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**REPORT OF THE  
COMPTROLLER AND AUDITOR GENERAL  
OF INDIA**

**FOR THE YEAR ENDED 31 MARCH 2001**

**(REVENUE RECEIPTS)**

**GOVERNMENT OF ASSAM**



**COMPTROLLER AND AUDITOR GENERAL OF INDIA  
2001**

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## **PREFATORY REMARKS**

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*This Report for the year ended 31 March 2001 has been prepared for submission to the Governor under Article 151(2) of the Constitution.*

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

*The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2000-2001 as well as those which came to notice in earlier years but could not be included in previous Reports.*

## PREFATORY REMARKS

This Report for the year ended 31 March 2001 has been prepared for submission to the Commission under Article 101 of the Constitution.

The main of the financial results of the State Government for the year ended 31 March 2001 are set out in the Report on the Financial Results of the Government of the State of Karnataka for the year ended 31 March 2001. This Report contains the results of audit of the accounts of the Government of the State of Karnataka for the year ended 31 March 2001. It also contains the results of audit of the accounts of the Government of the State of Karnataka for the year ended 31 March 2001.

If any case is mentioned in this Report as being one which has been referred to the Commission for its consideration, it is to be understood that the Commission has not expressed any opinion on the merits of the case. It is the duty of the Commission to report the facts as they appear from the records and to express its opinion thereon.

# Chapter –1

## GENERAL

### 1.1 Trend of Revenue Receipts

The tax and non-tax revenues raised by the Government of Assam during the year 2000 - 2001, State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below:

(Rupees in crore)

		1998-99	1999-2000	2000-2001
<b>I</b>	<b>Revenue raised by the State Government:</b>			
	a) Tax Revenue	982.56	1224.76	*1409.69
	b) Non-Tax Revenue	451.97	444.92	526.77
	<b>Total</b>	<b>1434.53</b>	<b>1669.68</b>	<b>1936.46</b>
<b>II</b>	<b>Receipts from the Government of India :</b>			
	a) State's share of divisible Union Taxes.	1349.33	1448.78	*1682.93
	b) Grants-in-aid	1722.68	1722.48	2018.25
	<b>Total</b>	<b>3072.01</b>	<b>3171.26</b>	<b>3701.18</b>
<b>III</b>	<b>Total receipts of the State Government (I and II)</b>	<b>4506.54</b>	<b>4840.94</b>	<b>**5637.64</b>
<b>IV</b>	<b>Percentage of I to III</b>	<b>32</b>	<b>34</b>	<b>34</b>

\* Figures under the "Share of net proceeds assigned to states" under the Major Heads "0020-Corporation Tax", "0021-Taxes on Income and Expenditure", "0028-Other Taxes on Income and Expenditure", "0032-Taxes on Wealth", "0037-Customs", "0038-Union Excise Duties(I)", "0044-Service Taxes" and "0045 Other Taxes & Duties on Commodities And Services" booked in the Finance Accounts under 'A- Tax Revenue' have been excluded from Revenue raised by the State Government and included in "State's share of divisible Union Taxes" in this table.

\*\* For details, please see "Statement No. 10-Detailed Accounts by Minor Heads" in the Finance Accounts of the Government of Assam for the year 2000-2001.

- (i) The details of tax revenue raised under major heads of revenue during the year 2000-2001 alongwith corresponding figures for the preceding two years are given below:

(Rupees in crore)

Sl. No.	Head of revenue	1998-99	1999-2000	2000-2001	Percentage of increase (+)/ decrease (-) in 2000-2001 over 1999-2000
1	2	3	4	5	6
1.	Sales Tax	550.40	742.32	917.90	(+) 24
2.	Land Revenue	65.95	69.08	67.20	(-) 3
3.	Taxes on Agricultural Income	103.26	74.82	40.70	(-) 46
4.	Taxes on Motor Vehicles	40.83	68.69	73.77	(+) 7
5.	State Excise	100.46	117.74	137.56	(+) 17
6.	Other Taxes on Income and Expenditure	46.74	58.62	69.70	(+) 19
7.	Stamp Duty and Registration Fees	29.66	34.96	38.63	(+) 11
8.	Taxes on Goods and Passengers	20.27	21.11	10.23	(-) 52
9.	Other Taxes and Duties on Commodities and Services	23.30	25.62	51.77	(+) 102
10.	Taxes and Duties on Electricity	1.69	11.80	13.22	(+) 12
	<b>Total</b>	<b>982.56</b>	<b>1224.76</b>	<b>1420.68</b>	<b>(+) 16</b>

The reasons for variation in receipts during 2000-2001 as compared to those in 1999-2000 as intimated by 2 departments are given below:

a) State Excise – Increase (17 per cent) was due to merger of Sales Tax with Excise Duty and revision of license fees.

b) Agricultural Income Tax – The shortfall (46 per cent) was due to fall in production and tea price.

Specific reasons in respect of remaining heads of revenue have not been received (October 2001).

- (ii) The details of non-tax revenue raised under major heads of revenue during the year 2000-2001 along with the corresponding figures for preceding two years are given below:



(Rupees in crore)					
Sl. No.	Head of revenue	1998-99	1999-2000	2000-2001	Percentage of increase (+) / decrease (-) in 2000-2001 over 1999-2000
1	2	3	4	5	6
1.	Petroleum	302.36	319.73	368.04	(+) 15
2.	Forestry and Wildlife	9.59	14.73	14.77	(+) 0.27
3.	Other Administrative Services	44.13	28.06	20.54	(-) 27
4.	Roads and Bridges	16.80	7.85	27.72	(+) 253
5.	Other Industries	9.28	2.50	Nil	(-) 100
6.	Miscellaneous General Services	3.59	10.21	7.34	(-) 28
7.	Industries	30.01	⊗	*	(+) 139
8.	Others**	36.21	61.84	88.36	(+) 43
<b>Total</b>		<b>451.97</b>	<b>444.92</b>	<b>526.77</b>	<b>(+) 18</b>

Specific reasons in respect of increase or decrease of revenue have not been furnished by the departments (October 2001).

## 1.2 Variations between Budget Estimates and actuals

The variations between Budget Estimates of revenue and actual receipts under some of the principal heads are given below :

(Rupees in crore)					
Sl. No.	Head of revenue	Budget Estimates	Actuals	Variations Increase (+)/ Shortfall(-)	Percentage of variation
1	2	3	4	5	6
<b>Tax Revenue</b>					
1.	Sales Tax	848.16	917.90	(+)69.74	(+)8
2.	Land Revenue	93.00	67.20	(-)25.80	(-)28
3.	Taxes on Agricultural Income	87.00	40.70	(-)46.30	(-)53
4.	Taxes on Motor Vehicles	59.22	73.77	(+)14.55	(+)25
5.	State Excise	164.00	137.56	(-)26.44	(-)16

⊗ Only Rs. 24,508 reflected in Finance accounts.

\* Only Rs. 58,540 reflected in Finance accounts.

\*\* Others represent 38 other Heads of Revenue.

6.	Other taxes on Income and Expenditure	69.00	69.70	(+)0.70	(+)1
7.	Stamp Duty and Registration Fees.	36.12	38.63	(+)2.51	(+)7
8.	Taxes on Goods and Passengers	24.88	10.23	(-)14.65	(-)59
9.	Other Taxes and Duties on Commodities and Services	31.10	51.77	(+)20.67	(+)66
10.	Taxes and Duties on Electricity	12.06	13.22	(+)1.16	(+)10
<b>Non-Tax Revenue</b>					
1.	Petroleum	406.25	368.04	(-)38.21	(-)9
2.	Forestry and Wildlife	17.25	14.77	(-)2.48	(-)14
3.	Other Administrative Services	16.33	20.54	(+)4.21	(+)26
4.	Roads and Bridges	6.84	27.72	(+)20.88	(+)305

The substantial variation between Budget Estimates and actual receipts in a large number of heads of tax and non-tax revenue indicate that the estimates were based on unrealistic assumptions.

Reasons for variations between the Budget Estimates and the actuals as reported by the department are given below :

- a) Agricultural Income Tax – Shortfall (53 per cent) was due to slump of Indian tea in the International market.
- b) Other Taxes and Duties on Commodities and Services – Increase (66 per cent) was due to more collection of taxes under Assam Tax on Luxuries (Hotels and Lodging Houses) Act and also share of net proceeds assigned to States.
- c) Taxes and Duties on Electricity – Increase (10 per cent) was due to more collection of taxes on consumption and sale of electricity.

Reasons for variation in other cases, though called for (March 2001), have not been received (October 2001).

### **1.3 Cost of collection**

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection

during the year 1998-99, 1999-2000 and 2000-2001 alongwith the relevant all- India average percentage of expenditure for 1998-99 are given below as available :

(Rupees in crore)

Sl. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All-India average percentage
1.	Sales Tax	1998-99	550.40	11.62	2.1	1.40
		1999-2000	742.32	25.56	3.44	--
		2000-2001	917.90	13.02	1.42	--
2.	Taxes on Motor Vehicles	1998-99	40.83	3.58	8.8	3.22
		1999-2000	68.69	4.58	6.67	--
		2000-2001	73.77	5.20	7.05	--

It may be seen from the table that in respect of Sales Tax and Taxes on Motor Vehicles, the percentage of expenditure on collection to gross collection was higher than the all-India average. Expenditure on collection in respect of Sales Tax for the year 1999-2000 was comparatively more than 1998-99 and 2000-2001. Reasons thereof, though called for (October 2001), have not been received (October 2001).

#### 1.4 Results of Audit

Test check of records of the Sales Tax, Agricultural Income Tax, Taxes on Motor Vehicles, State Excise, Forest Receipts and Other Taxes and Non-Tax Receipts conducted during the year 2000-2001 revealed under-assessment/short-levy/loss of revenue amounting to Rs. 175.38 crore in 442 cases. During the course of the year 2000-2001, the departments accepted under-assessment, etc. of Rs. 2.16 crore in 50 cases.

This report contains 34 paragraphs including 2 reviews involving financial effect of Rs. 104.66 crore. The departments/Government had accepted the audit observations involving Rs. 2.16 crore, of which Rs.45.05 lakh have been recovered. Audit observations with a total revenue effect of Rs.5.13 lakh have not been accepted by the Government/department but their contention having been found to be at variance with facts or legal position have been appropriately commented upon in relevant paragraphs. No replies have been received in other cases (October 2001).

## **1.5 Failure of Senior Officials to enforce accountability and protect the interests of Government**

Accountant General (AG) (Audit) arranges to conduct periodical inspection of the State Government departments to test check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed with Inspection Reports (IRs). When important irregularities, etc., detected during inspection are not settled on the spot, these IRs are issued to the Heads of Offices inspected with a copy to the next higher authorities. The orders of State Government (March 1986) provide for prompt response by the executive to the IRs issued by the AG to ensure rectificatory action in compliance with the prescribed rules and procedures and accountability for the deficiencies, lapses, etc. noticed during his inspection. The Heads of offices and next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the AG. Serious irregularities are also brought to the notice of the Head of the Department by the Office of the Accountant General (Audit). A half yearly report of pending inspection reports is sent to the Secretaries of the Departments in respect of pending IRs to facilitate monitoring of the audit observations in the pending IRs.

Inspection Reports on Receipts and Refunds issued up to December 2000 pertaining to Taxation, Land Revenue, Agricultural Income Tax, Geology and Mining, Stamp Duty and Registration, Transport, State Excise, Forestry and Wild Life Departments etc. disclosed that 3826 paragraphs relating to 1205 IRs remained outstanding at the end of June 2001. Of these 31 IRs containing 49 paragraphs had not been settled for more than 10 years. Year-wise position of the outstanding IRs and paragraphs are detailed in Annexure - A. Even the initial replies, which were required to be received from the Heads of Offices within six weeks from the date of issue were not received in respect of 6 Departments for 241 IRs issued between 1997-98 and 2000-2001. As a result, the following serious irregularities commented upon in 2754 paragraphs involving Rs.243.62 crore had not been settled as of June 2001.

(Rupees in crore)

Sl. No.	Nature of irregularities	Number of paragraphs	Amount
(1)	(2)	(3)	(4)
1.	Turnover escaping assessment	54	2.29
2.	Loss of revenue	273	36.03
3.	Non-levy/short-levy of interest	74	2.90
4.	Under assessment of tax	46	3.46
5.	Non-levy/short-levy of tax	168	8.41
6.	Irregular exemption	111	10.80
7.	Non-realisation/short-realisation of tax	33	0.96
8.	Incorrect computation of Agricultural income	17	3.09
9.	Incorrect allowance of deduction	14	1.00
10.	Non-realisation/short-realisation of stamp duty and registration fee	10	0.15
11.	Non-realisation/short-realisation of royalty/revenue	42	20.06
12.	Non-payment/short-payment of interest for delayed payment of royalty.	3	3.12
13.	Outstanding demand of land revenue and local rates	415	28.33
14.	Non payment/Short payment of royalty	8	3.23
15.	Retention of cash in hand by mouzadars	405	16.39
16.	Miscellaneous	1081	103.40
<b>Total outstanding paragraphs</b>		<b>2754</b>	<b>243.62</b>

A review of the IRs which were pending due to non-receipt of replies in respect of 8(eight) departments revealed that the Heads of the Offices, whose records were inspected by A.G., and the Heads of Department (Commissioners/Principal Chief Conservator of Forests/Director) failed to discharge due responsibility as they did not send any reply to a large number of IRs/Paragraphs indicating their failure to initiate action in regard to the defects, omissions and irregularities pointed out in the IRs of the A.G. The Commissioners and Secretaries of the concerned Departments, who were informed of the position through half yearly reports, also failed to ensure that the concerned officers of the Department take prompt and timely action.

The above also indicated inaction against the defaulting officers and thereby facilitating the continuation of serious financial irregularities and non-realisation of the Government revenue though these were pointed out in audit.

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

The matter was reported to the Government in June 2001; their reply had not been received (October 2001)



## Chapter – 2

### SALES TAX

#### 2.1 Results of Audit

Test check of assessment records of Sales Tax department conducted during the year 2000-01 revealed under-assessment of taxes, loss of revenue etc., amounting to Rs.89.88 crore in 172 cases, which broadly fall under the following categories :

(Rupees in lakh)			
Sl. No.	Particulars	No. of cases	Amount
1.	Non-levy/short-levy of tax	59	399.94
2.	Irregular exemption	9	200.21
3.	Turnover escaped assessment	16	107.20
4.	Non-levy /short-levy of interest	3	7.21
5.	Under-assessment of tax	2	3.81
6.	Others including review	83	8269.59
Total		172	8987.96

During the course of the year 2000-01, the department accepted under-assessment etc., in 23 cases involving Rs.57.72 lakh pointed out in audit prior to the year 2000-01 and Rs.17.11 lakh was recovered in 22 cases.

The results of a review on “ Collection of Sales Tax” and a few illustrative cases highlighting important irregularities involving Rs.89.69 crore are given in the following paragraphs :

#### 2.2 Review on “Collection of Sales Tax”

##### 2.2.1 Introduction

Under the Assam General Sales Tax Act, (AGST Act) 1993, every dealer whose turnover exceeds the prescribed ceiling limit, is required to submit to the assessing authority a monthly/quarterly statement and annual return of turnover and pay tax on the basis of self assessment within prescribed date. After the assessment, a demand notice is served on the dealer for the balance tax, if any, which is payable within the prescribed date specified in the demand notice. For delayed payment of tax a simple interest at the rate of two per cent per month is payable by the dealer. Penalty is also leviable for violation of the provisions of the Act. The tax, interest and penalty which remain unpaid constitute arrears in sales tax and are recoverable as arrears of

Land Revenue under the Assam Land Revenue Regulation, 1886 (A.L.R. Regulation) and the Bengal Public Demands Recovery Act, 1913 (B.P.D.R. Act) and for this purpose State Government empowered officers of the taxation department to act as Recovery Officers. The provisions contained in the State Act are also applicable in case of assessment, collection under the Central Sales Tax Act, 1956.

### **2.2.2 Organisational set up**

The Finance (Taxation) Department is responsible for the Sales Tax administration in the State. The Commissioner of Taxes (CT) is the head of the department. He is assisted by 2 (two) Additional Commissioners of Taxes and 5 (five) Joint Commissioners of Taxes at headquarters (Apex Office). The State is divided into 10 (ten) taxation zones and each zone is headed by a Deputy Commissioner of Taxes (DCT). There are 5 (five) Deputy Commissioners of Taxes (Appeals) in charge of the appellate offices located in various places of the State to deal with the appeal cases. There are 36 (thirty six) unit offices (including 2 check posts) and 16 (sixteen) recovery offices in the State headed by Senior Superintendents/ Superintendents of Taxes. Senior Superintendent/ Superintendent of Taxes is responsible for registration, assessment and realisation of dues under the Act. The Inspectors of Taxes are responsible for conducting survey and are also required to assist the Senior Superintendent/Superintendent of Taxes in matters relating to registration and assessment of dealers.

### **2.2.3 Scope of Audit**

A review on "Collection of Sales Tax" pertaining to the years 1995-96 to 1999-2000 was conducted (during October 2000 to February 2001) in respect of 10 unit offices\* (out of 36 units), 7 recovery offices\*\* (out of 16), 3 appellate offices\*\*\* (out of 5) and Commissioner of Taxes with a view to ascertaining that tax due on assessment was promptly demanded in accordance with provisions of the Act and Rules and analyse causes for delay in collection and to highlight the system failure, if any.

### **2.2.4 Highlights**

**Delay/non-finalisation of assessments resulted in loss of revenue of Rs.4.10 crore.**

*[Paragraph 2.2.8]*

**Demand of Rs.6.40 crore in 5701 cases remained unrealised for periods ranging from 9 months to 130 months due to failure of the Assessing Officers either to realize or to issue arrear certificates.**

*[Paragraph 2.2.9(i)]*

\* (1) Guwahati 'A' (2) Guwahati 'B' (3) Guwahati 'C' (4) Guwahati 'D' (5) Tinsukia (6) Dibrugarh (7) Jorhat (8) Nagaon (9) Silchar (10) Karimganj

\*\* (1) Guwahati (2) Nagaon (3) Tinsukia (4) Dibrugarh (5) Jorhat (6) Silchar (7) Karimganj

\*\*\* (1) Guwahati (2) Tinsukia (3) Jorhat.



- ✓ The Assessing Officers failed to include interest and penalty of Rs.8.00 crore in the arrear certificates.

[Paragraph 2.2.10]

- ✓ In 182 cases revenue of Rs.30.06 crore remained un-recovered for periods ranging from 20 months to 130 months due to inadequate action by the #Bakijai Officers.

[Paragraph 2.2.12(B)]

- ✓ Dues of Rs.4.42 crore remained uncollected for periods ranging from 4 months to 78 months due to lack of co-ordination between the Bakijai Offices and the Unit Offices.

[Paragraph 2.2.12(C)]

### 2.2.5 Trend of collection

Budget estimates and actual collections during the years 1995-96 to 1999-2000 are given below:

Year	Budget estimates	Actuals	Variation Increase (+) Shortfall (-)	Percentage of variation
(Rupees in crore)				
1995-96	560.00	464.05	(-) 95.95	(-) 17
1996-97	576.00	517.41	(-) 58.95	(-) 10
1997-98	586.77	507.66	(-) 79.11	(-) 13
1998-99	706.85	550.40	(-) 156.45	(-) 22
1999-2000	780.01	742.32	(-) 37.69	(-) 5

It would be seen from the above that the shortfall in collection varied from 5 to 22 per cent during 1995-96 to 1999-2000.

The shortfall was mainly attributed by the department to fixation of estimate on higher side. Since the variation was wide between budget estimates and actual collections, the department needs to conduct its budgetary exercise on a more realistic basis.

### 2.2.6 (A) Position of arrears

- (i) The arrears pending collection as on 31 March 2000 as stated by the Commissioner of Taxes was Rs.162.18 crore. The various stages at which these were pending and their percentage to the total sales tax receipts are given below :

# A Bakijai officer is an officer who is entrusted with the duty to recover the tax due as arrears of land revenue.

(Rupees in crore)

Year	Arrears pending collection at the end of the year						Sales tax receipt	Percentage of arrears to total receipts (Col. 7 to Col.8)
	With the assessing officers	In appeal	In revision	In High Court and Supreme Court	In certificate proceedings	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1995-96	57.47	3.58	14.51	3.64	22.97	102.17	464.05	22
1996-97	76.54	8.07	12.59	19.46	43.45	160.11	517.41	31
1997-98	39.05	13.32	3.80	38.77	43.63	138.57	507.66	27
1998-99	36.73	22.91	9.34	38.67	41.39	149.04	550.40	27
1999-2000	39.84	22.70	4.71	41.18	53.75	162.18	742.32	22

The trend of accumulation of arrears has been constantly increasing since 1995-96. It increased by 58.74 per cent upto 1999-2000 as compared to 1995-96. It would also be seen from the above that the percentage of arrears to the sales tax receipt ranged from 22 to 31 at the end of each financial year. Effective steps are required to be taken by the department to dispose of appeal cases and pursue court cases effectively so that the number of pending cases is brought down and arrears are reduced.

(ii) Year-wise analysis of balance outstanding as on 31 March 2000 is given below :

(Rupees in crore)

Year	Amount
Upto 1994-95	20.81
1995-96	13.02
1996-97	24.51
1997-98	22.09
1998-99	40.40
1999-2000	41.35
<b>Total:</b>	<b>162.18</b>

**(B) Correctness of arrears**

(i) As per information furnished to Audit by the Commissioner of Taxes, the amount involved in certificate proceedings\* as on 31 March 2000 was Rs.53.75 crore in 12171 cases. But test check of the records of 7 (out of 16) Superintendents of Taxes (Recovery) revealed that the amount pending in certificate proceedings stood at Rs.90.09 crore in 9895 cases which is more than the figure (financial) shown by the Commissioner of Taxes in respect of sales tax for the State as a whole. This proves that there has been lack of co-ordination and monitoring in watching the extent of arrears realisable from the defaulters.

\* Certificate proceeding is a proceeding initiated by the Bakijai Officer for recovery of dues from a defaulter on the basis of arrear certificate.

(ii) As reported by the Law Branch of the Commissionerate, revenue involving Rs.9.18 crore was pending disposal in the Hon'ble Gauhati High Court and Hon'ble Supreme Court at the end of 31 March 2000. However, as per information furnished by the Monitoring Branch, Rs.41.18 crore were stated to have been pending disposal on that date.

Similarly, as per Monitoring Branch, revision cases involving Rs.4.71 crore were pending as on 31 March 2000, whereas as per reports of the Law Branch, Rs.5.77 crore were pending for disposal.

Thus, it is evident that there was no co-ordination between the different branches of the Commissionerate and maintenance of records was inaccurate.

### **2.2.7 Survey**

The Inspectors of Taxes are required to undertake regular and systematic survey of all the shops and business premises in their respective areas. For this purpose each Inspector of Taxes is required to maintain a survey register in the prescribed format. The Government of Assam, Finance (Taxation) Department, in their office memoranda dated February 1995 and May 1995 had prescribed monthly norms of survey of at least 75 registered dealers by each Inspector of Taxes within his area and submit a report in this regard to his Senior Superintendent/Superintendent of Taxes within 10 days of the succeeding month, who, in turn submit the same to the respective Zonal Deputy Commissioner of Taxes (DCT) within the first fortnight of the succeeding month. The DCT is to submit the report to the Commissioner of Taxes, within the second fortnight of the succeeding month for scrutiny.

(a) During the course of review it was noticed that in 33 circles (Guwahati Units 'A', 'B', 'C' and 'D') out of 117 circles, against 74700 surveys required to be conducted by 83 Inspectors during 1997-98 to 1999-2000, only 12353 surveys were conducted. Thus, there was a shortfall of 62347 surveys (83.46 per cent). No action was taken by the Senior Superintendent/Superintendent of Taxes to get the surveys conducted as per prescribed norms.

### **2.2.8 Delay/non-finalisation of assessments**

Under the provisions of State Sales Tax Laws, every dealer was required to file six-monthly return upto 30 June 1993, and thereafter monthly statement of turnover and annual return within 1 month/2 months of the closure of the relevant month/year respectively supported by a receipt of full payment of tax due on the basis of statement/return.

Test check of 4 unit offices revealed that 8 registered dealers had closed their business and left the State between October 1992 and May 1997. Of these, the assessment of 7 dealers were completed (between January 1995 and March 1998) after the dealers had closed their business while in case of the other dealer the assessment was not completed till the date of audit (December 2000). The details are as under :

*Audit Report (Revenue Receipts) for the year ended 31 March 2001*

Sl. No.	Name of the dealer, name of unit Month of closure and date of IT's report	Period ending/ date of assessment	Tax payable/ Tax paid	Balance to be paid	Nature of observation
			(Rupees in crore)		
1.	M/s. Pradip Tea Co. Unit 'C', (Guwahati) Prior to July 1995 25.July.1995	31 March 1992 to 31 March 1995 August 1995	1.15 Nil	1.15	The dealers continued business without payment of tax.. No efforts were made to complete assessment before closure of business.
2.	M/s. Rahul Enterprise, Unit 'C' (Guwahati) October 1992 14.March.1997	31 March 1991 to 30 September 1992 January 1995	0.47 Nil	0.47	
3.	M/s. Mayur Iron & Steel, Tinsukia January 1996 30 December 1996	30 June 1993 to 31 March 1996 January 1997, April 1997 and March 1998	0.61 Nil	0.61	The dealers continued business without payment of tax.. No efforts were made to complete assessment before closure of business.
4.	M/s. Nilesh Paper Bag Industries, Dibrugarh 1996 16.May.2000	30 September 1991 to 31 March 1994 March 1997 and March 1998	0.09 Nil	0.09	The dealers neither submitted return nor paid any taxes and were assessed when they left the State and became untraceable.
5.	M/s Mars Supply Agency, Dibrugarh 1995 30.March.1998	31 March 1993 to 31 March 1994 December 1995 and March 1997	0.05 Nil	0.05	
6.	M/s. Chandra PlyWood, Tinsukia February 1997 18.February.1999	30 September 1991 to 31 March 1995 November 1996, March 1997 and March 1998	0.09 0.003	0.08	The dealer paid less tax and closed business in February 1997 which came to the knowledge of the department in February 1999.
7.	M/s. Road Master Food Ltd., Unit 'B' (Guwahati) October 1994 31.March.1998	31 March 1995 (up to October 1994) March 1998	0.08 0.009	0.07	The dealer did not submit annual return and paid a meager amount of tax. The dealer closed business in October 1994 and became untraceable but was assessed only in March 1998.
8.	M/s East India Wood Industries, Tinsukia May 1997 23 November 1998	31 March 1989 to 30 June 1993 March 1998 31 March 1994 to 31 March 1996 Not assessed	0.57 0.01 1.07* 0.05	0.56 1.02	The dealer was defaulter in payment of tax from March 1989 onwards and also did not file return for the year 1995-96. The dealer had not been assessed for the period ending March 1994 to March 1996 till the date of audit (December 2000).
<b>Total:</b>				<b>4.10</b>	

It would be seen from above that the closure and disappearance of the dealers came to the knowledge of the department after the lapse of a period of 12 months to 53 months. Had the department been more vigilant, Rs.4.10 crore could have been realized in time.

**2.2.9 Non-issue/delay in issue of Arrear Certificate**

The Assam General Sales Tax Act, 1993, provides that all arrears of tax, penalty, interest due from any dealer shall be recoverable as arrears of land revenue and for this purpose the Assessing Officer is required to send requisition/arrear certificate to the Certificate/Bakijai Officer for effecting recovery from the defaulters. The Commissioner of Taxes issued (July 1997) instructions that the demands which remained unrealised for a period of three

\* Tax of Rs.1.07 crore worked out basing on IT's report obtained from Central Excise Department.

months should be sent to Bakijai Officers for realization of demand through Bakijai process.

(i) Scrutiny of records of 10 unit offices revealed that in 5701 cases demands for Rs.6.40 crore assessed between March 1990 and March 2000, remained unrealised till December 2000. The Assessing Officers neither realized the dues nor issued arrear certificates to the Bakijai Officers for effecting recovery from the defaulters. As a result, revenue of Rs.6.40 crore remained unrealised for periods ranging from 9 months to 130 months reckoned from the periods of assessments.

(ii) In Tinsukia Unit arrear certificates in respect of 29 dealers, involving Rs.25.00 lakh assessed between 1990-91 and 1997-98, were issued between March 1998 and August 2000 after a delay of 32 to 118 months but no amount was recovered from the defaulters till the date of audit (November 2000).

(iii) An arrear certificate was issued (December 1997) from Guwahati Unit 'A' to Recovery Officer, Guwahati for Rs.1604 instead of Rs.2.09 lakh resulting in short raising of demand of Rs.2.08 lakh.

#### **2.2.10 Non/short-inclusion of upto-date interest and penalty in the arrear certificate**

Under the General Sales Tax laws of the State, if a dealer fails to pay the full amount of tax due on the basis of demand by the due date indicated in the demand notice, he shall pay simple interest at the rate of 2 per cent for each month on the amount remaining unpaid till the full amount of assessed tax is paid. Failure to pay, without reasonable cause, the demanded tax within the time allowed also attracts penalty not exceeding the amount of tax remaining unpaid. The interest and penalty are required to be included in the arrear certificates.

Test check of 5 unit offices\* revealed that the Assessing Officers issued 26 arrear certificates to the concerned Recovery Officers between January 1995 and December 1999, assessed between April 1990 and March 1999, without inclusion of interest upto the date of issue of arrear certificates, even though the dealers failed to make payment within the specified dates mentioned in the demand notices. This resulted in short inclusion of interest of Rs.1.78 crore. Besides the Assessing Officers issued 70 arrear certificates between January 1995 and October 2000 without imposition of penalty of Rs.6.22 crore (maximum).

Thus, there was short inclusion of demand of Rs.8.00 crore in arrear certificates.

\* (1) Guwahati Unit-A (2) Guwahati Unit-B (3) Guwahati Unit-C (4) Guwahati Unit-D and (5) Nagaon.

**2.2.11 Non-deduction/non-deposit of Tax deducted at source (TDS)**

Under the taxation laws<sup>s</sup> of the State and Rules made thereunder every Government department/Undertaking/Corporation etc., while making payment to the suppliers/work contractors, is required to deduct tax from the bills at the rate(s) specified in the schedules attached to the Act and to deposit the same within 10 days from the expiry of each calendar month and also to issue a certificate of tax deduction (TDC) to the dealer concerned within 7 days from the date of deposit of the amount together with attested copy of the challan.

(i) The data regarding amount receivable by the taxation department from different Government departments/undertakings/corporations etc. on account of tax deducted at source but not deposited, though called for, could not be furnished by the Commissioner of Taxes due to non-maintenance of such records and for this purpose no return was prescribed. However, in course of review, particulars of 10 unit offices were obtained which are as under :

(Rupees in crore)

Year	Opening balance	Addition	Total	Amount deposited/ realized	Balance at the close of the year	Percentage of deposit
1995-96	12.74	1.88	14.62	0.41	14.21	2.79
1996-97	14.21	2.86	17.07	1.05	16.02	6.15
1997-98	16.02	3.05	19.06	0.36	18.71	1.88
1998-99	18.71	3.23	21.94	0.95	20.99	4.33
1999-2000	20.99	4.22	25.21	0.09	25.11	0.37

It would be seen from above that un-deposited tax amount had increased to Rs.25.11 crore from Rs.12.74 crore in 5 years indicating failure of the department to get the amount deposited in Government accounts.

(ii) During the course of review it was noticed that there were irregularities like non-deduction of tax at source, deduction of tax and utilisation of the same towards pay and allowances, etc. as indicated in the table below :

(Rupees in crore)

Sl. No.	Name of the DDO/Dealer	Period of account	Nature of irregularities	Tax involved
1.	Managing Director, Assam State Development Corporation for Scheduled Castes Ltd., Dispur	April 1999 to December 1999	Purchased taxable goods valued at Rs.1.42 crore but tax amounting to Rs.0.10 crore not, deducted at source from the suppliers' bills.	0.10
2.	Managing Director, Assam Agro Industries Development Corporation, Guwahati	1978-79 to 1999-2000	Tax of Rs.3.71 crore deducted but only Rs.1.66 crore deposited. Balance amount of Rs.2.05 crore utilized irregularly towards pay and allowances etc. of the staff	2.05
Total :				2.15

<sup>s</sup> (i) Assam Sales Tax Act, 1947 (ii) Assam Finance (Sales Tax) Act, 1956 (iii) Assam General Sales Tax Act, 1993.

**2.2.12 Arrears pending collection with Bakijai Officer (BO)**

No norms for disposal of certificate cases or targets for recovery of arrears during a given period were fixed by the department.

**(A) Recovery through Revenue Recovery Certificate (RRC)**

As per particulars furnished by the Commissioner of Taxes, the collections made by the Bakijai Officers during the period from 1995-96 to 1999-2000 are tabulated below :

(Rupees in crore)

Year	Opening balance	Arrear certificate received	Total	Proceeding closed for other reasons <sup>↔</sup>	Total amount recoverable	Collection made cases settled	Balance at the end of the year	Percentage (Col.7 to 6) Financial Settlement of cases
	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
	No.of cases	No.of cases	No.of cases	No.of cases	No.of cases	No.of cases	No.of cases	No.of cases
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1995-96	16.80	8.44	25.24	0.10	25.14	0.60	24.54	2.39
	8565	1108	9673	141	9532	384	9148	4.03
1996-97	24.54	22.82	47.36	1.13	46.23	1.08	45.15	2.34
	9148	1334	10482	39	10443	449	9994	4.30
1997-98	45.15	2.71	47.46	1.08	46.38	1.39	44.99	2.97
	9994	1593	11587	82	11505	408	11097	3.54
1998-99	45.39	7.39	52.78	1.46	51.32	1.44	49.88	2.81
	11097	2041	13138	455	12683	806	11877	6.35
1999-2000	49.88	8.09	57.97	0.64	57.33	1.37	55.96	2.39
	11877	1205	13082	199	12883	616	12267	4.78

As would be seen from above rate of recovery was very low and varied between 2.34 and 2.97 per cent and 3.54 and 6.35 per cent respectively in terms of financial and settlement of cases.

**(B) Non-settlement of arrear certificates due to inadequate action**

Under the provisions of the Assam Land Revenue Regulation, 1886 read with the Bengal Public Demand Recovery Act, 1913, any sum recoverable as arrears of land revenue can be recovered by adopting any one or more of the following processes.

- (i) By serving writ of demand.
- (ii) By attachment and sale of movable/immovable property.
- (iii) By arrest and detention etc.

<sup>↔</sup> Assessments set aside by the appellate authorities, Arrear Certificates withdrawn by the assessing authorities etc.

Test check of the records of 5 Recovery Offices\* revealed that in 182 bakijai cases involving Rs.30.23 crore, instituted between February 1990 and February 2000, Rs.17.00 lakh could be realized and balance amount of Rs.30.06 crore remained unrealised. Age-wise pendency of the cases is shown below :

(Rupees in crore)

Cases pending (after institution of bakijai proceeding) for more than							
1 year		3 years		5 years		10 years	
No.	Amount	No.	Amount	No.	Amount	No.	Amount
15	0.08	59	21.25	28	3.82	80	4.91

Thus, due to failure of the Bakijai Officers to take coercive measures like arrest and detention, attachment of movable and immovable properties, revenue amounting to Rs.30.06 crore remained unrealised even after a lapse of 20 months to 130 months (December 2000).

**(C) Non-realisation of arrears due to lack of co-ordination**

The Assessing Officer is required to send requisition to the Bakijai Officer giving full particulars of defaulters like complete address, particulars of assets etc. in arrear certificate for realization of arrear dues.

Test check of records in 2 recovery offices (Guwahati and Nagaon) revealed (December 2000) that 580 numbers of certificate proposals amounting to Rs.4.42 crore referred/ returned to unit offices between July 1994 and August 2000 with a request to furnish complete address, particulars of assets of the defaulters followed by reminders (November 1999 and January 2000). However, the information was not received by the concerned Recovery Offices till the date of audit (December 2000).

Thus, due to lack of co-ordination between unit offices and recovery offices, revenue amounting to Rs.4.42 crore remained unrealised even after lapse of 4 months to 78 months.

**2.2.13 Locking up of revenue due to delay in disposing of the appeal/revision cases**

The taxation laws of the State do not prescribe any time limit for admitting/disposing appeal/revision cases by the appellate/revisional authorities. However, Commissioner of Taxes issued instructions (January 1997) to the appellate/revisional authorities to dispose of the appeal/revision petitions within 3 (three) months from the date of filing. Every DCT (Appeal) is required to submit fortnightly statement to the CT showing the disposal and pendency of appeal cases.

\* Dibrugarh, Silchar, Nagaon, Jorhat and Guwahati



**(A) At the level of DCT (Appeal)**

Number of appeal cases at the beginning of the year, cases added and disposed of during the year and number of cases pending disposal at the end of each year together with amount involved during the last five years ending 31 March 2000 as reported by the CT are given below :

**(Rupees in crore)**

Year	Opening balance of cases under appeal		Addition during the year		Total		Disposal during the year		Closing balance		Percentage of disposal	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	In terms of cases	inancial
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
995-96	771	3.29	344	1.95	1115	5.23	488	1.66	627	3.58	43.77	31.73
996-97	627	3.58	310	9.42	937	12.99	363	4.93	574	8.07	38.74	37.95
997-98	574	8.07	451	32.53	1025	40.59	484	27.28	541	13.32	47.22	67.20
998-99	541	13.32	348	49.06	889	62.37	484	39.46	405	22.91	54.44	63.26
999-2000	405	22.91	351	1.93	756	24.84	276	2.15	480	22.70	36.51	8.66

Although the Appellate Authorities could dispose of on an average only 44.13 per cent (in terms of number) and 41.68 per cent (in terms of revenue) of the appeal cases every year, no remedial measures were taken to improve the position.

(a) Age-wise pendency of appeal cases at the end of March 2000 could not be furnished by the department. However age-wise analysis in respect of 3\* appellate authorities as done by audit is given below :

	Pendency period	No. of cases	Amount involved (Rupees in crore)
(i)	7 months to 59 months	320	8.84
(ii)	60 months to 93 months	82	0.75
(iii)	Above 93 months	50	0.03
	<b>Total :</b>	<b>452</b>	<b>9.62</b>

(b) In DCT (Appeal), Guwahati, 25 appeal cases involving Rs.0.44 crore though dismissed by the appellate authority in favour of department between September 1991 and September 2000 but no action was taken to recover the amount till date (February 2001).

(c) As reported by the Law Branch of the Commissionerate, 825 cases involving Rs.8.96 crore were pending disposal in Hon'ble Gauhati High Court at the end of March 2000, of which 199 cases involving Rs.1.75 crore have been pending for more than 5 years and in Hon'ble Supreme Court another 10 cases involving Rs.0.22 crore were pending at the end of December 2000.

\* Guwahati, Tinsukia and Jorhat

Thus, due to non-adherence to executive instructions/lack of co-ordination/non-initiation of action to vacate the stay orders, revenue of Rs.19.24 crore remained unrealized for periods ranging from 5 months to 114 months till the date of audit (February 2001).

#### **(B) Revision cases**

Test check of the records of the Commissioner of Taxes revealed that despite instructions of January 1997, 18 revision petitions involving Rs.0.77 crore filed between May 1999 and March 2000, were pending disposal even after a lapse of 11 months to 22 months reckoned from the dates of filing the revision petitions (February 2001).

#### **2.3 Non-levy of tax**

Under the Assam General Sales Tax Act, 1993 vide Explanation 1 below section 8 (1) (a) read with Rule 12 of the Assam General Sales Tax Rules, 1993, where a person sells a substantial part of the goods manufactured by him to another person for resale as distribution or selling agent and the price charged on resale exceeds forty per cent of the original sale or purchase price, the resale of such goods by such person shall be deemed as first point of sale within the State and the rates of tax shall be as specified in Schedule II for such items.

Test check of assessment records of the Superintendent of Taxes, Guwahati Unit 'A', revealed (July – October 1999) that the Assessing Officer, while finalizing the assessment of M/s. Hindustan Petroleum Corporation (dealing in Petroleum products) for the assessment year 1995-96, allowed (March 1999) deduction of Rs.40.74 crore from his taxable turnover of Rs.46.06 crore on the ground that such sales were made out of the local purchases of tax-paid goods. Since resale price exceeded forty per cent of the original purchase price disclosed, the deduction allowed was not admissible and resulted in non-levy of tax of Rs.4.89 crore.

The above matter was referred to the Department/Government in February 2000. No response was received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

#### **2.4 Loss due to lack of co-ordination between Apex office and the Unit office**

Test check of the records of the Commissioner of Taxes (CT), Assam, revealed (December 2000) that against a demand of assessed tax of Rs.1.27 crore for the period from 1 July 1993 to 31 August 1993, the Hon'ble Gauhati High Court stayed (April 1994) realization of taxes with a direction to

complete assessments for subsequent periods but restrained the assessing authority from realizing taxes till finalisation of a petition filed by M/S Vikash Agency registered under Sales tax unit of Guwahati 'C'. Accordingly, the assessment for the period from 1 September 1993 to 31 March 1994 was completed (March 1997) with a tax liability of Rs.3.48 crore. The writ petition was dismissed on 7 August 1997 and the verdict was communicated to Commissioner of Taxes, Assam on 9 September 1997. But the CT failed to communicate (till December 2000) the verdict of the Hon'ble Gauhati High Court to the Assessing Officer for realization of taxes resulting in loss of revenue amounting to Rs.4.75 crore as the dealer became untraceable and absconded vide report (February 1998) of Area Inspector of Taxes attached to Superintendent of Taxes, Guwahati Unit 'C'

The above matter was referred to the Department/Government in May 2001. No response was received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

#### **2.5 Short-levy of tax due to non-inclusion of Excise Duty in sale price**

Under section 2 (34) (d) of the Assam General Sales Tax Act, 1993, read with 'Explanation' below the said section, 'Sale Price' means the amount received or receivable by a dealer as valuable consideration including excise duty for the sale of goods before the buyer obtains delivery thereof irrespective of whether such excise duty was paid by the buyer or the seller.

Test check of the assessment records of the Superintendent of Taxes, Guwahati Unit 'A', revealed (July - October 1999) that taxable turnover relating to return periods 1993-94, 1994-95 and 1996-97 in respect of M/s. Eastern Enterprise {India Made Foreign Liquor (IMFL) dealer} was determined (April 1998 and June 1998) at Rs.16.72 crore after allowing deduction of Rs.4.86 crore though excise duty of Rs.4.86 crore paid by the dealer was includible in the taxable turnover of the dealer. This resulted in short-levy of tax of Rs.1.62 crore.

The above matter was referred to the Department/Government in February 2000. No response was received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

#### **2.6 Incorrect grant of exemption from levy of tax**

Under the Central Sales Tax Act, 1956, where a dealer transfers any goods to any other place of his business or to his agent or principal in any other State, he is not liable to pay tax in respect of such goods, provided he can prove that

the movement of goods from his State to the other State was not occasioned as a result of sale. For this purpose, the dealer may furnish to the assessing authority (i) a declaration in the prescribed form 'F' duly filled in and signed by the consignee or recipient of the goods in the other State and (ii) evidence of despatch of goods.

Test check of the assessment records of the Superintendents of Taxes, Guwahati Unit 'A' and Dhubri revealed (July – December 1999) that 2 dealers dealing in iron and steel and tea claimed and were incorrectly allowed (March 1998) by the assessing authorities a deduction of Rs.441.30 lakh from their taxable turnover on account of branch transfers which were neither supported by Form "F" nor any proof of despatch of the goods. This resulted in under assessment of tax of Rs.79.83 lakh as detailed below :

(Rupees in lakh)

Sl. No.	Name of the dealer	Assessment year/ date of assessment	Total turnover exempted	Tax involved	Interest (Upto)	Total	Action taken by the Department
1.	M/s. Steel Authority of India Limited, Guwahati	1994-95 30 March 1998	418.28	33.46	42.83 (August 2000)	76.29	The department levied (September 2000) tax and interest (Rs.76.29 lakh). Report of realization is awaited.
2.	M/s. Chapar Tea Estate, Chapar	1997-98 31 March 1998	23.02	2.30	1.24 (January 2000)	3.54	The department levied (August 2000) tax (Rs.2.30 lakh). Report of realization is awaited.
<b>Total :</b>			<b>441.30</b>	<b>35.76</b>	<b>44.07</b>	<b>79.83</b>	

The above matter was referred to the Government in November 1999, February 2000 and April 2000. No response was received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### 2.7 Concealment of turnover

Under the taxation laws of the State<sup>®</sup>, if a dealer has concealed, or failed to disclose fully and truly, the particulars of his turnover, the Assessing Officer may within eight years from the date of relevant year make an assessment or reassessment of the dealer. When a dealer conceals his turnover, he shall pay by way of penalty, in addition to tax, a sum not exceeding one and one half times the amount of tax sought to be evaded. Interest at the prescribed rates varying from 12 to 24 per cent per annum upto 30 June 1993 and at the rate of 2 per cent for each month thereafter on the amount by which tax falls short of the tax payable, is also payable for default in payment of tax due.

<sup>®</sup> (i) Assam General Sales Tax Act, 1993, (ii) Assam Finance (Sales Tax) Act, 1956.

(A) Cross verification of the records of certain dealers registered in different unit offices of Sales tax department with the records of other department/ other units of Sales tax department revealed (July – December 1999) that dealers did not disclose purchases made by them by utilizing declaration forms or otherwise by them. The non-disclosure resulted in concealment of turnover of Rs.117.92 lakh having a tax effect of Rs.48.44 lakh including interest and penalty as detailed below :

(Rupees in lakh)

Sl. No.	Name of the Unit	Description of goods	Assessment period	Turnover concealed	Rate of tax	Tax evaded	Interest leviable up to	Maximum penalty leviable	Action taken by the Department
			Date of assessment						
1.	Superintendent of Taxes, Diphu	IMFL	<u>31 March 1997</u> 24 June 1998	15.92	50 percent	7.96	4.30 (July 1999)	11.94	No response received from the Department and Government
2.	Superintendent of Taxes, Guwahati Unit 'A'	Nutrela Chunks, Packet foods, Blades, etc.	<u>1994-95</u> 27 March 1998	27.03	8 percent	2.16	0.24 (July 2000)	3.24	The Assessing Officer rectified (August 2000) the mistakes and adjusted Rs.0.30 lakh and issued (August 2000) a notice of demand for Rs.2.10 lakh.  Report on further realization is awaited.
3.	-do-	Galvanised and Corrugated sheets	<u>1996-97</u> 19 June 1997	21.42	4 percent	0.86	0.65 (August 2000)	1.29	The Assessing Officer rectified (April 2000) the mistake and referred (September 2000) the case to Recovery Officer, Guwahati. Report on realization has not been received.
4.	Superintendent of Taxes, Dhubri	Split bamboo and Chatai	<u>Q.E.</u> <u>30 September 1997</u> 31 October 1997  <u>Q.E.</u> <u>31 March 1998</u> 10 August 1998  <u>Q.E.</u> <u>30 September 1998</u> 12 May 1999	17.31	10 percent	1.73	0.80 (January 2000)	2.60	On this being pointed out (February 2000), the Department stated (May 2000) that the dealer was rightly assessed on the basis of the despatched particulars received from the office of the Superintendent of Taxes, Boxirhat Check Post. The reply is not tenable as the figures collected by audit do not corroborate the figures supplied by the department. No reply has been received from the Government.
5.	Superintendent of Taxes, Tangla	Paper	<u>31 March 1995</u> 10 September 1997	36.24	8 percent	2.90	3.42 (March 2000)	4.35	No response received from the Department/ Government.
<b>Total:</b>				<b>117.92</b>		<b>15.61</b>	<b>9.41</b>	<b>23.42</b>	

\* QE: Quarter Ending.

The matter was referred to the Department/Government in November 1999 and April 2000. This was followed by reminder in July 2001. No reply has been received from the Government.

(B) Test check of the assessment records of the Superintendent of Taxes, Guwahati Unit 'C', revealed (April – June 1998) that gross turnover in respect of a medicine dealer for the assessment periods ending March 1992 and March 1993 was determined (October 1995) by the Assessing Officer at Rs.66.08 lakh. Cross verification of assessment records of the dealer with the records of the Animal Husbandry Department, Government of Assam, revealed (May 1998) that the dealer had supplied medicine valued at Rs.637.48 lakh during the period from April 1991 to March 1993. The dealer had thus concealed a turnover of Rs.571.40 lakh and evaded tax of Rs.22.85 lakh.

On this being pointed out in audit (August 1998), the department stated (September 2000) that the dealer was reassessed (December 1998) and tax of Rs.22.85 lakh was levied. In addition, interest of Rs.38.02 lakh was charged. On his failure to pay the demanded tax, the case was sent (March 1999) to the Superintendent of Taxes (Recovery) for effecting recovery. Report on realisation is awaited (October 2001).

The above matter was referred to the Government in August 1998. No response was received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## **2.8 Non-registration of dealer**

(A) Under the Central Sales Tax Act, 1956, every dealer making inter-State sale of goods is to get himself registered. Further the Act provides that inter-State sale of goods other than declared goods to registered dealers, if supported by prescribed declaration forms are taxable at the concessional rate of 4 per cent, otherwise tax is payable at the normal rate of 10 per cent. As per Government Notification No.FTX-127/86/Pt./11/8 dated 12 June 1998, no tax on supari under the Central Sales Tax shall be payable.

Test check of the records of 3 Sales tax unit offices revealed (between July 1998 and June 2000) that 13 dealers made inter-State sale of goods valued at Rs.460.96 lakh without payment of tax of Rs.57.93 lakh as detailed below :

(Rupees in lakh)

Sl. No.	Name of the unit	Assessment year/date of assessment	Nature of goods	Taxable turnover	Tax payable	Tax paid payable	Nature of observation
1.	Superintendent of Taxes, Mangaldoi	1997-98 Nil 1998-99 (upto May 1998) Nil	Supari	231.65	23.16	Nil 23.16	Two Supari dealers registered under AGST Act, 1993 made inter-State sales of Rs.231.65 lakh without payment of Central Sales Tax of Rs.23.16 lakh.
2.	Superintendents of Taxes, Dhubri/Boxirhat Check Post	1994-95 (January 1995 to March 1995) Nil 1995-96 Nil 1996-97 (December 1996 to February 1997) Nil	-do-	106.09	19.09	Nil 19.09	6 unregistered dealers sold 46 consignments of Supari valued at Rs.106.09 lakh on which neither tax under Central Sales Tax Act, 1956, nor under AGST Act, 1993 was levied.
3.	Superintendents of Taxes, Damra Check Post/ Guwahati Unit 'B'	1997-98 (November 1997 to March 1998) Nil	-do-	123.22	22.18	6.50 15.68	5 unregistered dealers sold 28 consignments of Supari valued at Rs.123.22 lakh having a tax effect of Rs.22.18 lakh, however, only Rs.6.50 lakh were collected at the Check Post.
<b>Total</b>				<b>460.96</b>	<b>64.43</b>	<b>6.50</b> <b>57.93</b>	

On this being pointed out (April 1998/November 1999/June 2000) the department stated in respect of the dealers at Sl. No.2 that they could not be traced at the given addresses as the dealers had furnished fictitious local addresses. The above matter was referred to the Department/Government in April 1998/ November 1999/June 2000/July 2000.

The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**(B)** No dealer, liable to pay tax under the Assam General Sales Tax Act, 1993, shall carry on business in taxable goods unless he has been registered and possesses a certificate of registration. Every person liable to get himself registered shall submit an application for registration within 60 days from the date of commencement of Rules (1 July 1993) if he was carrying on business on such date. In the event of default in making application, the Assessing Officer shall serve the dealer with a notice to apply for registration and register him. Sales tax declaration forms under the State Taxation Act are issued to dealer to enable them to make intra-State purchases free of tax for re-sale within the State.

Test check of the assessment records of the Superintendent of Taxes, Guwahati Unit 'A', revealed (between July 1999 and October 1999) that M/s Ansool Trading Co, Guwahati, a dealer registered under the Assam Sales Tax Act, 1947 (since repealed) and the Central Sales Tax Act, 1956, had neither applied for registration under the Assam General Sales Tax Act, 1993 (effective from 1 July 1993) nor the Assessing Officer had registered him compulsorily as required under the provisions of the Act *ibid*. However, cross verification by audit of assessment records of said dealer with the records of a registered dealer M/s. Naranarayan Agency under the Karimganj Sales Tax unit revealed (July to October 1999) that M/s Ansool Trading Co., purchased "Paper" valued at Rs.57.08 lakh free of tax by utilizing 9 declaration forms issued to him in November 1990 from M/s Naranarayan Agency, Karimganj during the period from 1 July 1993 to 31 March 1994.

On this being pointed out (February 2000) in audit, the department stated (November 2000) that since the dealer had closed his business and became untraceable, the assessment proceedings could not be initiated. Thus due to lack of initiation of timely action by the Assessing Officer, Government had to incur loss of revenue to the tune of Rs.4.57 lakh.

The above matter was referred to the Government in February 2000. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## **2.9 Short-levy/Non-levy of interest**

Under the Sales Tax laws of the state, if a dealer fails to pay the full amount of tax payable by him, by due date, he is liable to pay simple interest at the prescribed rates varying from 12 to 24 per cent per annum (upto 30 June 1993) and at the rate of 2 per cent for each month (from 01 July 1993), on the amount by which tax paid falls short of the tax payable.

Test check of records of 4\* Sales Tax unit offices revealed that while finalising the assessments of 10 cases (between March 1999 and June 1999) the assessing authorities levied interest of Rs.83.75 lakh instead of Rs.114.33 lakh on delay/non-payment of admitted tax. This resulted in short levy of interest of Rs.30.58 lakh.

On this being pointed out the department levied interest of Rs.23.39 lakh in 5 cases. The report on its recovery and action in other cases has not been received (October 2001).

The above matter was referred to the Government in November 1999/ February 2000/June 2000. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

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\* Dibrugarh, Jorhat, Guwahati Unit 'A', Guwahati Unit 'B'



### 2.10 Incorrect grant of exemption

(A) Under the Assam Industries (Sales Tax Concession) Scheme 1995 'Tea' shall be excluded from the raw materials entitled to the benefits of tax exemption and cannot be purchased by a dealer free of tax.

Test check of the assessment records of 4\* Sales tax unit offices revealed (between October 1999 and June 2000) that sale of tea amounting to Rs.143.45 lakh in respect of 4 dealers was incorrectly exempted from levy of tax on the ground that such sales were covered by industrial sales tax declaration forms. This mistake resulted in short levy of tax of Rs.17.24 lakh including interest of Rs.6.18 lakh.

On this being pointed out the department levied (June 2000) tax of Rs.1.05 lakh and interest of Rs.0.58 lakh. Action taken in respect of the other cases is awaited.

The above matter was referred to the Government in February 2000/ April 2000/July 2000. No response was received.

(B) Under the Assam Industries (Sales Tax Concession) Scheme, 1995, a certain class of new industrial units shall not be required to pay tax for a period of seven years on the sale of finished products manufactured by them subject to fulfillment of conditions as laid down in that scheme. To avail of such exemption, the intending industrial unit shall have to obtain a certificate of authorisation from the concerned Sales Tax Unit Office on the basis of eligibility certificate issued by the Industries department, Government of Assam, showing the eligibility for tax exemption. As per entry 50 of Schedule-II of the AGST Act, 1993, tax on 'Marble Tiles' is leviable at the rate of 14 per cent.

Test check of the assessment records of the Superintendent of Taxes, Guwahati Unit 'D', revealed (between October 1999 and December 1999) that the Assessing Officer, on the strength of eligibility certificate issued (April 1996) by the Industries department, granted (June 1997) certificate of authorisation to a dealer and allowed (March 1999 and April 1999) exemption of a gross turnover of Rs.87.34 lakh on sale of finished products of Marble Sinks, Flower Pots and Marble Tiles manufactured by using raw materials (Marble Slabs) relating to the assessment years 1995-96 to 1997-98. Further scrutiny revealed that sale of 'Marble Tiles' amounting to Rs.71.03 lakh was exempted retrospectively effect from 13 January 1994 without any eligibility certificate. This incorrect exemption resulted in non-levy of tax of Rs.9.94 lakh.

On this being pointed out in audit (April 2000), the department revised the assessment orders (December 2000) imposing tax of Rs.8.90 lakh and interest

\* 1. Golaghat, 2. Jorhat, 3. Mangaldoi, 4. Tangla

of Rs.7.84 lakh (calculated up to November 2000). Report on realisation is awaited (October 2001).

The above matter was referred to the Government in April 2000. Final reply has not been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

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

As per Entry 22 of the Schedule II of the Assam General Sales Tax Act, 1993, tax on 'Hair Oil' is leviable at the rate of 8 per cent.

Test check of the assessment records of the Superintendent of Taxes, Guwahati Unit 'B', revealed (November 1999 – December 1999) that taxable turnover of Rs.304.48 lakh in respect of a dealer dealing in 'Hair Oil' for the period from 1994-95 to 1998-99 was assessed between June 1995 to June 1999 at the rate of 4 per cent instead of the correct rate of 8 percent. This resulted in short levy of tax amounting to Rs.12.18 lakh. The dealer is also liable to pay interest of Rs.7.80 lakh. (calculated up to December 1999).

The above matter was referred to the Department/Government in June 2000. No response was received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

#### **2.12 Excess allowance of Credit of tax**

Under the Assam General Sales Tax Act, 1993, read with Central Sales Tax Act, 1956, every registered dealer is required to submit a copy of treasury challan as a token of full payment of tax paid on his taxable turnover along with the monthly statement/annual return of turnover.

Test check of the assessment records of the Superintendent of Taxes, Diphu revealed (August 1999) that a dealer, deposited of tax of Rs.2.28 crore under the AGST Act and Rs.52.26 lakh under the CST Act during the assessment period ending 31 March 1996, however, the Assessing Officer allowed (March 1998) credit of Rs.2.29 crore and Rs.53.87 lakh under the AGST Act and the CST Act respectively against the amount deposited. This resulted in excess allowance of credit and consequent short demand of tax of Rs.2.24 lakh and Rs.3.44 lakh including interest.

The above matter was referred to the Department/Government in November 1999. No response was received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**2.13 Incorrect acceptance of declaration form**

Under the provisions of the Central Sales Tax Act, 1956 and Rules made thereunder, tax is leviable at the concessional rate of 4 per cent on inter-State sales to a registered dealer provided such sales are supported by valid declaration(s) in Form 'C' issued by the purchasing registered dealer.

Test check of the assessment records of the Superintendent of Taxes, Guwahati Unit 'D', revealed (between April 1998 and December 1999) that the inter-State sales of Rs.39.73 lakh relating to the period from 1994-95 to 1996-97 in respect of three registered dealers were assessed to tax (between March 1996 and March 1999) at the concessional rate of 4 percent though the transactions recorded in Form 'C' produced by the dealers took place after the dates certified by the purchasing dealers. The incorrect acceptance of declaration forms resulted in short-levy of tax of Rs.2.34 lakh at the differential rate 10 per cent leviable less 4 per cent levied and collected.

On this being pointed out in audit, the department stated (August 1999) that the assessments were rectified (July 1999) and a demand for Rs.1.09 lakh was raised in case of two dealers. Report on realisation is awaited.

The above matter was referred to the Government in September 1998/ April 2000. Their reply has not been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**2.14 Short-levy of tax due to incorrect allowance of deduction**

Under section 8(3) (ii) of the Assam General Sales Tax Act, 1993, deduction from the gross turnover is allowable provided such taxable turnover has been subjected to tax in the State.

Test check of assessment records of the Superintendent of Taxes, Guwahati Unit 'A', revealed (July 1999 – October 1999) that a dealer was allowed exemption from payment of tax on sale of locally purchased goods valued at Rs.22.47 lakh for the assessment year 1995-96. However, it was noticed that the goods valued at Rs.22.47 lakh were sold from the stock of finished goods manufactured by him which were neither tax paid nor were exempted from payment of tax. This resulted in short-levy of tax of Rs.1.67 lakh.

On this being pointed out in audit (July 1999 – October 1999), the department revised the assessment and raised (December 1999) a demand of Rs.3.10 lakh including interest.

The above matter was referred to the Government in February 2000. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**2.15 Incorrect grant of exemption on export of goods**

Under the CST Act, 1956 and rules made thereunder, where a dealer claims, that he is not liable to pay tax under this Act in respect of sale of goods on the ground that the sale is in the course of export out of the territory of India, he may in support of his claim furnish to the assessing authority a certificate in Form 'H' duly filled in and signed by the exporter along with evidence of export of such goods viz., bill of lading, air consignment note, etc. In case of inter-State sales of goods, other than declared goods and goods not covered by declaration in Form 'C', tax is payable at the rate of 10 per cent or at the rate of tax applicable under the State Act, whichever is higher.

Test check of assessment records of the Superintendent of Taxes, Dibrugah, revealed (July 1999-August 1999) that the claim of exemption of a dealer was allowed (March 1998) by assessing authority on his export sales of goods (tea) valued at Rs.10.62 lakh without production of Form 'H' and any other evidence of export during the period 1995-96. This resulted in non-levy of tax of Rs.1.06 lakh.

The above matter was referred to the Department/Government in November 1999. No response has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Department/Government (October 2001).

## Chapter – 3

### AGRICULTURAL INCOME TAX

#### 3.1 Results of Audit

Test check of assessment records of Agricultural Income Tax Office, Assam, Guwahati conducted during the year 2000-01 revealed under-assessment of tax, non-levy of interest etc, amounting to Rs.85.76 lakh which may be broadly categorised as under:

(Rupees in lakh)			
Sl.No.	Particulars	No. of cases	Amount
1	Incorrect allowance of deduction	4	13.00
2	Short-levy/non-levy of interest	3	15.87
3	Under-charge of tax and interest	4	53.12
4	Incorrect computation	2	3.77
<b>Total</b>		<b>13</b>	<b>85.76</b>

Six draft audit paragraphs involving financial effect of Rs.32.32 lakh and bringing out major points noticed during 2000-01 were issued to the department/Government for their comments. The department has accepted all the observations. The important audit observations made in those cases are mentioned in the following paragraphs :

#### 3.2 Non-levy/Short-levy of interest

Under the provision of Assam Agricultural Income Tax Act, 1995 (amended), where in any financial year an assessee has paid advance tax less than 75 per cent of tax determined on regular assessment, simple interest at the rate of two per cent for each English calendar month from the 1<sup>st</sup> day of April of succeeding financial year in which advance tax was payable up to the month prior to the month of regular assessment shall be payable by the assessee on the amount by which the advance tax paid falls short of the tax determined on regular assessment. Prior to the amendment of the Act, interest was leviable at

the rate of 12 per cent per annum on the amount of shortfall from the 1<sup>st</sup> day of January of the said assessment year up to the date of assessment or the date on which 75 per cent of assessed tax was paid, whichever was earlier.

Test check of the records of Agricultural Income Tax Officer, Guwahati revealed (January – February 2001) that 2 assesseees paid advance tax of Rs.76.05 lakh after a lapse of 7 to 57.6 months after the prescribed date. However, while finalizing the assessment the Assessing Officer failed to levy in one case interest and levied it short in other cases. This resulted in non-levy/short-levy of interest of Rs.14.39 lakh.

On this being pointed out in audit (January – February 2001), the department accepted the audit objection and stated (February 2001) that assessment orders had been rectified. Further progress on recovery in this regard is awaited (October 2001).

The above matter was referred to the Government in March 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **3.3 Income escaping assessment**

Under Rule 8 (1) of the Income Tax Rules, 1962, income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it was income derived from business and 40 per cent of such income is taxable as business under the Income Tax Act, 1961, while the balance 60 per cent is to be treated as agricultural income.

Test check of assessment records of the Agricultural Income Tax Officer (AITO), Guwahati, revealed (January – February 2001) that while determining (February 1995 and January 1996) net composite income of an assessee tea company the AITO computed Rs.85.75 lakh and Rs.66.27 lakh for the assessment years 1990-91 and 1992-93 respectively instead of composite income of Rs.94.52 lakh and Rs.72.90 lakh during the said assessment years. Thus, agricultural income of Rs.9.24 lakh escaped assessment which involved under-assessment of tax of Rs.7.35 lakh.

On this being pointed out in audit (January – February 2001), the department accepted the audit observation and rectified the assessments and issued demand notice in February 2001. Report of realisation is awaited (October 2001).

The above matter was referred to the Government in April 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **3.4 Incorrect allowance of donation**

Under the Assam Agricultural Income Tax Act, 1995 (amended), a sum actually donated for charitable purposes is an allowable deduction, if such deduction is not more than Rs.5.00 lakh or 10 per cent of the total agricultural income, whichever is less, provided that the same is actually spent for such purposes within the state of Assam. Donations beyond these limits are to be disallowed and treated as taxable income.

Test check of the records of the Agricultural Income Tax Officer, Guwahati revealed (January – February 2001) that while finalizing (between July 1999 and January 2000) the assessments of two companies for the assessment years 1996-97 and 1997-98, the Assessing Officer incorrectly allowed a deduction of Rs.10.00 lakh instead of Rs.3.70 lakh on account of donations from the taxable agricultural income of Rs.37.01 lakh of these two companies. This resulted in incorrect deduction of Rs.6.30 lakh from the agricultural income of these companies. In addition to this, a loss of Rs.0.50 lakh was incorrectly carried forward by one company in respect of assessment year 1995-96 finalised in January 2000. Thus, there was an undercharge of Rs.4.08 lakh for these two companies.

On this being pointed out (January – February 2001) the department accepted the audit objection in both the cases and stated (February 2001) that assessment had been rectified. Report of the realisation is awaited (October 2001).

The above matter was referred to the Government in March 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **3.5 Short raising of demand**

Under the Assam Agricultural Income Tax Act, 1939, if a refund is found to be due to any person, the tax authorities, at the option of the assessee, in lieu of payment of the refund, set off the amount to be refunded against the sum payable under the Act in respect of any other assessment year.

While finalising (September 2000) the assessment for the year 1997-98, the Assessing Officer allowed a set off of Rs.1.42 lakh pertaining to the assessment year 1992-93 though no such refund was admissible to the assessee. Thus, incorrect allowance of set off resulted in short raising of demand of Rs.2.72 lakh including interest of Rs. 1.30 lakh.

On this being pointed out in audit (February 2001) the department accepted the audit objection and rectified the assessment (February 2001). Report of realisation is awaited (October 2001).

The above matter was referred to the Government in March 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **3.6 Incorrect application of rate of tax**

Under the Assam Agricultural Income Tax Act, 1939, Agricultural Income Tax at the rate(s) specified in the schedule attached to the Act is to be charged for each assessment year on the total agricultural income of the previous year of every person/assessee. In case of a company, the rate of tax for the assessment year 1997-98 on income exceeding rupees one lakh was 60 per cent.

Test check of the records of Agricultural Income Tax Officer, Guwahati revealed (January – February 2001) that while finalizing (January 2000) the assessment of a company for assessment year 1997-98 the Assessing Officer levied tax incorrectly at the rate of 45 per cent instead of 60 per cent on his agricultural income of Rs.15.26 lakh. This resulted in under-assessment of tax of Rs.2.29 lakh.

On this being pointed out in audit (January – February 2001), the department accepted the audit objection and stated (February 2001) that assessment order had been rectified. Report of realisation is awaited (October 2001).



The above matter was referred to the Government in March 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **3.7 Omission to take agricultural income into computation**

Under the Assam Agricultural Income Tax Act, 1939, any income derived by a cultivator or receiver of rent in kind from the sale of produce raised or received by him from land used for agricultural purposes, is agricultural income provided no process has been performed in respect of the produce other than the process ordinarily employed to render the produce fit to be taken to market. Income from such agricultural operation is, therefore, wholly chargeable to Agricultural Income Tax.

Test check of assessment records of the Agricultural Income Tax Officer, Guwahati revealed (January-February 2001) that exclusive agricultural income of Rs.2.49 lakh derived by an assessee on account of other agricultural produce (such as sale of green tea leaf ) during the assessment year 1996-97 was duly set apart by the Income Tax Officer during computation of composite income in January 1997. But while assessing (January 2000) the agricultural income of the assessee for the assessment year 1996-97, the Agricultural Income Tax Officer did not include this income for the purpose of computation of total agricultural income of the assessee. This resulted in under-assessment of tax of Rs.1.49 lakh (at the rate of 60 per cent on Rs.2.49 lakh).

On this being pointed out in audit (January-February 2001), the department accepted the audit objection and stated (February 2001) that assessment order had been rectified. Report of realisation is awaited (October 2001).

The above matter was referred to the Government in April 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

The above matter was referred to the Government in March 2001. The reply has been received. The matter was followed up with reference to the Government in July 2001. However, no reply was received from the Government (October 2001).

**3.7. Omission to take agricultural income into consideration**

Under the Assam Agricultural Income Tax Act, 1938, any income derived from a cultivator or member of such a firm from the sale of produce raised or received by him from land used for agricultural purposes is agricultural income provided no part of the produce has been sold in the course of the business other than the business of selling or otherwise disposing of the produce. It is stated that in some cases agricultural income is not taken into consideration for the purpose of charging to Assam Agricultural Income Tax.

For the year of assessment 1997-98, the Assam Agricultural Income Tax Officer, Guwahati reported (January, February 1997) that in some agricultural income of Rs. 2.49 lakh derived by an assessee on account of other agricultural produce such as sale of eggs, the Assam Agricultural Income Tax Officer being commissioner of the Assam Agricultural Income Tax, Guwahati (January 1997) had not taken into consideration the agricultural income of the assessee for the assessment year 1997-98. The Assam Agricultural Income Tax Officer being commissioner of the Assam Agricultural Income Tax, Guwahati (January 1997) had not taken into consideration the agricultural income of the assessee for the purpose of charging to Assam Agricultural Income Tax. The Assam Agricultural Income Tax Officer, Guwahati (January 1997) had not taken into consideration the agricultural income of the assessee for the purpose of charging to Assam Agricultural Income Tax.

On this being pointed out in writ (January, February 2001) the department accepted the audit objection and stated (February 2001) that agricultural income had been excluded. Report of verification is attached (October 2001).

The above matter was referred to the Government in April 2001. No reply has been received. The matter was followed up with reference to the Government in July 2001. However, no reply was received from the Government (October 2001).

## Chapter – 4

### OTHER TAX AND NON-TAX RECEIPTS

#### 4.1 Results of Audit

Test check of assessment records in the offices dealing with the following revenue receipts during 2000-01 revealed under-assessment, short realization, etc., amounting to Rs.60.92 crore in 184 cases as shown below:

(Rupees in lakh)

Sl. No.	Particulars	No. of cases	Amount
1	Stamp Duty and Registration	2	2.16
2	Professions, etc. Tax	9	7.24
3	Tax on Specified Land	5	18.73
4	Geology & Mining	3	867.01
5	State Excise	37	1236.53
6	Motor Vehicle Tax	58	484.98
7	Land Revenue	70	3475.22
<b>Total</b>		<b>184</b>	<b>6091.87</b>

During the year 2000-01, the department accepted under-assessment, etc., of Rs.71.91 lakh involved in 19 cases, which had been pointed out in audit prior to 2000-01. A few illustrative cases involving Rs.2.73 crore highlighting important audit observations are given in the following paragraphs :

#### A. STATE EXCISE

#### 4.2 Non-realisation of transport pass fee

Government of Assam in their notification dated 12 May 1998 had fixed the rate of transport pass fee for transport of IMFL/Beer manufactured in Assam at the rate of Rs.30 per case on IMFL and at the rate of Rs.18 per case on Beer with effect from 12 May 1998. Transport pass fee is payable in advance for issuance of passes for transport of IMFL and Beer within or outside the State of Assam.

Cross verification of the records of the Superintendent of Excise, Kamrup with the records maintained in the Office of the Commissioner of Excise, Assam, revealed (June 2000) that 372 transport passes were issued to the different bonded warehouses of N.E. States between April 1999 and June 2000 for transport of 1.82 lakh cases of IMFL manufactured in a distillery of Assam without realising the transport pass fee of Rs.30 per case. This resulted in non-realisation of Rs.54.68 lakh. No demand notices were also issued for this.

The department stated (July 2001) that a demand for Rs.54.68 lakh has been raised (June 2001). Report of realisation is awaited (October 2001).

The above matter was referred to the Government in October 2000. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## **B. TAX ON LUXURIES**

### **(in Hotels and Lodging Houses)**

#### **4.3 Non-submission/delay in submission of returns**

Section 10 of the Assam Tax on Luxuries (Hotels and Lodging Houses) Act, 1989 read with Rule 5 of the Rules framed thereunder provides that every registered hotelier shall submit to the concerned Assessing Officer, a return of tax in respect of each quarterly period ending on the 30 June, 30 September, 31 December and 31 March every year within a period of 20 days from the end of the quarter to which it relates. Further, Section 18(5) (C) and 18(6) of the Act provides that hoteliers failing to submit the return within the due date, without sufficient cause, shall on conviction be punished with a daily fine of not less than rupees one hundred during the period of the continuance of the offence.

(a) Test check of the records of the 4 Sales Tax unit offices (Guwahati 'B', Golaghat, Dibrugarh and Tinsukia) revealed (December 2000) that 4 hoteliers failed to submit their returns of turnover for the period from September 1989 to December 1997. However, the assessing authorities failed to initiate action for imposing proceedings though none of the assesseees had given any reason for non-filing of the return. A minimum fine of Rs.64.46 lakh could had been levied.

(b) Scrutiny of records of 4 Sales Tax unit offices (Guwahati 'C' Guwahati 'D', Tinsukia, and Golaghat) revealed (December 2000) that 16 hoteliers submitted returns delayed by 3 days to 2465 days but no fine was imposed by

the Assessing Officers for delay in submission of returns. A minimum fine of Rs.94.75 lakh could had been imposed.

The above matter was referred to the Department/Government in May 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

#### 4.4 Hotels/lodging houses not brought under tax net

Under the Assam Tax on Luxuries (Hotels and Lodging Houses) Act, 1989, no hotelier, liable to pay tax, shall provide accommodation by way of business unless he possesses a valid certificate of registration. The Act also provides that whoever carries on business without being registered shall pay by way of penalty a daily fine of not less than rupees one hundred during the period of the continuance of the offence.

(i) Test check of the records of the office of the Superintendent of Taxes, Guwahati 'A' and Golaghat, revealed (January 2001) that out of 4 Government Tourist Lodges only one tourist lodge (Guwahati) was registered fixing tax liability from 1 January 1999 though as per Tourist department, Government of Assam, the lodge had been functioning since 1989. The other three lodges (Golaghat) had been carrying on business since 1995 without registration. Failure of the department to register the lodges resulted in non-realisation of tax of Rs.11.47 lakh (calculated upto March 2000).

(ii) Test check of the records of 3 Sales Tax unit offices (Guwahati 'A', Guwahati 'D' and Sibsagar) further revealed (February 2001) that 3 hotels carried on business since April 1995 without any registration, resulting in non-realisation of tax of Rs.2.22 lakh (calculated upto March 2000). Besides, penalty of Rs.5.49 lakh was also leviable.

The above matter was referred to the Department/Government in May 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## **C – LAND REVENUE**

### **4.5 Non-realisation of Government revenue towards acquisition of land**

According to Para 185\* of Assam Land Acquisition Manual, whenever land is acquired for municipality, other local authorities, etc. acquisition proceedings shall not be commenced until the amount of the estimate inclusive of capitalized value of Government revenue and the cost of establishment and contingent charges have been paid into the treasury.

Test check of the records of the Deputy Commissioner, Kamrup disclosed (January 2001) that the acquisition proceeding of land measuring over 59 bighas required by the Guwahati Municipal Corporation (GMC), Guwahati for construction of bus stand at Adabari was taken over from the land owner and handed over to the GMC in December 1986. However, establishment and contingency charges of Rs.11.02 lakh though payable into the Government account were neither paid nor recovered. This resulted in non-realisation of Rs.11.02 lakh (January 2001).

The above matter was referred to the Department/Government in April 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## **D - TAX ON MOTOR VEHICLES**

### **4.6 Short realisation of fines**

Under Section 192 of the Motor Vehicles (Amendment) Act, 1994, using of a vehicle without registration shall be punishable for first offence with a fine, which may extend to five thousand rupees but shall not be less than two thousand rupees. Section 194 of the Act ibid further envisages that carrying excess load by a goods vehicles shall be punishable with a minimum fine of two thousand rupees besides imposition of additional amount of one thousand rupees per tonne of excess load, together with the charges for off-loading of

\* In terms of the provision contained in Rule 188 read with Rule 20 of Appendix-8 of Assam Financial Rules as referred to in para 185 of Assam Land Acquisition Manual regulating rules for the payment of compensation for land taken up under the L.A. Act, 1894.

the excess load. Inspector of Police was also empowered to compound offences under the aforesaid Act by Government Notification dated 11 September 1989.

Scrutiny of records of the Superintendent of Police (SP), City, Guwahati; SP, Karimganj and Director, Bureau of Investigation (Economic Offences) Guwahati, revealed (December 2000 – March 2001) that 1049 vehicles plying on road without any registration and 211 goods vehicles carrying excess load were detected by the department during the period of 5 years ending March 2000 and fines of Rs.5.59 lakh and Rs.2.09 lakh were realised against the minimum amount realisable Rs.20.98 lakh and Rs.4.22 lakh respectively. This resulted in total short realization of fine of Rs.17.52 lakh. Reasons for such short realization were neither on records nor could be stated.

The above matter was referred to the Department/Government in May 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## **E. PROFESSIONAL TAX**

### **4.7 Non-levy of tax under the Assam Professions, Trades, Callings and Employment Taxation Act**

Under the Assam Professions, Trades, Callings and Employment Taxation (Amendment) Act, 1992 (effective from 1 April 1992) as amended from time to time, every person liable to pay tax (other than a person earning salary or wages, in respect of whom the tax is payable by his employer), shall obtain a certificate of enrolment from the concerned assessing authority. The Act further provides that in case of default, simple interest at two per cent of the amount of tax due for each month or part thereof is payable for the period for which the tax remains unpaid.

(i) As per entry 11 of the Schedule of the Act *ibid*, holder of permit of a bus or truck is liable to pay tax at the prescribed rates.

Test check of assessment records of the Superintendent of Taxes, Tinsukia, revealed (January 1999-March 1999) that in respect of 64 holders of permits (bus or truck), no enrolment certificates were issued by the Assessing Officer and consequently, professional tax amounting to Rs.2.40 lakh (including interest of Rs.1.08 lakh calculated upto 31 March 1999) relating to the assessment years 1992-93 to 1997-98, was neither levied nor realised .

On this being pointed out in audit (May 1999) the department stated (June 2000) that notices were served to the vehicle owners but none came forward for enrolment till date (June 2000).

The above matter was referred to the Government in May 1999. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**(ii)** As per entry 10 (a) of the Schedule of the Act *ibid*, the employers of residential hotels are liable to pay tax of Rs.1500 per annum upto 31 March 1998 and Rs.2250 per annum thereafter.

Test check of assessment records of the Superintendent of Taxes, Dibrugarh, revealed (July 1999 – August 1999) that no enrolment certificates were issued to 4 employers of residential hotels by the Assessing Officer and consequently no professional tax was paid by them. In addition 2 employers paid tax belatedly (one upto 1996-97 and the other upto 1998-99). This resulted in non-levy of tax of Rs.1.14 lakh (including interest of Rs.0.53 lakh calculated upto 31 August 1999) relating to the years 1992-93 to 1998-99.

On this being pointed out in audit (October 1999) the department stated (May 2000) that Rs.2651 has since been realized from one employer of residential hotel. Report on action taken in respect of others is still awaited (October 2001).

The above matter was referred to the Government in October 1999. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**(iii)** As per Entry 6 of the Schedule to the Act *ibid*, the dealers are liable to pay tax at the prescribed rates on the basis of their gross sales turnover relating to the relevant financial year.

Test check of assessment records of the Superintendent of Taxes, Guwahati Unit 'D', revealed (October 1999 – December 1999) that no enrolment certificates were issued to 8 dealers by the Assessing Officer though in some cases taxes were paid partly by them. While in other 2 cases, no interest was levied for delayed payment of tax. This resulted in non-levy of tax of Rs.1.10 lakh (including interest of Rs.0.41 lakh calculated upto 31.12.1999) relating to the assessment years 1990-91 to 1999-2000 relevant to the financial years 1989-90 to 1998-99.



On this being pointed out (May 2000) in audit, the Department stated (February 2001) that an amount of Rs.26240 (including interest of Rs.5490) has since been realised. Further report on realisation has not been received.

The above matter was referred to the Government in May 2000. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## F – NON-TAX REVENUE

### 4.8 Irregular appropriation of departmental receipts towards meeting departmental expenditure

As per provisions contained in the Assam Treasury Rules, all moneys received by or tendered to Government servant on account of the revenues of the State, shall without undue delay be paid in full into Treasury or into the Bank. Money so received shall not be appropriated to meet departmental expenditure.

Test check of the records such as cash book, collection registers from patients and students maintained by the Principal, Regional Dental College (RDC), Guwahati, revealed (November 1998) that the fees from patients and students amounting to Rs.6.61 lakh pertaining to the period from October 1997 to October 1998, were collected and Rs.1.14 lakh were only credited into the Government account and the balance amount of Rs.5.47 lakh was utilized towards the departmental expenditure in violation of the provision of the Assam Treasury Rules.

On this being pointed out (November 1998) in audit, the Principal, RDC, Guwahati stated (December 2000) that an Advisory Committee of the College constituted in November 1997, had authorised the Principal to spend the departmental receipts to meet departmental expenditure. The reply is not tenable as the Advisory Committee is not empowered to relax any provision of the Treasury Rules.

The above matter was referred to the Department/Government in July 1999.. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

#### **4.9 Unrealised rent**

Boarders occupying Tribal Rest House, Guwahati under the Directorate of Welfare of Plains Tribes and Backward Classes, Assam are liable to pay rent at the prescribed rates fixed by the Government from time to time before leaving.

Test check of the records of the Director of Welfare, Plain Tribes and Backward Classes, Assam, Guwahati revealed (November 1998) that 95 occupants were allowed accommodation in the Tribal Rest House at Solapara, Guwahati between March 1995 and October 1998. However, the rent of Rs.1.71 lakh recoverable from the occupants was not realized from the occupants without any recorded reasons thereof.

The above matter was referred to the Department/Government in November 2000. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

## Chapter – 5

### FOREST RECEIPTS

#### 5.1 Results of Audit

Test check of records maintained in the offices of the Divisional Forest Officers, Assam, conducted in audit during 2000-01 revealed losses, locking up of revenue, etc., amounting to Rs.15.14 crore in 72 cases, which fall into the following categories:

(Rupees in lakh)

SL. No.	Particulars	No. of cases	Amount
1	Loss of revenue due to shortage of/damage to timber	8	90.78
2	Loss of revenue due to non-settlement/delay in settlement of mahal, quarry, etc.	14	160.76
3	Loss of revenue due to non-disposal/delay in disposal of timber	10	128.73
4	Locking up of revenue due to delay in disposal or non-disposal of timber/ non-realisation of royalty	16	344.26
5	Loss of revenue due to illegal felling and removal of timber	8	395.92
6	Miscellaneous	16	393.43
	<b>Total</b>	<b>72</b>	<b>1513.88</b>

A few illustrative cases involving Rs.3.34 crore highlighting important audit observations are mentioned in the following paragraphs:

**5.2 Loss of revenue due to illicit felling and removal of timber**

Under the Assam Forest Regulation, 1891 and the Rules framed thereunder felling/removal of forest produce from forest areas without valid authorization constitutes an offence punishable with fine. Forest produce removed illegally is also liable to be seized by the forest officials. To prevent such illegal felling/removal of forest produce, the department has Forest Protection Squads and Forest Protection Force.

Test check of records of three Divisional Forest Officers revealed (between April 2000 and November 2000) that 7986.286 cu.m. of timber valued at Rs.1.85 crore were removed by miscreants as tabulated below :

Sl. No.	Name of the Division	Illegally felled stump/out-turn (in cu.m.)	Out-turn recovered by the department (in cu.m.)	Out-turn removed by the miscreants (in cu.m.)	Value of out turn removed (Rs. in lakh)	Period of removal
1.	Divisional Forest Officer, Nagaon South Division	12253.228	5185.355	7067.873	147.77	Illegal felling and removal took place during 1994-95 to 1999-2000
2.	Divisional Forest Officer, Cachar Division	2336.202	1562.099	774.103	30.99	Illegal felling and removal took place during 1996-97 to 1998-99
3.	Divisional Forest Officer, Aie Valley Division	477.01	332.7	144.310	5.78	Illegal felling and removal took place during 1993-94 to 1999-2000
<b>Total :</b>		<b>15066.440</b>	<b>7080.154</b>	<b>7986.286</b>	<b>184.54</b>	

Failure of the department to protect forest produce from illegal felling and to prevent removal of timber resulted in loss of revenue of Rs.1.85 crore.

The Divisions stated (between May – June 2000) that the depletion of forest is due to insufficient deployment of Forest Protection Force and also other factors such as shortage of vehicles and lack of sophisticated weapons.

The above matter was referred to the Government in June 2000/February 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **5.3 Loss of revenue due to short accountal of timber**

The departmentally operated as well as seized timber/logs are deposited in the nearest depot after their operation/seizure. Logs are then graded according to size and quantity and put to sale through tender. Protection of the timber from the vagaries of weather, damage or theft is the primary responsibility of the department.

During the course of audit of the records of the Divisional Forest Officer, Haltugaon, it was noticed (August 1998) that as per the timber lot register 202 timber lots of Sal, non-Sal, measuring 1359.384 cu.m. were in the stock during 1987-88 to 1996-97. However, as per inventory statement submitted (June 1998) to the High Power Committee only 652.498 cu.m. of timber were shown in the stock. Thus, 706.886 cu.m. (1359.384 cu.m. – 652.498 cu.m.) of timber indicated as pilferage led to a loss of revenue of Rs.40.93 lakh, calculated on the basis of the value of timber as shown in the inventorised statement.

On this being pointed out (October 1998) the division accepted (May 1999) the loss and stated that it occurred due to ethnic violence (1996) and removal of timber for fire wood purposes by relief camps. However, no FIR had been lodged by the Forest department. The above matter was referred to the Government in October 1998. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **5.4 Incorrect grant of extension of mahal period**

(a) According to the Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, a mahaldar is required to pay the mahal dues in regular quarterly instalments on due dates as provided in the agreement. Extension of mahal period may be granted by the Government only in exceptional circumstances provided, inter-alia that the mahal dues shall not have fallen in arrear due to the lapse on the part of the mahaldar.

Test check of the records of Divisional Forest Officer, Cachar Division, Silchar revealed (October –November 2000) that the Madhura Stone Mahal was settled (November 1994) at Rs.27.31 lakh for extraction of 10,000 cu.m. of stone for the working period from September 1994 to August 1996 by direct negotiation and the mahaldar extracted 6050 cu.m. of stone during the working period. He was, however, granted extensions on his prayer petitions on 3 occasions (March 1996, July 1997 and April 1998) to extract the balance quantity on payment of extension fee of Rs.1.42 lakh despite his default in

making payment of mahal dues. The grant of extension was in contravention of the above rules and had led to a loss of revenue of Rs.39.54 lakh (calculated proportionately on the mahal value less extension fee realized)

The above matter was referred to the Government in February 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**(b)** According to the Assam Sale of Forest Produce, Coupes and Mahal Rules 1977, no extension of the period of lease is ordinarily admissible. In exceptional circumstances the Government reserves to itself the power to grant extension of the mahal period on the merit of the case. By the judicial pronouncement of the Hon'ble High Court, Gauhati (IGLR 399) the said power of the Government has been restricted to the extent that the extension order should be issued before the expiry of the original lease period. Further sand/gravel in a river bed is in constant process of accumulation and depletion due to river current. As such, if a mahal is not worked, sand and gravel do not therefore become available later and working period so lost results in loss of revenue.

**(i)** Scrutiny of the records of the Divisional Forest Officer, North Lakhimpur Division, revealed (March 2000) that Ranganadi Sand and Gravel Mahal was settled (June 1995) with the highest bidder at Rs.4.25 lakh for the working period from 1 January 1995 to 31 December 1996 for extraction of 2500 cu.m. of sand and 2500 cu.m. of gravel. However, the operation of the mahal got delayed and continued upto 31 December 1998. In the meantime the mahal was put to sale for the term 1999-2000 and was settled with the highest bidder at Rs.13.21 lakh. However, the settlement could not be effected due to grant of extension (October 1999) to the existing mahaldar. Thus, the extension after the expiry of original lease period was not correct. This resulted in loss of revenue of Rs.12.59 lakh (calculated at the settled value reduced by extension fee realized).

The above matter was referred to the Department/Government in August 2000. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

**(ii)** Nanoi Sand and Gravel Mahal No.2 was settled (December 1991) with a mahaldar at Rs.1.41 lakh for extraction of 3000 cu.m. of gravel and 1500 cu.m. of sand for the working period from 20 December 1991 to 19 December 1993. The mahaldar was granted extension (May 1994) for a period of 1 year 6 months for extraction of the balance quantity of forest produce on payment of extension fee of Rs.6991.00.

The mahal for the working period from 20 December 1993 to 19 December 1995 was put to sale (November 1993), but the sale could not be effected due to grant of another extension (September 1997) for a further period of 2 years on payment of 40 per cent extension fee. The mahaldar, without paying the extension fee, submitted (September 1999) another prayer petition after a lapse of 2 years for reducing the extension fee, on receipt of which the Government directed (October 1999) the Divisional Officer to submit a detailed report. Thereafter no correspondence regarding the settlement of the mahal was on record. Thus, due to grant of irregular extension as well as non-settlement of mahal the department had to forgo revenue of Rs.8.53 lakh (calculated proportionately on the Government valuation of the mahal less extension of fees realized).

The above matter was referred to the Government in May 2000. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **5.5 Incorrect deduction of moisture content**

According to the agreement between the Government of Assam and Hindustan Paper Corporation (HPC) Limited regarding extraction of bamboo from Reserve Forest area, the Corporation shall pay royalty of Rs.62.50 per tonne of air dry bamboo at 10 (ten) per cent moisture content as per weighment carried out at weigh bridge installed at the project site.

Test check of the records of the Cachar and Hailakandi Forest Divisions, revealed (between July and November 2000) that HPC Limited extracted 1,54,041 MT of bamboo during the years 1997-98 to 1999-2000. The department allowed a deduction of 82,916.8 MT on account of moisture content instead of admissible quantum of 15,404.2 MT. This resulted in short payment of royalty of Rs.34.89 lakh on excess deduction of moisture content.

The above matter was referred to the Department/Government in October 2000/February 2001. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

### **5.6 Loss of revenue due to lapse on the part of the department**

According to the Assam Forest Regulation 1891, protection of forest property is the primary responsibility of the Forest Department. Further, the scheme of departmental operation of timber envisages expeditious disposal of soft wood species of timbers such as Hollong, Bonsum etc., which lose their commercial

value after 3 months of felling due to infection and vagaries of weather. Operation of timber includes sectioning, logging and dragging/transporting of timber to a forest depot.

Test check of the records of the Divisional Forest Officer, Tinsukia Logging Division revealed (November 1995) that wind-fallen trees of soft wood species (Hollong, Gamari etc.) measuring 458.21 cu.m. of timber valued at Rs.13.34 lakh had been lying in the jungle for more than one and a half years and no steps were taken for their departmental operation, despite the fact that this delay caused deterioration in the commercial value of timber and loss of Rs.13.34 lakh to the Government.

On this being pointed out the department, while admitting the loss, stated (September 2000 and March 2001) that the wind-fallen trees could not be operated for want of fund.

The above matter was referred to the Government in January 1996. No reply has been received. The matter was followed up with reminder to the Secretary in July 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).



## Chapter - 6

### Receipts of Police Department

#### 6.1 Receipts of Police Department

#### 6.2 Introduction

The receipts of the Police department mainly comprise recovery of cost of police forces supplied to Central Government, Central/State Public Sector Undertakings, Banks, private companies and individuals within the State of Assam. Besides, there are fines and forfeitures and other receipts such as sale proceeds of condemned Government vehicles, condemned tyres, tubes and melted brass, etc. The receipts of the department are to be credited to the Government account.

The system of assessment, collection and accounting of receipts are governed by 4 Principal Acts\*, regulations made thereunder, Government orders issued from time to time and provisions of the Assam Treasury Rules.

#### 6.3 Organisational set up

The Director General of Police (DGP), Assam is the Head of the Department, who is assisted by Additional Director General of Police (ADGP), Inspectors General of Police (IGP), Deputy Inspectors General of Police (DIGP) and Assistant Inspectors General of Police (at Headquarters), Deputy Inspectors General of Police (DIGP) and Superintendents of Police (SP) in charge of ranges and districts respectively. Besides, DGP is also assisted by ADGP (Special Branch) and Director, Bureau of Investigation (Economic Offences) (BIEO).

The responsibilities for assessment and collection of police cost in respect of Government Railway Police (GRP) lies with the DGP while for deployment of police force within the district, the same lies with the SP of the district.

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\* The Police Act, 1861, Assam Police Manual, Indian Arms Act, 1959 and the Motor Vehicles Act, 1988.

#### 6.4 Scope of Audit

With a view to evaluating the efficiency and effectiveness of the system and procedure relating to assessment and collection of receipts under Police department, records for the years 1995-96 to 1999-2000 of 10\* district offices (out of 26), 5\*\* Assam Police Battalions (out of 16 Assam Police Battalions), DGP, Assam, ADGP (Special Branch) and Director, BIEO were test-checked between December 2000 and March 2001.

#### 6.5 Highlights

✓ Leave salary and pension contribution amounting to Rs.109.09 lakh were not demanded/short demanded from Railways.

[Paragraph 6.7.A(i)]

✓ Police cost amounting to Rs.527.95 lakh recoverable from seven departments/ organisations remained unrealised.

[Paragraph 6.8(i)]

✓ Under-assessment of cost of Rs.57.79 lakh due to non-raising of revised demand due to revision of pay scales, dearness allowance, etc.

[Paragraph 6.8(iii)]

#### 6.6 Trend of revenue

The budget estimates and actual receipts during the 5 years from 1995-96 to 1999-2000 were as under :

\* SP City, Guwahati; SP Government Railway Police, Pandu; SP, Cachar; Dibrugarh; Jorhat; Karimganj; Nagaon; North Lakhimpur; Sonitpur, and Sivsagar.

\*\* 3<sup>rd</sup>, 4<sup>th</sup>, 10<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> Assam Police Battalions.

(Rupees in lakh)

Year	Budget estimates	Actuals	Variations Excess (+) Shortfall (-)	Percentage of variation Excess (+) Shortfall (-)
(1)	(2)	(3)	(4)	(5)
1995-96	230.00	363.91	(+) 133.91	(+) 58
1996-97	270.00	256.37	(-) 13.63	(-) 5
1997-98	284.00	708.42	(+) 424.42	(+) 149
1998-99	298.00	459.60	(+) 161.60	(+) 54
1999-2000	312.00	706.32	(+) 394.32	(+) 126

The reasons for variations, though called for (December 2000), have not yet been received from the Government and the department (October 2001). However, as can be seen from the above during the years from 1995-96 to 1999-2000 the variation between budget estimates and actuals ranged from (-) 5 per cent to 149 per cent which indicates that the estimates were not framed properly on a realistic basis.

The Department stated (June 2001) that due to non-receipt of the cost of Police Guards from Railways, Airport Authority, Banks and other organizations in a particular year the budget estimates could not be framed on a realistic basis.

#### 6.7 Non-recovery of share of cost of Government Railway Police (GRP) from Railways

As per provision of the Assam Police Manual read with Government of India, Ministry of Railways (Railway Board) letter dated July 1993, the cost of GRP has to be shared between the State Government and Railways on 50 : 50 basis provided the strength of GRP is determined with the approval of Railways with effect from 1 April 1979. The code further provides that pay and all types of allowances of GRP personnel including officers and supervisory staff up to the level of IGP are to be taken into consideration for the purpose of calculating Railways' share of cost provided that they are exclusively in charge of GRP. The cost of pensionary charges is also to be included while calculating Railways' share.

**A.(i) Non-demand/short-demand of leave salary and pension contribution**

Sub-Rule 4 of Rule 84 of Assam Police Manual, Part-II, stipulates that contributions for leave salary and pension at the rate of 25 per cent of average pay (including special pay) are to be taken into account while calculating the cost of police guards.

The records of DGP & SP, GRP revealed (December 2000) that cost of pensionary charges, though recoverable, was either not taken into account or short accounted for while claiming reimbursement of 50 per cent of total expenditure on GRP. The total expenditure on pay of GRP personnel during the years 1995-96 to 1999-2000 was Rs.973.36 lakh on which the amount of leave salary and pension contribution at the rate of 25 per cent (as per provision of the Manual) worked out to Rs.243.34 lakh, out of which though 50 per cent amounting to Rs.121.67 lakh was recoverable from Railways, the Department recovered only Rs.12.58 lakh. This has resulted in non-demand/short-demand of leave salary and pensionary charges of Rs.109.09 lakh.

The department stated (June 2001) that revised claim was being raised.

**A.(ii) Short-demand of dues other than leave salary and pension contribution**

As per details of the expenditure furnished to audit by SP, GRP for the five years ended 1999-2000 the total expenditure other than leave salary and pensionary charges on GRP was Rs.2137.70 lakh against which the Directorate considered expenditure of Rs.1968.70 lakh only and accordingly raised the demand (Rs.984.35 lakh) on 50:50 basis. Thus, non-inclusion of Rs.169.00 lakh in respect of SP, GRP resulted in short-demand of Rs.84.50 lakh (50 per cent of Rs.169.00 lakh).

While accepting the audit observations the department stated (June 2001) that there is no scope of rectification of the figures at this stage.

**6.8 Non-recovery of the cost of police personnel**

Under the provision of the Assam Police Manual, additional police guards would be supplied to various Government departments and other organizations on request and the cost of police guards/personnel are realisable from the beneficiary departments/organizations on the basis of the statement of cost submitted at the time of supply of the guards/personnel which is subject to

revision if the Government revised the pay of the force. The manual is silent about the mode of recovery of the amount payable by departments/organizations on this account.

(i) Scrutiny of records of DGP revealed (December 2000) that against Rs.734.55 lakh being the cost of deployment of Police guards between April 1981 and March 2000 in 7 (seven) departments/organizations, only Rs.206.60 lakh was received (Airports Authority of India : Rs.142.99 lakh, All India Radio : Rs.41.16 lakh, Posts and Telegraph Department : Rs.16.73 lakh and Indian Oil corporation : Rs.5.72 lakh) and Rs.527.95 lakh remained outstanding (May 2001) as detailed below :

Sl. No.	Name of the Department/Authority	Amount outstanding (Rupees in lakh)
1.	Airports Authority of India	427.13
2.	All India Radio	30.92
3.	Posts and Telegraph	30.11
4.	Indian Oil Corporation	22.18
5.	Reserve Bank of India	7.99
6.	Tata Tea Limited	6.65
7.	Shree Automobile	2.97
	<b>Total :</b>	<b>527.95</b>

Of these M/s. Tata Tea Limited refused (December 2000) to pay Rs.6.65 lakh being the cost of police guards deployed as there was no request for deployment of forces from their end. Thus, non-payment of the cost of police guard by the departments/organizations resulted in locking up of Government revenue amounting to Rs.527.95 lakh for periods ranging from 1 year to 19 years. Government has not yet framed adequate deterrent measures like mandatory levy of penalty/interest for delay in payment.

In reply the department stated (June 2001) that efforts were being made to realise the outstanding dues.

(ii) In course of scrutiny of the records of SP, Dibrugarh and Cachar districts it was noticed that assessment of cost in respect of permanent guards deployed at the premises of three<sup>#</sup> organizations during 1996-97 to 1999-2000 was not made. This resulted in non-realisation of receipts amounting to Rs.65.11 lakh.

<sup>#</sup> Airports Authority of India, Mohanbari, Kumbhirgram and United Bank of India, Silchar Branch

On this being pointed out in audit, Superintendent of Police, Dibrugarh stated (March 2001) that the demand would be raised. Reply of the SP, Cachar has not been received (October 2001).

(iii) Pay of the police force was revised with effect from 1 January 1996. In course of test check of records of the Superintendents of Police of eight districts<sup>5</sup> it was noticed that the cost of police guards was claimed at pre-revised rates of pay and allowances instead of revised rates which resulted in short-demand of the cost of police guards amounting to Rs.57.79 lakh.

On this being pointed out in audit SP, North Lakhimpur raised (February 2001) the revised demand for Rs.0.49 lakh, while SP, Karimganj, SPs of City, Guwahati; Sonitpur; Dibrugarh and Sivsagar districts stated (between February and June 2001) that revised demands were being raised. Reply from others have not been received (October 2001).

#### **6.9 Non-realisation of the cost of police provided on court orders**

Police protection was given to individuals based on court orders. Directions regarding period of protection and mode of collection were not generally specified in such orders.

Scrutiny of records of the ADGP (Special Branch), Guwahati revealed (January 2001) that in 5 cases relating to the period from September 1997 to March 2000 the orders passed by the Hon'ble Gauhati High Court were silent about the recovery of cost and the period of protection to be given. However, the cost of police guards worked out to Rs.8.62 lakh (upto March 2000) which was not raised by the department. The department also did not approach the Hon'ble High Court for getting necessary orders for collection of the cost of police guards provided.

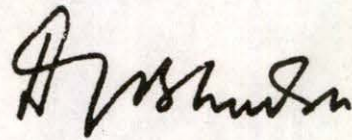
On this being pointed out in audit the department stated (January 2001) that the Government was being requested to move the Hon'ble High Court to consider necessary orders for payment of the aforesaid amount by the petitioners being cost of security provided to them.

#### **6.10 Non-realisation of Travelling Allowance (TA) of Police Escorts**

Under the provisions of sub-rule 6 under Rule 84 of the Assam Police Manual, travelling allowances, including daily allowance, when proceeding on transfer to and returning from disturbed areas is to be borne by the beneficiary department. The statement of cost of police guard on account of TA is required to be submitted at the time of supply of the guard.

<sup>5</sup> City Guwahati, Cachar, Dibrugarh, Karimganj, North Lakhimpur, Nagaon, Sonitpur and Sivsagar

Records of the SP, City, Guwahati revealed that Police Escorts were provided to the Reserve Bank of India, Guwahati during the period from 1994 to 1998. TA bills of the police escort parties deployed for performance of such duty were paid by the Police department on 59 occasions amounting to Rs.4.93 lakh. But the statement of cost on account of TA was submitted to the Reserve Bank of India, Guwahati in April 1999 after lapse of periods ranging from 1 year to 5 years and the re-imbusement is still awaited (March 2001). Reasons for delay in placing demands for recovery of T.A. claims with the Reserve Bank of India, Guwahati were neither on records nor stated.

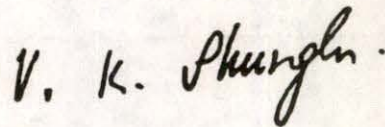


(D.J. BHADRA)  
Accountant General (Audit), Assam

GUWAHATI

The 18 JAN 2002

Countersigned



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

NEW DELHI

The 30 JAN 2002





**Annexure 'A'**

**Statement showing position of outstanding Inspection Reports/Paragraphs as on 30 June 2001**

*(Reference: Paragraph 1.5)*

Sl. No	Name of Department	Total number of outstanding IRs/Paragraphs at the end of June 2001			Total number of outstanding IRs/Paragraphs not settled for more than 10 years			Total number of IRs against which initial replies not received	
		Year of issue	No. of IRs	No. of Paragraphs	Year of issue	No. of IRs	No. of Paragraphs	Year of issue	No. of IRs
1.	Taxation	1986-87 to June 2001	214	760	1986-87 to 1990-91	12	14	1999-2000 to December 2000	34
s2.	Agricultural Income Tax	1996-97 to June 2001	6	78	Nil	Nil	Nil	Nil	Nil
3.	Land revenue	1993-94 to June 2001	459	1121	Nil	Nil	Nil	1997-98 to December 2000	160
4.	Geology and Mining	1989-90 to June 2001	8	30	10989-90 to 199091	1	3	Nil	Nil
5.	Registration	1993-94 to June 2001	71	130	Nil	Nil	Nil	1999-2000 to December 2000	13
6.	Transport	1990-91 to June 2001	130	588	1990-91	3	16	Up to December 2000	11
7.	State Excise	1993-94 to June 2001	95	223	Nil	Nil	Nil	Up to December 2000	12
8.	Forest and Wildlife	1988-89 to June 2001	22	896	1988-89 to 1990-91	15	16	Up to December 2000	11
<b>Total:</b>			<b>1205</b>	<b>3826</b>		<b>31</b>	<b>49</b>		<b>241</b>

Statement showing position of outstanding inspection  
Reports Paragraphs as on 30 June 1961

Serial Number	Name of the Department	Total number of outstanding inspection reports as on 30 June 1961	Total number of inspection reports completed as on 30 June 1961	Total number of inspection reports pending as on 30 June 1961	Percentage of completion	
					of total reports	of pending reports
1	...	...	...	...	...	...
2	...	...	...	...	...	...
3	...	...	...	...	...	...
4	...	...	...	...	...	...
5	...	...	...	...	...	...
6	...	...	...	...	...	...
7	...	...	...	...	...	...
8	...	...	...	...	...	...
9	...	...	...	...	...	...
10	...	...	...	...	...	...
		<b>Total</b>	<b>...</b>	<b>...</b>	<b>...</b>	<b>...</b>