would be realised after reviewing the cases. Reports on realisation have not been received (January 1992).

The cases were reported to Government between December 1990 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### **3.17 Irregular acceptance of off-road declaration without realisation of arrear tax**

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, whenever any motor vehicle is intended not to be used for any period, the registered owner or the person having possession or control thereof shall on or before the date of expiry of the term for which tax has been paid, deliver to the taxing officer an off-road declaration in the prescribed form specifying the period during which the vehicle remain off-road, along with such other particulars as may be prescribed and the registration certificate, fitness certificate, permit and current tax token. Except in the case of continuance of off-road, the owner is liable to pay all dues in respect of the vehicle upto the date of commencement of the off-road declaration. The Transport Commissioner, Orissa also issued (September 1984) instructions that before acceptance of off-road declarations, it should be ensured that all taxes are paid.

On test check of records of Regional Transport Officers in six regions (Balasore, Sambalpur, Phulbani, Koraput, Bhubaneswar and Cuttack), it was noticed (between June 1990 and March 1991) in audit that, though arrears of taxes amounting to Rs.3.14 lakhs relating to various periods falling between April 1987 and March 1990 were outstanding against 31 vehicles, the off-road declarations were accepted by the taxing officers without realisation of arrears of tax.

On this being pointed out (between June 1990 and March 1991) in audit, the taxing officer, Phulbani issued (December 1990) a demand notice for Rs.1,850 while the taxing officers (Koraput, Bhubaneswar and Cuttack) stated (between June 1990 and March 1991) that notices would be issued. The taxing officers (Balasore and Sambalpur) stated (December 1990) that demand notices would be issued after necessary verification. Further reports have not been received (January 1992).

These cases were reported to Government between October 1990 and March 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### **3.18 Irregular grant of permits**

Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986) tax in respect of a stage carriage is leviable on the basis of number of passengers which the vehicle is permitted to carry and the total distance it covered in a day under the permit. Under the Orissa Motor Vehicles Rules, 1940, every application for a permit should invariably be accompanied by documents, such as registration certificate, insurance certificate and tax clearance certificate in respect of such vehicle.



(i) In respect of a stage carriage of Phulbani region, three temporary permits were granted for various periods falling between 26 December 1989 and 14 July 1990 by the State Transport Authority, Orissa, Cuttack without insisting on production of tax clearance certificate from the registering authority. Another temporary permit for the period from 21.7.1990 to 18.9.1990 was issued on the basis of fake and forged tax clearance certificate produced by the permit holder to the permit issuing authority. A cross check (January 1991) by audit of the permit file with reference to tax payments revealed that the operator had not paid the taxes for the above periods and that the Regional Transport Authority, Phulbani intimated (October 1990) to the State Transport Authority, Orissa that the tax clearance certificate furnished by the owner of the vehicle was false and that no taxes were paid in their region in respect of the vehicle. This resulted in evasion of tax and additional tax to the tune of Rs.46,194 for the period from December 1989 to September 1990.

On this being pointed out (January 1991) in audit, the department stated (January 1991) that action would be taken for realisation of the tax due and the result would be intimated in due course. Final reply has not been received (January 1992).

The matter was reported to Government in June 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

(ii) The State Transport Authority, Orissa, Cuttack, also issued temporary permits for various periods falling between December 1989 to June 1990 to eighty two stage carriages to ply on different routes without insisting upon the production of tax clearance certificate as envisaged in the rules *ibid*. On verification of taxation



records of different Regional Transport Officers (between November 1990 and January 1991), it was noticed that tax in respect of these stage carriages for the periods in question was not paid at all.

Issue of permits without proper verification of tax payments resulted in non-realisation of tax to the extent of Rs.10.76 lakhs for the period from December 1989 to June 1990.

On this being pointed out (January 1991) in audit, the State Transport Authority, Orissa stated (January 1991) that the matter would be taken up with the concerned Regional Transport Officers and result thereof would be intimated to audit. Further reply has not been received (January 1992).

The matter was reported to Government (June 1991), followed by reminders (September 1991); their reply has not been received (January 1992).

### **3.19 Irregular issue of permits to stage carriages during off-road periods**

Under the provisions of the Orissa Motor Vehicles Rules, 1940, every application for grant/issue of permit (whether permanent or temporary) shall be accompanied by a tax clearance certificate obtained from the taxing authority of the region where the tax was last paid, and other documents such as registration certificate, fitness certificate, insurance certificate. No permit shall be issued to any operator having arrears of tax or penalties. Under section 10 of the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax is not payable in respect of vehicles declared off-road. If at any time the vehicle is found plying on the road, during such off-road period, the owner of the vehicle would become liable to pay tax and

penalty as prescribed for the entire period for which it was declared off-road.

In the course of audit of the records of the State Transport Authority, Orissa, it was noticed (January 1991) that three stage carriages of Sambalpur region were issued with temporary permits by the State Transport Authority, Orissa between January 1989 and November 1990 covering the period of permits from January 1989 to February 1991, though these vehicles were declared off-road by the Regional Transport Officer, Sambalpur for the periods falling between February 1989 and March 1991, on the basis of fake tax payment receipts produced by the owners of the vehicles at the time of obtaining permits from the State Transport Authority, Orissa and without insisting upon the tax clearance certificates as required under rules. The submission of fake tax payment receipts was proved by the fact that these receipts were not found entered in the cash book of Regional Transport Office, Sambalpur. Further, the vehicles were also not off-road during the declared period as was evident by the fact that in respect of one stage carriage the fitness certificate was renewed (November 1989 and December 1989) by Additional Regional Transport Officer, Bargarh, in respect of another vehicle a temporary contract carriage permit was issued (March 1990) by the Regional Transport Officer, Sambalpur and in another case the vehicle was found by the enforcement staff plying on the road twice (on 24.7.1989 and 31.3.1990). Thus the issue of permits to the three stage carriages by accepting fake money receipts and without insisting on tax clearance certificates, resulted in non-realisation of motor vehicle tax and additional tax to the extent of Rs.3.30 lakhs for the periods falling between January 1989 and December 1990.



On this being pointed out in audit (January 1991), the State Transport Authority, Orissa stated (January 1191) that the matter was being taken up with Regional Transport Officer, Sambalpur and further developments in the case would be intimated to audit in due course. Further reports have not been received (January 1192).

The matter was reported to Government in June 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### **3.20 Irregular exemption of tax by making fictitious entries in the taxation records**

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, exemption from payment of motor vehicles tax/additional tax is allowed for the period for which necessary declaration for discontinuance of the use of the vehicle is delivered to the taxing officer by the owner of the vehicle, on or before the date of expiry of the period for which tax has been paid, specifying *inter-alia* the period of non-use and the place where the motor vehicle is to be kept during such period. The registration certificate, fitness certificate, permit and the current tax token of the vehicle are also required to be surrendered to the taxing officer. According to the instructions of the Transport Commissioner, Orissa issued in September 1984, soon after receipt of the off-road declaration the taxing officer should make arrangements to verify the facts stated in the declaration by the enforcement staff within seven days and on receipt of satisfactory reports, accept the declaration and enter the details in the off-road Register, duly attested by the taxing officer. A list of such vehicles declared off-road is to be circulated each month to the enforcement staff for effective check of the off-road vehicles.



During the course of audit of taxation records of Sambalpur region, it was noticed (December 1990) in audit that in respect of these vehicles, motor vehicles tax and additional tax pertaining to the periods falling between August 1988 and August 1990 was not realised, by relying on the entries of acceptance of off-road declaration made against the vehicles in the Register of Registration Certificates. On verification of the connected records, it was, however, found that neither were the off-road declarations received in respect of these vehicles recorded in the Off-road Register, nor were these vehicles included in the Circulation Lists of the respective months for the enforcement staff. It was further noticed that 2 vehicles out of the 3 were also issued permits during the said periods when they were off-road. The irregular exemption of tax based on incorrect entries in the Off-road Register and Register of Registration Certificates resulted in non-realisation of tax and additional tax of Rs.98,574.

On this being pointed out in audit (December 1990), the taxing officer stated (December 1990) that action as deemed proper would be taken after necessary verification of the records. Further report has not been received (January 1992).

The matter was reported to Government in May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### 3.21 Non-levy of tax for intervening periods

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975 as amended in 1986, motor vehicle tax and additional tax shall be levied on every motor vehicle used or kept for use within the State at the rates specified in the taxation schedule. However,

under Section 10 of the Act *ibid* exemption from payment of such tax is allowed for the period for which necessary undertaking for discontinuance of the use of vehicle is submitted by the owner of the vehicle provided it is on or before the date of expiry of the period for which tax has been paid.

Scrutiny of records in audit of the Regional Transport Offices in fifteen regions\* revealed (between June 1990 and March 1991) that in respect of 366 vehicles, tax for different periods falling between April 1982 and December 1990 remained unrealised even though tax for the earlier and later periods had been collected. The taxation records showed that the intervening periods were neither covered by exemption for discontinuance of use of the vehicles nor intimation of payment of tax in any other region. This resulted in non-levy of tax of Rs.22.68 lakhs.

On this being pointed out in audit (between June 1990 and March 1991), four taxing officers (Kalahandi, Phulbani, Sundargarh and Cuttack) issued (August, September and November 1990) demand notice for Rs.6.89 lakhs. Five taxing officers (Balasore, Chandikhol, Keonjhar, Bhubaneswar and Bargarh) stated (between June 1990 and February 1991) that demand notices would be issued (Rs.6.35 lakhs) while the other six taxing officers (Dhenkanal, Sambalpur, Koraput, Rourkela, Mayurbhanj and Puri) stated (between July 1990 and March 1991) that demand notices (Rs.9.44 lakhs) would be issued after necessary verification. Further reports have not been received (January 1992).

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* Balasore	Chandikhol	Keonjhar
Dhenkanal	Phulbani	Bhubaneswar
Sambalpur	Sundargarh	Koraput
Cuttack	Rourkela	Mayurbhanj
Puri	Bargarh	Kalahandi



The cases were reported to Government between October 1990 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### 3.22 Non-raising of demands for unpaid taxes

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax due on motor vehicles should be paid in advance, within the prescribed period at the rates specified in the taxation schedule, unless exemption from payment of such tax is allowed for the period for which necessary undertaking of temporary discontinuance of use of the vehicle is delivered by the owner of the vehicle to the taxing officer on or before expiry of the term for which tax has been paid. According to the instructions issued by the Transport Commissioner, Orissa (February 1986) demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) of payment of tax.

(A) During the audit of 5 regions (Mayurbhanj, Dhenkanal, Phulbani, Keonjhar and Puri), it was noticed (between March 1989 and February 1991) that 17 vehicles of different classes (two wheelers, trucks, buses and tractors and Trailors) were found by the enforcement staff to be plying without payment of tax and additional tax for different periods falling between April 1981 and March 1990, as reported (between April 1987 and February 1990) by the department. The taxation records revealed that these periods were neither covered by off-road declaration under Section 10(1) of the Act, nor by intimation of payment of tax in any other region. Despite this, the taxing officers did not take action (June 1991) to raise demands and realise the tax due from these vehicles. The amount of tax due in respect of such vehicles worked out to Rs.2.72 lakhs.

On this being pointed out in audit (between March 1989 and February 1991), the taxing officer, Mayurbhanj issued (July 1990) demand notice; taxing officers of Dhenkanal, Phulbani and Keonjhar regions stated (between March 1989 and January 1991) that demand notices would be issued while the taxing officer, Puri stated (February 1991) that demand notice would be issued after verification, for realisation of the tax dues. Further reports have not been received (January 1992).

The matter was reported to Government between June 1989 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

(B) During the audit of 13 regions (Ganjam, Bargarh, Mayurbhanj, Phulbani, Bhubaneswar, Kalahandi, Balasore, Chandikhol, Keonjhar, Dhenkanal, Koraput, Puri and Rourkela), it was noticed (between June 1990 and March 1991) that necessary taxes in respect of 1251 vehicles relating to different periods falling between April 1978 and March 1990 were neither paid by the owners of the vehicles nor by the persons having possession and control thereof. The taxation records showed that these vehicles were neither covered by off-road declaration nor by intimation of payment of tax in any other region. Despite this the taxing officers had not initiated any action to issue demand notices for the realisation of the same nor was action taken to invoke the penal provisions of the Act. The amount of tax due in respect of such vehicles amounted to Rs.83.82 lakhs and the penalty leviable for the delay in payment of tax amounted to Rs.167.63 lakhs.

On this being pointed out in audit (between June 1990 and March 1991), the taxing officers of Phulbani and Kalahandi issued (August 1990 and September 1990) demand notices for Rs.8.03 lakhs. The taxing officers of Ganjam, Bargarh, Mayurbhanj, Bhubaneswar, Balasore, Chandikhol, Koraput and Rourkela stated (between June 1990 and March 1991) that demand



notices would be issued for realisation of arrear dues (Rs.50.86 lakhs). The taxing officers of Keonjhar, Dhenkanal and Puri stated (January 1991 and February 1991) that action would be taken to issue demand notices (Rs.24.93 lakhs) after necessary verification. Further reports have not been received (January 1992).

The matter was reported to Government between October 1990 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### 3.23 Issue of tax tokens without realisation of arrears of tax

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax tokens are to be issued only when all the arrears, of taxes and penalties have been paid along with the tax for the current period. When the tax for any period has not been paid, nor has the period been covered by off-road declaration and continues to remain unpaid for a period of 15 days from the due date of payment, the taxing officer may, in respect of such vehicles, impose penalty at the rates prescribed in the Act.

In two regions (Balasore and Sambalpur), tax tokens in respect of 19 vehicles were issued between June 1988 and June 1990, without realisation of arrears of tax amounting to Rs.94,518 relating to different periods falling between April 1984 and March 1990 during which the vehicles were used or kept for use. No action had also been taken to invoke the penal provisions of the Act for non-payment of tax.

On this being pointed out in audit (between July and December 1990), the taxing officers stated (between July and December 1990) that action to issue demand notices would be taken to realise the dues after verification. Further reports have not been received (January 1992).

The cases were reported to Government in April 1991 and May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).



## CHAPTER 4

### FOREST RECEIPTS

#### 4.1 Results of Audit

Test check of the records maintained in the Forest Divisions revealed non-recovery and short-recovery of dues and losses of revenue amounting to Rs.205.60 lakhs in 1,853 cases which may broadly be categorised as under :

	Number of cases	Amount (Rupees in lakhs)
1. Loss of revenue due to non-disposal of forest produce by sale	476	26.36
2. Non-levy/short-levy of interest for delayed payment of consideration money/royalty	135	6.73
3. Non-realisation of compensation	87	4.24
4. Loss of revenue due to short delivery/shortage of forest produce	60	4.00
5. Non-realisation of extension fee	29	0.43
6. Non-recovery of defaulted amount in case of quashed/determined minor forest produce lots	8	1.21
7. Other irregularities	<u>1058</u> <u>1853</u>	<u>162.63</u> <u>205.60</u>

Some of the important cases noticed during 1990-91 and earlier years are mentioned in the succeeding paragraphs.

## **4.2 Working of Forest Coupes entrusted to Similipahar Forest Development Corporation Limited**

### **4.2.1 Introduction**

With a view to implementing the project for development of Similipahar Forest in Mayurbhanj district with the financial assistance from Agricultural Refinance and Development Corporation (ARDC), now National Bank for Agriculture and Rural Development (NABARD), the Government set up the Similipahar Forest Development Corporation Limited (Corporation) in October 1979. The main objectives of the Corporation are the scientific exploitation of forest resources such as timber, firewood and other minor forest produces, raising economically valuable plantation, introduction of intensive forest development techniques in the project area; covering 2,500 square kilometres lying in the jurisdiction of Karanjia and Baripada (Territorial) divisions in Mayurbhanj district.

In addition, the Corporation was also entrusted with the working of forest coupes in the residual areas (other than those covered by Project area) of Karanjia and Baripada Territorial Divisions, Keonjhar Forest Division (Keonjhar District) from 1984-85, Kalahandi Forest Division (Kalahandi District) from 1985-86 and Upper Indravati Project submergible area in Nowrangpur and Kalahandi Territorial Divisions (Koraput and Kalahandi Districts) from 1989-90. The Corporation was merged with Orissa Forest Corporation Limited and Orissa Plantation Development Corporation Limited and a new organisation under the name of Orissa Forest Development Corporation Limited came into being with effect from 1st October 1990.



#### 4.2.2 *Scope of audit*

A review of the working of forest coupes by the Similipahar Forest Development Corporation in 5 project divisions (Baripada (R&D), Karanjia (U) Badampahar (R&D), Keonjhar (U) and Keonjhar (Plantation) out of 9 project divisions and 3 territorial divisions (Baripada, Karanjia and Keonjhar) out of 5 territorial divisions under whose jurisdiction the project divisions were working was conducted during February and March 1991, with a view to see that the revenue due to Government by way of royalty and compensation etc. were correctly assessed and realised during the period from 1979 to 1990.

#### 4.2.3 *Organisational set-up*

The management of the Corporation was vested in a Board of Directors comprising 10 members (including two non-official members) nominated by Government and headed by Minister of State, Forest, Fisheries and Animal Husbandry Department (now redesignated as Forest and Environment Department) as ex-officio Chairman. The Managing Director was the Chief Executive of the Corporation looking after the day to day activities. The Corporation has 9 Project Divisions (Baripada (R&D), Karanjia (U), Udala (U), Badampahar (R&D), Keonjhar (U), Jajpur Road (U), Kalahandi (U), Keonjhar (Plantation) and Cuttack (Rubber Plantation). Each Project Division was under the charge of a Project Manager who was assisted by a Deputy Project Manager, Supervisor and Assistant Supervisor. These officers were functionaries of the Corporation but were sent by Government on deputation basis. They were empowered to exercise the powers of Divisional Forest Officers, Assistant Conservator of Forest, Forest Ranger, Forester and Forest Guard respectively vested under the Orissa Forest Act, 1972 and the Rules made thereunder.

In view of the powers vested with the officers of the project divisions, no check is exercised by the Forest Department officials in respect of the operations carried out in the project area. In the residual areas, however, the Corporation operated as a contractor and the forest department of the Government have full powers in the matter of marking of trees for felling, passing the timber and preparing interim reports for the damages caused to forests by the Corporation staff and for all these activities the Corporation paid royalty and penalty for offences committed.

#### 4.2.4 *Highlights*

(i) Arrears amounting to Rs.544.44 lakhs were outstanding against the Corporation, as on 31 March 1990, pending collection.

(ii) Royalty amounting Rs.362.11 lakhs in respect of excess outturn of timber than the anticipated outturn on which royalty was fixed, was pending realisation as on 31.3.1990.

(iii) Excess removal of timber over the passed quantity resulted in short-realisation of royalty of Rs.190.47 lakhs.

(iv) Incorrect adoption of unit content instead of actual measurement for fixation of royalty in respect of felled/stacked timber led to under-assessment/short-realisation of royalty to the extent of Rs.38.77 lakhs.

(v) Misclassification of certain species resulted in under-assessment of Rs.2.88 lakhs.

(vi) Incorrect computation of units led to short-realisation of royalty amounting to Rs.3.58 lakhs.



(vii) Non-finalisation of royalty with 10 per cent trend rise over the previous year since 1980-81 in respect of minor forest produce resulted in non-realisation of royalty amounting to Rs.6.07 lakhs.

(viii) Interest amounting to Rs.15.33 lakhs was not levied for belated payment of royalty.

(ix) Compounding fees amounting to Rs.13.26 lakhs realised by Corporation for disposing of forest offence cases was not remitted.

(x) Overhead charges amounting to Rs.34.68 lakhs on supply of railway sleepers were not realised and remitted to Government by the Corporation.

Some of the important points are discussed in the following paragraphs.

#### 4.2.5 *Arrears of royalty and other dues recoverable from the Corporation*

As reported (March 1991) by the Principal Chief Conservator of Forests, Orissa, arrear dues amounting to Rs.487.69 lakhs on account of royalty were outstanding against the Corporation by end of 31 March 1990

The year-wise and the division-wise breakup of the arrears though called for by audit (January 1991) could not be furnished by the department. Besides, an amount of Rs.37.19 lakhs towards interest on delayed payment of royalty, Rs.14.15 lakhs towards compensation for felling unmarked trees and committing other forest offences etc. and Rs.5.41 lakhs towards extension fees were also outstanding as on 31 March 1990.

#### 4.2.6 *Non-realisation of royalty on the excess outturn in coupes*

The Government have not prescribed any procedure for assessment of royalty in respect of the coupes settled with the Similipahar Forest Development Corporation Limited. In reply to an audit observation, the Principal Chief Conservator of Forests clarified (May 1991) that the principles laid down by Government in November 1979 in respect of the coupes settled with OFC are being followed in respect of the coupes settled with the Corporation. According to the Government orders (November 1979), royalty should be fixed on the basis of previous year's unit price or on the last three years' average unit price, whichever is higher, with such increase or decrease as might be necessary after taking into account the current market trend and other local factors. Under the provisions of Rule 245(i) of the Orissa Forest Department Code, a tree of 4' girth is taken as one unit which is equivalent to 8 cft., on an average (it varies from 9 to 10 cft., per unit in case of selection coupes and 6 to 7 cft. per unit in case of coppice coupe or coupes of inferior crop).

A test check (February and March 1991) of the records of 5 project divisions (Baripada, Udala, Karanjia, Badampahar and Keonjhar) revealed that in 52 coupes (out of 332 coupes) as against the estimated outturn of 13 lakhs cft. of timber (1.63 lakh units) during the period from 1979-80 to 1989-90 computed in terms of units in the above manner, the actual outturn was 24.90 lakhs cft. of timber (3.11 lakh units). Thus, the actual outturn had exceeded the estimated outturn by 11.90 lakhs cft. (1.49 lakh units).

The Division-wise breakup of the anticipated outturn, actual outturn, excess outturn and the amount



of the royalty under-assessed during the years 1979-80 to 1989-90 is indicated below:

Name of the Project Division	Anticipated outturn		Actual outturn		Excess outturn		Amount of Royalty under-assessed on the excess outturn  (Rupees in thousands)	
	No. of coupes	in Cft.	in unit	in Cft.	in unit	in Cft.		in unit
Baripada (Timber) Division	4	138376	17297	337673	42209	199297	24912	4988
Udala (Utilisation) Division	10	135120	16890	291660	36458	156540	19568	4276
Karanja (Utilisation) Division	9	341696	42712	627953	78494	286257	35782	7635
Badampahar (Timber) Division	15	524248	65531	962044	120256	437796	54725	13578
Keonjhar (Utilisation) Division	14	160648	20081	270374	33797	109726	13716	5734
	<u>52</u>	<u>1300088</u>	<u>162511</u>	<u>2489704</u>	<u>311214</u>	<u>1189616</u>	<u>148703</u>	<u>36211</u>

Or Rs.362.11 lakhs

The excess outturn of timber in different coupes ranged from 32 per cent to 431 per cent. The excess outturn over the anticipated outturn was attributed to more outturn of timber (18.7 cft) per unit on an average as against 8 cft per unit adopted for the purpose of assessment of royalty, depending on the height of the tree which was not taken into consideration for conversion of units into cft. Due to computation of unit on girth measurement only ignoring the height of the tree, there was an under-assessment of royalty to the extent of Rs.362.11 lakhs on the excess outturn of timber calculated at the unit rate prevailing during the period from 1979-80 to 1989-90 in respect of these coupes.

As Government themselves considered that the royalty realised from the Corporation was on the low side, they decided (March 1984) that the royalty initially fixed shall be treated as minimum royalty and that an ad-valorem surcharge on royalty in the shape of additional royalty should also be realised from the Corporation from 1979-80, at such rates as might be fixed by the Government in consultation with the Chief Conservator of Forests, based on the total turnover, royalty, working cost, overhead cost and profit earned by the Corporation each year. Although more than 7 years have elapsed since then, final decision on fixation of additional royalty to be realised from the Corporation had not been taken so far (May 1991) as a result of which no additional royalty could be realised.

#### 4.2.7 *Removal of excess material from coupes*

Soon after felling is done in a coupe, the trees are converted into logs and the same are entered in the Conversion Register maintained by the Corporation



indicating the quantity and volume of timber felled. The Range Officer of the Forest Division inspects the coupe and verifies the Conversion Register to ensure that the trees are felled according to the marking list and passes the timber after recording the quantity and volume permitted to be removed in the passing list. It is only after this procedure is followed that the timber is allowed to be transported from the coupe to the Corporation Depot. Thus, the volume of timber accounted for in the Depot Register must tally with the details of volume shown in the Conversion Register as well as in the passing list.

Verification of transit permits with the Depot Registers maintained by the Corporation indicated that the volume of timber accounted for in the Depot Registers was in excess of the volume permitted to be transported from the coupes as per the passing list. The quantity of timber shown as transported from coupes as per the transit permits and passing list and that accounted for in the Depot Registers for the years 1979-80 to 1989-90 and the excess quantity removed in each year are indicated below :

Year	Number of Project divisions	Quantity of timber shown to have been transported from coupes as per passing list and transit permits	Quantity of timber accounted for in Depot Register	Excess removal of timber
		( in	cum	)
1979-80	4	6028	6028	-
1980-81	4	45734	47607	1873
1981-82	4	60220	63623	3403
1982-83	4	27016	28113	1097
1983-84	4	22553	22553	-
1984-85	7	26226	27366	1140

Year	Number of Project divisions	Quantity of timber shown to have been transported from coupes as per passing list and transit permits	Quantity of timber accounted for in Depot Register	Excess removal of timber
		(	in cum	)
1985-86	7	32284	32327	43
1986-87	7	37581	39213	1632
1987-88 and	7	48175	50498	2323
1988-89				
1989-90	7	18735	19412	677
		<u>324552</u>	<u>336740</u>	<u>12188</u>

Thus, there was excess removal of timber to the extent of 12,188 cum on which royalty amounting to Rs.190.47 lakhs (calculated at the average sale price of timber in the respective years) was not realised.

On this being pointed out (February and March 1991) in audit, the Project Managers stated that the excess was due to providing shrinkage allowance (1 to 5 cum) at the time of measurement in coupes. The contention is not tenable, as no such shrinkage allowance is admissible as per the rules. The entire volume of timber found in excess of the passed quantity is to be treated as material removed from forests by the Corporation without payment of royalty.



4.2.8 Under-assessment of royalty due to adoption of incorrect procedure for assessment of timber

In order to ensure uniformity in the matter of computing units from trees marked as sound and unsound, the Chief Conservator of Forests, Orissa in his circular dated 7.6.1982 has issued guidelines indicating the classification of species and the ratio to be adopted for conversion of different girth class into units. The guidelines *inter-alia* specified that in respect of felled and stacked timber, actual volume and not unit should be taken into consideration for finalisation of royalty. It was also provided in para 3 of the circular that when there was likely to be need for local variation/modification of method prescribed therein in a few cases depending on local conditions, in all such cases the Divisional Forest Officers should obtain prior approval in writing of the concerned Conservator of Forests for effecting variation/modification, if any after giving full justification for the same.

(a) In Kalahandi Forest Division 13 Podu lots were settled with the Corporation during 1989-90 and the lots were delivered in between January and March 1990 pending fixation of royalty. The volume of timber content in these lots was computed at 27,763 cft. after computing initially the unit content (3469.34 units) and then converting them into volume by taking one unit as 8 cft which was adopted for determining the estimated outturn in a coupe where actual measurement was not possible and the royalty was fixed (June 1990) at Rs.13.28 lakhs by adopting the rates applicable, per cubic feet of felled/stacked timber. Since, as per the guidelines the actual volume and not unit shall be taken into consideration for finalisation of royalty

in the case of felled/stacked timber, the method adopted in calculating the units and converting into volume was not correct and not in accordance with the instructions of PCCF(O). As seen from the Passing Lists, the actual volume of timber removed by the Corporation was 55,109 cft. on which royalty payable amounted to Rs.27.77 lakhs (calculated at the rates applied for 1st class species of stacked and felled timber as 91 per cent, of timber belong to first class species). Due to the adoption of incorrect method in computation of timber content in these lots, there was under-assessment of royalty to the extent of Rs.14.49 lakhs.

On this being pointed out in audit (August 1990), the Principal Chief Conservator of Forests, Orissa stated (May 1991) that this method of calculation was adopted in view of the instructions contained in para 3 of the circular issued in June 1982 permitting variations/modifications in the method of calculation according to local conditions. It was further stated that the coupes contained some felled trees and some standing trees but by and large they were dry, burnt and barkless trees left over by the cultivators and as the actual outturn from the standing trees can only be assessed after its felling, the units have been computed first and then converted to volume. Contesting the above reply, it was pointed out in audit (June 1991) that the instructions contained in para 3 of the circular dated 7.6.1982 were not applicable in the present case as the timber contained in these lots fall under the category of felled / stacked timber and that if the lots contain some standing trees and some felled/stacked timber, the assessment of royalty should have been on the unit basis in respect of standing trees calculated at the prevailing rate per unit of timber and on actual volume in respect of felled



and stacked timber. Further reply has not been received (October 1991).

(b) In two project divisions (Udala and Karanjia) 1.15 lakh trees (mostly sal) were uprooted due to cyclone of June 1982 and were marked for salvaging by the Corporation during 1982-83 and 1983-84. In the meeting held by CCF(O) on 20.10.1983 with the Corporation authorities, it was decided to fix the unit value of timber at Rs.150 keeping in view the poor outturn and inaccessibility of the area, contrary to the guidelines issued in June 1982 according to which, for felled timber the actual volume and not unit shall be taken into consideration for finalisation of royalty. Marking lists of the trees were not sent to the concerned Divisional Forest Officer although salvaging was almost over by that date.

Verification of records (February 1991) showed that during the years 1982-83 to 1984-85, the Corporation had worked 71,280 trees out of 87,399 trees marked for working and paid a royalty of Rs.84.46 lakhs by adopting the outturn as 56,235 units and the rate of royalty @ Rs.150 per unit as decided in the meeting held on 20.10.1983. However, the actual outturn of timber obtained by the Corporation was found to be 16,420 cum. (or 5,79,954 cft.). Since as per the guidelines, in respect of felled/stacked timber the actual volume and not units should be taken into consideration, payment of royalty on units basis was not correct. Calculated on the actual outturn of timber (adopting the rate of Rs.150 per unit equivalent to 8 cft) the royalty payable by the Corporation on the actual outturn of timber of 5,79,954 cft. worked out to Rs.108.74 lakhs, against which the Corporation had paid Rs.84.46 lakhs only. Due to adoption of incorrect method of calculating royalty on the basis of

unit content instead of actual measurement, there was a short realisation of royalty amounting to Rs.24.28 lakhs.

#### 4.2.9 *Under-assessment of royalty due to misclassification of certain species*

As per the classification of various species of trees given in the schedule of rates of the Orissa Forest Produce Rules, 1977, framed by Government under clause (d) of Section 36 of the Orissa Forest Act 1972, "Kurum" (Koim) stand classified under the 1st class species. However in the instructions issued by the CCF(O) in June 1982 the above species was classified as 2nd class. As a result of this, the field officers classified "Kurum" as 2nd class species instead of 1st class species for the purpose of assessment of royalty. Due to this misclassification, there was an under-assessment of royalty of Rs.2.88 lakhs during the period from 1982-83 to 1987-88 in 2 project divisions (Baripada and Badampahar) and two territorial divisions (Karanja and Keonjhar) test checked by audit.

#### 4.2.10 *Incorrect computation of unit*

According to the instructions issued by the CCF(O) in June 1982, the unit content of 'Sal' (1st class species) is to be determined depending on the girth of the tree as follows :

Girth of tree at breast height	Units
Under 90 Cm.	0.50
Under 120 Cm.	1.00
Under 150 Cm.	2.00
Under 180 Cm.	4.00
180 Cm. and above	6.00



In respect of unsound trees the unit calculation may be done at half of that of sound trees.

Scrutiny of the unit calculation of some of the coupes in respect of 2 project divisions (Baripada and Badampahar) revealed that "dry sal trees" was taken at half the conversion ratio of sal trees. Due to incorrect calculation of units, 1986 units were short assessed resulting in non-realisation of royalty amounting to Rs.3.58 lakhs.

#### 4.2.11 *Non-payment of royalty on Minor Forest Produce*

According to the Government orders issued in March 1975, royalty on minor forest produce is required to be fixed with 10 per cent trend rise over the previous year's lease value.

In one project division (Baripada R&D), royalty on minor forest produce was fixed at Rs.34,629 for the years 1979-80 in February 1982. No royalty was, however, approved from the year 1980-81 onwards though the Divisional Forest Officer (Territorial) submitted a proposal (February 1989) for finalisation of royalty as shown below for the years 1980-81 to 1988-89, taking into account 10 per cent, trend rise as per the instructions of Government.

Year	Royalty proposed
1980-81	Rs. 38,092
1981-82	Rs. 41,901
1982-83	Rs. 46,091
1983-84	Rs. 50,700
1984-85	Rs. 55,770
1985-86	Rs. 61,347
1986-87	Rs. 67,482

Year	Royalty proposed
1987-88	Rs. 74,239
1988-89	Rs. 81,653
1989-90	Rs. 89,818 (Proposals not submitted)
	<u>Rs.6,07,093</u>

Due to non-finalisation of the above proposals of royalty, an amount of Rs.6.07 lakhs realisable from the Corporation, could not be realised (May 1991).

#### 4.2.12 *Non-levy of interest on belated payment of consideration money/royalty*

Under the provisions of Orissa Forest Contract Rules 1966 if a contractor fails to pay any instalments of consideration money for sale of forest coupes to him, by the due date he is liable to pay interest at the rate of 6.1/4 per cent, per annum on the instalments in default. According to Government orders (February 1977), provisions were made applicable to leases of forest coupes given to Orissa Forest Corporation Limited a Government of Orissa Undertaking as such they are also applicable to Similipahar Forest Development Corporation Limited, another Government of Orissa Undertaking though there are no Government orders specifically in this regard.

In three Forest Divisions (Karanjia, Keonjhar, Baripada), it was noticed (February and March 1991) in audit that though the Corporation did not pay the consideration money on due dates during the years 1980-81 and from 1985-86 to 1989-90 and the delays ranged from 3 months to 36 months, interest amounting to Rs.15.33 lakhs was not charged and realised (May 1991).



4.2.13 *Compounding of forest offence cases by SFDC and non-payment of compounding fees to Government*

As per the provision of the Orissa Forest Act, 1972 (as amended by Act 9 of 1983), any person, who in a reserve forest, fells, girdles, lops, taps or burns any tree or plant, or strips barks or leaves or otherwise damages the same or causes any damage to the forest produce or removes forest produce from inside the forest without proper permission, shall be punished with imprisonment for a term upto 2 years and with fine upto Rs.5,000.

Under Section 56 *ibid* any forest officer or Police Officer is empowered to seize the property involved except in cases where the offender is willing to get the offence compounded under the provision of Section 72 *ibid*.

According to the Government notification of April 1980 the officers and staff of the Corporation are empowered to exercise the powers under the Orissa Forest Act.

A test check of the records of 2 Project Divisions (Badampahar and Baripada) revealed that during the period from 1979-89 to 1989-90 the officers of the Corporation had detected 24,615 forest offence cases involving unauthorised removal of timber (10358.584 cu.m.) and firewood (4863 quintals). Of these, 21305 were compounded and a sum of Rs.13.26 lakhs realised towards compensation from the offenders. The Corporation had, however, appropriated the entire revenue instead of remitting the same to the Government. The reasons for non-remittance of the compounding fees to Government have not been stated by the Project Divisions concerned.

The Principal Chief Conservator of Forests(O) also stated (May 1991) that no action has been taken for recovery of the compounding fees from the Corporation.

4.2.14 *Non-realisation of overhead charges for passing of railway sleepers supplied by the Corporation to Railways*

The South Eastern Railway has been procuring railway sleepers from Orissa State through three supplying agencies viz. Forest Department of the Government of Orissa, Orissa Forest Corporation Limited and Similipahar Forest Development Corporation Limited (after its formation in 1979). According to the minutes of the meetings held for each year besides the cost of sleepers, the agencies are to receive overhead charges towards loading of the sleepers into wagons, checking of the sub-contractors' bills and conducting pre-despatch quality control inspection at the rate of 4 per cent of the value of the supplies where the inspection of sleepers prior to despatch is done by the representatives of the State Forest Department and where the inspection prior to despatch is undertaken by Railway Officers the overhead charges will be 3 per cent only for handling the work of procurement on behalf of the Railways as prescribed in Railway Board's letter dated 22.8.1978.

During the years 1980-81 to 1989-90, the Corporation supplied Railway sleepers and sal specials valuing Rs.34.66 crores (103454 cum.) to the railways after conducting pre-despatch inspection by the representatives of the State Forest Department. Therefore as per the terms contained in Railway Board's letter of August 1978 overhead charges @ 4 per cent of the value of sleepers supplied during the period from



April 1980 to June 1990 amounting to Rs.138.64 lakhs was to be recovered by the Corporation from Railways. The Corporation, however, had received a sum of Rs.103.96 lakhs towards overhead charges being 3 per cent of the value of sleepers supplied as per the decision of the Board of Directors in their 13th meeting held on 20.12.1982 which was contrary to the rate of 4 per cent decided upon in their annual sleeper conference. As a result, the Corporation did not realise the balance of 1 per cent amounting to Rs.34.68 lakhs from the Railways. No action has been taken by the department to realise the overhead charges from the Corporation (January 1992).

4.2.15 *Illicit felling of trees from reserved forests and protected forests entrusted to the Corporation*

Under the provisions of the Orissa Forest Department Code, Range Officer is responsible for protection and maintenance of forests and other properties under his jurisdiction. In respect of the project area entrusted for working by the Corporation the Assistant Project Manager who is of the rank of Forest Ranger and who is empowered to exercise the powers of the Range Officer is responsible for protection and maintenance of these forests. According to the Memorandum and Articles of Association, the Corporation is required to legally preserve the forests in the project area as well as areas taken on lease from Government under the powers vested on them under the Orissa Forest Act, 1972.

During the course of test check of records of two Project Divisions (Badampahar (R&D) and Karanjia (U)), it was observed (February and March 1991) that Assistant Project Manager, Badampahar R&D

Division reported (September 1986) to the Project Manager that 136 unmarked trees of different girth class measuring 210 units were illicitly felled and removed from Duarsuni Coupe of Satkosia Reserve Forest on 20th June 1986 by a gang of 100 villagers of Bonsogarh when 22 members of Corporation staff were present at the site. It was stated in the report that as the offenders have out-numbered the Corporation staff, they could not seize the forest produce. No FIR to this effect was lodged with the nearby Police Station. The Project Manager on receipt of the report, (October 1986), had formally intimated the Managing Director (October 1986) to inspect the site and move the Superintendent of Police, Keonjhar for taking necessary action against the offenders. No further action has however been taken on the matter (May 1991). Similarly, another report of illicit felling and removal of 107 unmarked trees (99.25 units) was also made (November 1987) to the Project Manager, Badampahar Division. There is nothing on record about the action taken on this report. These incidents have not been reported to PCCF(O) or Government by Corporation. The value of 243 trees (309.25 units) illicitly felled and removed works out to Rs.5.20 lakhs computed as per the decision taken on 13.5.1980 in the conference of Conservator of Forests, which is a loss of revenue to Government due to negligence and non-adoption of proper protection measures by the Corporation.

On this being pointed out (March 1991) the Project Manager stated (March 1991) that Satkosia is a timber smuggling area and the Managing Director has been requested to write to the Superintendent of Police. Reasons for not lodging any FIR immediately had, however, not been stated.



#### 4.2.16 Deviations from the approved working plan

According to the Government instructions issued in March 1977 any deviation from the approved working plan for the working of forest coupes is required to be reported to the Government for prior approval with sufficient reasons indicating *inter-alia* the financial implication of the proposals in as much as the scarce resources of the State Government are linked with the annual sale of coupes approved by Government.

Scrutiny of records of 3 Project Divisions (Badampahar, Baripada and Udala) however revealed that 19 coupes which were due for working in 1980-81 were worked in 1981-82 to 1983-84 while 5 coupes due for working 1981-82 were worked in 1983-84 to 1985-86, 6 coupes due for working in 1982-83 were worked in 1984-85 and 1985-86, 4 coupes due in 1983-84 were worked out in 1984-85 and 1985-86, 6 coupes due for working in 1984-85 were worked out in 1985-86, 3 coupes due in 1985-86 were worked out in 1986-87 and 1 coupe due for working in 1986-87 was worked out in 1987-88. These deviations were however not reported to Government and no prior approval had been obtained.

Delay in working the coupes in deviation from the working plan resulted in deterioration in quality and value of timber and blockage of revenue.

The above points were brought to the notice of department and Government in May 1991. The Government have stated (June 1991) that necessary comments of the department would be furnished soon after receipt of replies from the Principal Chief Conservator of Forests, Orissa and the Managing

Director of the Corporation for which they have been requested. The Department/Government was last reminded in September 1991.

#### 4.3 Non-realisation of shortfall on resale of forest coupes

Under the Orissa Forest Contract Rules, 1966 a contract for sale of forest coupes can be terminated or a sale can be quashed for breach of any of the conditions laid down in the contract or in the Sale Notice as the case may be and the coupes resold. The shortfall of revenue, if any, on such resale, together with interest due thereon at the rate of 6.1/4 per cent per annum is recoverable from the defaulting contractor as arrears of land revenue.

Scrutiny of records during the audit of seven forest divisions (Puri, Rairakhol, Khariar, Ghumsur (South), Parlakhemundi, Jeypore (Bamboo) and Bolangir), revealed that contracts in respect of 9 coupes with outstanding dues amounting to Rs.9.12 lakhs relating to the period from 1987-88 to 1989-90, were terminated for non-payment/default in payment of consideration money, security deposit and for non-commencement of work. These coupes were put to resale between March 1988 and June 1990. Of these, 6 coupes were resold (between March 1988 and May 1990) for Rs.1.54 lakhs and 3 coupes remained unsold due to non-participation of bidders. The shortfall of Rs.7.58 lakhs was not realised from the defaulting contractors. Taking into account the available security deposit with the department amounting to Rs.12,055 which is liable for forfeiture in 6 cases, the net shortfall of revenue worked out to Rs.7.46 lakhs.



On this being pointed out in audit (between March 1989 and February 1991), the concerned Divisional Forest Officers stated (between April 1989 and February 1991) that action would be taken to realise the dues through certificate procedure, after adjusting the security deposit. Further reports have not been received (January 1992)

The cases were reported to Government between May 1989 and March 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

#### **4.4 Non-realisation of compensation for illicit fellings of trees**

Under the Orissa Forest Contract Rules, 1966, a forest contractor is liable to pay compensation as may be fixed by the Divisional Forest Officer, for damages caused by him in Government Forest for illicit fellings within the contract area or within 20 chains thereof. In the event of non-payment of compensation, the contract is liable to be terminated. Such dues on account of compensation are recoverable from the security deposit of the contractor and the balance if any, as arrears of land revenue. In the conference of Conservators of Forest held on 13.5.1980 it was decided that a uniform procedure should be adopted all over the State in assessing compensation for illicit fellings and other irregularities committed by the forest contractors including the Orissa Forest Corporation Limited. Accordingly, compensation for illicit fellings of standard or reserved trees (if the materials not removed) is to be fixed at 4 times of the unit value.

Scrutiny of records in audit of the Divisional Forest Officer, Puri revealed that in Puri Forest Division, a public sector corporation illicitly felled 78 unmarked standard trees from the contract area during the extended period of contract from 1.11.1989 to 31.12.1989 and converted them into 237 logs and removed them to their depot. These logs were seized by the Division in February 1990, but compensation amounting to Rs.66,887 (calculated at 4 times of the unit value of timber of Rs.63.34 per unit fixed for 1988-89) was not realised.

On this being pointed out in audit (May 1990), the Divisional Forest Officer stated (May 1990) that action would be taken to assess the compensation and to raise the demand against the Corporation after further verification. Further report has not been received (January 1992).

The matter was reported to the Principal Chief Conservator of Forests (O)/Government in October 1990, followed by reminder (September 1991); their reply has not been received (January 1992).

#### 4.5 Under-assessment of royalty

The guidelines issued by the Principal Chief Conservator of Forests, Orissa in June 1982 for assessment of outturn of timber per unit in coupes sold by auction settled with Orissa Forest Corporation Limited *inter-alia* provided that in respect of firewood, the quantity available in coupes may be taken into consideration for fixing upset prices/probable value of the coupes.

In Puri Division, 7 divisional lots containing 8,566 Casurina trees were settled (August 1988) with



the Orissa Forest Corporation Limited for the year 1988-89 for extraction of firewood, roots and brush wood. The royalty was fixed in August 1988 by the Divisional Forest Officer at Rs.4.44 lakhs calculated at the rates of Rs.28, Rs.13 and Rs.12 per quintal on the estimated outturn of 14,941.39 quintals of firewoods, 856 quintals of roots and 1,180 quintals of brush wood respectively, which was ratified by the Conservator of Forests, Berhampur in March 1989. As against the above estimated outturn, the Corporation had actually removed 17,453 quintals of firewood, 3,338.10 quintals of roots and 235 quintals of brush wood during the lease period, as verified from the passing list. Thus, the fixation and realisation of royalty based on the estimated outturn instead of the actual quantity available in the coupes resulted in under-assessment and short realisation of royalty of Rs.91,244.

The matter was reported to the Department (May 1990) and to Government (October 1990).

The Government to whom the matter was reported (October 1990) endorsed (October 1991) the views of the Divisional Forest Officer Puri stating that there was no specific procedure for fixation of royalty of Casurina coupes and the royalty was, therefore, fixed on estimated outturn of firewood etc. by taking sample weighing of 10 trees of different girth classes. Since the royalty fixed by the Divisional Forest Officer, Puri was approved by the Conservator of Forests in March 1989, the Corporation did not agree to pay the differential royalty pointed out by audit. The reply furnished by the Government is not acceptable to audit, as the guidelines issued by Principal Chief Conservator of Forests, Orissa in June 1982 clearly provide that in respect

of firewood, the actual quantity available in coupes should be taken into consideration for fixation of the royalty and not the estimated outturn.

#### **4.6 Under-assessment of royalty due to misclassification of species of trees**

Royalty in respect of a coupe is generally fixed on the basis of units of timber determined by classifying the trees under the appropriate class of species. As per the classification of various species of trees given in the Schedule of Rates of the Orissa Forest Produce Rules, 1977, framed by Government under clause (d) of section 36 of the Orissa Forest Act, 1972. "Bandhan" and "Haldu" species were classified under 1st class and Kasi, Kendu, Mahul, Rohini, Sidha, Sina, Jamu, Dhaman and Kansa species were classified under 2nd class. However, the Principal Chief Conservator of Forests, Orissa while issuing guidelines for computation of units in annual coupes, in June 1982 and September 1987, classified Haldu, Mahul, Rohini, Sidha, Dhaman and Kansa species as falling under 3rd class. As a result, the field officers who had hitherto been classifying these trees under the 1st class and 2nd classes, as per statutory rules, classified them under the 3rd class and assessed them at a lower unit value thereby resulting in lower fixation of royalty. The above instructions of the Principal Chief Conservator of Forests, Orissa were neither approved by Government nor was any amendment to the schedule of rates carried out.

Further, though Bandhan and Kasi, Kendu, Jamu were classified under 1st class and 2nd class species respectively in both schedule of rates of Orissa Forest Produce Rules, 1977, and executive instruction issued in June 1982 and September 1987 they were classified by the Divisional Forest Officers under 3rd class.



In eight forest divisions (Nayagarh, Keonjhar, Dhenkanal, Baripada, Athmallik, Karanjia, Ghumsur (South) and Kalahandi), it was noticed (between September 1988 and November 1990) that 75 coupes containing the above species of trees were settled with Orissa Forest Corporation Limited/Similipahar Forest Development Corporation Limited during the years 1987-88 to 1989-90, fixing royalty classifying the above species as 3rd class specie resulting in under-assessment of royalty of Rs.2.46 lakhs.

On this being pointed out in audit (between September 1988 and November 1990), the Divisional Forest Officers stated (between September 1988 and November 1990) that the classification was done as per the instruction of the Principal Chief Conservator of Forests, Orissa issued in June 1982 and September 1987 and in respect of misclassification of species (viz. Kasi, Kendu, Jamu and Bandhan) no reasons were furnished.

The matter was reported to Principal Chief Conservator of Forests, Orissa/Government between January 1989 and January 1991, followed by reminders (September 1991); their replies have not been received (January 1992).

#### **4.7 Non-levy of interest on belated payment of consideration meoney**

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of consideration money for sale of forest coupes to him by the due date, he is liable to pay interest at the rate of 6.1/4 per cent per annum on the instalments of default. These provisions were also applicable to lease of forest coupes given to the Orissa Forest Corporation Limited (a fully owned Government Company) as clarified by Government in February 1977.

During the audit of 10 Forest Divisions (Bamara, Boudh, Deogarh, Rairkhol, Balliguda, Ghumsur (North), Parlakhemundi, Nowrangpur, Sambalpur and Bonai), it was noticed (between January and December 1990) that in 197 cases of belated payment of consideration money ranging from 2 months to 23 months relating to the years 1987-88 to 1989-90 interest amounting to Rs.6.99 lakhs was not levied and realised from Orissa Forest Corporation Limited.

On the omissions being pointed out by audit (between January 1990 to December 1990), the Divisional Forest Officers stated (January 1990 to December 1990) that action would be taken to realise the interest. Reports on realisation have not been received (January 1992).

The cases were reported to Principal Chief Conservator of Forests/Government (March 1990 to February 1991), followed by reminder (September 1991); their replies have not been received (January 1992).

#### **4.8 Non-realisation of extension fees**

Under the provisions of Orissa Forest Contract Rules, 1966, forest produce is to be extracted and removed by the contractor from the contract area within the contract period failing which the produce shall become the absolute property of Government. The Conservator of Forests or the Divisional Forest Officer, as the case may be, may grant an extension of time on advance payment of extension fee at 1 per cent of the consideration money of the contract for each month of extension, provided that full consideration money of the contract has been paid. It was clarified by Government (September 1972 and February 1977) that provisions of the Orissa Forest Contract Rules were also applicable to leases of coupes to the Orissa Forest Corporation Limited.



In the course of audit of records of Parlakhe-mundi Forest Division, it was noticed (May 1990) that in respect of 29 lots of Badagada Range allotted to the Orissa Forest Corporation Limited during the period 1989-90, extension of time for a period of six and half months beyond the contract period (October 1989) was granted (February 1990) by the Divisional Forest Officer even without realisation of consideration money for the contract and extension fees, in advance. The extension fees realisable for the period of actual extension availed of by the Corporation worked out to Rs.31,358.

On this being pointed out in audit (May 1990), the Divisional Forest Officer intimated (March 1991) that the royalty for the contract was demanded and that extension of time was allowed only for 24 lots of Badagada Range (the remaining 5 lots related to Mahendra Range) and that extension fee amounting to Rs.60,770 was demanded (February 1991). However, levy of extension fees for the remaining 5 lots relating to Mahendra Range has not been intimated (January 1992).

The matter was reported to Government in October 1990; their reply has not been received (January 1992).

## CHAPTER 5

### STATE EXCISE

#### 5.1 Results of Audit

Test check of the accounts of receipts in the offices of the Excise Commissioner and Superintendents of Excise, conducted during the period from April 1990 to March 1991, revealed non-realisation, short realisation, breakage and other losses of revenue amounting to Rs.34.32 lakhs in 39 cases which may broadly be categorised as under:

	Number of cases	Amount (Rupees in lakhs)
1. Short-realisation/non-realisation of duty	8	10.08
2. Non-realisation of duty on transit breakage	2	0.43
3. Loss of revenue due to delay in granting/issue of licences	4	1.32
4. Other irregularities	<u>25</u>	<u>22.49</u>
	<u>39</u>	<u>34.32</u>

Some of the important cases noticed during 1990-91 and earlier years are mentioned in the succeeding paragraphs.



## 5.2 Non-realisation of cost of establishment from the foreign liquor bonded warehouses and manufactories

As per the Board's Excise Rules, 1965, framed under the Bihar and Orissa Excise Act, 1915, licensees of bonded foreign liquor warehouses including warehouses of the foreign liquor manufactories are to pay the Government (at the end of each month) fees for the deployment of excise staff engaged on supervision of the operations carried on in such warehouses. The Excise Commissioner, Orissa in his letters dated 21.2.1984 and 3.1.1990 addressed to all Collectors, clarified that such fees are also required to be recovered from the licensees of the warehouses where whole time excise officers are posted. The amount of fees payable, which should not exceed the cost of excise staff employed for the purpose, are to be determined in accordance with the order of the Excise Commissioner, Orissa referred to above.

On being pointed out (July 1990) in audit about non-recovery of such fees towards the cost of establishment amounting to Rs.53,255 from one warehouse of a brewery for the year 1989-90 by the Superintendent of Excise, Cuttack, the Inspector General of Registration-cum-Excise Commissioner intimated (July 1991) that the dues have been realised in full in July 1990.

## 5.3 Allowance of excess wastage of spirit in manufacture of medicinal preparation

Under the Medicinal and Toilet preparations (Excise Duties) Rules, 1956, the State Government may from time to time, fix the percentage of wastage of spirit in the production of particular medicinal or

toilet preparation. Any wastage that exceeds the allowable limit and not properly accounted for is chargeable to duty. The Government in their Revenue and Excise Department notification issued in July 1987, fixed allowable wastage of spirit in the production of medicinal preparations, of extracts concentrated in fusions, tinctures, spirits, lotions, homoeopathic mother tinctures and homoeopathic potentised preparations at 10 per cent.

It was noticed in audit (December 1989 and November 1990) that one bonded manufacturer of medicinal preparations of extracts concentrated in fusions, tinctures, spirits, lotions, homoeopathic mother tinctures and homeopathic potentised preparations in Ganjam district had manufactured medicines containing spirit of 62,866.37 LPA by utilising 73,723.85 LPA of spirit during the period from July 1987 to March 1990 and had shown 10,857.48 LPA of spirit as wastage in preparation of medicines in his accounts, against the allowable wastage of 7,372.40 LPA. The department allowed the entire claim for wastage without verifying the correctness of the wastage shown in the accounts. The excess allowance of wastage of spirit resulted in short-levy of duty to the extent of Rs.24,232.

On this being pointed out in audit (December 1989 and November 1990), the department replied (December 1989 and November 1990) that the matter would be investigated. Further report has not been received (January 1992).

The matter was reported to Government in January 1990 and January 1991, followed by reminder (September 1991); their reply has not been received (January 1992).



#### 5.4 Loss due to non-realisation of excise duty and cost of country spirit

Under the provisions of the Orissa Excise (Exclusive Privilege) Rules, 1970, as amended in 1989, a licensee shall sell in retail the entire minimum guaranteed quantity of country spirit for the excise year before the expiry of the term of licence. Any balance of country spirit found outstanding and unsold at the expiry of the previous year's licence shall stand forfeited to the Government. The Collector, may permit the succeeding licensee to take over the forfeited quantity of country spirit after payment of the excise duty and cost thereof and adjust it against the minimum guaranteed quantity of the country spirit guaranteed by the succeeding licensee.

In the course of audit of the records of the Superintendent of Excise of Dhenkanal and Sundergarh it was noticed (March 1991) that licensees of 49 country spirit shops kept a balance of 5073.8 LPL of country spirit out of minimum guaranteed quantity unsold at the expiry of licence period i.e. 31.3.1990 and the same was permitted to be taken over by the succeeding licensees for the year 1990-91 without recovering the duty and cost thereof. This resulted in non-realisation of excise duty and cost of country spirit to the extent of Rs.89,269.

On this being pointed out in audit (March 1991), the Superintendent of Excise, Dhenkanal intimated (August 1991) that out of the amount of Rs.36,981, due from the licensees under his jurisdiction, an amount of Rs.32,106 has been realised and the balance amount of Rs.4,875 is under process of recovery. The Superintendent of Excise, Sundargarh stated (March 1991) that the matter would be examined and action would

be taken for realisation of the amount. Further report has not been received (January 1992).

The matter was reported to Government in May 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### **5.5 Non-realisation of differential excise duty of medicinal preparations**

Under the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956, and the Schedule of Rates prescribed thereunder, allopathic medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages and falling under the category of restricted preparations shall not be manufactured from rectified spirit on which duty of Rs.6.60 per liter of pure alcohol content (LPA) has been paid and such preparations shall be manufactured from rectified spirit on which a duty of Rs.13.20 per LPA has been paid and the rectified spirit obtained on payment of the aforesaid duty of Rs.13.20 shall be accounted for separately.

A non-bonded manufactory at Cuttack purchased 77,800 Bulk Litres (BL) (73,538.682 LPA) of rectified spirit by paying duty at the rate of Rs.6.60 per BL and 8200 BL (7747.713 LPA) of rectified spirit by paying duty at the rate of Rs.13.20 per BL during the years 1987-88 to 1989-90 instead of paying duty of a LPA content of rectified spirit. Out of 73,538.682 LPA of rectified spirit purchased the licensee utilised 16,263.804 LPA of rectified spirit in the preparation of restricted medicines which should have been prepared from the rectified spirit purchased on payment of duty of Rs.13.20 per LPA. The differential duty realisable from the licensee works out to Rs.1.07 lakhs on 16263.804 LPA of rectified spirit irregularly utilised. Out of



this the licensee had already paid duty of Rs.21,360 (between April 1987 to March 1989). After adjustment of excess payment of duty of Rs.34,095 made by the licensee at the time of purchase of rectified spirit (paying duty on BL instead of LPA) the net amount of duty realisable comes to Rs.51,886 which was not demanded by the excise authorities.

On this being pointed out in audit (July 1990), the Superintendent of Excise stated (July 1990) that the Inspector of Excise was being asked to report the factual position and the result thereof would be intimated. Further report has not been received (January 1992).

The matter was brought to the notice of Government in November 1990, followed by reminder (September 1991); their reply has not been received (January 1992).

#### **5.6 Loss of revenue due to non-disposal of India made foreign liquor**

As per Rule 19 of the Board's Excise Rules, 1965, framed under the Bihar and Orissa Excise Act, 1915 on termination of the licence, the Commissioner may allow the wholeseller (Bonder) to remove all liquor remaining within his warehouse on payment of full duty, within a period of one month from the date of expiry of the licence, for sale to licenced ware houses, and when the bonder fails to remove the liquor, it shall be liable for forfeiture at the discretion of the Commissioner. Under para 75(b) of the Orissa Excise Manual Volume III, it is prescribed that at the end of the year (between 25th and 31st March), the Superintendent of Excise is required to take stock of the liquor accurately and submit the stock taking report to the Excise Commissioner by seventh of April every year.

Scrutiny of the records of the Superintendent of Excise, Sambalpur revealed (July 1989) in audit that the licence of a foreign liquor bonded warehouse at Sambalpur was issued to the bonder 'O' upto 31st March 1982 and thereafter the licence was not renewed in his favour for the reasons of non-maintenance of sufficient stock of popular brands of foreign liquor and lack of business drive on the part of the licensee. The closing stock of IMFL on the last date of the currency of the license (31.3.1982) was 1200.389 LPL as per the report dated 26 May 1982 of the Officer-in-charge of the bonded warehouse. Consequent upon non-renewal of the licence, the stock of IMFL was neither removed by the licensee within one month on payment of duty nor did the Superintendent take any action for forfeiture of the stock. Further, annual stock taking of closing stock of IMFL was not conducted from 1982-83 onwards.

On this being pointed out in audit (August 1989), the Superintendent of Excise, Sambalpur called (December 1990) for a report from the Inspector of Excise, Foreign Liquor Bonds, Sambalpur who intimated (December 1990) that the entire stock was stolen (July 1989) and cases were registered with the Police during July 1989 and were still pending disposal (October 1991). Thus, due to failure on the part of the Excise Department for disposal of the stock, there was a loss of revenue to the extent of Rs.93,630.

The matter was reported to Government (September 1989), followed by reminder (September 1991); their reply has not been received (January 1992).



## CHAPTER 6

### MINING RECEIPTS

#### 6.1 Results of Audit

Test check of mining receipts in the offices of Mining Officers conducted during the period from April 1990 to March 1991, revealed non-levy or short-levy of dead rent, cess, surface rent and interest and other losses of revenue amounting to Rs.27.09 lakhs in 86 cases, which may broadly be categorised as under :

	Number of cases	Amount (Rupees in lakhs)
1. Loss of revenue due to shortage of minerals	4	5.96
2. Non-levy/short-levy of royalty, cess, surface rent and dead rent	11	2.18
3. Non-recovery/short-recovery of interest	59	1.97
4. Non-realisation/under-assessment of dead rent, royalty and interest	2	0.49
5. Other irregularities	<u>10</u>	<u>16.49</u>
	<u>86</u>	<u>27.09</u>

In one case, non-levy of royalty amounting to Rs.1.11 lakhs was recovered (December 1990) on being pointed out in audit (September 1990).

Some of the important cases noticed during 1990-91 and earlier years are mentioned in the succeeding paragraphs.

## **6.2 Non-assessment of royalty on mineral found short**

Under the Mines and Minerals (Regulation and Development) Act, 1957 and the Mineral Concession Rules, 1960, the holder of a mining lease is to pay royalty on any mineral removed or consumed from the leased area. No deduction in the quantity removed is permissible for any subsequent loss or wastage.

In Koraput Circle it was noticed (July 1990) in audit that shortage of 3624.432 tonnes of manganese ore was detected by the departmental officers during April 1988, while conducting physical verification of stock in respect of a manganese lease (501.67 hectares) held by a lessee (a Government of Orissa Undertaking). The assessing officer while assessing the royalty for the quarter ending June 1988 had neither investigated the shortages nor assessed royalty on the quantity of ore found short. As the Act does not provide for any relief on account of shortage, royalty was payable on the entire quantity mined by the lessee. The irregular allowance resulted in a loss of revenue amounting to Rs.31,109.

On this being pointed out in audit (July 1990), the Director of Mining and Geology, Orissa intimated (November 1991) that the Mining Officer, Koraput had raised (September 1991) a demand of Rs.31,109 for the shortages of manganese ore found in April 1988.

The matter was reported to Government in November 1990.



### 6.3 Loss of revenue due to delay in auction sale

Under Rule 14 of the Mineral Concession Rules, 1960 and according to the terms and conditions of mining lease, if any mineral not specified in the lease is discovered in the leased area, the lessee shall not win and dispose of such mineral. Such minerals can be disposed of by Government in such manner as they may deem fit.

In Mining Circle, Rourkela, fireclay mine over an area of 113.900 hectares, was leased out for 20 years with effect from 21.5.1981. During the course of working of the mines, carbonaceous shales measuring 1827.80 cum. (2,334.10 MT) were recovered (September 1982) from the mine. Nearly 2 years thereafter in July 1984, public auction was held to dispose of the stock and the highest bid was Rs.76 per tonne. The results of auction was intimated to Government for approval in July 1984. Government after a lapse of two and half years desired (February 1987) to know the actual existence of the quantity of material stacked in the leased area. On measurement by the departmental staff in May 1988 the stock of material was found to be 1,360 cubic metres (1736.720 MT) and this fact was intimated to Government in July 1988. Government, after cancellation of the auction sale held in August 1984 for non-payment of the auction value in time by the highest bidder, advised the Director of Mines (December 1988) to conduct re-auction of the existing stock at the upset price of Rs.75 per tonne but the auction sale fixed in March 1989 could not be conducted apprehending further shortages in the stock of shales. On remeasurement conducted on 26.8.1989 the stock was found to be 1,320 cum. (1,685.640 tonnes). Finally, in March 1990 the stock was auctioned accepting the highest bid of Rs.84 per tonne and the Government conveyed (January 1991) their approval of the sale.

in favour of the highest bidder for Rs.1.42 lakhs. It has also been intimated (July 1991) that the bid money of Rs.1.42 lakhs has since been realised (April 1991) and credited to Government Account. However, no reply has been furnished for the shortages. Thus due to inordinate delay in disposing of the material and not taking adequate precautions in storage of the material, Government sustained a loss of Rs.54,471 on shortage of 648.460 MT of shales (calculated @ Rs.84 per MT).

On this being pointed out in audit (September 1990), the Director of Mining and Geology stated (June 1991) that the Government was duly apprised of the shortages and action is being taken to get the shortages written off by the Government.

The matter was reported to Government in January 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

#### **6.4 Non-realisation of interest on belated payment of weighment charges**

As per the instructions of the Director of Mining and Geology, Orissa dated 31 March 1984, one month's weighment charges for the weighment of minerals and other commodities, on the weigh bridges of the Mining and Geology Department located in various places in the State, are required to be deposited in the treasury by the leasees, in advance or before the first day of the month for which weighment is intended, on the basis of previous three months average. The amount shall be adjusted by the Senior Mining Officer (redesignated as Deputy Director of Mines) and Mining Officers on the closing day of the month to which the claim pertains. Further, as per the Notification issued by Government of Orissa Mining and



Geology Department on 10.2.1988, any amount on account of such charges or fees, if in arrears shall be recovered together with simple interest due thereon at the rate of 15 per cent per annum as arrears of land revenue on a certificate of such officer as may be specified by the State Government by a general or special order made in that behalf.

On being pointed out (October 1990) in audit, in one Mining Circle (Jajpur Road) interest amounting to Rs.85,197 for delayed payment of actual weightment charges for the months from February 1988 to March 1990 has been realised and credited (July 1991) into Government account.

#### 6.5 Non-levy of interest on mining dues

Under the Mineral Concession Rules, 1960 as amended in October 1982, in cases of belated payment of dead rent, royalty or other government dues, simple interest at the rate of 15 per cent per annum on the amount in default may be charged from the lessee from the sixteenth day of the expiry of the date fixed by Government for payment of such dues (i.e. 15th of the following month) till the default continues.

In six mining circles, (Jajpur Road, Sambalpur, Bolangir, Talcher, Cuttack and Bhawanipatna) interest had not been levied in 39 cases of belated payment of dead rent (12 cases) and royalty (27 cases) relating to the period from January 1986 to June 1990. The delays ranged from 2 days to 560 days. Interest realisable in these cases amounted to Rs.2.41 lakhs.

On the omission being pointed out in audit (between March 1989 and January 1991), the Deputy Director of Mines, Jajpur Road stated (August 1989 and October 1990) that a demand of Rs.2.13 lakhs

in respect of 11 cases under his circle had been raised out of which an amount of Rs.64,856 was realised (between October 1990 and July 1991). The Director of Mining and Geology, Orissa intimated (June 1991) that a sum of Rs.861 has been realised (between December 1990 and April 1991) by Mining Officer, Cuttack in 3 cases. The other four Deputy Directors of Mines and Mining Officers (Sambalpur, Bolangir, Talcher and Bhawanipatna) stated (between April 1990 and January 1991) that action to raise the demands and realise the interest dues in respect of the remaining 25 cases would be taken. Further reports in the matter have not been received (January 1992).

The cases were reported to the Department and to Government during May 1989 and January 1991 and their replies have not been received (January 1992).

#### **6.6 Irregular allowance of exemption on account of shortage of coal**

Under Section 18A of the Coal Bearing Areas (Acquisition and Development) Act, 1957, where any land or any rights in or over land belonging to a State Government vest in Central Government under Section 10 or in a Government Company under Section 11 the Central Government or the Company as the case may be, may pay to the State Government such sum of money as would have been payable as royalty by a lessee had such land or rights been under a mining lease granted by the State Government. Under the Mines and Minerals (Regulation and Development) Act, 1957 a lessee is required to pay royalty on any mineral removed or consumed from the lease hold area. There is no provision in the Act for allowing exemption in respect of shortage of minerals which might be noticed after their extraction from the leased area.



In Mining Circle, Sambalpur, it was noticed in audit (April 1990) that a lessee (a Government of India Undertaking) who acquired the right to mine coal over an area of 2,123.76 hectares with effect from 9th January 1980, under the Coal Bearing Areas (Acquisition and Development) Act, 1957 and was paying royalty to the Government of Orissa, had shown in its monthly return in Form 'A', for the month of March 1988, a shortage of 32,170.406 MT of coal by deducting it from the closing stock as on 31 March 1988 and did not pay royalty on the quantity of coal claimed short. The assessing officer accepted the deduction after ascertaining that the reduction in the closing stock of coal was due to the fact that coal was burnt on account of fire produced due to spontaneous heating of coal in stock. But as there is no provision in the Act for allowing exemption in respect of shortages of minerals which might be noticed after their extraction from the lease area, the deduction allowed thereby resulted in short-levy of royalty amounting to Rs.1.38 lakhs.

On this being pointed out in audit (April 1990), the Director of Mining and Geology, Orissa stated (July 1991) that "the Board of Directors of 'C' Corporation have written off the loss and have recommended to take action against the offending employees so that they will be more careful in checking the burning of coal in future. As such further demand of royalty in this regard may not be insisted upon".

The matter was reported to Government in August 1990, followed by reminder (September 1991); their reply has not been received (January 1992).

## CHAPTER 7

### LAND REVENUE

#### 7.1 Results of Audit

Test check of records relating to assessment and collection of land revenue conducted during the period from April 1990 to March 1991, revealed non-assessment, under-assessment and non-realisation of revenue amounting to Rs.724.38 lakhs in 13,236 cases, which may broadly be categorised as under;

	Number of cases	Amount (Rupees in lakhs )
1. Non-assessment/short-assessment/delay in assessment of land revenue and cess	696	399.08
2. Non-collection of premium and rent etc. from lands occupied by local bodies/ government undertakings/ private parties and individuals	43	261.87
3. Non-assessment/short-assessment and short collection of water rate	45	35.22
4. Non-lease/irregular lease of sairat and other miscellaneous revenue	85	4.93
5. Other irregularities	<u>12367</u> <u>13236</u>	<u>23.28</u> <u>724.38</u>



Some of the important cases noticed during 1990-91 and earlier years are mentioned in the succeeding paragraphs.

## 7.2 Non-realisation of premium, rent etc., from Orissa State Electricity Board

According to Government orders of October 1961, May 1963, and February 1966 Government land can be leased out to local bodies, public undertakings etc. on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one *per cent* on the market value. In addition, cess at 50 *per cent* of the ground rent is also leviable from the year 1986-87 as per Government orders of July 1987. Interest at the rate of six *per cent* per annum is chargeable on belated payment of the dues.

In two Tehsils (Kujang in Cuttack district and Daringibadi in Phulbani district) Government land measuring of 0.67 acres (from 1964-65) and 0.32 acres (from 1970-71) in Kujang Tehsil and 2.58 acres (from 1983-84) in Daringibadi Tehsil aggregating to 3.57 acres was in possession of the Orissa State Electricity Board and the leases were finally sanctioned by competent authorities in March 1989, June 1984 and February 1989, for construction of sub-stations and other allied structures subject to payment of premium, annual ground rent and execution of lease deeds within a period of six months from the date of issue of the sanction orders. The Board had neither executed the lease deed (May 1991) nor were the dues amounting to Rs.11.17 lakhs (Premium : Rs.5.94 lakhs, Ground rent: Rs.0.68 lakhs, Cess : Rs.0.12 lakh and Interest : Rs.4.43 lakhs) for the years from 1964-65 to 1989-90 recovered by the department.

On this being pointed out in audit (September 1990 and October 1990), the Tehsildars of Kujang and Daringibadi Tehsils stated (September 1990 and October 1990) that action was being taken to realise the dues.

The matter was reported to Government in January 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

### **7.3 Non-realisation of premium and other dues from the Orissa Cashew Development Corporation Limited**

According to Government orders issued in January 1980, Government wasteland would be leased out in favour of the Orissa Cashew Development Corporation Limited (a Government Company) for cashew plantation on payment of premium (market value of land) and rent and the Corporation would also execute a lease deed in the prescribed form. Government in their orders dated 11th March 1980, fixed the market value of land at Rs.250 per acre of land (irrespective of its location) and annual ground rent at 1 per cent of the market value for the first five years, at 7 per cent for the next five years and at 14 per cent for the next 10 years. In addition, cess at 50 per cent of the ground rent is also leviable as per Government orders of July 1987. Interest at the rate of 6 per cent is chargeable on belated payment of the dues.

In Khandapara Tehsil in Puri district, advance possession of Government land admeasuring 2,197.03 acres was made over to the Orissa Cashew Development Corporation Limited (Corporation) during the period from June 1984 to August 1987, subject to payment of premium and other dues and execution of lease deed. Out of this an area of 333.44 acres of land was,



however, covered by sanction of lease (May 1985 and June 1985) but no lease deed was executed with the Corporation (July 1990). The remaining area 1,863.59 acres of land was not regularised by way of lease. The total amount that had become due for payment by the Corporation for the period from 1984-85 to 1989-90 amounted to Rs.7.10 lakhs (Premium : Rs.5.49 lakhs, Ground Rent : Rs.0.26 lakh, Cess : Rs.0.12 lakh and Interest : Rs.1.23 lakhs).

On this being pointed out in audit (July 1990), the Tehsildar stated (July 1990) that steps would be taken for realisation of Government dues and execution of lease deeds.

The matter was reported to Government in November 1990, followed by reminders in March 1991, April 1991 and August 1991; their reply has not been received (January 1992).

#### **7.4 Short-levy of Court Fee**

Under the Orissa Public Demand Recovery Act, 1962 and Rules made thereunder, when any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer, a written requisition in the prescribed form. Every such requisition, except in such cases as may be prescribed, shall be chargeable by the Certificate Officer with a fee of the amount which would be payable under the Court Fee Act 7 of 1870, in respect of a plaint for the recovery of a sum equal to that stated in the requisition as being due.

In eight Tehsils (Athagarh, Aul, Kanika and Pattamundai in Cuttack district, Jaleswar in Balasore district, Chatrapur in Ganjam district, Barpali in Sambalpur district and Lefripara in Sundargarh district),

certificate requisitions were filed before the concerned Certificate Officers (Tehsildars) by Certain Scheduled and Regional Rural Banks during the period from 1984-85 to 1989-90 for recovery of their dues in 1,475 cases. Against fees amounting to Rs.5.56 lakhs leviable in respect of the above, Rs.0.60 lakh only was levied resulting in short-levy amounting to Rs.4.96 lakhs.

On this being pointed out in audit (December 1989 to July 1990), the Board of Revenue, Orissa intimated (May 1991) that in 27 cases relating to Lefripara Tehsil, a sum of Rs.41,402 has already been realised and the remaining 10 cases are still pending realisation of the Court Fees and in respect of 124 cases relating to Barpali Tehsil involving an amount of Rs.50,899 it was intimated that the certificate cases were dropped as the concerned authorities who filed certificate requisitions failed to deposit the deficit Court Fees and the Collector, Sambalpur was instructed to take action for write off of the amount. It was further intimated by the Board of Revenue, Orissa (July 1991) that the deficit court fees of Rs.2.12 lakhs (in 761 cases) relating to Pattamundai Tehsil have since been realised and properly accounted for. Report regarding realisation of the deficit court fees relating to Athagarh/Aul/Kanika/Jaleswar and Chatrapur has not been received (January 1992).

The matter was reported to Government (March 1990 to December 1990), followed by reminder in August 1991; their reply has not been received (January 1992).



## CHAPTER 8

### OTHER TAXES AND NON-TAX RECEIPTS

#### A - STAMP DUTY AND REGISTRATION FEES

##### 8.1 Results of Audit

Test check of the records relating to Stamp Duty and Registration Fees in the offices of Sub-Registrars conducted during the period from April 1990 to March 1991 revealed short/non-realisation of Stamp Duty and Registration Fees and other losses of revenue amounting to Rs.1.87 lakhs in 46 cases which may broadly be categorised as under :

	Number of cases	Amount (Rupees in lakhs)
1. Short-levy of Stamp Duty and Registration fees due to undervaluation of documents etc.	12	0.70
2. Irregular exemptions	3	0.66
3. Short-levy of Stamp Duty and Registration Fees due to misclassification of documents	<u>31</u>	<u>0.51</u>
	<u>46</u>	<u>1.87</u>

Some of the important cases noticed during 1990-91 and earlier years are mentioned in the succeeding paragraphs.

## 8.2 Irregular exemption of stamp duty and registration fees

According to Notification No.376/ Judicial dated 24th April 1914 of Government of Bihar and Orissa and Notification No.2781-F dated 23rd October 1919 of the Government of India, which remained unaffected even after enactment of Indian Stamp (Orissa Amendment) Act, 1970, Stamp Duty and all fees payable (under the Law of Registration) by or on behalf of any co-operative society and all fees payable in respect of any instrument executed by any officer or member of such society and relating to the business thereof were remitted.

In the course of audit of the office of the Sub-Registrar, Panposh, it was noticed (January 1991) that Stamp Duty and Registration Fees on three sale deeds executed (between January 1989 and March 1989) by private individuals in favour of a House Building Co-operative Society were exempted. In the case of these documents the execution was for sale of immovable property of the executants on receipt of a total consideration of Rs.3.95 lakhs and did not relate to the business of the Society. The documents, were, therefore, not eligible for the exemption and were chargeable to Stamp Duty and Registration Fees. Incorrect exemption given in these cases resulted in non-levy of Stamp Duty and Registration Fee aggregating to Rs.73,865 (Stamp Duty : Rs.65,965 and Registration Fee : Rs.7,900).

On this being pointed out in audit (January 1991), the Inspector General of Registration, Orissa accepted (April 1991) the objection and directed (April 1991) the Sub-Registrar to realise the deficit stamp duty. Further report on realisation of deficit stamp duty and registration fee has not been received (January 1992).



The matter was reported to Government in March 1991 and June 1991 followed by reminder (September 1991); their reply has not been received (January 1992).

### 8.3 Short levy of Stamp Duty

According to Section 4 of the Indian Stamp Act, 1899 where in case of any sale, mortgage or settlement, several instruments are executed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule 7 of the Act for the purpose of conveyance, mortgage or settlement and each of the other instruments shall be chargeable with a duty of one rupee fifty paise, instead of the duty (if any) prescribed for it in the Schedule. But an instrument, materially altering the terms of the previous instruments after its execution would constitute *per se* a separate instrument to be liable to stamp duty as an original instrument. The Inspector General of Registration, Orissa issued an order (May 1971) to the effect that change of plot is a material change as it involves creation and extinguishment of right, title and interest over the concerned plot.

In the Office of the District Sub-Registrar, Dhenkanal it was noticed in audit (December 1990) that 28 documents styled as "Rectification of sale" were executed (1988 and 1989) rectifying certain errors, inclusive of change of plots effected in the previously registered sale deeds, instead of classifying them as 'conveyances'. This irregular treatment of documents resulted in short levy of stamp duty amounting to Rs.20,446.

On this being pointed out in audit (December 1990), the District Sub-Registrar, Dhenkanal stated

(December 1990) that clarification would be sought for from the Inspector General of Registration, Orissa and action would be taken on receipt of the clarification.

The matter was reported to the Inspector General of Registration, Orissa/Government (February 1991) followed by reminder (August 1991); their replies have not been received (January 1992).

#### **8.4 Loss of revenue due to short levy on lease deed**

Under the Indian Stamp Act, 1899, levy of stamp duty on instruments purporting to grant of lease of immovable properties is regulated under Article 35 of the Act (as amended in Orissa from time to time). As provided therein, whereby such lease the rent is fixed and no premium is paid or delivered, stamp duty is leviable as Bottomary Bond under Article 35(a) of the Act and where the lease is granted for a fine or premium or money advanced and where no rent is reserved, stamp duty is leviable at conveyance rate for a consideration equal to the amount of value of such fine or premium or advance as set forth in the lease under Article 35(b) *ibid*. Rent is payable as and when it accrues as per the covenant but where the rent is paid in advance before accrual of liability, that payment is nothing more than an advance made by the lessee to the lessor.

During the audit of records of District Sub-Registrar, Bhubaneswar it was noticed in audit (June 1990) that a private building in the municipal area of Bhubaneswar was leased out to a nationalised bank for a period of three years from 1st May 1988 on a monthly rent of Rs.4,200 and a lease deed was executed (March 1989) on receipt of Rs.1.50 lakhs as advance from the lessee which was adjustable towards



monthly rent of the building till the advance was liquidated. The Registering Officer incorrectly classified the document under Article 35(a) of the Indian Stamp Act as a lease instead conveyance under Article 35(b) *ibid*. This resulted in short-levy of stamp duty amounting to Rs.25,440 (including additional stamp duty and surcharge). Besides, stamp duty, registration fee of Rs.1,990 was also short-levied due to misclassification.

On this being pointed out in audit (June 1990), the Inspector General of Registration, Orissa while accepting the objection stated (July 1991) that there is no scope to realise the deficit stamp duty and registration fees as there is no such provision under the Indian Stamp Act as well as the Registration Act and that steps are being taken to effect further amendment to the Indian Stamp, Orissa second Amendment Act, 1986 with a view to checking the loop-hole that has inadvertently crept into the amended version of the Stamp Act. It was further stated that defaulting officials are being proceeded <sup>against</sup> for dereliction of duty causing loss of revenue to the State.

The matter was reported to Government (September 1990), followed by reminder (September 1991); their reply has not been received (January 1992).

## B - ENTERTAINMENT TAX

### 8.5 Results of Audit

Test check of Entertainment Tax assessments and refund cases and the connected documents in the Commercial Tax Offices, conducted in audit during the period from April 1990 to March 1991 revealed non-realisation/short realisation of Entertainment

Tax and non-levy of penalty amounting to Rs.16.66 lakhs in 25 cases which may broadly be categorised as under :

	Number of cases	Amount (Rupees in lakhs)
1. Non-levy of penalty	13	10.98
2. Short-realisation/ non-realisation of Entertainment Tax	<u>12</u>	<u>5.68</u>
	<u>25</u>	<u>16.66</u>

One case of short payment of Entertainment Tax noticed during 1990-91 is mentioned below.

#### 8.6 Short-realisation of Entertainment Tax and surcharge

Under the provisions of Orissa Entertainments Tax Act, 1946, entertainment tax is leviable on all payments for admission to any entertainment at graded rates according to the value of tickets sold, as notified by Government from time to time. According to Government notification, the rate of tax was 60 per cent and 70 per cent where the payment for admission to entertainment is upto one rupee and



more than one rupee respectively from 1 January 1986. The Act also provides for levy of additional entertainment tax at the rate of 20 per cent (effective from 17.9.1985) of and in addition to the above tax, in certain "specified cities". Besides, with effect from 1st January 1986 surcharge at the rates of Rs.0.50, Rs.0.65, Rs.0.90 and Rs.1.05 when payment for admission (excluding Entertainment Tax and Additional Entertainment Tax) is upto Re.1 but not exceeding Rs.1.50; exceeds Rs.1.50 but not exceeding Rs.2.50 and exceeds Rs.2.50 respectively is payable in respect of every payment for admission to entertainment in "specified cities".

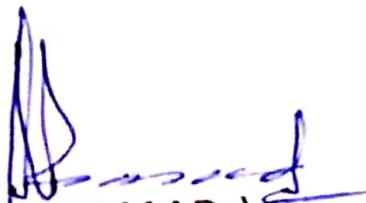
During the audit of Puri-I Circle, it was noticed (December 1990) in audit that a proprietor of a show house located in a specified city paid entertainment tax at the rate of Rs.1.35 and Rs.1.10 and surcharge at the rate of Rs.0.75 (Admission rates excluding Entertainment Tax being Rs.1.90 and Rs.1.55) on 15,888 and 45,176 tickets sold during the period from September 1987 to March 1989; while the correct rate of entertainment tax (including additional Entertainment Tax), payable was Rs.1.60 and Rs.1.35 and surcharge at the rate of Rs.0.90 in these cases respectively. The payment of entertainment tax and surcharge at lower rates had resulted in short payment of tax amounting Rs.24,426.

On this being pointed out in audit (December 1990), the assessing officer stated (January 1991) that the case would be re-examined for raising the demand. Further report has not been received (January 1992).

The matter was reported to Government in March 1991, followed by reminder (September 1991); their reply has not been received (January 1992).

**BHUBANESWAR**

The 4 MAR 1992

  
( D.N.PRASAD )  
Accountant General (Audit)-II  
Orissa

*Countersigned*

**NEW DELHI**

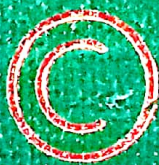
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30 MAR 1992

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

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