



REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR
1987-88
No. 1 of 1989

(REVENUE RECEIPTS)
GOVERNMENT OF ORISSA



REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR
1987-88
No. 1 of 1989

(REVENUE RECEIPTS)
GOVERNMENT OF ORISSA

TABLE OF CONTENTS

	Reference to Paragraph	Page
Prefatory Remarks		viii
Overview		ix

CHAPTER 1

GENERAL

Trend of Revenue Receipts	.. 1.1	1
Analysis of Revenue Receipts	.. 1.2	1
Variations between Budget/ Revised estimates and actuals	.. 1.3	4
Cost of collection	.. 1.4	7
Arrears in assessment of sales tax	.. 1.5	8
Arrears in disposal of sales tax refund cases	.. 1.6	9
Uncollected revenue	.. 1.7	9
Out standing Inspection Reports	.. 1.8	17

CHAPTER 2

SALES TAX

Results of Audit	.. 2.1	20
Irregular grant of exemption from tax	.. 2.2	21

	Reference to Paragraph	Page
Escapement of taxable turnover	.. 2.3	24
Short-levy due to application of incorrect rate of tax	.. 2.4	28
Inadmissible deductions	.. 2.5	31
Omission to levy tax on goods not utilised for declared purposes	.. 2.6	33
Short-levy of additional sales tax	.. 2.7	34
Mistakes in computation	.. 2.8	35
Non-levy of interest on belated payment of tax	.. 2.9	36
Exemption allowed under Orissa Sales Tax Act, 1947, including results of cross-verification	.. 2.10	37

CHAPTER 3

TAXES ON MOTOR VEHICLES AND PASSENGERS

Results of Audit	.. 3.1	48
Short-collection of tax on transport vehicle of other states plying temporarily in Orissa	.. 3.2	49

	Reference to	
	Paragraph	Page
Short-collection of additional tax on stage carriages authorised to ply under Reciprocal Agreement	.. 3.3	50
Short-realisation/non-realisation of tax/additional tax in respect of stage carriages	.. 3.4	51
Non-realisation of tax in respect of vehicles violating off-road declarations	.. 3.5	53
Acceptance of tax without production of no objection certificates	.. 3.6	56
Short-realisation of composite tax on vehicles plying under the National/Zonal Permit Scheme	.. 3.7	57
Non-realisation of additional tax from goods vehicles of other States covered by counter-signature under reciprocal agreements	.. 3.8	59
Under-assessment of tax in respect of stage carriages plying without permits	.. 3.9	60
Non-levy of tax for the intervening periods	.. 3.10	61

	Reference to Paragraph	Page
Non-collection of penalty for belated payment of composite tax on vehicles plying under the National Permit Scheme/ Zonal Permit Scheme	. . 3.11	62
Loss of revenue due to non-realisation of compounding fees at the prescribed rates in lieu of suspension of permits	. . 3.12	64
Non-realisation of composite tax	. . 3.13	65
Issue of tax tokens without realisation of arrears of tax	. . 3.14	66
Non-realisation of Trade Certificates fees	. . 3.15	67
Non-raising of demands for unpaid taxes and non-imposition of penalty	. . 3.16	68
Improper maintenance of records	. . 3.17	70

CHAPTER 4 LAND REVENUE

Results of Audit	. . 4.1	72
Non-realisation of Premium and Rent	. . 4.2	73
Non-assessment of compulsory basic water rate	. . 4.3	75

		Reference to Paragraph	Page
Short-realisation of royalty and non-realisation of cess on minor minerals	..	4.4	77
Non-realisation of annual fee	..	4.5	78

CHAPTER 5 MINING RECEIPTS

Results of Audit	..	5.1	80
Non-assessment of royalty and cess on mineral found short	..	5.2	81
Short-collection of royalty and cess on Iron-Ore fines	..	5.3	82
Non-realisation of surface rent on mining area	..	5.4	83
Non-levy of interest on mining dues	..	5.5	84

CHAPTER 6 FOREST RECEIPTS

Results of Audit	..	6.1	86
Under-assessment of royalty due to misclassification of a specie of trees	..	6.2	87
Non-recovery of royalty due to unauthorised removal of bamboos	..	6.3	88

	Reference to	
	Paragraph	Page
Loss of forest materials obtained through cleaning and thinning operations	. . 6.4	89
Non-realisation of short-fall on re-sale of forest coupes	. . 6.5	90
Under-assessment of royalty due to variation in the marking list and passing list of coupes	. . 6.6	91
Loss of revenue due to misclassification of trees in the marking list	. . 6.7	93
Loss of revenue due to non-sale of cashew nut lots to highest bidders	. . 6.8	94
Non-realisation of compensation	. . 6.9	96
Non-realisation of extension fees	. . 6.10	97
Loss of revenue due to dropping of certificate case	. . 6.11	98
Irregular refund of revenue to a forest contractor	. . 6.12	99
Non-levy of interest on belated payment of consideration money	. . 6.13	100
Accountal and disposal of property seized in forest offence cases	. . 6.14	101

Reference to
Paragraph Page

**CHAPTER 7
STATE EXCISE**

Results of Audit	..	7.1	113
Non-levy of excise duty on excess wastage of rectified spirit	..	7.2	113
Short-levy of excise duty on medicinal preparations containing alcohol	..	7.3	114
Short-levy/non-levy of excise duty on India made foreign liquor issued to military bodies/Troops	..	7.4	116

PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Orissa for the year 1987-88 is presented in this separate volume. The material in the Report has been arranged in the following order :-

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

Chapters 2 to 7 deal with certain cases and points of interest which came to notice in the audit of Sales Tax, Taxes on Motor Vehicles and Passengers, Land Revenue, Forest Receipts, Mining Receipts and State Excise etc.

OVERVIEW

1. General

(i) The total revenue raised by the Government of Orissa during the year 1987-88 from tax and non-tax sources was Rs.542.84 crores. While the tax revenue comprised mainly of Sales Tax (Rs.206.06 crores), Motor Vehicles Tax (Rs.34.61 crores), Electricity Duty (Rs.61.12 crores), non-tax realisation came mainly from Forest (Rs.63.56 crores), Interest (Rs.8.52 crores), and Mines and Minerals receipts (Rs.15.39 crores). [Paragraphs 1.1 and 1.2]

(ii) Arrears in collection of Sales Tax revenues registered a marginal fall from Rs.123.93 crores on 31.3.1987 to Rs.123.61 crores on 31.3.1988. But the overall position showed an increase of Rs.18.46 crores against 9 principal heads of revenue (tax and non-tax) and the uncollected revenue which stood at Rs.290.20 crores on 31.3.1987 shot upto Rs.308.66 crores on 31.3.1988. [Paragraph 1.7]

(iii) Test audit during the year revealed a large number of cases of under-assessments, short levy of taxes, etc., totalling Rs.8.94 crores, many of which occurred despite objections of a similar nature having been brought to the notice of Government in previous audit reports. The main areas were Sales Tax (Rs.4.30 crores), Motor Vehicles Tax (Rs.1.44 crores), Land Revenue and related receipts (Rs.2.14 crores), State Excise (Rs.0.30 crore), Forest Receipts (Rs.0.54 crore) and Mining Receipts (Rs.0.22 crore).

(iv) This report includes representative cases of non-levy/short-levy of tax, duty, interest, penalty etc., involving a financial effect of about Rs.2.09 crores noticed during test check in 1987-88 and in earlier years.

2. Sales Tax

(i) In the case of one dealer in Sambalpur Circle tax on sale of cement valuing Rs.99.29 lakhs, was levied at a concessional rate of 4 per cent instead of 8 per cent leading to short levy of Rs.3.97 lakhs. [Paragraph 2.4]

(ii) In the case of a registered dealer in Cuttack Circle, an assessing officer while making assessment on best judgement basis erroneously computed tax as Rs.0.40 lakh instead of Rs.4.00 lakhs resulting in a short levy of Rs.3.60 lakhs. [Paragraph 2.8]

(iii) In 441 cases demands of arrear tax amounting to Rs.21.53 lakhs were treated as finally settled without levy of interest of Rs.3.18 lakhs. [Paragraph 2.9]

(iv) Audit review on "Exemptions allowed under Orissa Sales Tax Act, 1947 including results of cross verification" indicated :-

- (a) Allowance of irregular exemptions resulting in loss of revenue amounting to Rs.6.09 lakhs; and [Paragraph 2.10.4]
- (b) Existence of deficiencies in procedures for cross verification leading to loss of revenue. [Paragraph 2.10.6]

3. Taxes on Motor Vehicles

(i) Short-realisation of motor vehicle tax and additional tax in respect of 115 stage carriages, due to adoption of incorrect distances for which these were permitted to ply amounted to Rs.6.52 lakhs. [Paragraph 3.4(i)]

(ii) Non-realisation of tax and penalty from the owners of 138 motor vehicles and stage carriages for violating off-road declarations, amounted to Rs.46.46 lakhs [Paragraph 3.5]

(iii) Realisation of composite tax from 1165 vehicles permitted to ply in Orissa under the National Permit Scheme only for part of the year instead of full year covered by the permit resulted in loss of revenue amounting to Rs.7.23 lakhs. [Paragraph 3.7]

(iv) Non-realisation of tax at the appropriate rate in respect of 169 stage carriages found plying without permits amounted to Rs.4.88 lakhs. [Paragraph 3.9]

(v) Non-levy of tax for intervening periods in respect of 145 vehicles amounted to Rs.6.65 lakhs. [Paragraph 3.10]

(vi) Non-realisation of composite tax and penalty from 232 goods vehicles of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement amounted to Rs.7.80 lakhs. [Paragraph 3.13]

4. Land Revenue

(i) Premium and ground rent amounting to Rs.1.90 lakhs were not recovered from Orissa Maritime and Chilka Area Development Corporation for 659.62 acres of land given to them on advance possession and similar premium and ground rent amounting to Rs.3.64 lakhs were not recovered from Orissa Fish Seed Development Corporation for establishment of fish seed hatcheries on 2260.88 acres of land given to them on advance possession. [Paragraph 4.2]

(ii) Loss of revenue due to delay in completing assessment in respect of minor irrigation works amounted to Rs.1.22 lakhs towards compulsory basic water rate.

[Paragraph 4.3]

5. Mining Receipts

(i) In the case of one lessee (a Government Undertaking), irregular allowance of processing loss on beneficiation

and shortage of limestone, resulted in short-levy/non-levy of royalty and cess amounting to Rs.5.35 lakhs. [Paragraph 5.2]

(ii) Non-recovery of surface rent from Orissa Mining Corporation operating on working permission amounted to Rs.1.04 lakhs. [Paragraph 5.4]

(iii) Non-levy of interest on belated payments of royalty and cess in 226 cases amounted to Rs.1.78 lakhs. [Paragraph 5.5]

6. Forest Receipts

(i) Unauthorised reclassification of trees from 1st class to 2nd class and from 2nd class to 3rd class led to under-assessment of royalty amounting to Rs.26.25 lakhs. [Paragraph 6.2]

(ii) Compensation for damage caused to Government forest amounting to Rs.14.40 lakhs was not recovered in 381 cases. [Paragraph 6.9]

(iii) Non-realisation of extension fees from Orissa Forest corporation on account of delay in extracting/removing the forest produce within the contract period amounted to Rs.1.14 lakhs. [Paragraph 6.10]

(iv) Non-levy of interest on belated payment of consideration money amounted to Rs.3.70 lakhs in respect of 92 cases. [Paragraph 6.13]

(v) Audit review on "Accountal and disposal of property seized in forest offence cases" revealed :

(a) Compounding fees amounting to Rs.2.05 lakhs not realised in respect of 5820 cases finalised and seized forest produces remained undisposed commencing from 1949-50 onwards.

- (b) 1,21,896 forest offence cases remained to be finalised as on 31.3.1987 for want of enquiry reports. Forest produce worth Rs.23 lakhs remained undisposed of and produce worth Rs.9.19 lakhs were reported as not available in the field. The cases relate to years as early as 1947-48 onwards.
- (c) In respect of 174 undetected forest offences, forest produce worth Rs.10.64 lakhs seized since 1957-58 remained to be disposed of and in respect of 1139 cases, forest produce valuing Rs.6.98 lakhs seized during 1958-59 to 1986-87 were completely deteriorated. [Paragraph 6.14]

7. State Excise

(i) In the case of four bonded manufacturers at Cuttack, duty on medicinal preparation containing alcohol was accepted at a lower rate leading to short realisation of duty amounting to Rs.6.07 lakhs. [Paragraph 7.4]

(ii) Non application of revised rates of excise duty on I.M.F.L. issued to military bodies/troops resulted in short - levy amounting to Rs.4.36 lakhs in two districts. [Paragraph 7.5]

CHAPTER I

GENERAL

1.1 Trend of Revenue Receipts

The total receipts of the Government of Orissa for the year 1987-88 were Rs.1333.08 crores against the anticipated receipts of Rs.1494.38 crores. The total receipts during the year registered an increase of 8.54 per cent over those of 1986-87 (Rs.1228.22 crores). Out of the total receipts, revenue raised by State Government amounted to Rs.542.84 crores, of which tax revenue accounted for Rs.386.74 crores and balance of Rs.156.10 crores from non-tax revenue. Receipts from Government of India amounted to Rs.790.24 crores.

1.2 Analysis of Revenue Receipts

a) An analysis of the receipts during the year 1987-88 alongwith the corresponding figures for the preceding two years, is given below:

	1985-86	1986-87	1987-88
	(In crores of rupees)		
I. Revenue raised by State Government			
(a) Tax Revenue	285.90	337.84	386.74
(b) Non-Tax Revenue	<u>130.60</u>	<u>158.30</u>	<u>156.10</u>
Total	<u>416.50</u>	<u>496.14</u>	<u>542.84</u>
II. Receipts from the Government of India			
(a) States share of divisible Union Taxes	275.54	414.39	402.14
(b) Grants-in-aid	<u>248.80</u>	<u>317.69</u>	<u>388.10</u>
	<u>524.34</u>	<u>732.08</u>	<u>790.24</u>

	1985-86	1986-87	1987-88
	(In crores of rupees)		
III. Total Receipts of the State (I+II)	940.84	1228.22	1333.08
IV. Percentage of I to III	44.3	40.39	40.72

Thus, the State mobilised 40.72 per cent of its total receipts for 1987-88 and the remaining 59.28 per cent came from the Union Government.

b) Tax revenue raised by the State Government from tax revenue constituted about 71.24 per cent of the States own revenue receipts during the year 1987-88. An analysis of the tax revenue for the year 1987-88 and the preceding two years is given below:

	1985-86	1986-87	1987-88	Increase(+) Decrease(-) in 1987-88 with refer- ence to 1986-87
	(In crores of rupees)			
1.Land Revenue	15.92	20.81	30.16 (+)	9.35
2.Stamp and Registration fees	17.29	20.35	22.18 (+)	1.83
3.State Excise	21.63	22.83	26.52 (+)	3.69
4.Sales Tax	148.35	176.14	206.06 (+)	29.92
5.Taxes on vehicles	25.29	31.84	34.61 (+)	2.77

	1985-86	1986-87	1987-88	Increase(+) Decrease(-) in 1987-88 with refer- ence to 1986-87
--	---------	---------	---------	---

(In crores of rupees)

6. Taxes on goods and passengers	2.54	0.19	0.67 (+)	0.48
7. Taxes and Duties on Electricity	49.81	60.18	61.12 (+)	0.94
8. Other taxes and Duties and commodities and services	5.07	5.50	5.42 (-)	0.08
Total	<u>285.90</u>	<u>337.84</u>	<u>386.74 (+)</u>	<u>48.90</u>

Interest, Education, Public Health, Sanitation and Water supply, Forest, Mines and Minerals, Irrigation, Navigation, Drainage and Flood Control Projects and Police were the Principal sources of non-tax revenue during 1987-88 which constituted about 28.76 per cent of the total revenue raised by the State. An analysis of the non-tax revenue under the principal heads for the year 1987-88 and the preceding two years is given below:

	1985-86	1986-87	1987-88	Increase(+) Decrease(-) in 1987-88 with refer- ence to 1986-87
(In crores of repees)				
1. Interest	11.16	12.48	8.52	(-) 3.96
2. Education	3.69	3.69	4.03	(+) 0.34
3. Public Health Sanitation and Water Supply	2.43	3.26	3.17	(-) 0.09
4. Forest	48.43	49.94	63.56	(+) 13.62
5. Irrigation, Navigation, Drainage and Flood Control Projects	4.71	4.43	6.99	(+) 2.56
6. Mines and Minerals	9.75	13.82	15.39	(+) 1.57
7. Police	1.81	2.92	4.43	(+) 1.51
8. Others	48.22	67.76	50.01	(-) 17.75
Total	<u>130.60</u>	<u>158.30</u>	<u>156.10</u>	<u>(-) 2.20</u>

1.3 Variations between Budget/ revised estimates and actuals

(a) The variations between the Budget estimates and actuals of tax revenue and non-tax revenue during

the year 1987-88 are given below:

	Budget estimate	Revised estimate	Actuals	Variation increase(+) decrease(-) with reference to revised estimate	Percentage of variation
(In crores of rupees)					
A. Tax Revenue	422.51	394.31	386.74	(-) 7.57	(-) 1.92
B. Non-tax Revenue	184.78	153.29	156.10	(+) 2.81	(+) 1.83

The total variation between the revised estimate and the actuals during 1987-88 was Rs.4.76 crores and it comprised of a shortfall of Rs.7.57 crores (1.92 per cent) under tax revenue and an increase of Rs.2.81 crores (1.83 per cent) under non-tax revenue.

(b) Variation between budget/revised estimates and actuals under the principal heads of revenue are given below :

Heads of Revenue	Budget estimates	Revised estimates	Actuals	Variation increase(+) decrease(-) with reference to revised estimates	percentage of variation with reference to revised estimates
(1)	(2)	(3)	(4)	(5)	(6)
(In crores of rupees)					
1. Land Revenue	24.21	21.11	30.16	(+) 9.05	(+) 42.87

Heads of Revenue	Budget estimates	Revised estimates	Actuals	Variation increase(+) decrease(-) with reference to revised estimates	Percentage of variation with reference to revised estimates
(1)	(2)	(3)	(4)	(5)	(6)
	(In crores of rupees)				
2. Stamp and Registration Fees	20.81	20.81	22.18	(+) 1.37	(+) 6.58
3. State Excise	28.68	24.50	26.52	(+) 2.02	(+) 8.24
4. Sales Tax	214.84	214.84	206.06	(-) 8.78	(-) 4.09
5. Taxes on Vehicles	35.64	35.64	34.61	(-) 1.03	(-) 2.89
6. Taxes and Duties on Electricity	92.00	71.08	61.12	(-) 9.96	(-) 14.01
7. Interest	23.82	9.96	8.52	(-) 1.44	(-) 14.46
8. Education	5.30	5.30	4.03	(-) 1.27	(-) 23.96
9. Forest	56.70	62.00	63.56	(+) 1.56	(+) 2.52
10. Mines and Minerals	15.44	18.95	15.39	(-) 3.56	(-) 18.79
11. Police	2.93	2.93	4.43	(+) 1.50	(+) 51.19

The short-fall of revenue was more than 10 per cent under "Taxes and Duties on Electricity" (14.01 per cent), "Interest" (14.46 per cent), "Education" (23.96 per cent) and "Mines and Minerals" (18.79 per cent). The shortfall under "Taxes and Duties on Electricity" was stated to be due to substantial

reduction in actual consumption of electricity *vis-a-vis* the projected consumption and non-collection of arrear electricity duty. Reasons for the shortfall under the other heads were not furnished by the concerned departments (February 1989).

1.4 Cost collection

Expenditure incurred in collecting the major revenue receipts during the year 1987-88 and the corresponding figures for the preceding two years are given below:

Head of Account	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
(In crores of rupees)				
1. Land Revenue	1985-86	15.92	28.61	179.7
	1986-87	20.81	33.68	161.8
	1987-88	30.16	29.11*	96.5
2. Forest	1985-86	48.43	9.08	18.7
	1986-87	49.94	9.90	19.8
	1987-88	63.56	11.43*	17.9
3. Stamp and Registration Fees	1985-86	17.29	1.63	9.4
	1986-87	20.35	2.15	10.6
	1987-88	22.18	2.31	10.4

* The expenditure incurred under 'Land Revenue' and 'Forests' were not only for collection of revenue, but also for other administrative functions. *Pro-rata* distribution of expenditure to collection of revenue has not been received from the concerned departments (February 1989).

Head of Account	Year	Gross collection (In crores)	Expenditure on collection of rupees	Percentage of expenditure
4. State Excise	1985-86	21.63	1.84	8.5
	1986-87	22.83	2.11	9.2
	1987-88	26.52	2.66	10.0
5. Sales Tax	1985-86	148.35	3.72	2.5
	1986-87	176.14	4.54	2.5
	1987-88	205.06	5.04	2.4
6. Taxes on Vehicles	1985-86	25.29	0.59	2.3
	1986-87	31.84	0.71	2.2
	1987-88	34.61	0.70	2.0
7. Taxes and Duties on Electricity	1985-86	49.81	0.19	0.3
	1986-87	60.18	0.19	0.3
	1987-88	61.12	0.14	0.2

1.5 Arrears in assessment of Sales Tax

The number of assessments of Sales Tax cases finalised by the department and the assessments pending finalisation as at the end of March 1988 and the preceeding year, as reported by the department, are indicated below:

Year	Number of cases due for assessment	Number of assessments complete	Number of assessments pending at the end of the year	Percentage of pending cases to total cases.
1986-87	3,29,267*	1,63,020*	1,66,247*	50.49
1987-88	3,57,518*	1,81,641*	1,75,877*	49.19

* Includes arrear cases, current cases and remand cases.

1.6 Arrears in disposal of Sales Tax refund cases

The position of pendency of refund cases at the end of March 1988, as reported by the department, is indicated below:

	Number of cases	Amount involved (In lakhs of rupees)
i. Refund cases pending on 1st April 1987	2,098	291.36
ii. Claim received during the year	1,552	239.29
Total :	<u>3,650</u>	<u>530.65</u>
iii. Cases disposed of during the year	1,712	289.05
iv. Balance of the cases at the end of March 1988	1,938	241.60

1.7 Uncollected revenue

According to the information furnished by the departments, detailed analysis of arrears of revenue pending collection at the end of March 1988 in respect of the principal sources of revenue are given below. For purpose of comparison, arrears as at the end of March 1987 have also been indicated.

Source of revenue	Amount of arrears pending collection as on 31st March 1987 (In lakhs of rupees)	Amount of arrears pending collection as on 31st March 1988 (In lakhs of rupees)	Remarks
1. Sales Tax	12393.22	12361.21	The year-wise break-up of the arrears was not available. Out of the

Source of revenue	Amount of arrears pending collection as on 31st March 1987	Amount of arrears pending collection as on 31st March 1988	Remarks
	(In lakhs of rupees)		
2. Taxes and Duties on Electricity	3114.18	2341.48	<p>arrears, recovery of Rs.6953.92 lakhs had been stayed by Judicial Courts and Departmental authorities Rs.316.95 are proposed to be written off, Rs.1327.04 lakhs are covered by certificate proceedings and Rs.3763.30 lakhs are covered under third party and show cause notices (effective process of realisation).</p> <p>The year-wise break-up of arrears was not available. Of the arrears, Rs.1744.89 lakhs were outstanding against Orissa State Electricity Board, Rs.572.24 lakhs against private agencies and Rs.24.35 lakhs against other Appointed Authorities. Out of the arrears of Rs.2341.48 lakhs, Rs.33.95 lakhs had been covered by certificate proceedings, demand</p>

Source of revenue	Amount of arrears pending collection as on 31st March 1987 (In lakhs of rupees)	Amount of arrears pending collection as on 31st March 1988 (In lakhs of rupees)	Remarks												
3.Land Revenue	468.23	516.64	<p>for Rs.548.43 lakhs were under dispute, and for the remaining arrears of Rs.1759.10 lakhs, action for recovery was yet to be taken.</p> <p>The year-wise break-up of the arrears was not available. Category-wise break-up of the arrears at the end of March 1988 is indicated below:</p> <table border="0"> <tr> <td>Rent</td> <td>122.51 lakhs</td> </tr> <tr> <td>Cess</td> <td>187.08 lakhs</td> </tr> <tr> <td>Nistar cess</td> <td>5.89 lakhs</td> </tr> <tr> <td>Sairat</td> <td>40.51 lakhs</td> </tr> <tr> <td>Miscellaneous Revenue</td> <td><u>160.65 lakhs</u></td> </tr> <tr> <td>Total:</td> <td><u>Rs 516.64 lakhs</u></td> </tr> </table>	Rent	122.51 lakhs	Cess	187.08 lakhs	Nistar cess	5.89 lakhs	Sairat	40.51 lakhs	Miscellaneous Revenue	<u>160.65 lakhs</u>	Total:	<u>Rs 516.64 lakhs</u>
Rent	122.51 lakhs														
Cess	187.08 lakhs														
Nistar cess	5.89 lakhs														
Sairat	40.51 lakhs														
Miscellaneous Revenue	<u>160.65 lakhs</u>														
Total:	<u>Rs 516.64 lakhs</u>														
4.State Excise	47.07	47.89	<p>The accumulated arrear dated back from 1947-48 onwards. The arrears upto 1985-86 amounted to Rs.40.13 lakhs. Rupees 5.94 lakhs pertained to the year</p>												

Source of revenue	Amount of arrears pending collection as on 31st March 1987	Amount of arrears pending collection as on 31st March 1988	Remarks
5. Mines and minerals	247.59	313.90	<p>1986-87 and Rs.1.82 lakhs to the year 1987-88. Out of the arrears, recovery of Rs.6.16 lakhs had been stayed by High Court and other judicial authorities, Rs.2.15 lakhs are proposed to be written off, Rs.36.67 lakhs are covered by certificate proceeding and the balance of arrears of Rs.1.91 lakhs are under the process of realisation.</p> <p>Out of the arrears, Rs.23.72 lakhs pertained to the period prior to 1962, Rs.7.89 lakhs from 1962-63 to 1971-72, Rs.39.92 lakhs from 1972-73 to 1981-82, Rs.106.65 lakhs from 1982-83 to 1986-87 and Rs.135.72 lakhs for 1987-88. Of the above arrears, demand covered by certificate</p>

Source of revenue	Amount of arrears pending collection as on 31st March 1987	Amount of arrears pending collection as on 31st March 1988	Remarks
6.Police	262.18	283.18	<p>proceedings amounted to Rs.89.89 lakhs, demand stayed by Judicial courts amounted to Rs.17.28 lakhs, demands under dispute were Rs.7.84 lakhs, demands proposed to be written off were Rs.27.78 lakhs and demands under recovery at various stages amounted to Rs.171.11 lakhs. Of the total arrears, Rs.121.05 lakhs were outstanding against 14 parties.</p> <p>The year-wise break-up of arrears was not furnished by the department. Substantial arrears were outstanding against Government of Assam (Rs.35.59 lakhs), Government of Bihar(Rs.19.52 lakhs), Government of West Bengal (Rs.12.52 lakhs), Government of Andhra Pradesh(Rs.16.37 lakhs), Machhkund Hydro-Electricity</p>

Source of revenue	Amount of arrears pending collection as on 31st March 1987 (In lakhs of	Amount of arrears pending collection as on 31st March 1988 rupees)	Remarks
-------------------	---	--	---------

Project (Rs.36.54 lakhs), State Bank of India (Rs.13.29 lakhs) and Balimela Hydro-Electric Project (Rs.75.06 lakhs).

7. Interest	10,783.63	12,102.94	The arrears represent (i) interest on assets transferred to Orissa State Electricity Board (Rs.4993.66 lakhs) (ii) interest on Talcher Thermal Power Station (Rs.2842.00 lakhs) (iii) interest on cash loan to Orissa State Electricity Board (Rs.664.59 lakhs) and (iv) Talcher Thermal Power Station expansion cash loan (Rs.3602.69 lakhs). Year-wise break-up is furnished below:
(a) Interest payable by Orissa State Electricity Board			
		upto	1985-86 Rs.9518.28
			1986-87 Rs.1265.34
			1987-88 Rs.1319.32
			<u>Rs.12102.94</u>

Source of revenue	Amount of arrears pending collection as on 31st March 1987 (In lakhs of	Amount of arrears pending collection as on 31st March 1988 rupees)	Remarks
-------------------	---	--	---------

(b)Interest on loans for community Development	61.17	61.16	The outstanding amount pertains to 13 types of loans granted prior to 1968-69. No overdue amount has been written off.
--	-------	-------	--

(c)Interest on loans by Industries Department	408.13	1601.35	Year-wise break-up:	
			upto 1985-86	Rs.1147.98
			1986-87	Rs.254.36
			1987-88	Rs.199.01
			<u>Rs.1601.35</u>	

The amounts are recoverable from Co-operative Societies(Rs.83.74 lakhs) Orissa Small Industries Corporation (Rs.74.85 lakhs), Orissa Agro Industries Corporation (Rs.73.27 lakhs), Industrial Development Corporation(Rs995.46 lakhs), Orissa State Financial Corporation (Rs.232.81 lakhs), Industrial Promotion and Investment Corporation Ltd.(Rs.9.38 lakhs) and other bodies (Rs.131.84 lakhs).

Source of revenue	Amount of arrears pending collection as on 31st March 1987 (In lakhs of rupees)	Amount of arrears pending collection as on 31st March 1988 (In lakhs of rupees)	Remarks
8. Stationery and printing	58.98	41.67	<p>The arrears of Rs.2.03 lakhs pertained to the period upto 1974-75, Rs.36.46 lakhs for the years 1975-76 to 1986-87 and Rs.3.18 for the year 1987-88. The item-wise break-up of the arrears as furnished by the Department (August 1988) is given below :</p> <p>i. Stationery receipts Rs.13.43 lakhs</p> <p>ii. Sale of Gazette etc. Rs. 0.48 lakh</p> <p>iii. Press receipts Rs.23.65 lakhs</p> <p>iv. Other receipts Rs. 4.11 lakhs</p> <p style="text-align: right;"><u>Rs.41.67 lakhs</u></p>
9. Forest	1175.66	1196.32	<p>The year-wise break-up of arrears was not available. Out of the arrears, Rs.114.89 lakhs are covered under certificate proceedings, Rs.17.69 lakhs under dispute and Rs.1063.74 lakhs under other cases.</p>

Information regarding the arrears of revenue pending collection at the end of March 1988 and its year-wise break-up etc., in respect of interest and taxes on vehicles, called for from the Department (May 1988) has not been received (February 1989).

1.8 Outstanding Inspection Reports

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

(b) At the end of June 1988, 2,746 Inspection Reports, containing 10,502 audit objections, involving receipts of Rs.5109.29 lakhs issued upto December 1987 were awaiting settlement.

The year-wise break-up of the outstandings as at the end of June 1988 is given below:

		<u>Number of outstanding</u>		<u>Revenue involved</u>
		<u>Inspection</u>	<u>Audit</u>	<u>(In lakhs of rupees)</u>
		<u>Report</u>	<u>objections</u>	
Upto	1985-86	2,326	7,914	4156.10
	1986-87	244	1,530	701.14
				<u>252.05</u>
December	1987	<u>176</u>	<u>1,058</u>	<u>5109.29</u>
		<u>2,746</u>	<u>10,502</u>	

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

Department	Nature of receipts	Number of reports	Number of audit objections	Revenue involved (In lakhs of rupees)
Revenue and Excise	Land Revenue	634	1876	2169.50
	Stamp and Registration Fees	448	697	7.06
	State Excise	121	486	612.00
Finance	Sales Tax	519	3491	569.85
	Entertainment Tax	225	473	7.50
Commerce and Transport (Transport)	Taxes on vehicles	193	1538	397.62
	Taxes on Passengers	109	361	407.67
Forest, Fisheries, and Animal Husbandry (Forest)	Forest	373	1312	555.00
Mining and Geology	Mining Receipts	124	268	383.09

(d) Out of 2746 reports, issued upto December 1987, in respect of 163 reports containing 1062 audit objections, even first replies had not been received till

30th June 1988. The extent of delay in respect of replies in these cases is shown below:

Period of delay	Number of Inspection Reports	Number of out standing Audit objections	Revenue involved (In lakhs of rupees)
Upto 6 months	35	120	64.86
Over 6 months and upto 12 months	42	255	99.73
Over 12 months and upto 18 months	38	272	138.79
Over 18 months and upto 24 months	24	188	133.47
Over 24 months	<u>24</u>	<u>227</u>	<u>103.97</u>
Total :	<u>163</u>	<u>1062</u>	<u>540.82</u>

The position referred to in the foregoing paragraphs was reported to Government in December 1988; their reply has not been received (February 1989).

CHAPTER 2

SALES TAX

2.1 Results of Audit

A test check of Sales Tax assessments and refund cases, and the connected documents of the Commercial Tax Officers conducted in audit during the period from April 1987 to March 1988, revealed under-assessment of tax and loss of revenue amounting to Rs.430.41 lakhs in 1172 cases, which may broadly be categorised as under.

	Number of cases	Amount (In lakhs of rupees)
1. Short-levy due to incorrect computation of taxable turnover	77	19.94
2. Under-assessment due to application of incorrect rates of tax	46	14.79
3. Irregular grant of exemption from tax	120	43.15
4. Non-levy of interest	441	3.18
5. Short-levy of additional Sales Tax	59	1.96
6. Other cases	<u>429</u>	<u>347.39</u>
	<u>1172</u>	<u>430.41</u>

Some of the important cases noticed during 1987-88 and earlier years and important findings of audit review

on "Exemptions allowed under Orissa Sales Tax Act, 1947 including results of cross verification" are mentioned in the succeeding paragraphs.

2.2 Irregular grant of exemption from tax

a) Under the Orissa Sales Tax Act, 1947, purchase or sale of (i) raw-materials which directly go into the composition of finished products (ii) machineries and spare parts thereof actually required for starting and maintaining a unit, and (iii) packing materials required for packing finished products in the same form as manufactured by the unit when sold to or purchased by a registered dealer, who is certified by the Director of Industries as a village/cottage/small scale industry, starting production inside the State on or after the 1st August 1980 is exempted from levy of tax provided that the finished products of such industrial unit are sold inside Orissa or in course of inter state trade or export from Orissa. The exemption is allowable for a period of 'five' years from the date of certification of the unit by the Director of Industries subject to the condition that the dealer or his authorised agent furnishes a declaration in the prescribed form to the effect that the raw-materials will directly go into the composition of finished product to be manufactured in his manufacturing unit.

(i) In Cuttack-I (Central) Circle, the sale of sanitary ware and glazed tiles valuing Rs.1,12,868 made by a dealer during the year 1985-86 to seven small scale industries were exempted from levy of tax on a simple perusal of the declarations in Form IA which were furnished by the dealer. As the goods sold were neither raw-materials, nor machineries and spare parts thereof or packing materials the exemption was not admissible. The irregular exemption resulted in tax being levied short by Rs.13544 (including additional sales tax).

On this being pointed out (July 1987) in audit the case was reopened (July 1987). The Commissioner of Sales Tax had stated (October 1988) that the reassessment proceedings have been completed (March 1987) raising a demand of Rs.6829 out of which the dealer had paid a sum of Rs.2000 (June 1988) and preferred appeal for the balance.

The case was reported to Government in November 1987; their reply has not been received (February 1989).

(ii) In Puri-II Circle, sale of boulders valuing Rs.2,14,437 made by a registered dealer during the year 1983-84 to an industrial unit were exempted from levy of tax based on the prescribed declaration furnished by him, though the industry started production prior to 1st August 1980. The irregular exemption resulted in tax being levied short by Rs.17155 (including additional sales tax).

On this being pointed out (June 1987) in audit the case was reopened (June 1987). Further report has not been received (February 1989).

The case was reported to Government in January 1988; their reply has not been received (February 1989).

(iii) In Bhubaneswar II Circle, sales of machineries valuing Rs.1.94 lakhs made by a registered manufacturing dealer on 4th October 1983 (i.e. during 1983-84) was allowed this exemption at the stage of assessment completed on 31.3.1987; though the purchasing dealer was not entitled to purchase this free of tax on account of the expiry of a period of 5 (five) years from the date of certification (12th September 1978). The irregular

exemption had resulted in tax being levied short by Rs.24210 (inclusive of Rs.968 towards additional sales tax).

On this being pointed out in audit (January 1988) the assessing officer reopened (January 1988) the case for reassessment. It was reported in September 1988 that the assessment proceedings have been completed raising a demand of Rs.24210 (including Additional sales tax).

The matter was reported to Government in June 1988; their reply has not been received (February 1989).

b) Sales in the course of export are not exigible to tax as per the provisions of Article 286(i) (b) of the Constitution of India. Under the Central Sales Tax Act, 1956, a sale of goods shall be deemed to take place in the course of export of goods only if the sale either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontier of India. By virtue of an amendment to the Act *ibid* effective from 1st April 1976 the last sale of any goods preceding the sale occasioning the export of these goods out of the territory of India shall also be deemed to be sale in course of export, if such last sale took place after and was for the purpose of complying with the agreement or order for or in relation to such export. The Central Sales Tax (Registration and Turnover) Rules 1957 therefore provide that the dealer, selling the goods for export and claiming exemption of tax under the Act, may produce a certificate in Form 'H', signed by the exporter, indicating the number and date of the agreement with the foreign buyer, and also of the purchase order, placed with the dealer for the purpose. Further as per Notification issued by Government in April 1976, the sale of goods meant for export to Nepal was exempted from levy of tax,

subject to production of suitable certificate in the form of land customs receipt(s) in support of such export.

In Bolangir-I Circle, sales valuing Rs.2.15 lakhs made by a State Government Undertaking during the year 1979-80 were exempted from tax on the ground that these sales were in the course of export. But the sales were not in course of export as:

(a) Sales worth Rs.1.89 lakhs made to a Bombay dealer were not supported by certificate in form 'H'.

(b) Sales worth Rs.26340 meant for export to Nepal were not supported by original land customs receipt.

The incorrect exemptions, thus resulted in an under-assessment of tax amounting to Rs.22611 (including additional sales tax).

On this being pointed out in audit (July 1982), the assessing officer reopened the case for reassessment and ultimately raised a demand of Rs.22611 (September 1987) as detailed above under both the Orissa Sales Tax and Orissa Additional Sales Tax Acts, treating the transactions as sales inside Orissa.

The matter was reported to Government in October 1982; in their reply (May 1988) Government stated that a sum of Rs.11300/- has been realised, and the dealer had filed a petition for stay of recovery of demanded dues which has been rejected by the Assistant Commissioner of Sales Tax of Bolangir Range. Against this order, the dealer has filed revision petition before the Commissioner of Sales Tax, Orissa, which is pending for disposal.

2.3 Escapement of taxable turnover

(a) Under Section 12(2)(a) of the Orissa Sales Tax Act, 1947, if the assessing officer is not satisfied without

requiring the presence of a registered dealer who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him on a date and a place to be specified therein either to attend in person or to cause to be produced there any evidence on which such dealer may rely in support of such returns (i.e. the Books of Accounts). Under Section 12(3) *ibid*, if the dealer fails to comply with all terms of a notice issued under sub section 2, *ibid* assess the dealer to the best of judgement, the amount of tax due from him.

In Keonjhar Circle, one registered dealer (a Regional Co-operative Multipurpose Society) did not produce the books of accounts in response to the notice issued under Sub-Section 2 of Section 12 for the year 1982-83 and the assessing officer on the basis of materials available in the record proceeded to assess the dealer to the best of judgement and determined the gross turnover and taxable turnover at Rs.15.48 lakhs and 13.28 lakhs respectively leaving the differential amount of Rs.2.20 lakhs towards deduction on account of tax free sale. However, while actually levying the tax, turnover of only Rs.8.12 lakhs was assessed resulting in an escapement of tax on the turnover of Rs.5.16 lakhs involving a non-levy of Rs.20,640 (computed at the minimum rate of 4 per cent).

On this being pointed out, in audit (January 1987), the assessing officer reopened the case (February 1987), for re-assessment. Further report has not been received (February 1989).

The case was reported to Government in July 1987; their reply has not been received (February 1989).

(b) Under Section 12(4) of the Orissa Sales Tax Act, 1947, if a registered dealer does not furnish return in respect of any period by the prescribed date, the assessing authority shall, after giving the dealer a reasonable opportunity of being heard, assess the dealer to tax in respect of such period to the best of his judgement.

In Bhubaneswar-II Circle, a registered dealer in air-conditioning materials was assessed (March 1987) to tax for the year 1984-85 on best judgement on the basis of available materials. But, while computing tax on the taxable turnover, a sales turnover of Rs.1.88 lakhs escaped assessment, resulting in an under-assessment of Rs.30,962 (including additional sales tax of Rs.938).

On this being pointed out in audit (January 1987) the assessing officer rectified the mistake by reassessing the dealer for the escaped turnover in February 1988. It was reported in September 1988 that the dealer had closed down business in the meanwhile and his registration certificate has been cancelled with effect from 1st April 1985. No amount has been recovered.

The matter was reported to Government in June 1988; their reply has not been received (February 1989).

(c) Under Section 12(5) of the Orissa Sales Tax Act, if upon information which has come to his possession, the Commissioner is satisfied that any dealer has been liable to pay tax under this Act in respect of any period, and has nevertheless, without sufficient cause failed to get himself registered, he may at any time within five years from the expiry of the year to which that period relates, call for return under sub-section (1) of Section 11 and after giving the dealer a reasonable opportunity of being heard, assess the dealer to the best of his judgement in respect of such period and all subsequent periods.

In Koraput-II Circle, a works contractor (an unregistered dealer) was assessed (November 1985) for the year 1984-85 on best judgement basing on the new case report submitted by the investigation unit of the department. In determining the gross value of the works contract received by the dealer, the amount was taken less by Rs.5 lakhs (after allowing deduction towards labour and service charges) due to computational error. The mistake resulted in under-assessment of tax of Rs.18,180 (including additional sales tax).

On the mistake being pointed out in audit (November 1987), the assessing officer reopened (November 1987) the case. Further report has not been received (February 1989).

Government to whom the matter was reported in March 1988 stated in their reply (October 1988) that under the orders of the Honourable High Court of Orissa the dealer had paid an amount of Rs.105272 out of the original assessment of Rs.276988 and the case is subjudice. The reassessment proceedings initiated at the instance of audit is still pending.

(d) Under the Orissa Sales Tax Act, 1947, "Sale" means a transfer of property in goods for cash or deferred payment or other valuable consideration.

In Sambalpur-II Circle, it was noticed in audit that a manufacturing dealer had made stock transfers of chemical fertilisers of an estimated value of Rs.34.66 lakhs to another dealer having his separate sales turnover of Bhubaneswar Circle during 1980-81 and 1981-82, and the same were not included in the sale turnover.

On this being pointed out (August 1983) in audit, the assessing officer reopened the case for reassessment

and raised (February 1987) an additional demand of Rs.1.65 lakhs (including additional sales tax) for these two years treating the transactions as "Sale".

The matter was reported to government in October 1983; Government stated (September 1988) that an amount of Rs.0.30 lakh has been recovered on 20th November 1987 and further report regarding recovery of balance amount has not been received (February 1989).

2.4 Short-levy due to application of incorrect rate of tax

(a) Under Orissa Sales Tax Act, 1947, sale of goods of the class or classes specified in the certificate of registration of the purchasing dealer, intended for use by him in the manufacture of processing or packing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power are liable to the concessional rate of tax of 4 per cent subject to the production of true declaration by the purchasing registered dealer or his authorised agent in Form IV.

In Sambalpur-II Circle, sale of cement valuing Rs.99.29 lakhs, made by one registered dealer during 1985-86 to three registered dealers at the concessional rate of 4 per cent on the strength of declarations in Form IV was accepted in assessment, on the ground that the stock was to be used in construction of quarters, godowns etc.

It was judicially held* that materials required for building or repairing factories and staff quarters could not be deemed to be for use in the manufacture of goods for sale. Thus, the allowance of concessional

* M/s Bharatia Electric Steel Company Vs Commercial Tax Officer, (1956) STC 527 (Calcutta).

rate of tax on such sale of cement instead of levying tax @ 8 per cent resulted in short-levy of tax amounting to Rs.3.97 lakhs.

On this being pointed out in audit (November 1987), the assessing officer reopened (November 1987) the case. Further report has not been received (February 1989).

The matter was reported to Government in February 1988; their reply has not been received (February 1989).

(b) Under the Orissa Sales Tax Act, 1947, tax on sale of machineries and component parts is leviable at the rate of 12 per cent with effect from 1st April 1982.

In Bhubaneswar-I Circle, the taxable turnover of a dealer amounting to Rs.7.06 lakhs on account of sale of machineries and component parts for the year 1985-86 was taxed incorrectly at 8 per cent instead of at the correct rate of 12 per cent. This resulted in a short levy of tax of Rs.28260.

On the mistake being pointed out in audit (August 1987), the case was reopened (September 1987). Further report has not been received (December 1988).

The matter was reported to Government (March 1988); their reply has not been received (February 1989).

(c) Under the Orissa Sales Tax Act, 1947, sales of vegetable seeds are taxable at 4 per cent, whereas sales of green vegetables including onions, potatoes, ginger, garlic and lemon except when sold in sealed containers were exempted from levy of tax with effect from 1st April 1984.

In Keonjhar Circle, a dealer sold seed potatoes valuing Rs.4.57 lakhs during the years 1984-85 and 1985-86. The sale was allowed as tax-free treating the same as table potatoes. Since seed potatoes and table potatoes are two different commodities in commercial parlance, seed potatoes were taxable at 4 per cent. The incorrect exemption resulted in non-levy of tax to Rs.20,563 (including additional sales tax).

On this being pointed out (September 1987) in audit, the assessing officer agreed (September 1987) to examine this point at the time of disposal of the reassessment proceedings already started against the dealer in January 1987. Further report has not been received (February 1989).

The case was reported to Government in March 1988; their reply has not been received (February 1989).

(d) Under the Orissa Sales Tax Act, 1947, sale of sugar candy is taxable at 4 per cent. It was also judicially held* that sugar candy was the result of a different process other than the one involved in the manufacture of sugar and was not to be included in sugar (a tax free item).

One dealer in Cuttack-I Circle, dealing exclusively in sugar and sugar candy had effected sales of sugar candy valuing Rs.10.52 lakhs during the years 1981-82 and 1982-83. The assessing officer did not levy tax thereon treating the same as tax free. The incorrect exemption had thus resulted in a short levy of tax amounting to Rs.47,320.

* Vide Subba Rao Vs State of Orissa (1986)61/STC-49 (Orissa).

On this being pointed out (February 1986), in audit, the assessing officer reopened (February 1986) the case. Further report has not been received (February 1989).

The matter was reported to Government in June 1986; their reply has not been received (February 1989).

2.5 Inadmissible deductions

(a) Under the Orissa Sales Tax Act, 1947, a dealer is entitled to deduction from his gross turnover, the amount representing sales to other registered dealers after obtaining declarations from them in the prescribed form duly signed, to the effect that the goods so purchased are specified in their registration certificates and are meant for resale in Orissa under the Orissa Sales Tax Act, 1947, such declarations marked "Original" shall be obtained from purchasing dealers and furnished to the assessing authority before completion of assessment, in order to claim deductions from gross turnover for the purpose of levy of sales tax.

In Mayurbhanj Circle, a registered dealer was allowed (March 1985 and October 1985) a deduction of Rs.10.64 lakhs and Rs.52,956 from the gross turnovers relating to the years 1983-84 and 1984-85 respectively, towards sale to registered dealers on furnishing photostat copies of declarations in lieu of 'Original' ones. Irregular allowance of deduction in these cases had resulted in tax being levied short by Rs.44694 (@ 4 per cent).

On this being pointed out (October 1986) in audit the cases were reopened and an additional demand of Rs.44694 was raised (December 1986). The dealer had made (March 1987) part payment of Rs.13000 and had obtained (March 1987) a stay order from the Assistant Commissioner of Sales Tax, Balasore range. Further developments have not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(b) Under the provisions of the Orissa Sales Tax Act, 1947, "Sale Price" means the amount payable to a dealer as consideration for the sale or supply of any goods, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for any thing done by the dealer in respect of the goods at the time on or before delivery thereof. This includes freight and delivery charges not separately charged.

In Balasore-I Circle, a dealer was given exemption of Rs.6.69 lakhs from the gross turnover towards freight and delivery charges for the year 1984-85 though as per the agreement with the buyer, this formed a part of the sale price. This resulted in an under-assessment of sales tax amounting to Rs.53,536 (i.e. at 8 per cent) and additional Sales Tax amounting to Rs.2676 (at 0.5 per cent).

On this being pointed out by audit (March 1987) the assessing officer reopened the assessment and raised a further demand of Rs.56,212 (October 1987).

The matter was reported to Government in July 1987; their reply has not been received (February 1989).

(c) As per explanation II below Section 5(2)(A)(a)(iii) of the Orissa Sales Tax Act, 1947, any dealer who claims deduction on account of sale of goods at a subsequent point in respect of goods taxable at first point in a series of sales in Orissa is required to furnish a declaration to that effect in the prescribed manner to the assessing officer within the prescribed time limit.

In Cuttack-II Circle, a dealer was allowed a deduction of Rs.1,75,000 for the year 1984-85 on account of sale of goods taxable at the first point, though the

dealer did not furnish any declaration to that effect. Thus a sum of Rs.1,75,000 involving a tax effect of Rs.14,000 (at the general rate of 8 per cent) escaped assessment.

On this being pointed out (December 1987), in audit, the assessing officer agreed to reopen the case. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1988; their reply has not been received (February 1989).

2.6 Omission to levy tax on goods not utilised for declared purposes

Under the Orissa Sales Tax Act, 1947, when a registered dealer purchases goods specified in his registration certificate without payment of tax, for resale in State by furnishing a declaration to that effect in the prescribed form, but utilises those goods for any other purpose, the price of the goods so purchased shall be included in his taxable turnover, and he shall be liable to pay tax thereon.

(i) A registered dealer of Keonjhar Circle effected inter-State sales of logs and sized wood valuing Rs.1.67 lakhs during the year 1982-83 from out of the stock purchased by him without payment of tax on furnishing the prescribed declaration, that, the goods were meant for resale inside the State. As the dealer had utilised the goods otherwise than for resale in the State, the purchase value of the goods estimated at Rs.1.50 lakhs was required to be included in the taxable turnover which was not done. This resulted in non-realisation of tax amounting to Rs.12024.

On the omission being pointed out in audit (August 1987), the assessing officer agreed (August 1987) to reopen the case. Further developments have not been reported.

The case was reported to Government in March 1988; their reply has not been received (February 1989).

(ii) A registered dealer of Rourkela-I Circle purchased Coaltar-effluents valuing Rs.1.36 lakhs in the year 1983-84 from another registered dealer without payment of tax, for resale by furnishing the prescribed declarations. However, instead of making resale, he utilised the goods in the manufacture of coal tar. At the stage of assessment, this aspect of contravention was lost sight of and the purchase price of coaltar-effluents was not included in the taxable turnover. This had resulted in under-assessment of tax amounting to Rs.10,854.

On the omission being pointed out (July 1987) in audit, the assessing officer reopened (July 1987) the case. Report on the result of reassessment has not been received (February 1989).

The case was reported to Government in October 1987; their reply has not been received (February 1989).

2.7 Short levy of additional Sales Tax

Under the Orissa Additional Sales Tax Act, 1975, as amended in 1979, every dealer shall in addition to sales tax be liable to pay additional sales tax at the rate of half per cent on his gross turnover for that year, other than the turnover relating to declared goods and any goods exempted from tax under the Orissa Sales Tax Act, 1947. Sale of pesticides was exempted with effect from 5th April 1986.

In Bolangir-I Circle, a dealer was allowed a deduction of Rs.27.36 lakhs being the sales turnover of fertiliser, pesticides and cement from the gross turnover for the year 1985-86 for the purpose of levy of additional sales tax. The deduction allowed was incorrect as the sale turnover did not relate to declared goods or was exempted from tax. The mistake had resulted in a short-levy of additional sales tax amounting to Rs.13,679.

On the mistake being pointed out (May 1987) in audit, the assessing officer raised (May 1987) an additional demand of Rs.14,496 (including interest), out of which a sum of Rs.10,496/- was paid (June 1987) by the dealer, and the dealer was granted permission to pay the balance amount in instalments by December 1987.

The case was reported to Government in September 1987. In their reply dated 25th November 1988 it was stated that the balance sum of Rs.4000 was paid on 26th November 1987.

2.8 Mistakes in computation

In one case, involving under-assessment due to mistakes in computation, an amount of Rs.11,224 was recovered on being pointed out (June 1987) in audit. One more case is mentioned below:

Under the Orissa Sales Tax Act, 1947, if a registered dealer does not furnish return in respect of any period by the prescribed date, the assessing authority shall, after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgement, the amount of tax if any, due from the dealer.

In Cuttack-I (East Circle), the assessing officer assessed (October 1986) a registered dealer to the best of his judgement on the basis of available materials pertaining to the year 1984-85. However, while computing tax at 8 per cent on a turnover of Rs.50 lakhs, the amount of tax was erroneously computed as Rs.0.40 lakh instead of the correct amount Rs.4.00 lakhs resulting in short levy of tax to the tune of Rs.3.60 lakhs.

On the mistake being pointed out (May 1987) in audit the assessing officer rectified (May 1987) the mistake and raised a further demand of Rs.3.60 lakhs. Report on recovery has not been received (February 1989).

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

2.9 Non-levy of interest on belated payment of tax

Under the Orissa Sales Tax Act, 1947, (as amended from 1st June 1976) and the Central Sales Tax (Orissa) Rules 1957 (as amended from 1st July 1971), if a dealer defaults in making payment of any amount of tax by the due date specified in the notice issued to him, he would be liable to pay interest on the amount due, at 18 per cent (6 per cent prior to 12th August 1983) per annum for the first three months and 24 per cent (12 per cent prior to 12th August 1983) thereafter under the Orissa Sales Tax Act, 1947, and 6 per cent for the first three months and 12 per cent thereafter under the Central Sales Tax (Orissa) Rules 1957, provided that no interest would be charged in respect of any amount remaining unpaid at any time prior to 1st January 1971 under the State Act and prior to 1st July 1971 under the Central Act.

In 15 Commercial Tax Circles*, local Sales Tax demands amount to Rs.21.21 lakhs outstanding on or after 1st January 1971 (425 cases) and Central Sales Tax demands amounting to Rs.0.32 lakh outstanding on or after 1st July 1971 (16 cases) were finally settled during the year without collecting interest on the belated payments. Interest not levied amount to Rs.3.18 lakhs.

On the omission being pointed out in audit (between April 1987 and March 1988), the assessing officers agreed (between April 1987) and March 1988) to raise the demands. Reports on action taken have not been received (February 1989).

The cases were reported to Government (between June 1987 and July 1988); their reply has not been received (February 1989).

2.10 Exemption allowed under Orissa Sales Tax Act, 1947 including results of cross verification.

2.10.1 Introductory

Under the Orissa Sales Tax Act, 1947, as amended from time to time, the tax is levied actually at the last point of sale in a series of sales leading to exemptions of sales to Registered dealers at a few earlier points, on the strength of declarations of the purchasing dealers that these goods would be resold in Orissa. Since 1963 various types of goods have been made subject to tax at the first point of sales in Orissa to simplify the assessment and collection of sales tax, to avoid a large number

-
- * 1. Rourkela-I 2. Rourkela-II 3. Dhenkanal(at Angul)
 4. Baripada 5. Cuttack-I(Central) 6. Cuttack-I(East)
 7. Cuttack-I(West) 8. Cuttack-II 9. Keonjhar 10. Sambalpur-I
 11. Sambalpur-II 12. Sambalpur-III 13. Puri-I
 14. Phulbani 15. Bhubaneswar-I

of such declarations being examined and cross verified with reference to the books of accounts of the purchasing dealers mostly with the help of other sales tax officers, and cut across the delay arising therefrom.

In order to encourage setting up of new Small Scale industries which commenced production of goods with effect from 1st August 1980 the State Government amended the Rate Chart under Item 26-A by which purchase and sale of raw-materials, packing materials, machinery etc., for use in production would be tax-free for a period of 5 years from the date of certification by the Director of Industries as a Small Scale Industry.

Besides, certain goods have been exempted from tax subject to fulfilment of certain conditions. Since, the exemption is conditional, tax liability is attracted when these conditions are not fulfilled.

While departmental instructions exist to make cross verification of sales to registered dealers by referring the copies of declarations to other wards of the same circle or to other circles, and keep the assessment pending till receipt of their replies, the growth of business in Orissa over the last two decades had made this practically impossible. Rather, though assessments are completed now in time accepting the declaration as correct and references made subsequently, and cases reopened where adverse reports are received.

2.10.2 *Scope of audit*

In order to see how far the exemptions allowed were as per the avowed policy of government and system of cross verification is implemented at the level of assessing officers, records in 6 circles (Viz. Cuttack-I East, Cuttack-I West, Cuttack-I Central, Bhubaneswar-I, Rourkela-I and Ganjam-I) were test checked (February 1988 to

June 1988). This involved a gross turnover of Rs.956.80 crores out of which a sum of Rs.487.23 crores (representing 51 per cent of the gross turnover) was allowed towards exemptions/deductions, which was subjected to detailed scrutiny and cross verification where necessary to the extent feasible.

2.10.3 Organisational set up

As per the Act, the Commissioner of Sales Tax, Orissa, is competent to assess the dealers. But, his powers of assessment stand delegated to the various Sales Tax Officers/Additional Sales Tax Officers who work in various wards spread over in 27 circles of the State for facility of smooth completion of the proceedings. While the appellate powers are exercised by the Assistant Commissioners of Sales Tax in charge of ranges, the revisionary powers are exercised by the Commissioner and Additional Commissioner of Sales Tax.

Various lapses which came to notice are highlighted below.

2.10.4 Highlights

(i) Sales of besan made out of dal, and not out of pulse which suffered tax, was exempted. Amount of short levy was Rs.4.18 lakhs.

(ii) Sales of oil cakes worth Rs.6.50 lakhs made to industrial units (soap, fertiliser and solvent) was made tax free, contrary to the provision in the rate chart that such sales should be for purpose of cattle/poultry feed. Amount of short levy was Rs.0.55 lakh.

(iii) Sales valuing Rs.7.47 lakhs made by two dealers to 11 dealers (S.S.I. Units) who commenced production prior to 1st August 1980 were exempted leading to an under-assessment of Rs.0.63 lakh.

(iv) Excess deductions allowed towards sales to registered dealers, detected in the accounts of 11 dealers of Cuttack-I East and Rourkela-I circle involved a tax effect of Rs.0.20 lakh.

(v) Inadmissible deduction allowed in the accounts of two registered dealers of Cuttack-I East and Rourkela Circle towards sale of an item not incorporated in the certificate of registration of the purchasing dealer resulted in an under-assessment of Rs.0.29 lakh.

(vi) Improper treatment of the Main Branch of the dealer as a point for purpose of claiming exemption towards sale of first point tax paid goods resulted in an under-assessment of Rs.0.24 lakh.

2.10.5 *Erroneous exemptions*

(a) As per item 8-A of the rate chart of tax free goods, sale of dal and besan has been declared tax free, provided that the pulses out of which dal and besan were manufactured suffered tax. In Orissa pulses are exigible to purchase tax.

Two dealers of Cuttack-I East Circle and Cuttack-I Central Circle who sold besan valuing Rs.92.91 lakhs were allowed this concession during the year 1985-86 on the ground that sale tax was paid on the dal out of which the besan was manufactured, which was inadmissible and resulted in a short levy of Rs.4.10 lakhs (including additional Sales Tax of Rs.0.47 lakh).

On being pointed out, the assessing officer reopened the assessment (June 1988).

(b) Under item 30-D of the Rate Chart of tax free goods, sale of oil cake for the purpose of cattle/poultry feed has been made tax free which implied that

sale for other purposes would attract tax liability.

One dealer in Ganjam Circle, was found to have been allowed tax free sales of oil cakes worth Rs.6.50 lakhs, though this was actually sold for industrial purposes as detailed below during the year 1983-84.

1. Soap Industry	Rs.6.00 lakhs
2. Fertiliser Industry	Rs.0.34 lakh
3. Solvent Industry	Rs.0.16 lakh
Total	<u>Rs.6.50 lakhs</u>

(Tax effect Rs.0.52 lakhs @ 8 per cent)

On this being pointed out (April 1988), the case was reopened (April 1988) for reassessment. Further reports have not been received (February 1989).

(c) As per the Industrial Policy Resolution, 1980 the State Government issued a notification (July 1980) granting exemption from sales tax on the purchase and sale of

- (i) raw-materials, i.e., goods which directly go into the composition of finished products.
- (ii) machinery and spare parts actually required for starting and maintaining the unit.
- (iii) packing materials required for packing the finished products in the same form as manufactured by the unit, when sold to or purchased by a registered dealer who is certified by the Director of Industries as a village/cottage/small scale Industry starting production inside the State on or after 1st August 1980, provided

that the finished products of such industrial unit are sold inside Orissa or in course of inter-state trade or export from Orissa.

The exemption shall be allowed for a period of 5 years from the date of certification of the unit by the Director of Industries, Orissa, irrespective of the change of ownership, if any, provided that the dealer furnished the prescribed declaration in Form-I-A.

It was, however, revealed in Cuttack-I West Circle that sales valuing Rs.1.72 lakhs made by two dealers during the years 1983-84, 1985-86, and 1986-87 were allowed to be exempted though these were actually sold to medium scale industries, not covered by the scheme of exemption mentioned above. This resulted in a short levy of Rs.18,138 (including additional sales tax).

On this being pointed out (March 1988 to June 1988), the assessing officer reopened (March 1988 to June 1988), the assessments. Further report had not been received (February 1989).

(d) As stated in the preceding sub-para, this concession is admissible for a period of 5 years commencing from 1st August 1980.

In Cuttack-I(West) Circle, two dealers were allowed exemption on sales valuing Rs.7.47 lakhs which were made to 11 Small Scale Industrial units which had started production prior to 1st August 1980, resulting in an under-assessment of Rs.0.63 lakh (including additional sales tax).

On this being pointed out (November 1987, and March 1988 to June 1988), the assessing officers reopened

(November 1987 and March 1988 to June 1988) the cases. Further developments have not been intimated (February 1989).

(e) As per provisions of the Scheme, exemption of sale of goods other than raw-materials, machinery, spare parts, and packing materials is not permissible.

It was, however, revealed that goods valuing Rs.2.82 lakhs which were declared by 11 dealers to be used in execution of works contracts, and therefore not eligible for exemption, were allowed to be exempted in the hands of 4 dealers (2 in Cuttack-I West Circle) during the years 1983-84 to 1986-86 resulting in a short levy of Rs.0.18 lakh.

On this being pointed out in audit, (February 1988 to June 1988), the cases were reopened (February 1988 to June 1988). Further developments have not been intimated (February 1989).

2.10.6 *Excess deductions allowed towards Sales to Registered Dealers*

(a) Under the Orissa Sales Tax Act, 1947, tax is leviable at a single point in a series of sales by successive dealers. Section 5(2) (A) (a) (ii) *ibid*, therefore provides for a deduction of the sales made to a registered dealer of goods specified in a purchasing dealer's certificate of registration as being intended for re-sale by him, in a manner that such re-sale shall be subject to levy of tax under the Act. For this purpose, the selling dealer is required to furnish a declaration in Form XXXIV obtained from the purchasing dealer. The declaration forms are supplied by the Department to such Registered dealers in a book-let containing 25 forms each and each form contains 3 parts-*viz.*, original, duplicate and counter-foil. The Orissa Sales Tax Rules provide that a registered

dealer, while purchasing the goods for re-sale, should furnish the "original" copy of the declaration to the selling dealer from whom he purchased the goods, retaining the duplicate copy with him. Whenever a registered dealer applies for supply of a fresh book-let, he shall render an account of the declaration forms already used by him and shall produce his purchase account incorporating his purchases duly supported by the duplicate copies of the declarations.

Instructions were issued on 1st June 1976 laying down that the duplicate copies of the declaration forms received by each ward officer should be scrutinised on the next working day and those relating to selling dealers within the jurisdiction of the same circle should be sorted out and handed over to the concerned ward officers. If the selling dealer happens to belong to any other circle, the duplicate copies thereof should be sent to the concerned circle officer, once in a week. The duplicate copies of the declarations so received are to be placed in the relevant assessment records of the selling dealers. The concerned assessing officers should compare the entries of the original declarations with the entries in the duplicate copy and if any discrepancies are noticed, a note should be kept therein for utilisation of the materials at the time of assessment.

The procedure prescribed for cross verification of sales to Registered dealers has the following deficiencies.

- (i) It does not enable the assessing officer to verify whether the purchasing dealer is entitled to purchase the goods on the strength of his registration certificate, without making a further reference as to the eligibility of the dealer to purchase the goods.

(ii) Since the duplicate copies of the declarations will only be submitted by the dealer, when he applies for a fresh booklet of declaration forms after exhausting the previous forms supplied to him it may take a long time to send the duplicate copies of the forms for verification. The cross-verification which was not done timely may not serve any purpose.

(b) Test check conducted (May 1988 to June 1988) in 2 circles (Cuttack-I East and Rourkela-I Circle) revealed that sales valuing Rs.1.88 lakhs to registered dealers reflected in the accounts of 7 dealers, which were incorporated in the Original copies of the declaration forms were not at all shown in the duplicate copies of these declaration forms received later.

In 4 other cases, the amounts shown in the original declarations were more than the amounts shown in the duplicate copies to the extent of Rs.0.65 lakh. The tax effect involved in both the cases was 0.20 lakh.

On this being pointed out (April 1988 and June 1988) the cases were re-opened (June 1988) for further examination. Further developments have not been intimated (February 1989).

(c) In Cuttack-I East Circle, a dealer 'F' was allowed a deduction of Rs.3.11 lakhs being the sale of "Maggie noddles" made to a registered dealer 'K' of Rourkela-I Circle during 1985-86. On verification in June 1988, it was noticed that "Maggie noodles" were not included in the certificate of registration of 'K' and so the exemption was irregular.

Besides, the branch of the dealer 'F' operating in Rourkela-I Circle had also sold "Maggie noodles" to dealer 'K' during 1984-85 and 1985-86 valuing Rs.0.56 lakh and the same was exempted from tax. Under assessment in both the cases was to the tune of Rs.0.29 lakh.

On this omission being pointed out (May 1988), the assessing officer had agreed to re-open the cases.

2.10.7 *Wrong allowance of deductions in respect of goods subject to tax at the first point*

According to State Government notification effective from 1st April 1979 "Pumps and Pump Sets" for lifting water are subject to levy of tax at the first point of sale.

(i) In Bhubaneswar-II Circle, one dealer "K" was allowed a deduction of Rs.1.22 lakhs towards sales to registered dealers during 1984-85, though these represented the Sale value of 'Pumps', on which tax was payable by him. The wrong allowance of deduction resulted in an under assessment of Rs.0.13 lakh.

On this being pointed out (March 1988) the case was re-opened (March 1988). Further information has not been received (February 1989).

(ii) In Cuttack-I (East) Circle, a dealer 'J' who deals in cement and A.C. Sheets had claimed a deduction of 3.02 lakhs towards sale of first point tax paid goods during 1985-86. The dealer's contention that he purchased all the goods from his main branch at Jagatpur was accepted in assessment and the deduction allowed. It was pointed out that the transactions between the Main Branch at Jagatpur and the instant dealer was transfer of stock only and not a sale as there was no transfer of property in goods and this dealer being the first seller inside Orissa was liable to pay tax. The wrong allowance of deduction resulted in an under assessment of Rs.0.24 lakh.

On this being pointed out in audit (February 1988) the assessing officer re-opened the case. Results

of re-examination have not been intimated (February 1989).

The above cases were reported to Government in August 1988, their reply has not been received (February 1989).

CHAPTER 3

TAXES ON MOTOR VEHICLES AND PASSENGERS

3.1 Results of Audit

A test check of records relating to assessment and collection and refunds of motor vehicles tax in the offices of State Transport Authority, Orissa and other Regional Transport Offices, conducted during the period April, 1987 to March 1988 revealed under-assessments and losses of revenue amounting to Rs.144.02 lakhs in 7386 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/non-realisation of motor vehicles tax/ additional tax	1059	61.54
2. Short-levy/short-realisation of motor vehicles tax/ additional tax	1294	26.40
3. Short/Non-realisation of compounding fees	643	7.37
4. Short/Non-realisation of composite tax	1686	12.99
5. Short/Non-realisation of Trade certificate fees	50	0.52
6. Loss of revenue due to other reasons	<u>2654</u> <u>7,386</u>	<u>35.20</u> <u>144.02</u>

Some of the important cases noticed during 1987-88 and earlier are mentioned in the following paragraphs.

3.2 Short collection of tax on transport vehicles of other states plying temporarily in Orissa

According to a notification (1st October, 1975) issued under the provisions of the Orissa Motor Vehicle Taxation Act, 1975, temporary tax tokens may be issued in respect of transport vehicles of other states plying temporarily in the State of Orissa on payment of tax at prescribed rates (which had undergone revision twice i.e. on 1st July 1981 and 1st January 1982). Besides, additional Tax is also leviable at prescribed rates on such vehicles with effect from 18th October 1985. The tax/additional tax in respect of such vehicles is required to be collected by the State Transport Authority of the home state of the vehicles by means of crossed demand drafts, who in turn, is required to remit it to the State Transport Authority, Orissa. The latter is to check the correctness of the remittance received and account for it.

In respect of 393 goods vehicles of other states, which were permitted to ply temporarily in Orissa for various periods during March 1986 to April 1987 tax was realised (and remitted to Orissa State by the licensing authorities of the home state at the pre-revised lower rates resulting in a short collection of tax and non-collection of additional tax (prescribed with effect from 18th October, 1985 to the tune of Rs.1.08 lakhs. The State Transport Authority, Orissa, also did not take any action to demand the differential amount of tax from the vehicle owners through the licensing authorities of the home States concerned.

On the omission being pointed out in audit (November and December 1987) the State Transport Authority

Orissa stated (January 1988) that action was being taken to realise the balance dues. Further report on realisation has not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

3.3 Short collection of additional tax on stage carriages authorised to ply under reciprocal agreement

Where in pursuance of any agreement between the Government of Orissa and Government of any other State, a stage carriage is plying on a route partly in the State of Orissa and partly in such other State, such stage carriage is liable to pay additional tax on the total distance covered by the vehicle on such route in a day in the State of Orissa, at the rates prescribed under the Orissa Motor Vehicles Taxation Act, 1975, as amended, and the Orissa Motor Vehicles Taxation Rules, 1976.

During audit of the records of the State Transport Authority, Orissa and one region (Cuttack) it was noticed (January 1988) that additional tax in respect of 26 stage carriages, authorised to ply on the inter-State routes under reciprocal agreements was not correctly computed with reference to the distance as notified in the agreements, resulting in short collection of additional tax to the tune of Rs.1.11 lakhs for the period from October 1985 to December 1987.

On this being pointed out in audit (January 1988), the State Transport Authority, Orissa stated (January 1988) that action would be taken for realisation of differential dues after examination; the Regional Transport Officer, Cuttack stated (January 1988) that action would be taken to demand the dues on receipt of instructions

from the State Transport Authority, Orissa. Further reports have not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

3.4 Short-realisation/non-realisation of Tax/Additional Tax in respect of Stage carriages

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

(i) In five regions (Balasore, Keonjhar, Ganjam, Puri and Sambalpur), in respect of 115 stage carriages, tax for various periods between October 1985 and January 1988 was computed by adopting incorrect distance permitted to be covered by the vehicle in a day or application of incorrect rates of tax. The mistakes resulted in short collection of motor vehicles tax and additional tax amounting to Rs.6.52 lakhs.

On the mistakes being pointed out in audit (between June 1987 and February 1988), while the tax officer, Ganjam issued (July 1987) demand notices and the tax officers, Puri and Sambalpur agreed (November 1987 and April 1988) to issue demand notices, the tax officers, Balasore and Keonjhar stated (August 1987 and September 1987) that action would be taken after verification. Further reports have not been received (February 1989).

The cases were reported to Government between January and June 1988; their reply has not been received (February 1989).

(ii) In two regions (Keonjhar and Sambalpur), in respect of 24 stage carriages, for various periods from October 1985 and June 1987, tax was not realised at all even though the stage carriages were issued permits. These periods were also not covered by off-road declarations. The omission resulted in non-collection of tax of Rs.2.78 lakhs.

On this being pointed out in audit (September 1987 and February 1988), the tax officer, Keonjhar stated (September 1987) that the cases would be examined and intimated to audit, while the tax officer, Sambalpur stated (April 1988) that the position would be reviewed and demand notices issued. Further reports have not been received (February 1989).

The cases were reported to Government in May 1988, their reply has not been received (February 1989).

(b) Where, in pursuance of any agreement between the Government of Orissa, and the Government of any other State, a stage carriage plies on a route partly in the State of Orissa and partly in such other State, such stage carriage is liable to pay additional tax to the State of Orissa, and the additional tax in respect of such vehicle shall be calculated on the total distance covered by the vehicle on such route in the State of Orissa at the rates and in the manner specified under Section 3A of the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986 and Rule 9(A) of the Orissa Motor Vehicles (Taxation) Rules, 1976 as amended.

In respect of six stage carriages (Andhra Pradesh-3 and Orissa-3) authorised to ply as "Express Services" in the inter-state routes partly in Orissa and partly in Andhra Pradesh under reciprocal agreements, additional tax was not collected at the rates applicable to such vehicles in the prescribed manner, resulting in short

collection of additional tax to the tune of Rs.1.37 lakhs for the period between October 1985 to December 1987.

On this being pointed out in audit (January 1988), the State Transport Authority, Orissa administering this agreement stated (January 1988) that steps would be taken to realise the balance dues, after examination. Report on further developments has not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

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

(a) Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986) motor vehicles tax and additional tax shall be levied on every motor vehicle used or kept for use in the State. No tax is payable in respect of a vehicle, which is not intended to be used for any period, if prior intimation of such non-use is given to the tax officer or on before the date of expiry of the period for which tax has been paid, specifying *inter-alia* the period of non-use and the place where the motor vehicle is to be kept during such period. The registration certificate, fitness certificate permit and the current tax token of the vehicle are required to be surrendered along with the off-road declaration. If at any time, during the period covered by such intimation the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the entire period for which it was declared off-road, the owner of the vehicle would become liable to pay such penalty as may be imposed by the tax officer.

(i) In ten regions (Cuttack, Balasore, Keonjhar, Bargarh, Bhubaneswar, Phulbani, Ganjam, Puri, Sambalpur and Bolangir) 112 motor vehicles which had been declared

off-road for various periods between April 1984 and December 1987 were detected by the enforcement staff as plying on the road or not found at the declared place during such off-road periods. But no action was taken by the Department to recover the tax from the vehicle owners for those periods or to impose penalty upon the offenders. The tax and penalty leviable amounted to Rs.12.70 lakhs and Rs.25.39 lakhs respectively.

On these omissions being pointed out in audit (between June 1987 and March 1988), the tax officers, Cuttack and Ganjam issued (January 1988 and July 1987) demand notices for Rs.0.79 lakh in respect of four vehicles and Rs.1.25 lakhs in respect of nine vehicles respectively. Other tax officers agreed (between July 1987 and April, 1988) to take action and issue demand notices. Reports on realisation have not been received (February 1989).

The matter was reported to Government between (January 1988 and June 1988); their reply has not been received (February 1989).

(ii) In three regions (Mayurbhanj, Cuttack and Phulbani) in respect of 5 vehicles off-road declaration were accepted by the tax authorities without verifying whether the declarations were submitted on or before the date of expiry of the term for which tax had been paid. On the contrary, taxes pertaining to earlier periods which were just contiguous to the period of off-road were due for payment. These periods were also not covered by off-road declarations. This resulted in non-collection of tax of Rs.1.30 lakhs for the period from April 1981 to March 1987.

On this being pointed out in audit (between July 1987 and January 1988), the tax authority, Cuttack issued (January 1988) demand notices, and the tax authorities of Mayurbhanj and Phulbani agreed (July 1987

and January 1988) to realise the dues. Further reports have not been received (February 1989).

The cases were reported to Government between December 1987 and May 1988; their reply has not been received (February 1989).

(iii) In Cuttack and Bhubaneswar regions 21 stage carriages which had joined the Banner Scheme under the Orissa State Road Transport Corporation were declared off-road. During the period of off-road, regular monthly service charges with reference to distance covered in a month by these vehicles (as per agreement executed under the Banner Scheme) were demanded and paid by the operators of these vehicles to the concerned District Transport Managers (Banner). Seventeen of these vehicles were also issued temporary permits by the transport authorities during the period of off-road. These vehicles, therefore plied during the period of off-road without payment of motor vehicles tax. This resulted in evasion of tax of Rs.2.35 lakhs for the period from April 1986 to April 1987. Besides, Rs.4.72 lakhs is also leviable as penalty. No action was initiated by the department to demand and realise the dues.

On this being pointed out in audit (between January and March 1988), while the Regional Transport Officer, Cuttack agreed (January 1988) to examine the cases, the Regional Transport Officer, Bhubaneswar promised (March 1988) to issue demand notices. Further reports have not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

3.6 Acceptance of tax without production of 'no objection certificates'

Under the Orissa Motor Vehicles Taxation Rules, 1976, whenever tax/additional tax in respect of a transport vehicle is intended to be paid in a region other than the region where they were last paid, the owner of the vehicle is required to produce a 'no objection certificate' in the prescribed form from the tax officer, where they were last paid, specifying therein that no arrears are outstanding against the vehicle.

In one region (Cuttack II at Chandikhole), tax/additional tax in respect of two transport (goods) vehicles, registered in another region (Cuttack) was accepted from October, 1986 without production of 'no objection certificates' from the tax officer, where tax/additional tax in respect of these vehicles were last paid. The register of registration certificates of the region (Cuttack-II) showed that these vehicles paid tax for certain periods and were declared off-road upto December 1986 in the other region (Cuttack) and these particulars were stated to have been noted from the registration certificates produced by the owners of these vehicles. A cross verification with the taxation records of the latter region (Cuttack) revealed that the particulars of previous tax payments and off-road as noted from the registration certificates produced by the owners of these vehicles were not genuine. In the case of one vehicle, tax was paid upto September 1985 and the subsequent periods were covered neither by payment of tax, nor by off-road declarations. In the other case, the vehicle was declared off-road for the period from July 1983 to June 1986 and tax was due for the quarter ending September 1986. The entries made in the register of registration certificates in support of "off-road" from July 1983 to June 1986 in the latter region (Cuttack) were further found to be fictitious and the references quoted therein related

to some other vehicles, when verified with the off-road register of that region. Thus, the vehicle was liable to pay tax for the period from July 1983 to June 1986. The particulars of payment of tax and off-road particulars for the previous periods, which were stated to have been noted from the registration certificates of these vehicles produced by the owners were, therefore, not apparently genuine.

Acceptance of tax without production of 'no objection certificate' from the previous tax officer and entertainment of fictitious entries of the registration certificates produced by the owners resulted in evasion of tax/additional tax to the tune of Rs.0.72 lakh in respect of these two vehicles for the period from October 1975 to September 1986.

This being pointed out in audit (March 1988), the tax officer, Cuttack II stated (March 1988) that action would be taken to realise the dues. Further reports have not been received (February 1989).

The matter was reported to Government in June 1988; their reply has not been received (February 1989).

3.7 Short realisation of composite tax on vehicles plying under the National/Zonal Permit Scheme

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

15th of March and 15th of September covering the periods from April to September and October to March respectively of the year. Such composite tax payable is to be deposited with the State Transport Authority of the home State in which the vehicle is registered in the form of demand drafts on behalf of the State Transport Authority of the State in which the vehicle is permitted to ply.

It was, however, noticed from the records of State Transport Authority, Orissa (November and December 1987) that composite tax in respect of 1165 vehicles had been realised only for a part of the year instead of for the full year for which the vehicles were authorised to ply in Orissa. The tax recovered short in these cases amounted to Rs.7.23 lakhs for the year 1986-87.

On this being pointed out in audit (November and December 1987), the State Transport Authority, Orissa stated (January 1988) that steps were being taken for realisation of the dues. Report on realisation has not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

(b) Under the Zonal Permit Schemes, a transport vehicle (i.e., a public carrier) of another State, authorised to ply in Orissa, is liable to pay composite tax of Rs.1000 per annum to Orissa. The tax is payable in advance on or before 15th March every year. However, the owner of the vehicle at his option may pay the composite tax in two equal instalments, the first on or before 15th March for the period April to September following, and the second instalment on or before 15th September for the period October to March of the current financial year. The tax is payable to the State Transport Authority

of the home State of the vehicle in the shape of crossed Bank Drafts for being remitted to the State Transport Authority, Orissa.

Scrutiny of the records of the State Transport Authority, Orissa revealed (December 1987) that composite tax in respect of 288 vehicles authorised to ply in Orissa during the financial year 1986-87 under Zonal Permit Schemes was not remitted in full to the State Transport Authority, Orissa. After remitting the tax for the first half year from April 1986 to September 1986, the vehicles were authorised to ply for the full year. Due to improper maintenance of records in the office of the State Transport Authority, Orissa, no watch was kept over receipt of the bank drafts for the second half year (from October 1986 to March 1987), leading to a short collection of tax amounting to Rs.1.45 lakhs.

On this being pointed out in audit (December 1987), the State Transport Authority, Orissa stated (January 1988) that the matter was being taken up with the State Transport Authorities concerned for realisation of the dues. Further report has not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

3.8 Non-realisation of additional tax from goods vehicles of other States covered by counter-signature under reciprocal agreements

Under the relevant provisions of the reciprocal agreements by Orissa with other adjoining States, goods vehicles of other States covered by countersignature are exempt from motor vehicles tax. However, additional tax is required to be collected at the rate of twenty five per cent of the quarterly additional tax under the provisions

of the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, at the bordering check-gates, for each entry into Orissa.

In respect of 719 goods vehicles of other States, which entered Orissa for various periods between April 1986 to March 1987 on the strength of countersignature permits, additional tax for each entry was not collected by the check-gate authorities under three regions (Balasore, Keonjhar and Sambalpur), resulting in loss of revenue to the extent of Rs.0.99 lakh.

On this being pointed out in audit (July 1987 to March 1988), the tax officers of the check-gates under Balasore and Sambalpur regions stated (between July 1987 and April 1988) that the cases would be reviewed, while the tax officer of the check-gate under Keonjhar region noted (September, 1987) the objections. Further reports have not been received (February 1989).

The matter was reported to Government between April 1988 and June 1988; their reply has not been received (February 1989).

3.9 Under-assessment of tax in respect of stage carriages plying without permits

Under the Orissa Motor Vehicles Taxation Act, 1975 and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, motor vehicles tax and additional tax in respect of a stage carriage is leviable on the basis of the number of passengers (including standing passengers) which the vehicle is authorised to carry, and the distance it covers in a day as per permit. If any such vehicle is found plying without a permit, the tax payable is to be determined on the basis of the maximum number of passengers, which the vehicle would have been permitted to carry, reckoning the distance covered by each

day as exceeding 320 kilometres for which the highest rate of tax is applicable.

In eight regions (Balasore, Keonjhar, Phulbani, Ganjam, Puri, Sambalpur, Bolangir and Sundergarh), 169 stage carriages were found plying without any permit during various periods between October 1985 and June 1987, but tax in respect of these vehicles was not assessed and collected at the rates prescribed in respect of vehicles plying without permit. The omission resulted in under-assessment of tax amounting to Rs.4.88 lakhs.

On the omission being pointed out in audit (between June 1987 and March 1988) the tax officers of Balasore, Keonjhar, Phulbani, Puri, Sambalpur, Bolangir and Sundergarh agreed (between June 1987 and April 1988) to issue demand notices, while the tax officer, Ganjam issued (July 1987) demand notices at the instance of audit. Report on collection has not been received in respect of Ganjam Region and further developments in respect of other regions were not intimated (February 1989).

These cases were reported to Government between January 1988 and June 1988; their reply has not been received (February 1989).

3.10 Non-levy of tax for the intervening periods

Under Section 3 of the Orissa Motor Vehicles Taxation Act, 1975, there shall be levied on every motor vehicle used or kept for use within the State, a tax at the rate specified in the Taxation Schedule. However, under Section 10 of the Act *ibid* exemption from payment of such tax is allowed for the period for which necessary undertaking for discontinuance of the use of the vehicle is delivered by the owner of the vehicle on or before the date of expiry of the term for which has been paid.

In ten regions (Balasore, Keonjhar, Mayurbhanj, Bhubaneswar, Cuttack, Phulbani, Ganjam, Puri, Sambalpur and Bolangir), it was noticed (between July 1987 to April 1988) that in respect of 145 vehicles, tax for different periods between July 1977 to June 1987, had remained unrealised, even though tax for the earlier and later periods had been collected. The tax records showed that the intervening periods were neither covered by exemptions for discontinuance of use of the vehicles nor by intimations of payment of tax in any other region. This resulted in non-levy of Rs.6.65 lakhs.

On the omission being pointed out in audit (between July 1987 to April 1988), eight tax officers agreed (between August 1987 and April 1988) to realise the dues. The tax officer, Ganjam issued (July 1987) demand notice for realisation of the dues, and the tax officer, Cuttack stated (January 1988) that the fact of payment in each case was being ascertained. Further reports have not been received (February 1989).

The cases were reported to Government between January 1988 and June 1988; their reply has not been received (February 1989).

3.11 Non-collection of penalty for belated payment of composite tax on vehicles plying under the National Permit Scheme/Zonal Permit Scheme

According to instructions issued by Government of India in December 1980, the State Governments were required to make provisions for levy of penalty for belated payment of composite tax in respect of vehicles covered under the National Permit Scheme on the pattern of the Zonal Scheme. Under the schemes, if the composite tax is not paid within the due date (15th March and 15th September) the holder of the composite permit

is liable to pay penalty @ Rs.100 per month or part thereof in addition to composite tax.

(i) It was, however, noticed (December 1987) that in respect of 1014 vehicles of other States which were authorised to ply in Orissa under National Permit Scheme during the period from April 1986 to March 1987, penalty for belated payment of tax amounting to Rs.1.45 lakhs was not collected by other State Transport authorities, and remitted to the State Transport Authority, Orissa.

On this being pointed out in audit (December 1987) the State Transport Authority, Orissa stated (January 1988), that the matter was being taken up with the State Transport Authorities concerned for realisation of the dues. Further report has not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

(ii) It was, noticed (December 1987) that in respect of 334 vehicles, a sum of Rs.0.46 lakh due towards penalty was not recovered by the home States in respect of such late payments. The State Transport Authority, Orissa, also did not demand the amount.

On this being pointed out in audit (December 1987) the State Transport Authority, Orissa, stated (January 1988) that the matter was being taken up with the concerned State Transport Authorities for realisation and remittance of the dues. Further report has not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

3.12 Loss of revenue due to non-realisation of compounding fees at the prescribed rates in lieu of suspension of permits

Under Section 60 of the Motor Vehicles Act, 1939 where a permit is liable to be cancelled or suspended for breach of conditions stipulated therein, and the Transport Authority having regard to the circumstances of the case, opines that it would not be necessary or expedient to cancel or suspend the permit they may abstain from this, provided the holder of the permit agrees to pay a certain sum of money. Under Rule 52-B of the Orissa Motor Vehicles Rules, 1940, the rates of minimum compounding fee per day, and lump sum maximum, in lieu of suspension of permits depending on the nature of offences committed by the vehicles have been prescribed, with the stipulation that the amount of compounding fee so recoverable shall in no case be less than the minimum or more than the maximum.

Test check of the records of the State Transport Authority, Orissa revealed (November 1987) that in 153 cases, the suspension orders on permits were revoked during the currency of the period of suspension without realisation of the compounding fee at the prescribed rates. This resulted in a loss of revenue to the tune of Rs.64793 (calculated at determined minimum rate).

On this being pointed out in audit (November 1987), the State Transport Authority stated (January 1988) that the cases were disposed of on individual merits after hearing and no action could be taken on the closed cases. However, it was promised that the relevant rules would be followed in future.

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

3.13 Non-realisation of composite tax

Under the provisions of Section 3A of the 'Orissa Motor Vehicles Taxation (Amendment) Act, 1986, read with Section 4 of the Orissa Motor Vehicles Taxation Act, 1975, where, in pursuance of any agreement between the Government of Orissa and Government of any other State, a goods vehicle enters the State of Orissa, such vehicle is liable to pay additional tax to be calculated for each entry into the State at the rates specified therein. In respect of goods vehicles belonging to the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreement, Government of Orissa decided (August 1986) to levy Rs.1500/- on each vehicle annually as composite tax (in lieu of the additional tax payable for each entry) being calculated and collected from July 1986. The composite tax is payable in advance in lump sum before 15th April every financial year in shape of crossed Bank Drafts to the State Transport Authority, Andhra Pradesh, for onward transmission to State Transport Authority, Orissa. In case of delay in payment of composite tax, penalty of Rs.100 per each calendar month of default is also payable in addition to the composite tax. The composite tax for the financial year 1986-87 comprising the period from July 1986 to March 1987, however, was required to be paid to the State Transport Authority, Orissa by 15th August 1986.

In respect of 232 goods vehicles of Andhra Pradesh, authorised to ply in Orissa under reciprocal agreement, composite tax amounting to Rs.4.04 lakhs for the period from July 1986 to March 1988 was found (December 1987) to have not been collected. In addition, penalty of Rs.3.76 lakhs calculated up to November 1987 was also due for realisation.

On this being pointed out in audit (December 1987) the State Transport Authority, Orissa stated

(January 1986) that State Transport Authority, Andhra Pradesh were requested in September 1987 to remit the dues, and border check posts were instructed to check realisation of composite tax. Report on realisation has not been received (February 1989).

The matter was reported to Government in May 1988, their reply has not been received (February 1989).

3.14 Issue of tax tokens without realisation of arrears of tax

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

In five regions (Keonjhar, Ganjam, Sambalpur, Bolangir and Cuttack II) tax tokens in respect of 36 vehicles were issued between January 1985 and January 1988 without realising the arrear tax of Rs.0.69 lakh relating to different period between April 1976 and March 1987 during which the vehicles were used or kept for use. No action had also been taken to invoke the penal provisions of the Act for non-payment of tax.

On this being pointed out in audit (between July 1987 and April 1988) one tax officer (Ganjam) issued (July 1987) demand notices at the instance of audit, while the other four tax officers agreed (between September 1987 and April 1988) to realise the dues. Further reports have not been received (February 1989).

The cases were reported to Government between January 1988 and June 1988; their reply has not been received (February 1989).

3.15 Non-realisation of Trade Certificate fees

Under the Orissa Motor Vehicles Rules, 1940, manufacturers or dealers in motor vehicles are required to obtain a trade certificate by paying the requisite fees annually in advance prescribed in respect of such trade certificates from the registering authority within whose area they have their place of business. Under the Orissa Motor Vehicles taxation Act, 1975, fees at the annual rate should be paid in advance as prescribed therein for different categories of motor vehicles, by such manufacturers or dealers in respect of vehicles in their possession in the course of their business under the authorisation of such trade certificates. Under the Motor Vehicles Act, 1939, dealer includes a person who is engaged in the manufacture of motor vehicles, or in building bodies for attachment to the chassis.

Test check of 4 regions (Rourkela, Bargarh, Ganjam and Sambalpur) revealed that in respect of 37 dealers and body builders in motor vehicles, no trade certificate fees was collected during the period between January 1985 and January 1988 resulting in loss of revenue amounting to Rs.36,975.

On this being pointed out in audit (between June 1987 and April 1988), the tax officers of Ganjam and Bargarh issued demand notices (July 1987 and March 1988). While the tax officer, Rourkela agreed (September 1987) to issue demand notices, the tax officer, Sambalpur stated (April 1988) that the position would be reviewed and demand notices issued. Further reports have not been received (February 1989).

The matter was reported to Government between January 1988 and June 1988; their reply has not been received (February 1989).

3.16 Non-raising of demands for unpaid taxes and non-imposition of penalty

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax due on motor vehicles should be paid in advance. Where such tax for any period is not paid and continues to remain unpaid for a period of 15 days from the due date of payment, the tax officer may in respect of such vehicle impose a penalty at the rates specified in the Orissa Motor Vehicles Taxation Rules, 1976. According to the instructions issued by the Transport Commissioner, Orissa (February 1966) demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) of payment of tax.

(i) In seven regions (Rourkela, Balasore, Bargarh, Phulbani, Ganjam, Puri and Sambalpur), although taxes in respect of 216 vehicles relating to different periods between April 1976 and March 1988 were not paid by the owners of the vehicles or by the persons having possession and control thereof, no action was taken to issue demand notices for the same and invoke the penal provisions of the Act. There were no records to indicate that off-road declarations in support of non-payment of tax were filed for the periods involved in respect of those vehicles. The amount of tax due in respect of such vehicles worked out to Rs.12.95 lakhs and the penalty leviable for the delay in payment of tax amounted to Rs.25.89 lakhs.

On this being pointed out in audit (between June 1987 and April 1988) the tax officers of Rourkela, Phulbani and Puri stated (between September 1987 and January 1988)

that demand notices were being issued for realisation of arrear tax, while the tax officer of Ganjam issued demand notices (July 1987) at the instance of audit. Other tax officers (Balasore, Bargarh and Sambalpur) stated (between August 1987 and April 1988) that action would be taken after necessary investigations.

The matter was reported to Government between January 1988 and June 1988; their reply has not been received (February 1989).

(ii) In seven regions (Keonjhar, Bargarh, Phulbani, Ganjam, Puri, Sambalpur and Cuttack), in respect of 189 vehicles, proceedings for imposition of penalty for belated payment of tax for the period from October 1985 to September 1987 were not initiated. Of these, cases in respect of 13 vehicles related exclusively to the period from October 1985 to April 1986 during which no specific rates for levy of penalty was prescribed by Government. Besides levy of penalty for belated payment of tax for the period from October 1985 to April 1986, penalty due at the prescribed rates in respect of the remaining 176 vehicles for the period from May 1986 to September 1987 alone, worked out to Rs.13.63 lakhs.

On this being pointed out in audit (between June 1987 and April 1988) the tax officers of three regions (Keonjhar, Phulbani and Puri) agreed (between September 1987 and January 1988) to initiate action, and the tax officers of three other regions (Sambalpur, Cuttack and Bargarh) agreed (January/April/March 1988) to initiate action after review of the cases, while the tax officer of one region (Ganjam) issued (July 1987) demand notices at the instance of audit (February 1989).

The matter was reported to Government between January 1988 and June 1988; their reply has not been received (February 1989).

3.17 Improper maintenance of records

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975, whenever a motor vehicle is intended not to be used for any period, the owner of the vehicle is required to submit prior intimation to the tax officer in the prescribed form, specifying the period and the place where the vehicle shall be kept during such period. According to the instructions issued by the State Transport Authority, Orissa, in October 1970, such off-road intimations are required to be received by the tax officer personally and entered in the off-road register, duly attested by him. The intimations are required to be circulated to the enforcement staff within 3 days of their receipt and a consolidated list of all off-road vehicles for the month, including the vehicles lying off-road from previous months is required to be circulated by 5th of the following month to various authorities of the organisation for necessary check.

In one region (Cuttack), the records relating to off-road vehicles were not properly maintained. The entries made in the off-road register were not attested by the tax officer. The intimations were neither circulated to the enforcement staff within the stipulated period of three days, nor the monthly consolidated list of off-road vehicles was circulated timely. Office copies of the circulation lists were not kept in the office for reference. Original entries in respect of some of the vehicles in the off-road register were erased/overwritten and substituted by other fresh vehicles. Some more vehicles were accommodated subsequently by assigning numbers below the existing serials of the off-road register. The vehicles so accommodated subsequently in the off-road register by adopting the above *modus-operandi* were not included in the monthly consolidated lists circulated.

One hundred and fifty four fresh vehicles were accommodated by erasing/overwriting the original entries and inserting/assigning by numbers in the off-road registers for 1985-86 and 1986-87. These vehicles were also not included in the monthly consolidated lists circulated. In many of these cases, the off-road intimations were not available for check. Due to such erasures/overwritings/interpolations, in records, possibility of undue concession to these vehicles cannot be ruled out.

On these irregularities being pointed out in Audit (August/September 1987) the Regional Transport Officer stated (August 1987/January 1988) that action as deemed proper under law would be initiated. Further report has not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

CHAPTER 4

LAND REVENUE

4.1 Results of Audit

A test check of records relating to assessment and collection of land revenue conducted in audit during the period from April 1987 to March 1988 revealed under-assessment, non-assessment and non-realisation of revenue amounting to Rs.213.80 lakhs in 1958 cases, which may broadly be categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of premium and rent on conversion of agricultural lands	44	9.72
2. Non-collection of premium and rent etc., for lands occupied by local bodies/ Government undertakings/ private parties	37	91.48
3. Non-assessment/short assessment/delay in assessment of land revenue and cess	1	0.01
4. Non-assessment/short-assessment and collection of water rates	36	78.73
5. Non-lease/irregular lease of <i>Sairat</i> and other miscellaneous revenue	71	12.77

	Number of cases	Amount (In lakhs of rupees)
6. Non-lease/non-realisation of revenue of surplus Government lands	2	0.18
7. Other irregularities	<u>1767</u> <u>1958</u>	<u>20.91</u> <u>213.80</u>

Some of the important cases noticed during 1987-88 and earlier years are mentioned in the following paragraphs.

4.2 Non-realisation of Premium and Rent

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, Public Undertakings., on payment of premium fixed on the basis of market value, plus annual ground rent at the rate of one per cent of the market value. Interest at the rate of six per cent per annum is also chargeable on belated payments of Government dues.

(i) In Khallikote Tehsil, transfer of Government land admeasuring 659.62 acres was sanctioned by (January 1986) Government for 15 years in favour of Orissa Maritime and Chilka Area Development Corporation (a Government Company), for "Brackish Water Prawn Culture Project" on payment of premium of Rs.1,64,905 and annual ground rent of Rs.1649.05, at one per cent of market value. The advance possession of land was given to the Corporation during January 1986. But, neither the premium nor the rent has so far been paid by the Corporation, resulting in non-realisation of Government revenue amounting to Rs.1.90 lakhs (premium Rs.1.65 lakhs, Ground Rent Rs.0.05 lakh and interest Rs.0.20 lakh on both premium and ground rent) till March 1988.

On this being pointed out (March 1988), the Tehsildar replied that the Corporation did not pay the dues despite repeated reminders.

The matter was reported to Government in August 1986; their reply has not been received (February 1989).

(ii) In Binika Tehsil, Government land in the village, Bhamarpali, admeasuring 50.88 acres was sanctioned by Government in favour of Orissa Fish Seed Development Corporation Limited, for establishment of Fish Seed Hatchery on payment of premium of Rs.2.56 lakhs and ground rent of Rs.2,564 per annum. The Corporation had started construction work from February 1983 on the land.

In another case, Government land admeasuring 2.210 acres in village Robila was sanctioned for construction of Pump House and staff quarters of Fish Seed Hatchery on payment of premium of Rs.11,520 and annual ground rent of Rs.115.20. The advance possession of the land was handed over to the Corporation in June 1982.

In both the cases, neither the premium nor the ground rents have been paid by the Corporation. The total dues recoverable from the Corporation from 1982-83 to 1986-87 in both the cases, amounted to Rs.3.64 lakhs (premium Rs.2.68 lakhs, annual ground rent Rs.0.13 lakh and interest on premium and ground rent Rs.0.83 lakh).

On this being pointed out in audit (September 1987) the Tehsildar stated (September 1987) that no amount has been paid by the Corporation. Further reports are not received (February 1989).

The matter was reported to Government in February 1988; their reply has not been received (February 1989).

4.3 Non-assessment of compulsory basic water rate

Under the Orissa Irrigation Act, 1959, and the rules made thereunder, compulsory basic water rate at the prescribed rate is leviable on the lands coming within the culturable command area of an irrigation work for irrigation of staple cereal crop (*Khariff* paddy harvested between October and January), whether water is used for irrigation or not. The culturable command area, as certified by Engineer-in-charge, is verified by the Revenue Officer (Tehsildar). According to the prescribed procedure, the demand for water rate is raised on the basis of assessment rolls prepared after such verification. According to Government orders issued in August 1966, water rate in respect of minor irrigation projects should be charged from the year in which assessment is finalised, and as such, no arrears can be demanded where there is delay in finalising the assessment. The irrigation works are divided into four classes (*viz.*, Class I, II, III and IV) on the basis of guaranteed depth and period of water supply. The water rates prescribed for Class I, II, III and IV irrigation works were Rs.8, Rs.6, Rs.4 and Rs.2 per acre of land upto 1980-81 and Rs.16, Rs.12, Rs.8 and Rs.4 per acre from 1981-82 respectively. In case of new irrigation projects, no water rate is, however, chargeable for the first year of supply of water, whereas, 50 per cent and 75 per cent of the prescribed rates is chargeable for the second and third years respectively and full rate is chargeable from the fourth year onwards.

(i) In Binjharpur Tehsil (Cuttack district) an additional ayacut area of 3701.77 acres falling under the Baitarani Canal System, a Class II Major Irrigation work, was certified by the Engineering authorities in

1977-78. Out of this, an area of 1042.14 acres was assessed to compulsory basic water rate and the remaining area of 2659.63 acres was left for joint verification. Although joint verification was completed in 1979-80 and an area of 1450 acres was found fit for irrigation, no compulsory basic water rate was levied in respect of that area, resulting in non-realisation of revenue to the extent of Rs.1.22 lakhs.

On this being pointed out in audit, (June 1987), the Tehsildar stated that the assessment was taken up recently.

(ii) Mention was made in para 4.3 of Audit Report for 1985-86 regarding non-assessment of compulsory basic water rate in respect of areas coming under culturable command area of Anandpur Barrage Project in Hata-dihi Tehsil. It was noticed in audit (May 1987) that although further certification to the extent of 3172.29 acres was made during 1986 and 1987, assessment was not made resulting in non-demand and non-realisation of compulsory basic water rate amounting to Rs.1.83 lakhs.

On this being pointed out (May 1987), the Tehsildar agreed to complete the assessment soon.

(iii) In two Tehsils (Nayagarh and Athamallick) out of 6733.38 acres of land falling within the culturable command area of 12 minor irrigation projects (5 class II and 7 class III) which had started supplying water for irrigation, six to twelve years back, assessment of compulsory basic water rate in respect of 3227.54 acres (1622.86 acres in Nayagarh Tehsil and 1604.68 acres in Athamallick Tehsil) had not been made upto the end of March 1987. As no arrears of water rate in respect of such lands could be demanded upto 1986-87, revenue amounting to Rs.1.12 lakhs was lost to Government.

On this being pointed out in audit (between April 1987 and June 1987) the Tehsildar, Nayagarh stated (May 1987) that the delay was due to late receipt of project report and maps from the Engineering Authorities, whereas, the Tehsildar, Athamallick informed (June 1987) that action was being taken to assess the unassessed area. Further reports have not been received (December 1988)

The Board of Revenue, Orissa to whom a reference was made have, however, stated (August 1988) that the assessments are in progress.

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

4.4. Short-realisation of royalty and non-realisation of cess on minor minerals

Under the provisions of Manual of Tehsil Accounts, read with the provisions of the Orissa Minor Minerals Concession Rules, 1983, permits are granted by Revenue Authorities to persons intending to extract minor minerals from Government land on realisation of application fees at the rate of Rs.25.00 in each case and on payment of royalty. The rate of royalty fixed as per Government orders of June 1972 was revised from 1st June 1983 by virtue of the Orissa Minor Minerals Concession Rules, 1983. In addition, cess at the rate of 100 per cent of royalty is also leviable under the Orissa Cess (Amendment) Act, 1980.

In Motu and Khariar Tehsils (Koraput and Kalahandi Districts), on 71 permits issued during 1983-84 to 1986-87 (26 during 1983-84 to 1986-87 in Motu Tehsil, and 45 during 1985-86 to 1986-87 in Khariar Tehsil) for extraction of different minor minerals, royalty was charged at

pre-revised rates and cess also was not levied. This resulted in short-levy of royalty and non-levy of cess amounting to Rs.0.54 lakh (royalty Rs.0.16 lakh and cess Rs.0.38 lakh). Besides, application fee amounting to Rs.1,125 for 45 permits issued by Khariar Tehsil was also not realised.

On this being pointed out in audit (January and February 1988), while the Tehsildar Motu agreed (January 1988) to follow the correct procedure, Tehsildar, Khariar stated (February 1988) that there is no such provision in the Orissa Minor Minerals Concession Rules, 1983.

The cases were reported to Government in June 1988; their reply has not been received (February 1989).

4.5 Non-realisation of annual fee

The scheme of "Economic Rehabilitation of Rural Poor" envisaged that when the trees raised under the scheme reach fruit bearing stage, the same are transferred to the beneficiaries. Government in their orders of July 1981 directed that after the land is developed and made productive, the Tehsildar would settle the same with the beneficiary, confer "*Dafayati* right"* and levy annual fee of Re.1 per tree from each beneficiary.

In Rairangpur Tehsil though 507.42 acres of Government land containing 31719 fruit bearing trees were transferred to 268 beneficiaries during the year 1986-87 on conferment "*Dafayati*"* right, no annual fee at Re.1 per tree was levied, resulting in non-realisation of Rs.31,719.

* "*Dafayati* right" means usufructuary right.

On this being pointed out (July 1987) in audit, the Tehsildar stated that the responsibility of collection of fees lies with the Revenue Inspectors; this is not tenable as they are subordinate to Tehsildar.

The Board of Revenue, Orissa to whom a reference was made on 22nd July 1988 had however clarified (August 1988) that the amount has been taken into the Demand Register of the Tehsildar, who has been instructed to collect the Government dues at the time of next harvest (i.e., winter).

The case was reported to Government in September 1987; their reply has not been received (February 1989).

CHAPTER 5

MINING RECEIPTS

5.1 Results of Audit

A test check of mining receipts in the offices of Mining Officers, conducted during the period from 1st April 1987 to 31st March 1988 revealed non-levy or short-levy of dead rent, cess, surface rent and interest and other losses of revenue amounting to Rs.21.53 lakhs in 57 cases, which may broadly be categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy, short-levy of royalty, cess, surface rent and dead rent	6	2.35
2. Non-assessment/non-recovery of royalty and cess on iron/lime stone found short	1	3.64
3. Non-recovery/short-recovery of interest	39	1.98
4. Non-realisation of royalty on working of mines without valid lease	1	13.21
5. Under-assessment of dead rent, cess, royalty and interest	2	0.26
6. Short-realisation of application fees and preliminary expenses	8	0.09
	<u>57</u>	<u>21.53</u>

Some of the important cases noticed during the year 1987-88 and earlier years are mentioned in the succeeding paragraphs.

5.2 Non-assessment of royalty and cess on mineral found short

Under the Mines and Minerals (Regulation and Development) Act, 1957, and the Minerals Concession Rules 1960, the holder of a Mining lease is to pay royalty on any mineral removed or consumed from the leased area. No deduction in the quantity removed is permissible for any subsequent loss or wastage. According to the provisions of the Orissa Cess Act, 1962, as amended in June 1986, the lessee is also liable to pay cess at 200 per cent of royalty.

(i) In Rourkela Circle, a lessee (a Government undertaking*), deducted 9258.15 M.Ts of lime stone from their monthly returns from July 1986 to December 1986 as processing loss on beneficiation. As the Act does not provide for any relief for processing loss on beneficiation, royalty and cess was payable on the entire quantity. The irregular allowance thereof resulted in a loss of revenue Rs.1,24,985 (royalty Rs.41662 and cess Rs.83,323).

On this being pointed out by audit (October 1987), the department stated (October 1987) that royalty and cess were not leviable on the quantity of loss sustained in the process of beneficiation, which cannot be accepted in Audit in absence of a specific provision in the Act.

The matter was reported to Government in April 1988; their reply has not been received (February 1989).

* SAIL Rourkela Steel Plant.

(ii) In respect of the same lessee, 30,344.78 M.Ts of lime stone were found short in the course of annual joint stock verification conducted by the Senior Inspector of Mines, Birmitrapur, and the representative of the lessee on 20th February 1987, in respect of Purunapani Lime Stone and Dolomite Mines. No royalty and cess were levied on the above shortage though amount of Rs.1.37 lakhs and Rs.2.73 lakhs (200 per cent on the former) are leviable towards royalty and cess respectively.

On the omission being pointed out in audit (October 1987), the Senior Mining Officer, Rourkela stated that against the realisation of similar dues (i.e. on shortages) the lessee had filed writ petition in the Honourable High Court of Orissa whose decision was awaited.

Since, no stay order has been issued by the Honourable High Court of Orissa, the delay in issuing demands only deprives the Government from interest leviable as per rules.

The matter was reported to Government in May 1988; who assured (September 1988) to raise the demand and realise the amount from the lessee. Report of realisation has not been received (February 1989).

5.3 Short-collection of royalty and cess on Iron-ore fines

Under the Transit Pass Regulation 1973, governing the procedure for removal of ore from mines issued by the Government under the Mineral Concession Rules 1960, sampling and analysis of ores are required to be made to ascertain the exact grade of ore for the purpose of levying royalty at appropriate rates.

In Jajpur Road Circle, it was noticed (October 1987) that a lessee (a Government Undertaking) extracting iron-ore fines from Baliparbat Washing Plant had despatched 20,000 metric tonnes of iron-ore fines to Paradeep. The

analysis certificate furnished by the lessee disclosed that the fines contained 61.58 per cent of iron. But the joint sample of washed iron-ore fines drawn and analysed by the Senior Chemist at the Government laboratory at Jajpur Road indicated the iron-content of fines as 64.03 per cent, attracting the rate of royalty @ Rs.1.50 per metric tonne as against the rate of Re.1.00 prescribed for an iron content of 61.58 per cent. The short collection of royalty amounted to Rs.10,000 (@ 50 paise per metric tonne 20,000 M.T.) and taking into account the cess payable at 100 per cent of royalty total short-levy works out to Rs.20,000.

On this being pointed out in audit, the Senior Mining Officer stated that the sample analysed was not a representative one and hence royalty was not payable. But as joint sample was drawn and analysed, the contention of the Senior Mining Officer is not correct as acceptance of the same would negate the purpose of setting up Government laboratories in the State.

The matter was brought to the notice of Government in February 1988; Government in their reply (August 1988) confirmed the short levy and advised the Director of Mining and Geology to raise the demand for realisation of the dues. The particulars of realisation have not been received (February 1989).

5.4 Non-realisation of surface rent on mining areas

Under the Mineral Concession Rules, 1960, a lessee is liable to pay surface rent at prescribed rates per annum, per hectare in respect of all parts of the surface of the lands which shall from time to time be occupied or used by him.

In Joda Mining Circle, a lessee (Orissa Mining Corporation Limited), under the authority of working permission was operating in three mining areas (two

Manganese ore and one Iron ore) occupying 3180.5 hectares of land, without payment of surface rent at prescribed rates for the period from 1977-78 to 1985-86. The amount of surface rent leviable, worked out to Rs.1.04 lakhs, which was not demanded.

On this being pointed out in audit (December 1984), the Mining Officer stated that the surface rent was not demanded as the actual area in occupation by the lessee was not available. But the reply of the Director of Mining and Geology (December 1985) indicated that the lessee was operating over the entire area and the matter of levying surface rent was under examination. Further reports are awaited (February 1989).

The matter was reported to Government in January 1985. In their reply (July 1988) it was stated that the Senior Mining Officer, Joda has been instructed to demand and realise surface rent over the entire area till the date of execution.

5.5 Non-levy of interest on mining dues

Under the Mineral Concession Rules, 1960, as amended in October, 1982, in cases of belated payment of dead rent, royalty or other government dues, simple interest at the rate of 15 per cent per annum on the amount in default may be charged from the lessee from the sixteenth day of the expiry of the date fixed by Government for payment of such dues till the default continues. Similarly, as per the provisions of the Orissa Cess Act, 1962 and the rules made thereunder, simple interest at the rate of 6 per cent per annum is chargeable, if the monthly cess payable for the mining area remains unpaid after the due date of payment (i.e. 15th of the following month).

In five mining offices, (Koirā, Rourkela, Jajpur Road, Keonjhar and Talcher) interest had not been levied in 226 cases of belated payment of royalty (99 cases) and cess (127 cases) during the years 1983-84 to 1987-88. Interest realisable on these cases amounted to Rs.1.78 lakhs.

On the omission being pointed out in audit (September, October, December 1987 and January 1988) the Mining Officers stated (September 1987 to January 1988) that action would be taken to realise the interest due. Reports on realisation of interest have not been received (February 1989).

The cases were reported to Government during January to March 1988. In their reply (September 1988), Government had stated that they had instructed the concerned Mining Officers for realisation of the dues. Particulars of realisation have not been received (February 1989).

CHAPTER 6

FOREST RECEIPTS

6.1 Results of Audit

A test check of the records maintained in the Forest Divisions conducted in audit during the period from April 1987 to March 1988, revealed non-recovery or short-recovery of dues and losses of revenue amounting to Rs.54.25 lakhs in 7350 cases, which may broadly be categorised as under:

	Number of cases	Amount (In lakhs of rupees) -
1. Non-levy/short-levy of interest for delayed payment of consideration money/royalty	102	4.16
2. Non-realisation of compensation	820	42.62
3. Non-realisation/short-realisation of extension fees	66	2.19
4. Non-recovery of defaulted amount in case of quashed/determined M.F.P. lots	31	2.45
5. Loss of revenue due to non-sale of forest produce	2	0.78
6. Miscellaneous	6329	2.05
	<u>7350</u>	<u>54.25</u>

Some of the important cases noticed during 1987-88 and earlier years and important audit findings of review on "Accountal and disposal of property seized in forest offence cases" are mentioned in the succeeding paragraphs.

6.2 Under-assessment of royalty due to misclassification of a specie of trees

Royalty in respect of a coupe is generally fixed on the basis of units of timber determined by classifying the trees under the appropriate class of species. As per the classification of various species of trees given in the Schedule of Rates of the Orissa Forest Produce Rules, 1977, framed by Government under Clause (d) of the Section 16 of the Orissa Forest Act, 1972, "Kurum" class of specie stood classified under 1st class. However, the Chief Conservator of Forests issued instructions in June 1982 to classify the "Kurum" trees under 2nd class specie. As a result, the field officers who had hitherto been classifying these trees under 1st class as per the statutory rules, classified them under 2nd class and assessed a lower unit value on them resulting in lower fixation of royalty.

In 20 (twenty) Forest Divisions (Parlakhemundi, Kalahandi, Khariar, Keonjhar, Bamra, Athagarh, Jeypore, Deogarh, Rayagada, Sundergarh, Nowrangpur, Boudh, Ghumsur South, Dhenkanal, Nayagarh, Baripada, Ghumsur North, Phulbani, Sambalpur and Puri) it was noticed that owing to misclassification of these species of trees (i.e. Kurum) as 2nd class during the year 1982-83 to 1986-87, 5998 trees were under-assessed to royalty by Rs.24.68 lakhs. Subsequently, a revised circular was issued (September 1987) by the Principal Chief Conservator of Forests classifying the specie as first class with effect from the 1987-88 coupes.

Both in the Schedule of Rates of Orissa Forest Produce Rules, 1977, and executive instructions issued in June 1982, some species viz., Tangan, Gambhar and Sisoo were classified as 1st class, and species like 'Kasi', 'Jamu', 'Kendu', 'Sina', 'Sidha', 'Mitkuina', 'Asan', and 'Tantra' were classified under 2nd class.

In six Forest Divisions (Jeypore, Khariar, Ghumsur North, Nayagarh, Athagarh and Ghumsur South), it was noticed that 472 trees of above specie (47 trees of 1st class and 425 trees of 2nd class) were classified under 3rd class during the year 1986-87 and 1987-88. This had resulted in an under-assessment of royalty Rs.1.57 lakhs.

The above cases were reported to the Government/Principal Chief Conservator of Forests between July 1985 and May 1988, their replies have not been received (February 1989).

6.3 Non-recovery of royalty due to unauthorised removal of bamboos

The Orissa Forest Corporation Limited (a State Government Undertaking) took on lease a timber coupe (November 1984) in Ghumsur North Forest Division containing 2510 marked trees and 650 numbers of bamboos as clumps estimated to yield 9750 numbers of Daba bamboos (a superior variety), for extraction and removal of timber only. It was, however, reported by the Range Officer concerned (May 1985) that besides timber, the Corporation had extracted and removed a total number of 6260 Daba bamboos without payment of royalty.

The Divisional Forest Officer's proposal (September 1985) for fixation of royalty on these bamboos was not accepted by the Divisional Manager of the Corporation,

on the ground that, since royalty of that coupe was finalised for a sum of Rs.2.15 lakhs, it should not be reopened even though the aspect of bamboo had not been taken into consideration in the discussion on royalty for previous years. On this no further action was taken by the Division. Computed with reference to the royalty rate of Rs.6.39 per bamboo paid by the Corporation during 1984-85 for other bamboo coupes of the same Division, the non-assessment and non-realisation of royalty on this account worked out to a sum of Rs.40,000.

On this being pointed out (July 1986), the Divisional Forest Officer agreed to raise demand and realise the same from the Corporation. Further report has not been received (February 1989).

The matter was reported to Government/Chief Conservator of Forests, Orissa in November 1986, their reply has not been received (February 1989).

6.4 Loss of forest materials obtained through cleaning and thinning operations

Timber and fire wood collected by the Department from cleaning and thinning operations should be disposed off either by auction or by sale through the Orissa Forest Corporation Limited/Similipal Forest Development Corporation Limited. As per the provisions of the Orissa Forest Department Code, the Range Officer is responsible for protection of forest property under his jurisdiction.

In one forest division (Kalahandi) 615 logs of timber and 654 stacks of fire wood collected from cleaning and thinning operations of a coupe (1981-82) were put to auction in June 1982 in which the highest offer obtained from a forest contractor was Rs.0.51 lakh. The sale was not ratified by the Department and was allotted by Government (November 1982) to the Orissa Forest

Corporation for a sum of Rs.0.54 lakh. The Corporation communicated (February 1984) their unwillingness to work the lot apprehending some loss, if taken at this amount towards royalty. After a lapse of two years, the Divisional Forest Officer called (February 1986) for a certificate regarding availability of the materials from the range officer concerned who finally replied (January 1987) that no material relating to this lot was available in field. The Divisional Forest Officer directed (May 1987) the range officer to enquire into the causes for loss of the materials, persons responsible for the loss and to fix responsibility on that account. No reply was received in this direction (November 1987). Thus, due to non-ratification of the highest offer during auctions, and negligence in the protection of forest produce, Government sustained a loss of revenue amounting to Rs.0.51 lakh (i.e the highest bid amount).

The matter was reported to the Principal Chief Conservator of Forests/Government in April 1988; their replies have not been received (February 1989).

6.5 Non-realisation of short-fall on resale of forest coupes

Under the Orissa Forest Contract Rules, 1966, a contract for sale of forest coupes can be terminated or a sale can be quashed for breach of any of the conditions laid down in the contract or in the Sale Notice as the case may be and the coupes resold. The short-fall of revenue if any on such resale, together with interest due thereon at the rate of $6\frac{1}{4}$ per cent per annum is recoverable from the contractor as arrears of land revenue.

In 3 Forest Divisions (Puri, Baripada and Nayagarh) contracts in respect of 7 coupes with outstanding dues of Rs.16,100 relating to the period 1985-86 and 1986-87 were terminated, and sales of 12 coupes amounting to

Rs.68,900 quashed owing to default in payment of consideration money and non-payment of security deposit. These coupes were resold between August 1986, and April 1987 for Rs.30,250/-. The shortfall of Rs.54,750 was not realised from the defaulting contractors. Taking into account the available security with the department amounting to Rs.15,000 which is liable for forfeiture, in 12 cases, the net shortfall of revenue worked out to Rs.39,750.

On this being pointed out in audit (between May 1987 and August 1987) the concerned Divisional Forest Officer stated (May 1987 to August 1987) that action would be taken to realise this amount representing the shortfall after adjusting the security deposits.

The cases were reported to Government (between July 1987 and January 1988); their reply has not been received (February 1989).

6.6 Under-assessment of royalty due to variation in the marking list and passing list of coupes

According to the provisions of the Orissa Forest Department Code, and executive instructions issued from time to time, royalty of a coupe settled with the Orissa Forest Corporation Limited is assessed on the units of timber and quantity of firewood available in that coupe as shown in the marking list*. In order to check

*Marking list contains details such as serial No., name of the Species, sound or unsound, girth of the tree at breast height. The marking list forms the basis for fixation of upset price of the coupe and also enables the contractor to offer his bid according to the sale notice, wherein these trees, specie-wise with girth class are notified.

that no trees are cut and lifted by the forest contractors/corporation from the coupe area in excess of those actually marked, and delivered, the departmental procedures provide that a felled tree with all its conversion should be lifted by the contractors as per passing list* duly cross-checked with the marking list. Therefore, once a felled tree has featured in the passing list duly verified with the marking list, its number cannot appear again in the passing list.

In 7 forest divisions, a test check of both marking list and passing list conducted (May 1987 to December 1987) revealed that, 39 trees were allowed to be lifted by the Orissa Forest Corporation as higher class species in the passing list. As they were classified as lower class species in the marking list, royalty was assessed on the lower class species. In another 49 cases, the same number was assigned to more than one tree in the passing list, although these numbers were shown in the marking list only once. These mistakes resulted in under-assessment of royalty amounting to Rs.42,783.

On this being pointed out in audit (May 1987 to December 1987), the Divisional Forest Officers had agreed to investigate into these omissions and raise

*Passing list

As soon as the felling is done by the contractor the trees are converted into logs and the same are entered in a conversion register maintained by the contractor indicating the details of the number and size of the trees felled and those converted into logs with sizes against each tree. The Range Officer inspects the coupe, verifies the conversion register to ensure that the trees are felled according to the sale notice and passes the timber duly marked with a passing hammer seal. A list of timber duly so passed by the Range Officer from time to time is sent to the Forest Division for check with reference to 'Marking list'. This list is called passing list.

demand for realisation of differential royalty short-assessed. Further report has not been received (February 1989).

The matter was reported to the Government/Principal Chief Conservator of Forests, between July 1987 to April 1988 and their replies have not been received (February 1989).

6.7 Loss of revenue due to misclassification of trees in the marking list

Government decided (November 1979) that royalty payable by the Orissa Forest Corporation Limited should be fixed in advance every year based on the previous years' unit price, subject to such increase or decrease as might be necessary according to the current market trend, quality of the trees and accessibility to the coupe area. Thus, the marking list indicating the quality and estimated quantity of timber available in a coupe is the basis for fixation of royalty. Considering the importance of the marking list, the Chief Conservator of Forests Orissa issued instructions in May 1981 that the marking list of a coupe should be prepared by a trained forester as far as possible and checked to the extent of 100 per cent, 30 per cent and 20 per cent by the Range Officer, Assistant Conservator of Forests, and Divisional Forest Officer respectively.

In Rairakhol Forest Division, one timber coupe consisting of 1176 marked trees (910 sound and 266 unsound) and assessed, to 2891 units of timber was settled during 1985-86 with Orissa Forest Corporation Limited at a royalty of Rs.7,11,700 (Rs.246.18 per unit) with contract period upto 31st January 1987. The corporation took delivery of the coupe on 31st October 1985, unconditionally. After a lapse of about 2 months, the corporation

pointed out (27th December 1985) to the Divisional Forest Officer that 58 unsound trees were marked as sound trees, and requested for a reduction of Rs.16,000 from the total royalty.

On the above complaint, the Divisional Forest Officer directed (24th March 1987) his Assistant Conservator of Forests to verify the records of marking list, passing list, conversion list and cause field check. The Assistant Conservator of Forests reported (18th May 1987) to the Divisional Forest Officer after conducting field inspection and verification of relevant records that 224 numbers of 'Sal' and 'Bija' trees marked as 'un-sound' trees on actual conversion had yielded timber as sound ones. Taking these trees into account as sound ones, the total timber content of the coupe would work out to 3161 units instead of 2891 units. Thus there was an under-assessment of 270 (3161-2891) units. Due to erroneous marking, and non-exercise of prescribed check of marking of the coupe at the three levels mentioned above, Government sustained a loss of revenue amounting to Rs.66,469 (Rs.246.18 x 270).

On this being pointed out in audit (June 1987) the Division stated (June 1987) that action was being taken to fix responsibility for such erroneous marking and to demand the differential royalty from the Corporation. Further report has not been received (February 1989).

The matter was reported to Government (September 1987); their reply has not been received (February 1989).

6.8 Loss of revenue due to non-sale of cashew nut lots to highest bidders

In Ghumsur South Forest Division, two cashew nut lots obtaining a highest bid amount of Rs.1.66 lakhs

in auction held in March 1987 were not settled with the bidders in view of instructions received (March 1987) from the Chief Conservator of Forests, to settle the rates with two local cashew processing units in pursuance of a decision of Government in this regard. The units were to pay royalty at the rates obtained in auction. The units did not turn up to work out the lots despite repeated reminders. One unit replied in May 1987 that since the lot was allotted to it towards end of the working season (March-May) it anticipated very poor collection and was willing to work it on payment of Rs.7,000 instead of Rs.53,000 obtained in auction. There was no response from the other unit with whom the other lot obtaining a bid amount of Rs.63,000 was to be settled. Since, the collection season of the crop was coming to a close, the auction bidders also were not willing to work and consequently, the part consideration money and security deposit amounting to Rs.1,07,700 (Rs.84,500.00 + Rs.23,200.00) realised from them was refunded (14th May 1987).

On orders (15th May 1987) of the Conservator of Forests, Berhampur, the lots were worked out departmentally incurring a total expenditure of Rs.6985 and 36.33 quintals of seeds were collected, which were sold for Rs.45,000 only.

Computed with reference to the sale value of the lots obtained in auction, Government sustained a loss of revenue of Rs.77,985 due to non-sale of the lots to the highest bidder and failure to settle the same with the processing units in terms of Government decision.

The matter was brought to the notice of the Chief Conservator of Forests, Orissa and Government in July 1987; their replies have not been received (February 1989).

6.9 Non-realisation of compensation

Under the Orissa Forest Contract Rules, 1966, a forest contractor is liable to pay compensation as may be fixed by the Forest Officer, for damage caused by him to Government forest, illicit fellings within the contract area or within 20 chains thereof and other irregularities. In the event of his failure to pay compensation, his contract is liable to be terminated and the dues recovered from his security deposit and the balance, if any being recovered as arrears of land revenue.

In 13 forest divisions (1.Sundargarh, 2.Balangir, 3.Karanjia, 4.Kalahandi, 5.Kharia, 6.Deogarh, 7.Ghumsur South, 8.Rairakhol, 9.Dhenkanal, 10.Rayagada, 11.Ghumsur North, 12.Baripada, 13.Puri) although compensation amounting to Rs.14.40 lakhs was outstanding in respect of 381 cases, no action was found to have been taken to recover the dues. Of these, 303 cases involving a sum of Rs.11.93 lakhs, 25 cases involving a sum of Rs.1.97 lakhs and 53 cases involving a sum of Rs.0.50 lakh were outstanding against the (a) Orissa Forest Corporation Limited, (b) Similipal Forest Development Corporation Limited and (c) Messers Orient Paper Mills respectively. The former two being Orissa Government Undertakings were exempted from payment of security deposit.

On this being pointed out in audit (between May 1987 to January 1988) the Divisional Forest Officers stated that 52 cases involving a sum of Rs.2.18 lakhs were under appeal before the Conservator of Forests, and in other cases, the outstanding dues would be realised.

The cases were reported to Government/Principal Chief Conservator of Forests between July 1987 to May 1988; their replies have not been received (February 1989).

6.10 Non-realisation of extension fees

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

In the course of audit of Rairakhol Forest Division, it was noticed (June 1987) that in respect of 3 coupes allotted to the Orissa Forest Corporation during the period 1985-86, extension of time for a period of 8 months beyond contract period was granted (October 1986) by the Divisional Forest Officer without realisation of the extension fees of Rs.1.14 lakhs in advance.

On this being pointed out in audit (June 1987), it was stated (June 1987) that action would be taken to realise the extension fees from the Corporation. Report on realisation has not been received (February 1989).

The matter was reported to Government (September 1987); their reply has not been received (February 1989).

6.11 Loss of revenue due to dropping of certificate case

Forest dues remaining unpaid are realised by certificate procedure as arrears of land revenue. According to the Board's Executive instructions under the Orissa Public Demands Recovery Rules 1963, the Requisition Officer is primarily responsible to ensure submission of application for certificate complete with the basic documents like (a) bid sheets (b) agreements duly signed by the contractor towards evidence showing acceptance of the terms and conditions of sale. In case, the application is later found to be defective the certificate case instituted would be ineffective.

In a forest division (Rairakhol), the sale of a timber coupe secured a highest bid of Rs.98,000 against the upset price of Rs.97,000 in the auction held in January 1980. The bidder signed the bid sheet, but did not pay the required security deposit of Rs.98,000. The sale was recommended (January 1980) by the Divisional Forest Officer for ratification without insisting upon payment of security deposit or execution of an agreement. The same was ratified (February 1980) by the Chief Conservator of Forests, Orissa.

However, on failure to deposit the security, the sale was quashed (February 1980) by the Divisional Forest Officer, with a stipulation to recover the short-fall in price if any on resale from this defaulting contractor as arrears of land revenue:

The coupe was resold in a supplementary auction (March 1980) for Rs.50,500 resulting in a short-fall of Rs.47,500. A certificate case without supporting the same with the bid sheet (stated to be missing) was instituted (December 1980) against the contract for Rs.27,790 (after adjusting an amount of Rs.19,710 towards security deposit

of other lots lying with the Forest Department). The certificate case was dropped (January 1986) by the Certificate Officer, on the ground that in the absence of bid sheet and agreement the dues were not recoverable. This resulted in a loss of revenue amounting to Rs.27,790.

The case was reported to Government in February 1981 and reply from Government has not been received (February 1989).

6.12 Irregular refund of revenue to a forest contractor

Under the Orissa Forest Contract Rules, 1966, a contract can be terminated for default of the payment of consideration money and the coupe resold. The short-fall if any on such resale would be recovered from the defaulting contractor.

A bamboo forest coupe in Nayagarh forest division, due for harvest during 1978-79 in a working cycle of once in four years, was auctioned in October 1978. The highest bid offered was for Rs.126300. The contractor paid a sum of Rs.25,260 towards security deposits. Necessary agreement was executed with the contractor in October 1978 and the sale was ratified by Government in December 1978, fixing the contract period upto 30th June 1979, with the stipulation that the contractor should pay the consideration money in 3 equal instalments on 15th of February, March and April 1979. The contractor took delivery of the coupe on the last day (i.e., 17th February 1979) but did not pay the consideration money. He did not work out the coupe and therefore the contract was terminated in May 1979. The contractor's appeal (August 1979) for extension of the period for working of the forest coupe for the next year (1979-80) was rejected by the Conservator of Forests. The contractor appealed (September 1982) for refund of the security deposit, which, together with another such deposit relating

to another coupe, and interest accrued thereon (aggregating to Rs.37,751.13) had been adjusted towards part realisation of the defaulted sale value of Rs.1.26 lakhs and credited to revenue (February 1982 and March 1984). Government ordered in December 1984, the refund of the amount to the contractor by sanctioning (January 1985) a refund of revenue which was accordingly paid to him (March 1985). As a result, the entire contract amount of Rs.1.26 lakhs remained outstanding (June 1987) in the books of accounts of the division to be recovered as arrears of land revenue.

The matter was reported to the Chief Conservator of Forests and Government in February 1986; their replies have not been received (February 1989).

6.13 Non-levy of interest on belated payment of consideration money

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of consideration money for sale of forest coupes to him by the due date he is liable to pay interest at the rate of 6 $\frac{1}{4}$ per cent per annum on the instalments in default. According to the Government orders (February 1977), these provisions were made applicable to leases of forest coupes given to the Orissa Forest Corporation Limited, a fully owned Government Company.

In six Forest Divisions (Deogarh, Ghumsur South, Parlakhemundi, Bamra, Baripada and Nayagarh), it was noticed (between May 1987 to November 1987) that in 92 cases of belated payment of consideration money ranging from half month to 9 months during the period 1984-85 to 1986-87, interest amounting to Rs.3.70 lakhs was not levied and realised. Of this, 83 cases involving a sum of Rs.3.68 lakhs related to Orissa Forest Corporation Limited only.

On the omission being pointed out by Audit (May 1987 to November 1987) the Divisional Forest Officer stated (May 1987 to November 1987) that action would be taken to realise the interest. Reports on realisation have not been received (February 1989).

The cases were reported to Government/Principal Chief Conservator of Forests, Orissa (October 1987 to May 1988); their replies have not been received (February 1989).

6.14 Accountal and disposal of property seized in forest offence cases

6.14.1 Introductory

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

Under Section 56 *ibid* any Forest Officer or Police Officer is empowered to seize the property involved except in cases where the offender is willing to get this offence compounded. The Forest Officer or Police Officer is also empowered to produce the property (i.e. Forest produce together with all tools, ropes, chains, boats, vehicles etc.,) so seized before an authorised officer, or make a report of such seizure to the Magistrate having jurisdiction to try the offence.

When an authorised officer seizes any produce or any such produce so seized is produced before him

and he is satisfied that a forest offence is committed in respect thereof, he may order confiscation of the forest produce so seized together with all tools, ropes, boats, vehicles etc., used in committing the offence after giving the person

- (a) a notice in writing informing him the grounds on which it is proposed to confiscate such property.
- (b) an opportunity of making a representation within a reasonable and specified time and
- (c) a reasonable opportunity of being heard.

In case, the owner thereof proves to the satisfaction of the authorised officer that it was used without his knowledge/connivance and he had taken reasonable and necessary precautions against such use, no order of confiscation shall be made.

6.14.2 *Scope of Audit*

With a view to assess how far the statutory provisions are being followed and codal provisions fulfilled by the Forest Department upto the level of Divisional Forest Officer, with reference to the accountal and disposal of property seized in forest offence cases the records maintained in 27 Territorial Forest Divisions were audited (April 1987 to 1988).

6.14.3 *Organisational set-up and procedure*

Within forty eight hours of detection of an offence, the detecting officer (Forest Guard/section forester) shall submit the F.I.R. in the prescribed form in the offence report book to his next higher authority, the duplicate carbon copy being retained in the book. The receiving officer shall acknowledge the report by signing on the reverse of the carbon copy.

Immediately on receipt of the F.I.R. the Section forester/Range Officer shall make an entry of the case in the offence case register maintained in the Section/ range indicating the name of the offender, forest produce involved and the nature of the offence and shall proceed to the spot and make a detailed enquiry as to the truth or otherwise of the case, and the seriousness of the offence committed and shall submit a report thereon to the next higher authority. Time upto 10 days is allowed and for any delay the Enquiring Officer is personally held responsible.

If during enquiry by the Section forester/Range officer, the offender comes forward with a request to compound the case on payment of compensation, and the Enquiring Officer is convinced that the nature of the offence is not of gravity to call for prosecution, he shall collect the provisional compensation fee so assessed not less than the market value or more than four times of that value after giving him a proper receipt and forward the case to the next higher authority along with his recommendation. F.I.R., compounding statement seizure list 'Zimanama' of the seized produce, statement of the witness recorded in receipt for the provisional compounding fees realised.

In cases, where the offender is not willing to compound the case or the case is such that the offender must be prosecuted, the Enquiring Officer shall simultaneously send his report together with seizure list to the Magistrate having jurisdiction to try the case.

The Range Officer shall maintain two separate registers in his office i.e.

- (i) Register of cases compounded, and
- (ii) Register of cases prosecuted.

Immediately on receipt of the enquiry report from the section forester, the Range Officer should make an entry of the case in the concerned register with all details, and if in his opinion no further enquiry is necessary, and the compensation amount is reasonable he shall forward the case with all its accompaniments to the Divisional Forest Officer alongwith his recommendation for compounding the case alongwith his next monthly account at the latest.

If, however, the Range Officer feels that the enquiry has not been done properly, he shall immediately conduct the enquiry and submit the report to the Divisional Forest Officer with his recommendation.

Similar registers are maintained in the Divisional Office, where immediately on receipt of the case report from the Range Officer, the details of the cases are entered in the concerned register serially numbered corresponding to those assigned to each case in the Range records.

If in the opinion of the Divisional Forest Officer, the enquiry has been just and complete, and the offender has expressed in writing his willingness to compound the case, he will pass orders in the case record finally compounding the case and send back the report alongwith his order to the Range Officer for realising the amount of compensation and handing over the property to its owner. On receipt of compliance report from the Range Officer, the case record in the divisional office shall be closed after making necessary entries as to the receipt of the compensation amount and release of the property seized in each case.

If the order of the Divisional Forest Officer is to prosecute the case, he shall forward the same to the court having jurisdiction to try the case.

The Range Officer remains responsible from the date of receipt of the F.I.R. in his office for keeping a close watch on the progress of the case.

If there is delay in submission of any enquiry report, he should immediately try to find out the reasons and bring this to the notice of the Divisional Forest Officer for taking necessary action. The Divisional Forest Officer should initiate suitable disciplinary action against the Range Officer, if there has been any avoidable delay at the level of the latter.

6.14.4 Highlights

(i) In 14 (out of 27) forest Divisions compounding fees amounting to Rs.2.05 lakhs remained unrealised, though assessment was finalised at the Divisional Forest Officers' level in respect of 5820 cases, and the forest produce pertaining thereto (value not furnished by Divisions) remained undisposed of for periods upto 39 years (commencing from 1949-50).

(ii) As on 31.3.1987, 1,21,896 forest offence cases detected in all the 27 forest divisions of the State since 1947-48 remained uncompounded and unprosecuted for non-receipt of enquiry reports from the Range. In respect of 14,504 cases pertaining to six forest divisions forest produce valuing Rs.23.00 lakhs remained uncompounded and undisposed of, and in 2687 such cases, forest produce valuing Rs.9.19 lakhs were reported (April 1988) by 2 Forest Divisions (Dhenkanal and Khurda) as not available in the field.

(iii) As on 31.3.87, 19,546 undetected forest offence cases remained undisposed of since 1947-48 in respect of all the 27 forest divisions.

As per details furnished by 8 Forest Divisions in 1710 such cases forest produce valuing Rs.10.64 lakhs remained undisposed of from 1957-58 onwards, and in 1139 cases forest produce valuing Rs.6.98 lakhs seized during 1958-59 to 1986-87 were completely deteriorated and not available in the field.

(iv) Forest produce valuing Rs.1.72 lakhs obtained in 57 cases by 12 ranges, over which a sum of Rs.0.21 lakh was spent in dragging, transporting and stacking were not accounted for in Form 2 maintained by the Ranges.

(v) Out of 5,172 vehicles carrying forest produce valuing Rs.35.64 lakhs seized and tried, 1562 vehicles with an estimated cost of Rs.48.69 lakhs were confiscated to Government. 895 vehicles were disposed of by 8 forest divisions for an auction value of Rs.2.52 lakhs. Balance of 667 vehicles alongwith forest produce valuing Rs.35.45 lakhs still lay undisposed with the divisions on conclusion of trial (March 1987).

6.14.5 *Non-realisation of compounding fees where offences have been compounded*

Where forest produce was seized and compounding fees assessed, the Forest Officers (Section Officers/Range Officers, the Divisional Forest Officers) order collection of the amount from the offender and release the property or retain the property to be eventually disposed of by the Department. The case records in all these cases were sent back to the Range Officers concerned for recovery of the compounded amount assessed and disposal of the produce in the manner stated above.

In 14 forest divisions (out of 27) compounding fees amounting to Rs.2.05 lakhs assessed in 5820 forest offence cases remained unrealised and the seized produce

pertaining thereto remained undisposed of for periods upto 39 years commencing from 1949-50. Division-wise break-up of the cases, amounts and pendency is indicated below.

Name of the Division	Number of cases out-standing	Amount of compound-ing fees	Period from which out standing
(1)	(2)	(3) (in rupees)	(4)
1. Baripada	213	5,128.70	1950-51 to 1980-81
2. Bonai	3	135.00	1961-62 to 1963-64
3. Bamra	16	1,722.00	1959-60 to 1967-68
4. Bolangir	662	16,326.80	1950-51 to 1968-69
5. Ghumsur(South)	341	13,966.90	1952-53 to 1969-70
6. Jeypore	123	3,808.85	1953-54 to 1967-68
7. Balliguda	4	496.60	1986-87
8. Keonjhar	387	7,378.00	1949-50 to 1964-65
9. Khariar	319	11,771.25	1953-54 to 1968-69
10. Nayagarh	433	18,968.70	1957-58 to 1971-72.
11. Nowrangpur	308	14,129.60	1953-54 to 1976-77
12. Rayagada	2176	96,546.15	1954-55 to 1968-69
13. Sambalpur	629	12,634.65	1953-54 to 1967-68
14. Sundargarh	206	2,245.60	1952-53 to 1968-69
	<u>5820</u>	<u>2,05,258.80</u>	

or Rs.2.05 lakhs.

The reasons for non-recovery of the compounding fees assessed and non-disposal of the forest produce seized in these cases were generally attributed by the Divisions to

- (a) Inability to trace the third parties (i.e., Zimadars), in whose custody both the seized produce and provisional compounding fees assessed were kept at the time of seizure.
- (b) Non-availability/non-delivery of the forest produce kept in custody of the Forest officials (Forest Guard/Section Forester) to be released/disposed of on realisation of compounding fees assessed.

6.14.6 *Offence cases detected but enquiry not concluded*

As mentioned in para 2.3 above, immediately on receipt of the case records from the Range Officer, the Divisional Forest Officer shall enter the same in his register of cases compounded or presented as the case may be maintained for the concerned range, serially numbering the cases corresponding to that assigned to each case in the case record. It was observed in all the 27 forest divisions, however, that there were many missing serial numbers in the register of cases of the Divisional Forest Officer. This indicated that a large number of cases relating to past several years were not received from the ranges.

Despite the fact that the codal provisions envisaged completion of enquiry within 10 days of receipt of the F.I.R. by the Range Officer, submission of his report to Divisional Office, and keeping watch over the progress of the case, it was noticed during audit (April 1987 to March 1988) that in all the 27 forest divisions 1,21,896

forest offence cases detected during a period over 40 years from 1947-48 to 1986-87 remained uncompounded and unprosecuted for non-receipt of enquiry reports from the rangers as on 31.3.1987. In 14,504 cases of 6 forest divisions, forest produce involving 60,949.70 Cft. of timber, 24,307.50 Cft. of fire wood, 13,758 number of poles and 5136 number of bamboos, 157 bags of charcoal, valued at Rs.23.00 lakhs at the current (1986-87) market rates remained uncompounded and undisposed of due to non-receipt of enquiry reports from the Rangers. In 2687 cases, forest produce involving 21,916.91 Cft. of timber, 1,08,273.25 Cft. of firewood, 3480 number of poles, 670 number of bamboos, 31 bags of charcoal and 39 bags of Mahua flower valued at Rs.9.19 lakhs were reported (April 1988) by two forest divisions (Dhenkanal and Khurda) as not available in field.

No information was furnished by the remaining 19 Forest Divisions (July 1988).

6.14.7 Undetected Forest Offence Cases

(a) Non-disposal of produce seized and accounted for

These relate to cases where forest produces illicitly removed were seized by the forest officers and were taken possession of by them for disposal, the offenders in respect of which having gone undetected. The forest produce thus seized, must be accounted for by the range officer in a register in Form-2 and should normally be sold by outright auction or handed over to the Orissa Forest Corporation Limited at pre-sanctioned sale price. A consolidated return of such forest produce along with those collected through departmental working and assigned to Government on confiscation of produce illicitly removed showing the opening balances, fresh receipts, sales and balances remaining undisposed of at the end of each month should be submitted by each

Range Officer to the Divisional Forest Officer along with his monthly account. In the month of August each year the Divisional Forest Officer shall review the balance position of forest produce lying undisposed of in that form and shall take steps for their disposal and write-off of the stock, which could not be sold even by permits.

Despite provision of these remedial measures in the Departmental Codes, 19,546 such cases dating back for the periods from 1947-48 to 1986-87 were lying undisposed of.

As per details furnished by 8 forest divisions (1. Bonai, 2. Dhenkanal, 3. Karanjia, 4. Khurda, 5. Phulbani, 6. Rairakhol, 7. Sambalpur and 8. Sundargarh) in respect of 1710 such cases forest produce involving 28,738.75 Cft. of timber, 2957 Cft. of firewood, 4236 number of poles, 60 number of bamboos, 20 bags of charcoal and 95 bags of Mahua flower, valued at Rs.10.64 lakhs at the current (1986-87) market rates are lying undisposed of from 1957-58 onwards. Besides, 6 forest divisions (Dhenkanal, Karanjia, Khurda, Phulbani, Sambalpur and Sundargarh) reported (April 1986) complete deterioration/non-availability of forest produce (timber: 18,944.12 Cft., fireweed: 3870 Cft., Plies: 2759 numbers, bamboos: 150 numbers and charcoal: 49 bags) valued at Rs.6.98 lakhs seized in 1139 such cases during 1958-59 to 1986-87.

The remaining 19 forest divisions in whose books 16,283 cases are still pending for disposal from 1947-48 onwards could not furnish the details (produce and volume) of the produce yet to be disposed of by them (March 1988).

(b) Non-accountal of forest produce seized

Test check of the monthly cash accounts of some of the Ranges submitted to the Divisional Forest Officers with an Account (Form-2) of the forest produce

obtained and disposed of during the month, revealed in respect of 8 forest divisions (1.Ghumsur (East), 2.Sundergarh, 3.Karanjia, 4.Jeypore, 5.Baripada, 6.Bolangir, 7.Ghumsur (South), 8.Dhenkanal) that forest produce involving 3586.74 Cft. of timber, 3361.70 Cft. of firewood, 114 numbers of poles valued at Rs.172,940/- obtained in 57 such cases by 12 rangers were not accounted for in the Form-2. Nevertheless the monthly accounts of the ranges were passed and incorporated in the divisional accounts without investigating into the whereabouts of the materials. As per the details of the paid vouchers, submitted by the Ranger with the accounts, a total expenditure of Rs.20,502.00 was incurred in drawing transporting and stacking such produces.

6.14.8 *Offence cases concluded and property confiscated but not disposed of*

As per the statutory provisions all forest produce in respect of which a forest offence has been committed together with all tools, ropes, chains, boats, and vehicles used in committing the offence shall be liable to confiscation and on conclusion of the trial if the property belongs to Government or has been confiscated to Government shall be taken charge by Divisional Forest Officer and disposed of in auction or in such manner as the court may direct. It was seen from information furnished (March 1987) in this respect to Government/Principal Chief Conservator of Forests, Orissa, by 18 forest divisions (1.Athgarh, 2.Angul, 3.Athamallik, 4.Baripada, 5.Bamra, 6.Bolangir, 7.Dhenkanal, 8.Deogarh, 9.Ghumsur South, 10.Karanjia, 11.Khurda, 12.Kalahandi, 13.Keonjhar, 14.Khariar, 15.Nayagarh, 16.Rayagada, 17,Rairakhol, 18.Sambalpur) that during the 4 year period ending 31.3.1987 after the amendment of section 56 of the Orissa Forest Act in April 1983, authorising the department to confiscate these tools, ropes, vehicles etc., a total number of 5172 vehicles with forest produce

valuing Rs.35.64 lakhs were seized. Out of this 1562 vehicles (estimated cost Rs.48.69 lakhs) were confiscated to Government on conclusion of trials. But of these only 895 vehicles were disposed of by 8 forest divisions with an auction value of Rs.2.62 lakhs. The balance 667 vehicles together with seized forest produce valuing Rs.35.45 lakhs are yet to be disposed of. The produce is exposed and susceptible to gradual deterioration due to efflux of time. In all these cases where no reason was adduced by the division for delay in disposal, it was generally replied (May 1988) that action is being taken to dispose of the vehicles and the produce.

The above review was brought to the notice of Government in July 1988, their reply has not been received (February 1989).

CHAPTER 7

STATE EXCISE

7.1 Results of Audit

A test check of the accounts of receipts in the offices of the Excise Commissioner and Superintendents of Excise, conducted during the period from April 1987 to March 1988, revealed non-realisation, short-realisation, breakages and other losses of revenue amounting to Rs.30.15 lakhs in 57 cases, which may broadly be categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1: Loss of revenue due to application of lower rates of duty, short-realisation/non-realisation	12	11.04
2. Non-levy/non-realisation of duty on breakage in movement within the State	3	0.03
3. Other reasons	<u>42</u>	<u>19.08</u>
	<u>57</u>	<u>30.15</u>

Some of the important cases are mentioned in the following paragraphs.

7.2 Non-levy of excise duty on excess wastage of rectified spirit

Under Board's Excise Rules, 1965, loss on wastage of spirit, stored in a distillery, is allowable to the extent

of 1.5 per cent per year. The distiller (Licensee) is liable to pay duty on such excess quantity unless he proves to the satisfaction of the Excise Commissioner that such excess was due to accident or other unavoidable causes.

Mention was made in paragraphs 7.2 and 8.2 of Audit Reports (Revenue Receipts) for 1984-85 and 1986-87 about excess wastage of rectified spirit by a distiller of Jharsuguda (district Sambalpur) for the years 1983-84 and 1984-85 on which excise duty was not charged. The same distiller had shown during 1986-87 a wastage of 432.13 London proof litres of rectified spirit against permissible allowance of 164.66 LPL (1.5 per cent of 10,977.7 LPL) of spirit. As there was nothing on record to establish that the excess wastage was due to accident or other unavoidable causes, duty amounting to Rs.0.19 lakh was chargeable from the distiller, but was not charged.

On the omission being pointed out in audit (August 1987), the Superintendent of Excise agreed (August 1987) to take action to realise the amount from the distiller. Further report has not been received (February 1989).

The case was reported to Government in October 1987; their reply has not been received (February 1989).

7.3 Short levy of excise duty on medicinal preparations containing alcohol

Under the Medicinal and Toilet Preparation (Excise Duties) Act, 1955, and the schedule of rates prescribed thereunder, allopathic medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverage and falling under the category of restricted preparations are chargeable to excise duty

at the rate of 20 per cent *ad-valorem* or Rs.13.20 per litre of pure alcohol, whichever is higher. According to the provisions of the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, when an excess of more than 2.0 (proof degrees) of alcohol over the strength declared by the licensee for any batch of preparation in production of a particular medicinal or toilet preparation is found by the chemical examiner, the licensee shall be levied the differential duty for such excess consumption.

(i) In para 8.3 of the Audit Report for 1986-87 mention was made about the short demand of excise duty on medicinal preparation "Tincture Hemidesmi I.P", a restricted preparation. Four bonded manufacturers at Cuttack had manufactured "Tincture Hemidesmi I.P", a restricted preparation consuming 92,047.69 litres of pure alcohol during the period from 1983-84 to 1984-85. Duty was paid at the rate of Rs.6.60 per litre of pure alcohol, applicable to unrestricted preparations. This was accepted by the assessing officer. The duty payable at the rate of Rs.13.20 (being higher) per litre of pure alcohol amounted to Rs.12.15 lakhs; the short realisation worked out to Rs.6.07 lakhs.

On the mistake being pointed out in audit (July 1987), the Superintendent of Excise, Cuttack stated (July 1987) that the Excise Commissioner had been requested to indicate the correct rate of duty and the date from which the same is effective. Further reports have not been received (February 1989).

The matter was reported to Government in November 1987; their reply has not been received (February 1989).

(ii) Three pharmaceutical manufacturers (Dhenkanal: one and Cuttack: two) had manufactured "Tincture

Hemidesmi I.P", a restricted preparation consuming 10,576.44 litres of pure alcohol during the period from 1984-85 to 1986-87, as per the strength reported by the Chemical Examiner. The excise duty payable at the rate of Rs.13.20 (being higher) per litre of pure alcohol on this quantity amounted to Rs.1.40 lakhs. However, the excise duty actually levied and collected on the basis of the declared strength from those licensees was Rs.1.19 lakhs only. Thus the excise duty short-levied was Rs.0.21 lakh.

On this being pointed out in audit (June 1987 and January 1988) the Superintendent of Excise of the district stated (July 1987 and January 1988) that the matter was being examined. Further reports have not been received (February 1989).

The matter was reported to Government in May 1988; their reply has not been received (February 1989).

7.4 Short levy/non-levy of excise duty on India made foreign liquor issued to Military bodies/troops

Excise duty on India made foreign liquor, except Rum issued from any distillery and bonded warehouse to troops and military bodies in Orissa was raised with immediate effect from Rs.9.50 to Rs.35/-per London proof litre, under Government notification dated 24th November 1986. The same notification prescribed a duty of Rs.21.00 per London proof litre on Rum supplied to the troops.

During audit of District Excise Offices of Puri (June 1987), Sambalpur (August 1987) and Ganjam (December 1987), it was seen that the revised rates were not applied with effect from the date of notification viz., 24th November 1986 resulting in short-levy/non-levy of duty of Rs.4.36 lakhs (short levy of Rs.0.92 lakh on 3624.750 LPL of IMFL other than Rum and non-levy of Rs.3.44 lakhs on

16362 LPL of IMFL Rum) for the period from 24.11.1986 to 31st December 1986.

On this being pointed out in audit (June 1987 to December 1987), the Superintendent of Excise, Puri agreed to realise the dues, while Superintendents of Excise, Sambalpur and Ganjam stated that the short-levy/non-levy was due to late receipt of Government Notification, and agreed to realise the duty. Further reports have not been received (February 1989).

The matter was reported to Government in December 1987 and January 1988; their reply has not been received (February 1989).

BHUBANESWAR

The

24 MAY 1989

S.K. Podder

(S.K. PODDER)

Accountant General (Audit)-II
Orissa

Countersigned

T.N. Chaturvedi

(T.N. CHATURVEDI)

Comptroller and Auditor General of
India

NEW DELHI

The

25 JUN 1989

OGP-MP—XII (A. G.) 5—1.200—18-4-1989



COMPTROLLER AND AUDITOR GENERAL
OF INDIA, 1989

Printed at Orissa Government Press, Cuttack-10