



REPORT
OF THE
COMPTROLLER AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED
31 MARCH 1997

No.2

(REVENUE RECEIPTS)

GOVERNMENT OF GUJARAT

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PREFATORY REMARKS

This Report for the year ended 31 March 1997 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1996-97 as well as those noticed in earlier years but could not be covered in previous year's Reports.

OVERVIEW

OVERVIEW *excl RA*

This report contains 64 paragraphs including two reviews relating to non-levy/short levy of tax, penalty and interest etc. involving Rs. 313.80 crores. Some of the important findings are mentioned below :

1. General

(i) The total revenue receipts of the Government of Gujarat in 1996-97 were Rs. 9668.03 crores as against Rs.8544.04 crores during 1995-96. The revenue raised by the State from taxes during 1996-97 was Rs.6065.95 crores and from non-tax receipts was Rs.1572.74 crores. State's share of divisible Union taxes and grants-in-aid from Government of India were Rs. 1174.50 crores and Rs. 854.84 crores respectively. The main source of tax revenue during 1996-97 was Sales Tax (Rs.4025.69 crores). The main receipts under non-tax revenue were from Interest (Rs. 816.14 crores) and Nonferrous Mining and Metallurgical Industries (Rs.441.90 crores).

[Paragraph 1.1 and 1.2]

(ii) As on 31 March 1997, 2240378 cases were pending for assessment under Sales Tax Act. Out of these 67551 cases had turnover of above Rs.1 crore in each case.

[Paragraph 1.6]

(iii) A test check of the records of Sales Tax, Land Revenue, Motor Vehicles Tax and other departmental offices conducted during 1996-97 revealed under assessment and loss of revenue of Rs.6907.12 lakhs in 2086 cases. During the year the concerned departments accepted under assessments etc. of Rs. 1075.38 lakhs in 1404 cases and recovered Rs.852.49 lakhs in 876 cases pointed out during 1996-97 and earlier years.

[Paragraph 1.9]

2. Sales Tax

(i) A review on "Internal Control and Monitoring of the System of the assessment in Sales Tax Department" revealed the following

(a) Defective maintenance of register No. 31 (watching non receipt of returns/chalans) resulted in blocking of Rs. 121.78 crores.

[Paragraph 2.2.5.1(iv)]

(b) Non levy of penalty though leviable in 2.28 lakhs cases resulted in non realisation of Rs. 2.68 crores.

[Paragraph 2.2.5.1 (i)]

(c) Non observance of internal control prescribed for scrutiny of returns promptly resulted in non detection of tax evasion of Rs. 5.87 crores.

[Paragraph 2.2.5.2]

(d) 26.95 lakhs assessments were pending finalisation at the end of March 1996. Of these 490583 cases of turnover exceeding Rs. 25 lakhs, involved additional demands of about Rs. 426.32 crores.

[Paragraph 2.2.6.1 (A)]

(e) In 24 offices, 1198 assessments involving demands of Rs.26.89 crores were finalised belatedly resulting in delayed realisation of revenue.

[Paragraph 2.2.6.2(i)]

(f) Lack of control over timely completion of assessments in 192 cases resulted in loss of interest amounting to Rs.2.01 crores.

[Paragraph 2.2.6.2.2]

(g) Due to lack of internal control, there was excess grant of tax exemption of Rs.80.20 lakhs in two cases.

[Paragraphs 2.2.6.6(ii)&(iii)]

(h) Despite the Supreme Court's judgement to refrain from passing interim order staying realisation of indirect taxes, action was not taken for vacation of stay orders of High Court involving blocking of revenue of Rs.112.69 crores.

[Paragraph 2.2.6.8]

(i) Lack of control over completion of assessment of remand cases in time resulted in loss of revenue to the tune of Rs.36.47 lakhs in 31 cases.

[Paragraph 2.2.7]

(ii) Incorrect exemption of Sales Tax of Rs.178.75 lakhs was allowed to 18 ineligible industrial units and excess exemption of Rs.26.55 lakhs was allowed to 23 dealers.

[Paragraph 2.3.A to G and 2.4]

(iii) Deferred tax of Rs.188.02 lakhs was not recovered from 21 units although the units have closed their business.

[Paragraph 2.5]

(iv) Set off of Rs.84.52 lakhs was irregularly granted to 47 dealers

[Paragraph 2.6]

(v) There was short levy of tax of Rs.310.23 lakhs due to incorrect classification of goods.

[Paragraph 2.7]

(vi) Purchase tax of Rs.66.15 lakhs was not levied in the case of 35 dealers for breach of recitals of forms.

[Paragraph 2.8]

(vii) Tax of Rs.116.59 lakhs remained to be levied due to incorrect allowance of deduction and Rs.94.52 lakhs due to incorrect application of concessional rate of tax.

[Paragraph 2.9 and 2.10]

(viii) Due to incorrect computation of taxable turnover an amount of Rs.6.12 crores of

turnover tax was short levied.

[Paragraph 2.11]

3. Land Revenue

(i) Occupancy price of Rs.162.85 lakhs was not demanded from 4 autonomous bodies and ground rent and non-agricultural assessment of Rs.105.71 lakhs was not recovered from Sindhu Resettlement Corporation.

[Paragraph 3.2 and 3.3]

(ii) Conversion tax of Rs.49.36 lakhs was not/short recovered in 53 cases in 12 districts.

[Paragraph 3.4(a) and (b)]

(iii) In 237 cases of 18 districts application of incorrect rate of non-agricultural assessment resulted in short levy of revenue of Rs.82.09 lakhs.

[Paragraph 3.5 and 3.6]

4. Taxes on Vehicles

(i) In 12 different Regional Transport Offices composite tax of Rs. 238.63 lakhs was not recovered from operators of 537 omnibuses.

[Paragraph 4.2.]

(ii) In 18 different Regional Transport Offices motor vehicles tax/goods tax of Rs. 59.32 lakhs in 920 cases was not levied.

[Paragraph 4.3]

(iii) Due to non-revision of rates under National Permit Scheme composite fee of Rs. 13.28 lakhs was short recovered.

[Paragraph 4.6]

5. Stamp duty and Registration Fees

(i) Stamp duty and registration fees of Rs.25.70 crores was short levied due to incorrect application of rates.

[Paragraph 5.2, 5.3 and 5.5.]

(ii) Stamp duty and registration fees of Rs.12.81 crores was short levied due to misclassification of documents.

[Paragraph 5.4]

(iii) Incorrect computation of consideration in 71 documents resulted in short levy of stamp duty of Rs.34.46 lakhs and in 145 documents additional duty of Rs. 22.79 lakhs was not levied.

[Paragraph 5.6 and 5.7]

6. Other Tax Receipts

A. Electricity Duty

(i) Due to incorrect application of rate electricity duty of Rs.44.19 lakhs was short recovered.

[Paragraph 6.4]

B. Entertainment Tax

(i) In 18 districts Entertainment tax of Rs. 90.12 lakhs was not recovered from cable operators.

[Paragraph 6.5]

(ii) Irregular exemption from payment of Entertainment Tax resulted in loss of revenue to the tune of Rs.17.85 lakhs.

[Paragraph 6.6]

7. Non Tax Receipts

A. Mining Receipts

(i) A review conducted on "Collection of Royalty and Dead rent for the mines and quarries" revealed the following.

(a) Non verification of correctness of returns submitted by lessee resulted in short levy of royalty of Rs. 65.84 crores on crude oil and Rs. 1.05 crores on Natural Gas.

[Paragraph 7.2.6.(A & C)]

(b) Royalty of Rs. 12.65 crores was not levied on the quantity of Natural Gas flared up in the atmosphere or otherwise lost..

[Paragraph 7.2.6.(B)]

(c) Non scrutiny of returns and production register in time, resulted in short levy of royalty of Rs. 2.74 crores on lime stone..

[Paragraph 7.2.7.(A & B)]

(d) Illegal excavation of manganese by a Jagirdar resulted in loss of Rs. 4.84 crores.

[Paragraph 7.2.8]

(e) Illegal removal of Black Trap from the land not included in the lease agreement resulted in loss of royalty of Rs.67.29 lakhs..

[Paragraph 7.2.9]

(f) Interest of Rs.2.98 crores for belated payment of royalty for major minerals in respect of 6 cases is yet to be collected..

[Paragraph 7.2.12]

(g) *Due to lack of mechanism and systems in the mining department royalty amounting to Rs. 79.53 lakhs could not be realised from the works contractors.*

[Paragraph 7.2.13]

(h) *In ten cases surrender of leases was accepted without realisation of outstanding dues amounting to Rs. 23.76 lakhs.*

[Paragraph 7.2.15]

B. Forest Receipts

(i) *24 Forest Labour Co-operative Societies did not credit the amount of Sales Tax collected from the contractors while selling the forest produces, resulting in loss of Rs. 4.36 crores to Government.*

[Paragraph 7.4]

C. Interest Receipts

(i) *Interest of Rs. 87.75 lakhs was short levied due to incorrect application of rate of interest.*

[Paragraph 7.9]

Chapter - I

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General



GENERAL

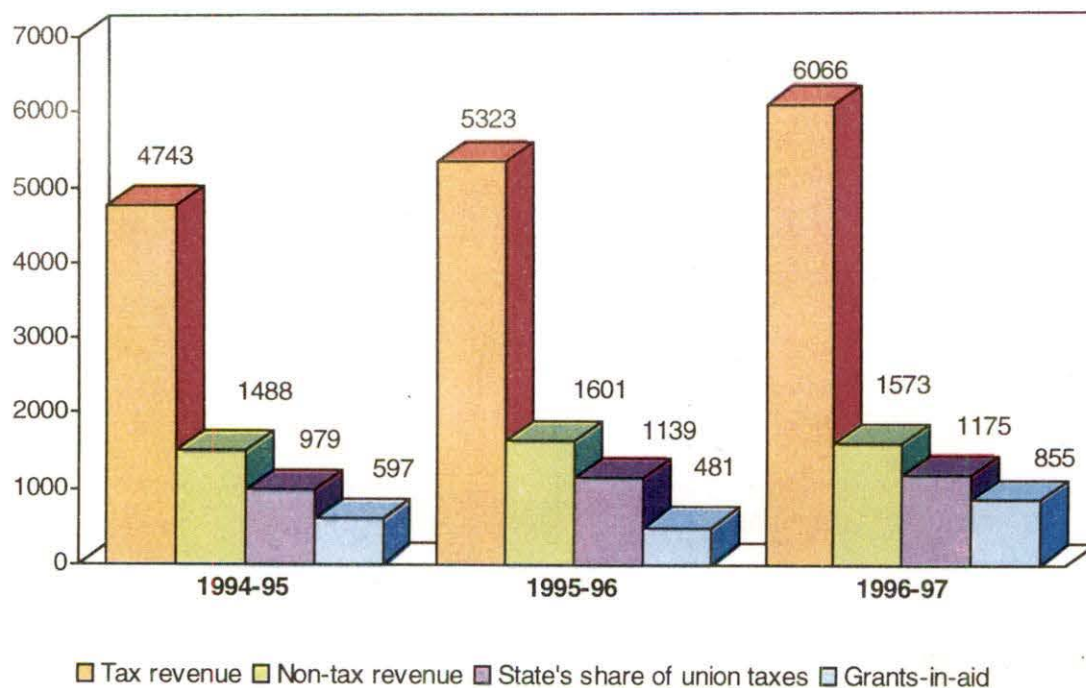
1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Gujarat and the State's share of divisible Union taxes and grants-in-aid received from Government of India during 1996-97 and the preceding two years are given below and exhibited in chart I:

	1994-95	1995-96	1996-97
	(.....Rupees in crores.....)		
I. Revenue raised by State Government			
(a) Tax revenue	4742.86	5322.86	6065.95
(b) Non-Tax revenue	1488.11	1601.17	1572.74
Total	6230.97	6924.03	7638.69
II. Receipts from Government of India			
(a) State's share of divisible Union taxes	978.63	1139.26	1174.50
(b) Grants-in-aid	596.79	480.75	854.84
Total	1575.42	1620.01	2029.34
III. Total receipts of the State Government (Revenue Account)	7806.39	8544.04	9668.03*
Percentage of I to III	80	81	79

* For details, please see statement No.11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Gujarat for the year 1996-97. Figure under the head "0021 - Taxes on Income other than Corporation Tax- share of net proceeds assigned to States" booked in the Finance Accounts under A - Tax Revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

CHART - I
Analysis of Revenue Receipts
Total revenue receipts
(Rupees in crores)



1.2. Revenue raised by the State Government

(i) Tax revenue contributed 63 per cent of the total revenue receipts of the State Government during 1996-97.

The contribution of sales tax to the total tax receipts during 1994-95 to 1996-97 was as under :

	1994-95	1995-96	1996-97
	(Rupees in crores) (Percentage in bracket)		
Sales Tax	3185.99(67)	3593.37(68)	4025.69(66)
Other Taxes	1556.87(33)	1729.49(32)	2040.26(34)
Total	4742.86(100)	5322.86(100)	6065.95(100)

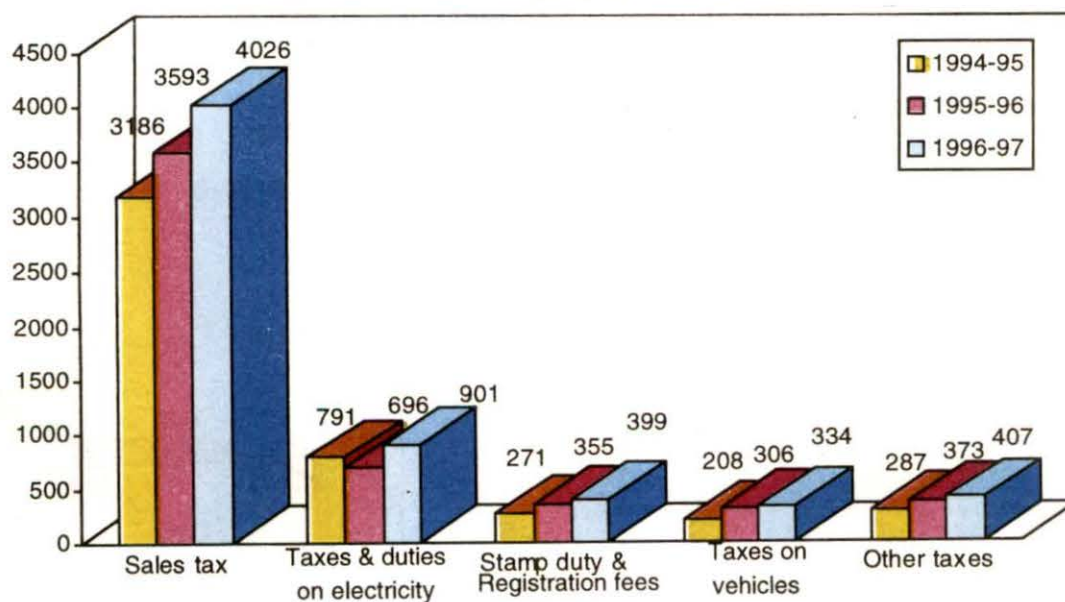
The details of tax revenue raised from major taxes during the three years upto 1996-97 are given below and exhibited in Chart II

	1994-95	1995-96	1996-97	Percentage of increase (+) or decrease (-) in 1996-97 over 1995-96
(Rupees in crores)				
1. Sales Tax	3185.99	3593.37	4025.69	(+) 12
2. Taxes and Duties on Electricity	791.21	695.58	900.60	(+) 29
3. Stamp Duty and Registration Fees	270.68	355.48	399.13	(+) 12
4. Taxes on Vehicles	208.17	305.69	333.94	(+) 1
5. Taxes on Goods and Passengers	65.40	107.30	96.19	(-) 10
6. Land Revenue	60.75	77.48	87.58	(+) 13
7. State Excise	21.08	21.36	24.32	(+) 14
8. Other Taxes	139.58	166.60	198.50	(+) 19
Total	4742.86	5322.86	6065.95	

CHART - II

Analysis of Tax Revenue

Total tax revenue receipts (Rupees in crores)



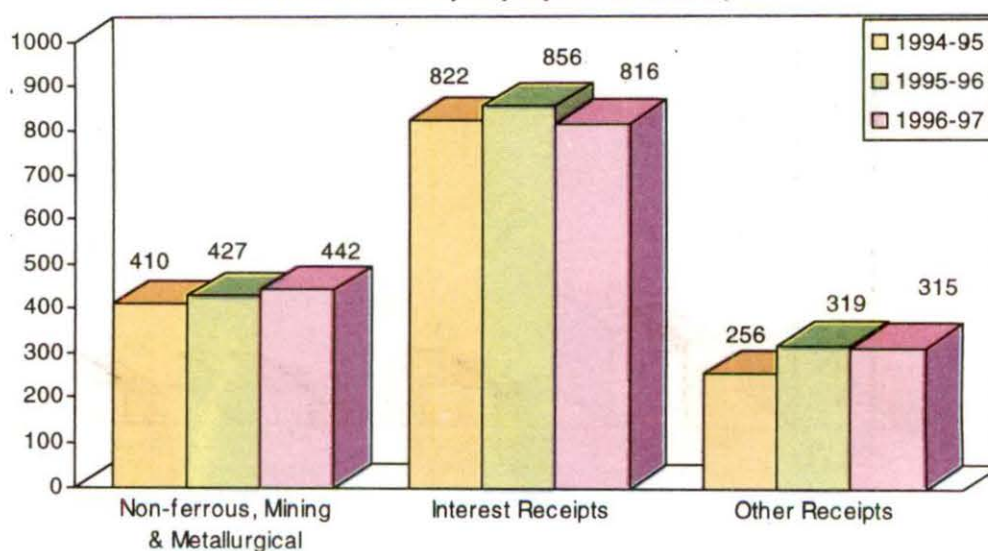
There was significant variation in receipt under head "Taxes and Duties on Electricity".

(ii) Non-tax revenue

(a) Details of revenue raised from some of the major non-tax receipts during the three years upto 1996-97 are given below and also depicted in Chart-III:

	1994-95	1995-96	1996-97	Percentage of increase (+) or decrease (-) in 1996-97 over 1995-96
(---- Rupees in crores ----)				
1. Non-ferrous Mining & Metallurgical Industries	410.49	426.69	441.90	(+) 4
2. Interest Receipts	821.69	855.63	816.14	(-) 5
3. Major & Medium Irrigation	42.59	37.22	37.54	(+) 1
4. Medical & Public Health	27.53	27.90	25.14	(-) 10
5. Others	185.81	253.73	252.02	(-) 1
Total	1488.11	1601.17	1572.74	

CHART - III
Analysis of Non-tax revenue
Total revenue receipts (Rupees in crores)



1.3. Variations between Budget estimates and actuals

The variations between Budget estimates and actuals of some major revenue receipts for the year 1996-97 are given below:

Head of Revenue	Budget estimates	Actuals	Variation Increase (+) Decrease (-)	Percentage of variation
Tax revenue (Rupees in crores)				
1. Sales Tax ✓	4037.60	4025.69	(-) 11.91	Negligible
2. Taxes & Duties on Electricity	763.06	900.60	(+) 137.54	(+) 18
3. Stamp Duty & Registration Fees ✓	297.72	399.13	(+) 101.41	(+) 34
4. Taxes on Vehicles ✓	281.99	333.94	(+) 51.95	(+) 18
5. Taxes on Goods & Passengers ✓	144.58	96.19	(-) 48.39	(-) 33
6. Land Revenue ✓	68.05	87.58	(+) 19.53	(+) 29
7. State Excise. ✓	26.27	24.32	(-) 1.95	(-) 7
8. Other Taxes on Income & Expenditure	48.30	48.27	(-) 0.03	Negligible
Non-tax revenue				
9. Non-ferrous Mining & Metallurgical Industries	424.09	441.90	(+) 17.81	(+) 4
10. Interest Receipts	429.63	816.14	(+) 386.51	(+) 90
11. Major & Medium Irrigation	40.00	37.54	(-) 2.46	(-) 6
12. Medical & Public Health	42.83	25.14	(-) 17.69	(-) 41
13. Forestry & Wild Life	19.80	15.65	(-) 4.15	(-) 21
14. Education, Sports, Arts & Culture	19.85	20.82	(+) 0.97	(+) 5
15. Police	16.00	23.55	(+) 7.55	(+) 47
16. Public Works	10.00	9.59	(-) 0.41	(-) 4
17. Miscellaneous General Services	8.06	17.48	(+) 9.42	(+) 117

1.4. Cost of collection

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

during the years 1994-95, 1995-96 and 1996-97 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1995-96 are given below:

Sr No.	Head of Revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to collection	All India average (percentage for the year) 1995-96
(Rupees in crores)						
1.	Sales Tax	1994-95	3185.99	27.91	1	1.29
		1995-96	3593.37	32.73	1	
		1996-97	4025.69	34.91	1	
2.	Stamp Duty and Registration Fees	1994-95	270.68	5.87	2	3.46
		1995-96	355.48	10.86	3	
		1996-97	399.13	11.33	3	
3.	Taxes on Vehicles	1994-95	208.17	7.40	4	2.57
		1995-96	305.69	10.32	3	
		1996-97	333.94	10.83	3	
4.	State Excise	1994-95	21.08	2.57	12	3.20
		1995-96	21.36	2.97	14	
		1996-97	24.32	3.20	13	

1.5. Arrears of revenue

As on 31 March 1997 arrears of revenue under principal heads of revenue, as reported by the departments were as under:

Sr No.	Head of revenue	Arrears pending collection	Arrears more than five years old	Remarks
(Rupees in lakhs)				
1.	Sales Tax	87151.00	24155.00	Out of arrears of Rs. 87151.00 lakhs Rs.16822.00 lakhs were due to deferment scheme, Rs. 12634.00 lakhs were due to postponement of recovery due to stay granted by appellate authorities, Rs.5615.00 lakhs were due to cases pending in liquidation, insolvency transfer of liquidated property and court cases etc., Rs.3139.00 lakhs were due to grant of instalment for recovery as a measure of relief and Rs.489.41 lakhs were due to other reasons.

2.	Motor Vehicle Tax	1352.14	423.72	Out of Rs.1352.14 lakhs, Rs.444.18 lakhs were due to demand covered by recovery certificates, Rs.2.56 lakhs were due to stay granted by High Court and other judicial authorities and Rs. 905.40 lakhs were due to other reasons.
3.	Profession Tax	1235.86	588.90	Arrears were due to non-availability of the addresses of the defaulters.
4.	Goods and Passenger Tax	466.52	198.12	Out of total arrears of Rs.466.52 lakhs, Rs.72.77 lakhs were due to demand covered by recovery certificates, Rs. 1.37 lakhs were pending due to stay granted by High Court and other judicial authorities and Rs. 392.38 lakhs were due to other reasons.
5.	Entertainment Tax	200.14	27.55	Out of Rs. 200.14 lakhs Rs. 6.76 lakhs were due to stay granted by High Court and other judicial authorities and Rs.193.38 lakhs were due to other reasons.
6.	Luxury Tax	275.65	36.19	Out of Rs.275.65 lakhs Rs. 7.01 lakhs were due to stay granted by High Court and other judicial authorities and Rs.268.64 lakhs were due to other reasons.
7.	Irrigation dues	6758.63	1849.30	The arrears had risen due to the fact that departmental staff do not enjoy any power to take legal remedies against the defaulters.
8.	Police	1196.84	N.A.	N.A.
9.	Land Revenue	4837.97	N.A.	N.A.
10.	Electricity Duty	183947.96	133373.21	N.A.
11.	Interest receipts	42476.00	6228.00	N.A.
12.	Forest Receipts	N.A.	N.A.	N.A.

N.A.- Not available. This information was not furnished by the concerned departments (January 1998) though called for in April 1997.

1.6. Arrears in Sales Tax assessments

The number of assessments due for assessment, number of assessments completed during the year and the number of assessments pending at the end of the year under report with corresponding figures of the year 1995-96 are as under:

	1995-96	1996-97
(a) Number of assessments due for completion during the year		
Arrear cases	2317600	2694610
Current cases	714478	827798
Remand cases	738	814
Total	3032816	3523222
(b) Number of assessments completed during the year		
Arrear cases	226241	1055557
Current cases	111227	226474
Remand cases	738	813
Total	338206	1282844
(c) Number of assessments pending finalisation as at the end of the year		
Arrear cases	2091359	1639053
Current cases	603251	601324
Remand cases		1
Total	2694610	2240378
(d) Yearwise break-up of pending cases are as under:		
Upto		
1992-93	1094207	574132
1993-94	443570	204031
1994-95	553582	294540
1995-96	603251	566350
1996-97		601325
Total	2694610	2240378

The above table shows that during the year out of 2694610 arrear cases only 39.17 per cent cases were assessed and out of 827798 current cases only 27.36

per cent cases were assessed. As on 31 March 1997, 2240378 cases were pending for assessment, out of which 143280 cases involved turnover of over Rs.50 lakhs but not exceeding one crore and 67551 cases involved turnover of over Rs.1 crore and above in each case.

Though the system of deemed assessments was introduced in November 1991 as per recommendations of the Sales Tax Study Team (Subba Rao Committee - October 1990), there was no significant improvement in the clearance of arrear cases during 1996-97. The recommendations of the Committee regarding clearance of the pending assessments within one year of the closure of accounting year are yet to be implemented.

1.7. Internal Audit

The internal audit in Sales Tax Department was constituted in May 1960. During 1996-97, assessments of 393 cases were revised at the instance of internal audit and additional demands of Rs.55.79 lakhs were raised.

Internal Audit was constituted in Entertainment Tax Department in February 1989 and in Motor Vehicles Tax Department in April 1992. During 1996-97, 194 objections were pointed out by internal audit wing of Entertainment Tax Department and additional demands of Rs. 21.60 lakhs were raised and Rs.35221 recovered in 47 cases. Information regarding additional demands raised as a result of internal audit, though called for in May 1997, has not been furnished by Motor Vehicles Tax Department (September 1997).

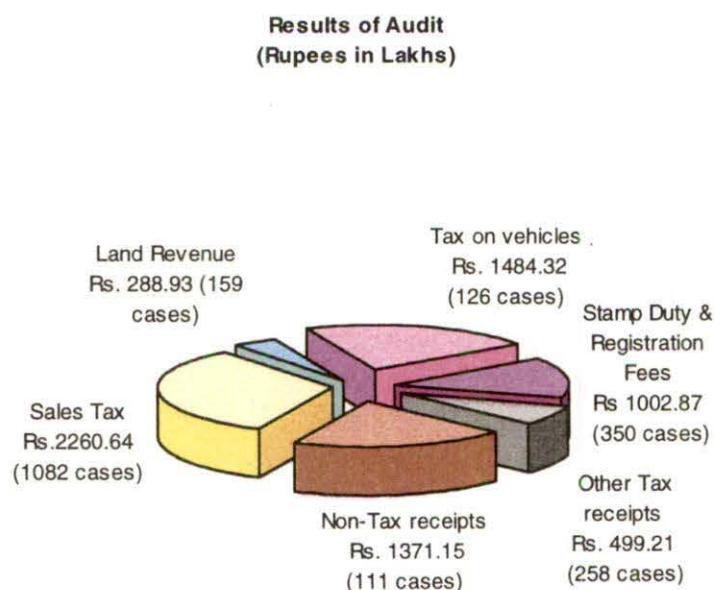
1.8. Frauds and evasion of taxes

The details of cases of frauds and evasions of taxes pending at the beginning of the year, number of cases detected during the year and assessments/investigations completed during the year and the number of cases pending finalisation at the end of March 1997 as supplied by the respective departments are given below :

Sr. No.	Name of Tax	Cases pending as on 31 March 1996	Cases detected during 1996-97	Number of cases in which assessments/investigations completed and demand raised		Number of cases pending as on 31 March 1997
				No. of cases	Amount of demand (Rs.in lakhs)	
1.	Sales Tax	1212	336	745	4087.08	803
2.	Entertainment Tax	34	55	67	60.92	22

1.9. Results of audit

Test check of the records of Sales Tax, Land Revenue, Motor Vehicles tax and other Departmental offices conducted during the year 1996-97 showed under-assessments/short levy/loss of revenue aggregating Rs 6907.12 lakhs in 2086 cases as exhibited in the chart below. During the year the concerned Departments accepted under-assessments *etc.* of Rs.1075.38 lakhs (1404 cases) and recovered Rs.852.49 lakhs (876 cases), of which Rs 31.58 lakhs (195 cases) were pointed out during 1996-97 and the rest in earlier years.



Total cases 2086 - Tax effect Rs. 6907.12 lakhs

This Report contains 64 paragraphs including two reviews involving Rs.313.80 crores which illustrate some of the major points noticed in audit. Of these, the departments accepted audit observations amounting to Rs.89.90 crores and recovered Rs.1.68 crores. The departments did not accept audit observations involving an amount of Rs. 1.32 crores but their contentions were found to be at variance with the facts or legal position. These have been commented upon in the relevant paragraphs.

1.10 Outstanding inspection reports and audit observations

(i) Audit observations on assessments, collection and accounting of receipts and defects noticed during local audit are communicated to the heads of offices and

the departmental authorities through audit inspection reports. More important irregularities are also reported to the heads of departments and to the Government.

The details of pending inspection reports and audit observations at the end of June of the last three years are given below:

	As at the end of June		
	1995	1996	1997
	(.....Rupees in crores.....)		
Number of outstanding Inspection Reports	1629	1663	1944
Number of outstanding audit observations	5808	6010	6709
Amount of receipts involved	296.73	398.01	362.22

In respect of 220 Inspection Reports issued between January 1996 to December 1996, departments have not even furnished first replies. These Inspection Reports involve Revenue of Rs.9.62 crores in Revenue Department, Information, Broadcasting and Tourism Department, Finance Department and Industries and Mines Department, Home Department and Forest Department.

(ii) Yearwise break-up of the outstanding Inspection Reports and audit observations as on 30th June 1997 is given below:

Year in which Inspection Reports were issued	Number of outstanding		Amount of receipts involved (Rupees in crores)
	Inspection Reports	Audit observations	
upto 1993-94	888	2705	83.42
1994-95	240	1317	38.84
1995-96	389	1318	176.49
1996-97	427	1369	63.48
Total	1944	6709	362.23

The above position was brought to notice of Secretaries to Government in the concerned departments from time to time.

Chapter - II

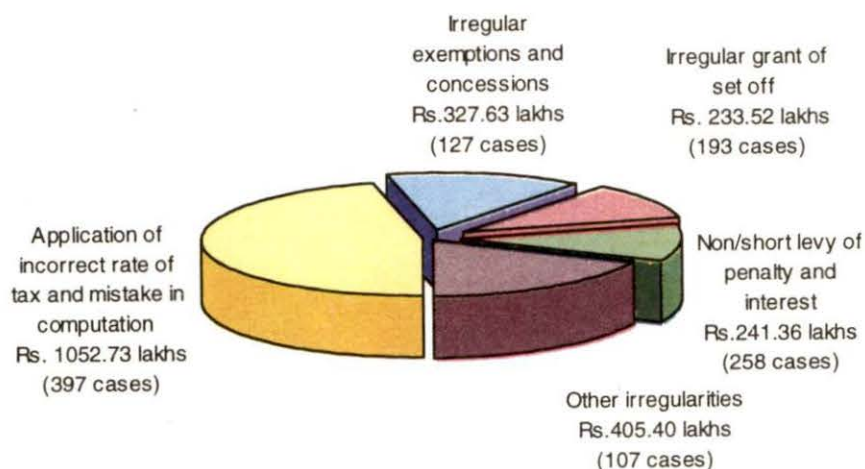
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Sales Tax

SALES TAX

2.1 Results of Audit

Test check of assessment records in various Sales Tax Offices conducted in audit during the year 1996-97 revealed under- assessment of Rs.2260.64 lakhs in 1082 cases, which broadly fall under the following categories:



Total cases 1082 - Tax effect Rs. 2260.64 lakhs

During the year 1996-97, the department accepted under-assessment of Rs. 266.72 lakhs in 880 cases and recovered Rs.49.07 lakhs in 404 cases, of which 179 cases involving Rs.20.40 lakhs were pointed out during 1996-97 and the rest in earlier years.

A few illustrative cases and result of a review on "Internal Control and monitoring of the system of the assessment in Sales Tax department" involving Rs. 14655.64 lakhs are given in the following paragraphs.

12/12/97
14655.64

2.2 Internal Control and the Monitoring of the System of the Assessment in Sales Tax Department

2.2.1 Introduction

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. These also help in prevention and detection of frauds and other irregularities. The internal controls also help in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of taxes and duties.

It is, therefore, the responsibility of the department to ensure that a proper internal control structure is instituted, reviewed and updated to keep it effective.

Sales Tax is an indirect tax. The dealer acts as an agent to collect tax from the consumers, and credits it into the Government treasury. The Gujarat Sales Tax Act, 1969 and the Gujarat Sales Tax Rules, 1970 made thereunder provides for Registration, Returns alongwith chalans and Assessments.

The provisions in the Act and administrative instructions lay down the internal controls in the department.

2.2.2 Organisational set-up

At the apex level, Commissioner of Sales Tax is responsible for the administration of the Act and Rules. He is assisted by Special Commissioner of Sales Tax and Additional Commissioner of Sales Tax. The State is divided into six divisions each headed by Deputy Commissioner of Sales Tax. The divisions are sub-divided into 13 circles (Ranges) each headed by Assistant Commissioner of Sales Tax under whose immediate control 95 Sales Tax units function. Sales Tax units are supervised by the Sales Tax Officers.

2.2.3 Scope of Audit

A review of the efficacy of the effective functioning of internal control and monitoring system of sales tax assessment records was conducted during December 1996 to April 1997 in 24 sales tax units (out of 95) and 3 (out of 13) offices of Assistant Commissioner of Sales Tax (Audit), covering the years 1993-94 to 1995-96. The results of the review are given below:

2.2.4 Highlights

1. Defective maintenance of register No. 31 (watching non receipt of returns/ chalans) resulted in blocking of Rs. 121.78 crores.

(Paragraph 2.2.5.1(iv))

2. Non levy of penalty though leviable in 2.28 lakhs cases resulted in non realisation of Rs. 2.68 crores.

(Paragraph 2.2.5.1 (i))

3. Non observance of internal control prescribed for prompt scrutiny of returns resulted in non detection of tax evasion of Rs. 5.87 crores.

(Paragraph 2.2.5.2)

4. 26.95 lakhs assessments were pending finalisation at the end of March 1996. Of these 490583 cases of turnover exceeding Rs. 25 lakhs, involved additional demands of about Rs. 426.32 crores.

(Paragraph 2.2.6.1 (A))

5. Clearance of pending assessments for more than six years old cases was tardy (5.95 per cent only).

(Paragraph 2.2.6.1(B))

6. In 24 offices, 1198 assessments involving demands of Rs.26.89 crores were finalised belatedly resulting in delayed realisation of revenue.

(Paragraph 2.2.6.2(i))

7. Lack of control over timely completion of assessments in 192 cases resulted in loss of interest amounting to Rs.2.01 crores.

(Paragraph 2.2.6.2.2)

8. Deductions allowed in 11 cases without cross verification resulted in non-levy of tax of Rs.18.69 lakhs.

(Paragraph 2.2.6.5)

9. Benefits of exemption from payment of tax on sale of products by the specified manufacturer was extended to dealers at the third stage. No controls were exercised for levy of tax after sales at the third stage.

(Paragraph 2.2.6.6(i))

10. Due to lack of internal control, there was excess grant of tax exemption of Rs.80.20 lakhs in two cases.

(Paragraphs 2.2.6.6(ii)&(iii))

11. Due to lack of internal control on dealers having more than one place of business, there was short levy of turnover tax of Rs.12.72 lakhs in seven assessments.

(Paragraph 2.2.6.7.)

12. Despite the Supreme Court's judgement to refrain from passing interim order staying realisation of indirect taxes, action was not taken for vacation of stay orders of High Court involving blocking of revenue of Rs.112.69 crores.

(Paragraph 2.2.6.8)

13. Reconciliation between the treasury figures and the departmental figures of tax receipts was not carried out in 316091 cases.

(Paragraph 2.2.6.9)

14. Lack of control over completion of assessment of remand cases in time resulted in loss of revenue to the tune of Rs.36.47 lakhs in 31 cases.

(Paragraph 2.2.7)

2.2.5 Returns

Sales Tax provisions are largely based on the principle of self-assessment. According to the provisions of Rule 25 of the Gujarat Sales Tax Rules, 1970, the registered dealers are required to submit periodical returns (monthly/quarterly) within one month and fifteen days following the month or the quarter to which it relates. An annual return has to be furnished within a period of 90 days from the end of the year. Records like Control registers i.e. Register No.10 and 31 are required to be maintained as per the executive instructions to facilitate the monitoring of timely receipt of returns/chalans.

2.2.5.1 Position of Return Defaulters and Monitoring thereof

As per section 45 (4) of the Gujarat Sales Tax Act, 1969, if a dealer fails to furnish the required returns within the prescribed period, he is liable to pay penalty subject to maximum of Rs.2000. In 24 Sales Tax offices, test check of the records maintained for ascertaining the system of monitoring and the extent of action taken against the defaulters, for non submission/delay in submission of returns revealed:

- (i) Non-imposition of penalty
- (ii) Absence of prescribed norms for levy of penalty and
- (iii) Delay in cancellation of registration.

2.2.5.1(i) Non - imposition of penalty for late submission of returns

Periodical returns were furnished late in 331738 cases, of which penalties were imposed in only 43516 cases. Non-imposition of penalty in majority of the cases of defaulters could be a statutory factor in increased number of defaulters from 88034 (late receipt) and 62461 (non receipt) at the end of March 1994 to 131988 (late receipt) and 75283 (non receipt) at the end of March 1996.

2.2.5.1(ii) Absence of prescribed norms for levy of penalty for late filing of returns

NR

As per Section 45 (4) of the Gujarat Sales Tax Act, 1969, penalty for late filing of return is leviable. It was observed that in the absence of any prescribed norms, the penalties, in all the 43516 cases, were not levied uniformly and were not commensurate with the delay in filing of returns.

The Government may therefore, like to consider laying down norms in the Act for levy of penalty so as to ensure timely submission of returns by the errant dealers.

2.2.5.1 (iii) Delay in cancellation of Registration due to non-filing of returns

NR

According to Section 29 (7) of the Gujarat Sales Tax Act, 1969, registration of a dealer is liable to be cancelled for non filing of returns. Non observance of this tool of control led to increased number of defaulters. Registration was cancelled in 2600 cases as against 199425 cases of non receipt of returns during last three years.

2.2.5.1.(iv) Inadequate monitoring of chalans/returns

In order to keep effective control over the regular and timely submission of returns by the dealers, a register No. 31 is required to be maintained. A test check in 24 Sales Tax offices revealed that:

1. This register was not being maintained at all in two offices at Ankleshwar and Bharuch.
2. The details of follow up/action taken were not being recorded in the relevant columns in 9 out of 24 offices.

The consolidated position of the number of chalan defaulters (those who had not paid tax alongwith returns) in the whole State at the end of three financial years 1993-94 to 1995-96 as furnished by the Department is indicated below:

reg. 31
lockingly
watching
of returns
up. 2
for timely
watching of
chalans
Para 2.2.6.9

Period	Number of chalan defaulters	Amount of tax involved (Rs. in crores)
1993-94	10506	144.77
1994-95	9321	93.07
1995-96	10887	121.78

Due to non-maintenance/incomplete maintenance of this register, proper monitoring of the return/chalan defaulters could not be ensured.

2.2.5.2. Failure to verify returns despite specific instructions

As per departmental instructions, the sales tax officers are required to scrutinise the returns in order to know if turnovers show or display any major difference from the turnovers shown in the returns of earlier periods.

It was noticed that these specific instructions were, however, not followed in case of two dealers at Junagadh who had obtained Registration as manufacturer of oil by taking an oil mill on lease. Subsequently, they started trading in oil cake. Despite apparent and clear mistakes in the returns filed by them from October 1992 to March 1995, these were not scrutinised as required. Consequently these dealers could evade Sales Tax amounting to Rs. 5.87 crores which was subsequently noticed during search and seizure operations.

On this being pointed out in audit all the divisions selected admitted that they are not verifying the returns as per instructions contained in the circular.

2.2.6 Assessment

Assessment of cases is done by the Sales Tax Officers after verification of account books of the dealer to determine and levy the tax due alongwith penalties if any. Efficient assessment procedures have a vital bearing on realisation of revenue by the Government. The department does this through certain internal control measures. The results of test check of these control measures are detailed below:

2.2.6.1 (A) Monitoring of cases due for assessment

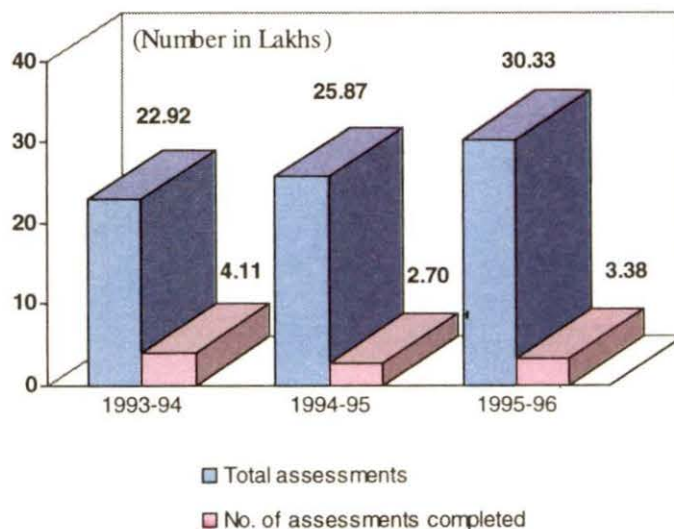
Assessments in Sales Tax are essentially done by Sales Tax Officers and the performance of the Sales Tax Officers is monitored by the Asstt. Commissioners of sales Tax at the range/level^{and} and by the Dy. Commissioner of Sales Tax at the divisional level through monthly diaries. The consolidated report showing monthly performance of all Sales Tax Officers is reviewed by the Commissioner of Sales Tax.

It was noticed in audit that despite getting these returns regularly, the Commissioner of Sales Tax had not taken effective action to match the availability of man power with the work load regarding assessments. The following table shows Sales Tax Officers in position and number of registered dealers under the Gujarat Sales Tax Act as of March 1994 to March 1996.

	March 1994	March 1995	March 1996
Sales Tax Officer in position (Class I&II)	374	383	348
Number of Registered Dealers under Gujarat Sales Tax Act (Number of fresh assessments due)	384371	401327	411359

It is pertinent to mention here that as of March 1996, 22% of the sanctioned posts of Sales Tax Officers were vacant. Further, a look at the number of assessments in arrears makes it clear that the man power available for assessment is just not capable of handling the ever increasing work load. The table below indicates the position of arrears of assessments.

Year	No. of assessments pending at the beginning of the year	No. of assessments due for completion	Total assessments	No. of assessments completed	No. of pending assessments 5 to 4	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1993-94	1669159	623115	2292274	411057	1881217	17.93
1994-95	1881217	706233	2587450	269850	2317600	10.43
1995-96	2317600	713216	3032816	338206	2694610	11.15



It was noticed in audit that about 1.06 lakh cases assessed during 1994-95 to 1995-96, yielded an additional revenue (over and above tax deposited alongwith returns) of Rs. 92.43 crores. Adopting the average additional tax per case, for these cases, it can be reasonably estimated that in about 4.91 lakh cases involving a turnover of more than Rs.25 lakhs which were pending assessment as of 1995-96, additional tax of about Rs. 426.32 crores could be collected.

It was noticed in audit that a time limit of three years for completion of assessments which was in existence upto 31.3.94 was removed ostensibly to remove the pressure of assessments. This measure would reduce the instances of time barring of assessments, it does not guarantee collection of Sales Tax in time.

In fact, based on the norms fixed for individual Sales Tax Officers of assessing 110 to 120 cases per month and assuming that all the sanctioned posts of Sales Tax Officers are filled up and no fresh assessments are taken up from 1.4.1996 onwards, it will still take more than four years to complete all the pending assessments as of 31.3.1996. In this background, Department will need to address seriously the question of enhancing the capability to expedite assessments (including computerisation if necessary).

2.2.6.1(B) Monitoring of old pending cases

Even after removal of time limits from 31.3.1994 as existed under Section 42 (1) of the Gujarat Sales Tax Act, 1969, assessments of old cases were not finalised on priority basis. Of the 26.95 lakhs assessments pending on 31 March 1996, 292707 cases had become more than six years old. A comparison of the old assessments relating to periods prior to 1990-91 outstanding at the end of March 1996 with the position in the preceeding year revealed the following:

Period	No. of assessments pending as at the end of		Clearance during 1995-96	Percen- tage
	March 1995	March 1996		
Upto 85-86	26825	25641	1184	
86-87	32596	30640	1956	
87-88	57122	54157	2965	
88-89	88716	84067	4649	
89-90	105959	98202	7757	
	<u>311218</u>	<u>292707</u>	<u>18511</u>	<u>5.95</u>

Despite the pendency of 311218, six years old cases as on 31 March 1995, no targets were assigned for their clearance. These cases were cleared to the extent of 5.95 per cent only. The delay in finalisation of assessment cases resulted in belated realisation of revenue and loss of interest to the Government.

2.2.6.2 Loss of interest due to delay in completing the assessments

The Commissioner of Sales Tax by a public circular dated 31.1.97 based on the judgement^{*} of Honourable Supreme Court of India clarified that interest on the additional dues raised in the assessment finalised after 9.5.1994 in respect of assessments up to 1989-90 would not be leviable.

A testcheck of demand raised after 9.5.1994 in respect of assessments upto the periods of 1989-90 revealed that:

* J.K.Synthetics Ltd.V/s C.T.O. 1994(3) S.C.671 (94STC 422)

(1) Additional demands of Rs.26.89 crores in 1198 cases were raised late. Delay ranged between five years and ten years.

(2) Demand for interest of Rs.2.01 crores in 192 cases was raised between May 1994 and March 1996. In view of the aforesaid circular, interest was not leviable and should not have been realised.

(3) Details of interest charged on additional demands of Rs.24.88 crores in delayed finalisation of 1006 cases, details of tax and interest were not kept separately in the Register No.11 (Recovery Register).

(4) The dealers would not be liable to pay interest on tax leviable after the finalisation of 292707 cases pending by more than six years as on March 1996.

Had timely action been taken to finalise the assessments loss of interest could have been avoided.

2.2.6.3 Non-adherence to norms in finalisation of assessment cases

The department has prescribed that an assessing Officer would assess 110/120 cases per month. In 19 out of 24 Sales Tax Offices test checked, it was observed that there was short fall in disposal and consequent accumulation of arrears in assessments as shown in the table below:

Year	No.of assessments to be finalised as per norms	No. of assessments finalised	Short fall
1992-93	61739	48095	13644
1993-94	60319	42653	17666
1994-95	78435	45781	32654

The huge short fall indicates that the system of monthly performance by each assessing officer was not made effective through proper monitoring.

2.2.6.4 Non-issue of notice for extension of time limit leading to assessments becoming time barred

As per Section 42(1) of the Gujarat Sales Tax Act, 1969, as existed upto 31.3.1994 an assessment of a registered dealer is required to be completed before the expiry of two years from the end of the year in which last return was filed. All pending assessments upto the period ending on or before 31 March 1989 were to be completed before 31 March 1993. Assessments completed after the prescribed time limit become barred by limitation of time. The Commissioner of Sales Tax may extend/postpone the assessment proceedings of a dealer by issue of notice. If the orders of extending the time limit are passed without serving administrative

order and notice to the assessee and without giving reasonable opportunity of being heard after issuing notice to the assessee, the assessments would be held invalid and illegal as held by the Supreme Court of India. ** Test check of records revealed that the individual notice to the assessee for extending the time limit, in respect of pending assessments for the period up to 1989-90, which could not be finalised up to 1992-93, were not served. Thus, in respect of 292707 cases relating to the period upto 1989-90 which were pending on 31 March 1996, the possibility of encountering legal problems on the ground of time limit could not be ruled out. Thus monitoring of old cases was not effective.

2.2.6.5 Non observance of the system of cross verification of purchase/sales and declaration forms

Under Section 49(2) of the Act, a registered dealer is entitled to buy goods at concessional rate of tax or without payment of tax on production of prescribed declaration forms. Two registers of cross check memos (one for incoming and the other for outgoing cross checks) are required to be maintained by the assessing officers. On this being pointed out in audit, 15 out of 24 Sales Tax Divisions stated that such registers were not being maintained and cross verification of sales was also not being made.

At Kadi, sales of oil cakes worth Rs. 2.12 crores, made to sixteen purchasers were allowed without levy of tax against form 24A in the assessments (1991-92 and 1992-93) of eleven oil millers, during October 1994 to March 1996. It was noticed by audit on cross verifications with records of the sales tax division 6, Ahmedabad (which issued the forms); that all the purchasers (16) were bogus and tax was also not paid by them at Ahmedabad. It was also noticed that registration of two purchasers had already been cancelled in June 1993; whereas the registration of eight purchasers were cancelled in 1996. It was further noticed that Forms 24A submitted by three dealers were bogus as these were not found issued as per the stock register. Tax evaded in these cases amounted to Rs. 18.69 lakhs. On this being pointed out in audit, the department stated that instructions to disallow bogus forms 24A had been issued to the Sales Tax Officer, Kadi (May 1997).

In order to ensure correctness of the concession allowed, Government may like to consider prescribing the procedure for cross verification of the declaration forms and purchase/sales transactions.

2.2.6.6 Lack of control over tax exemption scheme

Exemptions from levy of sales tax have been prescribed under notifications issued under Section 49(2) of the Gujarat Sales Tax Act, 1969. Since the exemptions means forgoing of State revenues, it is essential that there should be

** Fag Precision Bearings V/s Sales Tax Officers and others decided on 9.12.1996 (104 STC 143).

well designed internal control measures to ensure that the exemptions are given correctly by the assessing officers. The following omissions were noticed:

(i) Under the various schemes of tax exemptions, resales of the goods purchased from the specified manufacturer is permissible without charging tax, if form No. 2 and form No. 2A (1981-86 scheme), form no. 21 and 22 (1986-91 scheme) and form no. 27 and 28 (1990-95 scheme) were obtained from the specified manufacturer and the vendor (person purchasing from such sellers) by the first and second purchaser respectively. Thus liability of sales tax arises after sales effected at the third stage. In review, it was found that no steps have been taken to ascertain the liability of sales tax by third dealer. As no controls were exercised, the possibility of allowing set off on such purchase of goods by the manufacturer can not be ruled out.

(ii) According to the scheme of tax exemption (1986-91 scheme) when goods are transported by the specified manufacturers to his own place/agent's place of business within India but outside the State of Gujarat for sale, tax at the rate of 4 percent is required to be adjusted against the tax exemption limit.

At Ankleshwar, an assessee was granted tax exemption of Rs. 70 lakhs under the aforesaid scheme. It was noticed from the assessment for the year 1991-92 (finalised in March 1996) that there was branch transfer of Rs. 14.18 crores outside the State of Gujarat. However tax exemption benefit was not reduced to the extent of Rs.56.71 lakhs. The balance of Rs. 13.29 lakhs only remained for adjustment. As the tax exemption of Rs. 20.52 lakhs had already been adjusted at the time of assessment the excess benefit of Rs. 7.23 lakhs would be recoverable in cash. As the limit of tax exemption had exhausted, the tax exemption of Rs. 9.69 lakhs already allowed in the assessment of 1992-93 was also recoverable in cash alongwith exemption if any granted in the subsequent assessment years. Thus, there was, excess exemption of Rs. 73.63 lakhs.

(iii) At Kadi, it was noticed that due to mistake in carry forward of tax exemption ceiling limit, tax exemption of Rs.6.57 lakhs remained undeducted from the ceiling of tax exemption. On this being pointed out in review, the Sales Tax Officer rectified the mistake.

In the absence of any mechanism for determining tax exemption limits in above cases, mistakes remained undetected. The Government may like to prescribe some format mechanism for determining the Sales Tax exemption in cases arising in future.

2.2.6.7. Lack of internal control on dealers having more than one business place

The correct determination of turnover is necessary for proper assessment and levy of turnover tax due. For the purpose of turnover tax, sales of all the branches and offices of the dealer within the State have to be aggregated. However the

department had not laid down any system to take cognisance of aggregate turnover of all branches of such dealer for assessment and levy of turnover tax.

At Kadi, turnover of sales of a dealer having a branch at Ahmedabad and two branches at Kadi were not aggregated for levy of turnover tax during the assessment of 1990-91 to 1993-94 finalised between January 1994 and January 1996. While computing the turnover tax the deduction of sale of first Rs. 50 lakh was allowed in all the three branches, though the same was not allowable separately in respect of all branches within the State. This resulted in short levy of turnover tax of Rs. 12.72 lakhs including interest in seven assessments. On this being pointed out, the assessing officer recovered the additional amount of Rs. 12.72 lakhs.

In the absence of the system of indicating sales of other branches in the returns, the mistakes remained undetected.

2.2.6.8 Arrears of tax collection and blockage of revenue by stay orders by courts

The Supreme Court of India has held in 1985 * that the court should refrain from passing any interim orders staying the realisation of indirect taxes or passing such orders which may have the effect of non-realisation of indirect taxes.

In division-2, Jamnagar, a cement company collected Sales tax of Rs. 49.40 crores from public between August 1988 and December 1992 on sale of cement but not paid to the Government. The timely action i.e. Bank attachment etc. to recover the tax collected was not taken. Thus, due to lack of control in effecting the timely recoveries of tax due to the Government as shown in the returns, Company was allowed to utilise public money for their private gains. Total amount due to be recovered from the assessee including interest, as on July 1996, worked out to Rs. 112.69 crores. In June 1990, the company filed a special civil application in the Gujarat High Court and obtained stay against the recovery. The case was remanded in November 1992 for examination of eligibility of pioneer status of the company. The department of industries examined this and refused that status to the company in March 1993. When the proceedings of recovery were started, the assessee company again filed special C.A. in the Gujarat High Court in April 1993 and obtained stay against the demand of arrears of sales tax for the period upto December 1992. On both the occasions the department did not move the Honourable Supreme Court of India to get the stay vacated. No action was taken to safeguard Government dues locked up in the litigation. In spite of non-realisation of tax, a case of purchaser was noticed at Godhra, where the purchaser manufacturing railway sleepers, was granted set off of Rs. 24.09 lakhs, on tax paid purchase of cement, from the aforesaid company in the assessment of 1990-91 to 1992-93 finalised in November/December 1995. Thus there was refund

* Empire Industries Limited and others V/s Union of India and others (1985 ECR 1169 SC)

of tax (set off) though tax and interest realisable from the sellers remained to be realised. The Government had not only failed to recover the tax dues but also allowed set off of the tax which was not paid to the Government.

Thus department's failure to take prompt action to get the stay vacated resulted in blocking of Government revenue to the extent of Rs. 112.69 crores (including interest). The position of the Court case is statusquo and stay given by the High Court is still operative.

2.2.6.9 Lack of monitoring on verification of chalans (VTS)

Sales tax is to be paid into Bank through treasury chalans prepared in four copies, two copies of chalans are returned by the Bank to the dealers, out of which dealer submits one copy to the sales tax authority. In sales tax office, an entry to that effect is made in Register No.7 and on receipt of chalan/schedule from treasury office, the correctness is verified by cross-linking and marking VTS (verified with treasury schedules) in the respective columns.

In 16 out of 24 sales tax divisions testchecked, it was noticed that "VTS" in 316091 cases involving amount of tax of Rs. 3094.16 crores was not done with chalans received from treasury. Non reconciliation of credits with the records of the treasury might lead to acceptance of fraudulent chalans

2.2.6.10 Non maintenance/Improper maintenance of control registers/ records.

(1) Register No. 16 (offence and prosecution register)

This register has been prescribed for monitoring dealer wise cases of offences committed under the Sales Tax Laws and to watch proper disposal of such cases.

If the defaulters do not respond to the show cause letters, their cases are submitted to the Assistant Commissioner of Sales Tax (Administration) for action as per law. The Assistant Commissioner of Sales Tax (Administration) on his part would proceed to issue show cause notice to the defaulting dealers and in the event of non compliance by the dealers, he shall proceed to sanction prosecution within three months from the date of issue of show cause notice. As regards, proposal of permission for prosecution, the Assistant Commissioner of Sales Tax has to decide the action either compounding of offence or prosecution within two months, from the date of receipt of reports from the Sales Tax Officers.

It was noticed in review that 753 offence cases in 16 sales tax divisions were pending for compounding from one to six years. This was pointed out in audit (between December 1996 and March 1997), the department had not replied (September 1997).

(2) Register No. 25 (call register)

As a measure of internal control on calling of dealers, register no. 25 in part I (in respect of assessment) and in part II (in respect of matters other than assessment i.e. calling of return/chalan defaulters etc.) is required to be maintained. The Call Register has been designed to enable the sales tax officer to know the exact nature of work that he has to attend to on a particular day.

It was noticed in review that Call Register was not maintained/properly maintained in 18 out of 24 Sales Tax Divisions test checked in audit. There was, thus, no control on calling of dealers and adjournment thereafter. In the absence of any time frame programme of assessments, the purpose of exercising control on assessments is defeated.

2.2.7 Lack of control to watch timely assessment of remand cases

Under Section 65 of the Gujarat Sales Tax Act, 1969, any dealer objecting to an order of assessment or penalty may appeal to the Assistant Commissioner of Sales Tax specially authorised in this behalf, who after hearing can confirm, reduce, enhance or otherwise modify the assessment order or remand the case for reassessment. As per Section 67 of the Gujarat Sales Tax Act, 1969 the reassessment, in pursuance of or as a result of an order on such appeal shall be initiated and completed before the expiry of three years from the date of such order. The department has prescribed Register No.48 for watching the reassessment of remand cases in time.

It was noticed in review that in 14 sales tax divisions, reassessments of 114 remanded cases were not done by the assessing officers, though the maximum period of three years had expired. Out of this, in 31 cases loss of revenue worked out to Rs. 36.47 lakhs based on original tax demands. As the relevant records were not made available to audit in remaining cases, loss to the Government on this account could not be ascertained.

2.2.8 Internal audit and Monitoring

Internal audit is generally defined as control of all controls or key internal control since used to assess whether various prescribed systems were functioning reasonably well in the organisation.

The extent of internal audit conducted in respect of three out of thirteen Assistant Commissioners of Sales Tax (Audit) during the last three years ending 31st March 1996 and the outcome thereof are summarised below:

Period	No. of assessments due for checking	No. of assessments checked	No. of objections	Money value (Rs. in lakhs)
1993-94	5101	4716	602	46.63
1994-95	3578	3783	218	15.80
1995-96	3651	3448	381	14.31

During the course of review, it was noticed that there were no major objections raised by the internal audit during 1994-95 to 1995-96. The performance of internal audit was very poor in terms of number of objections and money value involved and it has been deteriorating year by year as number of objections and money value reduced from 602 (Rs.46.63 lakhs) in 1993-94 to 381 (Rs.14.31 lakhs) in 1995-96. There was no Internal Audit Manual for guidance of the Wing.

This was reported to the Government and Department (July 1997), their replies have not been received (September 1997).

2.3 Incorrect exemption

According to sales tax incentive schemes of 1981 and 1986 introduced by Government vide notifications issued under Section 49(2) of the Gujarat Sales Tax Act, 1969, a specified manufacturer is exempted from payment of tax on sales and purchases of goods manufactured by him subject to satisfaction of several conditions laid down in the respective schemes. The tax so saved is adjusted against the ceiling limit fixed in respect of each specified manufacturer with reference to capital invested by him. A few illustrative cases where such conditions have been violated are given below :

(A) As per the condition of the scheme relating to sales tax incentive introduced in March 1982, the benefit of sales tax exemption/deferment was admissible only to new industrial units which were commissioned during the operative period from 1st June 1980 to 31.3.1986. Government in May 1986 further extended this date upto 31.3.1988 allowing the units to avail the incentive benefits under this scheme who started commercial production before 31.3.1988. NR

During the course of test check of the records of Sales Tax Office, Rajkot and Jamnagar it was noticed in the assessment for the period 1989-90 and 1990-91 finalised on 2.9.92 and 29.3.94 that two industrial units which commenced commercial production in April 1989 and August 1989 were incorrectly allowed exemption/deferment benefit under March 1982 scheme. This resulted in incorrect grant of exemption/deferment of tax benefit amounting to Rs.16.96 lakhs which requires to be withdrawn. In addition interest is also leviable.

The above cases were pointed out to the department in June 1995 and March 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

(B) According to condition 9 of the Annexure I to entry 175 of the notification issued under section 49(2) of the Gujarat Sales Tax Act 1969 and as per Tribunal's decision in the case of M/s.Cynamide, a specified manufacturer, whose entire manufactured products including by products and waste are exempted from tax, is not eligible for any further concession of deduction of sales against any of the certificate under section 12 or 13 or any of the entries of notification issued under section 49(2) of the Act. As per Gujarat Sales Tax Tribunal's decisions dated

24.9.92 and 31.3.93, waste products and by products are also eligible for exemption. If any goods are sold on forms/certificates without payment of tax, the tax so saved is required to be adjusted against the ceiling limit.

During the course of test check of records of Sales Tax Offices, Godhra, Baroda, Junagadh, Kadi, Mehsana and Bharuch it was noticed in the assessment of 12 dealers for the periods between 1988-89 and 1993-94 (finalised between July 1993 and January 1996) who were holding exemption certificates under entry 118 and 175 of notification, that the benefit of selling the manufactured goods valued at Rs.158.04 lakhs had been allowed on different forms without payment of tax. This has resulted in non adjustment of tax of Rs.12.06 lakhs against their tax exemption ceiling limit.

This was brought to the notice of the department between April and September 1996. The department accepted the audit observation in one case of Kadi and adjusted the amount of Rs. 52092 against the ceiling limit. In remaining cases reply has not been received (January 1998)

The above cases were reported to Government in February and April 1997; their reply has not been received (January 1998)

(C) According to the provisions of entry 175 of notification issued under section 49(2) of the Gujarat Sales Tax Act, 1969, a specified manufacturer is allowed to avail the benefit of Sales Tax exemption for a specified amount for a specified period in sales and purchases of goods manufactured by him. The tax so saved is adjusted against the ceiling limit fixed based on the capital invested.

During the course of test check of the records of 4 Sales Tax Offices it was noticed, in the assessment of seven specified manufacturers holding exemption certificates under entry 175 of notification issued under section 49(2) of the Act, that the tax saved though required to be adjusted against the ceiling limit but were not adjusted amounted to Rs 11.95 lakhs, the details of which are given below:

Sr. no.	Location and number of dealers	Period of assessment	Date of assessment	Nature of irregularity	Turnover of goods (—Rs.in lakhs—)	Short adjustment
1.	3 dealers (2 of Kalol and 1 of Vapi)	Between 1989-90 and 1992-93	Between September 1992 and December 1994	As per entry 208 of section 49(2) of the Act sale of processed yarn is exempted provided the yarn is purchased from a registered dealer within the state. However imported and inter state purchases of yarn were allowed tax free without adjusting against ceiling limit.	371.72	6.94

1	2	3	4	5	6	7
2.	2 dealers of Surendranagar and Vapi	Between April 1990 and March 1993	28.2.95 and 2.6.95	Tax saved on purchases of raw material on Form 20 were not adjusted against ceiling limit.	30.48	2.17
3.	2 dealers of Vapi and Ankleshwar	January 1988 to March 1989	24.9.92 and 21.10.92	As per public circular dated 17.3.86 when the exempted goods manufactured by a specified manufacturer is transferred to branches outside the State, tax at the rate of 4 per cent is to be adjusted against the ceiling. Although the goods were transferred to branches, tax was not adjusted against the ceiling.	46.00	2.84
					Total	11.95

This was pointed out to the department between August 1995 and July 1996. The department accepted the audit observation in respect of item at Sr No 2 and adjusted the amount of Rs 2.17 lakhs against the ceiling. In respect of remaining cases reply has not been received (January 1998)

This was reported to Government in April 1997; their reply has not been received (January 1998).

(D) According to the exemption scheme under entry 175 of notification issued under section 49(2) of the Gujarat Sales Tax Act, 1969, the benefit of exemption from the payment of tax is admissible only in respect of certain products manufactured by industries for which eligibility certificate is obtained by the unit from the Industries Department.

During the course of test check of records of Sales Tax Offices, it was noticed in the assessment of 2 dealers for the periods 1989-90 and 1990-91 that the benefit of exemption of tax of Rs.9.33 lakhs was incorrectly granted to them in respect of the products which were not included in the eligibility certificates obtained by the units, the details of which are as follows:

Sr. no.	Place	Assessment period	Date of assessment	Name of the product for which eligibility certificate was obtained	Name of the product for which exemption was given	Amount of exemption (Rs.in lakhs)
1.	Anand	1989-90 1990-91	22.5.95	Refining lubricating oils	Re refined Industrial oils	8.08
2.	Gondal	1990-91	25.2.94	PVC soft tubes,sports shoes and PVC footwear	PVC pipes	1.25
Total						9.33

This was pointed out to the department in June 1994 and July 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(E) According to incentive scheme of 1986 introduced by Government vide notification dated 16.6.1987 a specified manufacturer, who intends to avail the benefit of sales tax deferment available to new industries, has to apply to Industry Commissioner for obtaining the eligibility certificate within 180 days from the date of commencement of commercial production. The unit holding the deferment certificate is allowed to postpone the payment of tax payable by them on the sales of finished goods for a specified period and for a specified amount which is fixed with reference to the place and the capital invested by the unit.

During the course of test check of records of Industries Commissioner Gandhinagar and Sales Tax Office Vapi, it was noticed that an eligibility certificate for Rs.6.79 lakhs for the period 19.8.1993 to 30.6.1996 was issued incorrectly to an industrial unit by Asstt. Industries Commissioner although the unit had applied for eligibility certificate two and half years after the commencement of production. On the mistake being noticed the certificate was cancelled on 6.6.1995.

The Gujarat High Court, to whom the dealer appealed against the cancellation order, set aside the cancellation order only on the ground of violation of principle of natural justice since the eligibility certificate was cancelled without giving a hearing to the dealer. Had the department taken action to cancel the eligibility certificate after giving the dealer an opportunity of hearing earlier or done it again after the cancellation order was set aside by the court the loss of tax to the extent of Rs.6.79 lakhs could have been avoided.

This was pointed out to the department in October 1995. The department stated (May 1997) that Government in Industries and Mines Department vide Resolution dated 14.3.1996 has extended the benefit of incentive scheme to the units who applies for incentive beyond 180 days of commencement of commercial production. Department's reply is not acceptable since no sales tax incentive

benefit can be extended without a notification from the Finance Department and further no concession can be extended by executive instructions without the approval of legislature as already pointed out by Public Accounts Committee in its 10th Report of Sixth Assembly.

(F) According to one of the conditions of the incentive scheme, the specified manufacturer is not entitled to the benefit of purchasing raw materials without payment of tax under any of the entries of notification issued under section 49(2) of the Act.

During the course of test check of records of Sales Tax Offices, Ankleshwar, Baroda and Kalol it was noticed in the assessment of 3 dealers for the period 1991-92 and 1992-93 (finalised between August 1994 and September 1995) who were holding exemption certificate under entry 175 of notification, that the benefit of purchasing raw materials valued at Rs.84.88 lakhs had been allowed without payment of tax under other entries of section 49(2) of the Act. This has resulted in short adjustment of tax of Rs.2.54 lakhs against their tax exemption limit.

This was pointed out to the department between April 1996 and January 1997 and reported to Government in April 1997; their replies have not been received (January 1998).

(G) Under the incentive scheme sales tax exemption/deferment benefit is available to an industrial unit for the purpose of expansion provided the unit makes a capital investment by not less than 25 per cent of the net assets of the unit prior to expansion. The benefit of exemption for expansion is further subject to condition that there is an increase in production to the extent of at least 25 per cent of the original installed capacity.

During the course of test check of the records of Sales Tax Office Junagadh it was noticed in the assessment of the dealer for the period 1990-91 that he was availing the exemption benefit for Rs.497669 granted in 1988 for the manufacture of mono filament yarn. He was granted another exemption for Rs.111618 in 1989 for expansion. It is, however, noticed from the assessment records that his turnover of production reduced from Rs.23.91 lakhs in 1988-89 to Rs.12.10 in 1989-90 and to Rs.9.48 lakhs in 1990-91 instead of increasing to the extent of 25 per cent. Since there is no increase in the production as per the terms of expansion scheme the exemption of payment of sales tax of Rs.1.12 lakhs granted for expansion was irregular and requires to be withdrawn with interest.

This was pointed out to the department in March 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

2.4 Concessions infringing specific recommendations of the PAC

Public Accounts Committee has made, a specific recommendation in its 10th Report of Sixth Assembly, to discontinue the practice of giving executive

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Micron Pvt Ltd
Baroda

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concessions forthwith since such executive concessions do not have any legal basis. In spite of this, Commissioner by issuing a public circular on 17.9.1990 extended the benefit of second incentive to industrial units which had already availed exemption benefit in earlier schemes.

During the course of test check of records of Sales Tax Offices Kadi, Ankleshwar, Savarkundla, Morbi, Himatnagar and Kapadwanj it was noticed in the case of 12 specified manufacturers engaged in the manufacture of crimped and texturised yarn, tiles, scales, trikam and polyester tape etc., who had availed the benefit of tax exemption benefit under earlier incentive scheme were again allowed tax exemption benefit under subsequent incentive scheme to the extent of Rs.1.18 crores which was irregular.

This was pointed out to the department between April 1996 and September 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

2.5 Incorrect deferment/non recovery of deferred tax

According to the sales tax deferment scheme introduced in May 1986, a specified manufacturer is allowed to avail the benefit of sales tax deferment for a specified amount for a specified period mentioned in the deferment certificate. The eligible unit collects the tax levied on its product but is allowed to retain the tax so collected for a prescribed period and pays the tax to Government in prescribed annual instalments after the expiry of the deferment period.

As per one of the conditions of the Scheme relating to sales tax deferment incentive introduced in March 1988, if an eligible industrial unit holding the eligibility certificate of sales tax deferment discontinues the commercial production of goods at any time for a period exceeding twelve months, within the duration of sales tax deferment or discontinues the business at any time within the period of deferment, such industrial unit shall be liable to pay the entire amount of tax deferred till then within 60 days from the date of expiry of aforesaid period of twelve months or the date of closure of the business as the case may be.

(i) During the course of test check of records of 5 Sales Tax Offices it was noticed, in the case of 13 units of Vapi, 4 of Gandhinagar, 2 of Kadi and one each of Morbi and Ahmedabad, that though the units were either closed or had stopped commercial production for a period exceeding twelve months during the tax deferment period, but no action was taken to recover the deferred tax of Rs. 188.02 lakhs.

This was brought to the notice of the department between April 1996 and December 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(ii) During the course of test check of the records of Sales Tax Office, Patan it was noticed in the case of a manufacturer of cement, holding deferment certificate

Recovery
Particulars

NR

under 1986 scheme that the dealer was allowed to avail the benefit of deferment for the period from July 1987 to June 1988 although the deferment certificate issued by the Assistant Commissioner in August 1989 covered the deferment benefit from 15.6.1988 onwards only. This resulted in excess grant of deferment benefit of Rs. 1.08 lakhs.

This was pointed out to the department in November 1995. The department accepted the audit observation and recovered the amount of Rs. 1.19 lakhs including 50 per cent of interest under amnesty scheme.

2.6 Irregular/Excess grant of set off

Under the Gujarat Sales Tax Rules, 1970, a dealer who has paid tax on the raw materials used in the manufacture of taxable goods is allowed set off from the tax payable on the sale of manufactured goods. The set off is not allowed on the tax paid on the purchases of "prohibited goods" as defined in the Gujarat Sales Tax Act, 1969.

(i) During the course of test check of records of 18 sales Tax Offices, it was noticed in the case of 23 dealers that set off of Rs.35.06 lakhs was incorrectly granted on purchases of prohibited goods as detailed below:

Sr. No.	Location and number of dealers	Period of assessment	Date of assessment	Goods on which set off was granted	Nature of irregularity	Amount of set off (Rs.in lakhs)
1	2	3	4	5	6	7
1.	4 dealers of Ahmedabad	From 1991-92 to 1993-94	Between June 1994 and April 1995	Winding wires	As per Gujarat High Court decision circulated by Commissioner vide Public circular dated 19.12.1992 winding wires are parts of electric motors as such falls under entry 16 (2) of Schedule II A in which electric motor is classified. The goods falling under this entry being prohibited goods no set off is admissible.	13.07 ① Indian Electric & Eng ② Poley Pumps P. Ltd.
2.	8 dealers (4 of Ahmedabad 2 of Dhoraji 1 each of Baroda and Kadi)	Between Oct. 1970 and 1993-94	Between April 1994 and June 1996	Different items of chemicals	Chemical being prohibited goods no set off is admissible.	9.69 7 dealers omitted supply
3.	4 dealers (2 of Ahmedabad and one each of Anand and Bhavnagar)	Between 1990-91 and 1992-93	Between September 1992 & June 1995	Electric Motor	Set off on electric motor falling under entry 16(2) was allowed which were used in the manufacture of goods falling under entries	6.45 ① Electrochem Eng

1	2	3	4	5	6	7
					other than entry 16 of Schedule IIA.	
4.	3 dealers of Dn.V surat	Between March 1990 and 1992-93	Between June 1993 & March 1994	Nut bolt	Nut bolt of machinery gets benefit of entry 36 of S/49(2) and prohibited goods as per Pubic circular dt.25.4.1991.	2.64
5.	2 dealers (one each of Gandhinagar and Mehsana)	Between 1990 and 1993-94	Between February 1994 and March 1995	Transformer and Electric control panel	Falls under entry 113 of Schedule IIA, no set off is admissible.	1.87
6.	1 dealer of Ahmedabad	1990-91	27.1.94	Butter, Veget-able ghee and Edible oils	Being prohibited goods no set off is admissible.	0.83
7.	1 dealer of Baroda	1992-93	30.9.95	Transformer oil	Being prohibited goods no set off is admissible.	0.51
Total						35.06

This was pointed out to the department between May 1996 and January 1997 and reported to Government in April 1997; their replies have not been received (January 1998).

(ii) In 10 Sales Tax Offices, 16 dealers were allowed irregular set off which resulted in short levy of tax of Rs.38.56 lakhs (including interest) as detailed below:

Sr. no.	Location and number of dealers	Period of assessment	Date of assessment	Goods on which set off was granted	Nature of irregularity	Amount of set off (Rs.in lakhs)
1	2	3	4	5	6	7
1.	8 dealers (3 of Ahmedabad, 2 of Morvi, 1 each of Broach, Kadi and Jamnagar)	Between 1985-86 and 1993-94	Between June 1994 and March 1996	—	As per Rule 42 of G.S.T. Rules 1970. 4 per cent of manufactured goods branch transferred is to be deducted from the set off arrived at. This was further confirmed by Supreme Court in Prabhat Solvent Case	28.49
2.	Vyara	March 1987 to March 1992	27.8.1994	Alluminium Billet	As per Rule 42 set off of tax paid on raw material is allowed if the manufactured goods are sold within the state. In this case though the dealer had consigned/ transferred the manufactured goods to his branch outside the state set off was irregularly allowed.	2.31
3.	2 dealers (kadi and Ahmedabad)	1990-91 to 1992-93	Between June 1994 and	Copper Alluminium sheet	Set off is admissible at the rate of 4 per cent up to 31.3.92 and 5 per cent from	2.26

1	2	3	4	5	6	7
			January 1995		1.4.92 under entry 27 of Schedule II A read with entry 225 of notification under section 49(2) as against 7 per cent and 14 per cent allowed.	
4.	Godhra	1990-91	10.8.93	Electric Motor and Machinery parts	Set off of raw material is permissible when finished goods are sold. Set off on closing stock of raw materials were allowed.	2.07 FR
5.	Baroda	1989-90 to 1990-91	31.3.94	—	Set off of tax paid on raw material is permissible when manufactured goods are sold. Set off were allowed on the inter unit transfer of goods.	1.53 NR
6.	Rajkot	1990-91 to 1992-93	1.11.93	Bearings	As per Tribunal's decision (No.1988-GSTB-25) bearings of electric motor falls under entry 16(ii) of Schedule II A and set off is admissible at the rate of 6 per cent as against 14 per cent allowed.	0.95 NR
7.	Ahmedabad	1990-91 and 1991-92	29.10.94 and 09.11.94	Copper rod	Set off allowed at the rate of 6 & 7 per cent as against 4 per cent admissible under entry 225 of notification under Section 49(2) of the Act.	0.64 NR
8.	Mehsana	1991-92	29.10.94	Acid oil	As per Tribunals decision (88-4-570) Acid oil falls under entry 34 of Schedule II A and set off is admissible at the rate of 8 per cent as against 14 per cent allowed.	0.31 NR
Total						38.56

The above cases were pointed out to the department between September 1995 and January 1997. The department accepted the audit observation in three cases (serial nos. 1, 7 and 8) involving an amount of Rs.2.04 lakhs and recovered Rs.31370 in one case. In respect of remaining cases reply has not been received (January 1998).

This was brought to the notice of the Government in April 1997; their reply has not been received (January 1998).

(iii) Further, the set off arrived at should be reduced to the extent of 2 per cent of purchase price of the goods considered for grant of set off. NR

During the course of test check of assessment records of Sales Tax Offices of Baroda and Unjha it was noticed in three assessments of two dealers for the periods between April 1989 and March 1991 (finalised between December 1993 and January 1996) that set off was allowed without making the statutory deduction

of 2 per cent of purchase price from the set off so arrived at. This resulted in excess grant of set off of Rs.1.63 lakhs.

This was brought to the notice of the department between April 1996 and August 1996. The department accepted the audit observation in one case and recovered the amount of Rs.1.22 lakhs. In respect of the remaining case reply has not been received (January 1998).

The above cases were reported to Government in (April 1997); their reply has not been received (January 1998).

NR (iv) According to the provisions of Rule 42 E of the Gujarat Sales Tax Rules, 1970 set off of purchase tax levied under section 15-B of the Gujarat Sales Tax Act, 1969 is admissible when the taxable goods manufactured are sold in the State of Gujarat. When the goods so manufactured are branch transferred/consigned outside the state proportionate set off to the extent branch transferred is required to be disallowed.

During the course of test check of the records of the Sales Tax Offices, Jamkhambhali, Rajkot, Ankleshwar, Bhavnagar, Godhra and Ahmedabad it was noticed in the assessment of 6 dealers for the periods between July 1987 and March 1994 (finalised between October 1993 and December 1995) that though the dealers had transferred the manufactured goods to their branches outside the state the set off to that extent was not disallowed. This has resulted in short levy of tax of Rs.9.27 lakhs.

This was pointed out to the department in June 1996 and December 1996. The department accepted the audit observation in three cases amounting to Rs.6.21 lakhs. Recovery particulars and replies in respect of remaining 3 cases have not been received (January 1998).

This was reported to Government in April 1997; their reply has not been received (January 1998).

2.7 Mis-classification of goods

FR According to the Gujarat Sales Tax Act, 1969, tax is leviable at different rates as laid down in the Schedules to the Act *ibid*, depending upon the classification of goods. However, where goods are not covered under any of the schedules, general rate of tax applicable from time to time is leviable.

Test check of records of 19 Sales Tax Offices revealed short realisation of tax of Rs. 310.23 lakhs due to misclassification of goods during the period 1983-84 to 1994-95 (assessed between February 1990 and March 1996) as mentioned in annexure-I

These cases were pointed out to the department between July 1995 and December 1996. The department accepted the audit observation in 4 cases (serial nos. 13 to 16) involving an amount of Rs.2.91 lakhs. The recovery details and reply in respect of remaining cases have not been received (January 1998).

The cases were reported to Government in January and April 1997. Government did not accept the audit observation in respect of item at Sr.No.1 stating that Tribunal's decision dated 18.1.1995 was made applicable from the date of decision in respect of assessments made on or after that date by issuing a circular on 31.1.1997 and that assessments, in all 14 cases pointed out were made prior to 18.1.1995. Government's reply is not acceptable since the issue decided on 18.1.1995 was whether the process of making iron powder from iron scrap is a manufacturing process and whether purchase tax is leviable on purchases of iron scraps ? The decision classifying "iron powder under residual entry was taken on 17.6.1980 and hence the decision should have been given effect from 17.6.1980 only. Further assessments in 7 cases (Short levy amounting to Rs. 69.77 lakhs) were made after 18.1.1995. Reply in the remaining cases have not been received (January 1998).

2.8 Non levy/Short levy of purchase tax

(A) As per entry 66 of notification issued under Section 49(2) of the Act, the goods purchased on Form CC are to be used as raw or processing materials or consumable stores in the manufacture of goods for export outside the territory of India. In the event of breach of recitals of condition of declaration purchase tax under Section 50 of Gujarat Sales Tax Act, 1969, is leviable. NR

During the course of test check of records of Sales Tax Office, Gandhidham it was noticed in the assessments of two dealers for the period 1990-91 (finalised in February and March 1994) that in one case the purchases of Oil seeds valued at Rs. 1097.29 lakhs on Form CC were used in the manufacture of oil and oil cakes. The oil cakes were sold locally. In the other case purchases of packing materials valued at Rs. 101.58 lakhs on Form CC were used for packing the detergent powder got manufactured by a third party. Thus for breach of recitals of Form CC for not exporting the oil cakes which is a co-product and for not using the purchases on Form CC in the manufacture of goods by the dealer himself purchase tax proportionately to the extent of breach was leviable. This has resulted in non levy of purchase tax of Rs. 20.21 lakhs including interest and penalty.

The above cases were pointed out to the department in March and April 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

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(B) According to entry 86 of notification issued under Section 49(2) of the Gujarat Sales Tax Act 1969 the iron and steel of the type described in entry 3 of Schedule II-A purchased on Form "LL" should be used in the manufacture of iron and steel of any other type described in the said entry 3 for sale within the state. In the event of breach of recitals of declaration purchase tax under Section 50 of the Act is leviable.

During the course of test check of the records of Sales Tax Offices at Rajkot and Petlad it was noticed in the assessment of 2 dealers for the periods 1989-90 and 1990-91 (finalised in November 1993 and August 1994) that the iron and steel valued at Rs. 57.60 lakhs purchased on form "LL." was used either in the manufacture of goods not falling under entry 3 of Schedule II A or used in the manufacture of goods falling under the same sub entry under which the raw material purchased on Form LL. was falling. For breach of recitals of declarations purchase tax of Rs. 4.50 lakhs though leviable, was not levied.

These cases were pointed out to the department in April 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

5-12
(C) Under the Gujarat Sales Tax Act, 1969 a recognised dealer on production of certificate in Form 19, can purchase goods other than prohibited goods without payment of tax for use in the manufacture of taxable goods for sale. In the event of breach of conditions of the declaration, the dealer would be liable to pay purchase tax on the goods purchased under such certificate but despatched on consignment basis to branches or sold otherwise than in the state. Further, where a dealer who is liable to pay tax under the Act, purchases any taxable goods (not being declared goods) and uses these goods as raw or processing materials or consumable stores in the manufacture of taxable goods, purchase tax at the prescribed rates would be leviable in addition to any tax levied under other provisions of the Act. As per the Gujarat Sales Tax Rules, 1970, the purchase tax levied under the above provision of the Act would be refunded subject to condition that the goods so manufactured are sold by the assessee in the state of Gujarat.

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for Vikas agency
4 Gujarat Petrol
agency
(i) During the course of test check of records of 8 Sales Tax Offices it was noticed in the assessment of 12 dealers* for the periods between July 1986 and March 1993 (finalised between January 1993 and February 1995) that dealers had purchased raw materials valued at Rs.646.12 lakhs against Form 19 without payment of tax and used the same in the manufacture of taxable goods. A portion of the manufactured goods was either branch transferred/consigned to branches or sold without payment of tax which was in contravention of the conditions of the declaration of Form 19. For breach of conditions, the dealers were liable to pay purchase tax of Rs. 15.13 lakhs.

* 3 of Kadi, 2 of Godhra and Ahmedabad, 1 each of Valsad, Petlad, Bhavnagar, Kalol and Surat.

This was brought to the notice of the department between April 1996 and January 1997. The department accepted the audit observation in one case involving an amount of Rs. 1.31 lakhs. In respect of remaining cases department's reply has not been received (January 1998).

The case was reported to Government in May 1997; their reply has not been received (January 1998).

(ii) During the course of test check of records of Sales Tax Office Ahmedabad and Surat it was noticed in the assessment of 3 dealers for the periods between 1991-92 and 1993-94 (finalised between May 1994 and March 1995) that dealers had purchased goods valued at Rs.58.70 lakhs against form 19 without payment of tax and used them in the manufacture of taxable goods. A portion of the manufactured goods were exported out of the country. Since export of goods cannot be considered as sales within the state the dealers were liable to pay purchase tax of Rs. 3.13 lakhs. NR

The above cases were pointed out to the department in May and June 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

(D) According to Section 15-B of Gujarat Sales Tax Act, 1969, where a dealer purchases any taxable goods (other than declared goods) and uses them as raw or processing materials or consumable stores in the manufacture of taxable goods purchase tax at the prescribed rate is leviable. The purchase tax so levied can be claimed as refund under Rule 42 E of Gujarat Sales Tax Rules, 1970, provided the manufactured goods are sold within the state of Gujarat. Further the refund/set off of the tax is admissible only to a "Registered dealer". The Gujarat High Court held** that the packing materials are consumable stores.

(i) During the course of test check of records of Sales Tax offices, Ankleshwar, Navsari and Ahmedabad it was noticed in the assessment of 6 dealers for the periods between 1986 and 1992-93 (finalised between April 1989 and November 1994) that purchase of packing material valued at Rs.343.14 lakhs was used in the manufacture of taxable goods and between 41 and 100 per cent of the goods so manufactured were transferred to their branches outside the state. No purchase tax was levied. Since the manufactured goods were not sold within the state, no refund of purchase tax to the extent transferred to their branches is admissible. This has resulted in non levy of purchase tax amounting to Rs. 13.56 lakhs. FR
Per 4 dealers

The above cases were pointed out to the department between January 1996 and May 1996. The department accepted the audit observation in one case and stated (May 1997) that additional demand of Rs. 1.02 lakhs has been raised. Recovery particulars in this case and reply in remaining cases have not been received (January 1998).

The case was reported to Government in May 1997; their reply has not been received (January 1998).

** M/s. Vasuki Carborandum Works V/s Government of Gujarat (43-STC-294)

NR (ii) During the course of test check of records of Sales Tax Office, Kalol it was noticed in the assessment of 5 dealers for the periods between 1989-90 and 1992-93 (finalised between October 1993 and December 1994) that the dealers had purchased raw materials valued at Rs. 107.20 lakhs and used them in the job work. Although purchase tax was leviable no Purchase Tax was levied. Since the manufactured goods were not sold but were used only in job work the dealers would not be eligible for any set off. This has resulted in non levy of purchase tax of Rs. 5.49 lakhs.

The above cases were pointed out to the department in March and May 1996 and reported to the Government in May 1997; their replies have not been received (January 1998).

NR (iii) During the course of test check of the records of Sales Tax Office Mehsana it was noticed in the assessment of two dealers for the periods from April 1986 to December 1990 (unregistered period) purchases of raw materials valued at Rs. 28.21 lakhs were used in the manufacture of taxable goods. However, no purchase tax was levied. Since the dealers were not registered dealers they were not eligible for refund of purchase tax. This has resulted in non levy of purchase tax of Rs. 1.81 lakhs.

The above cases were pointed out to the department in July and August 1995 and reported to Government in May 1997; their replies have not been received (January 1998).

NR (iv) During the course of test check of the records of Sales Tax Office Surat it was noticed in the assessment of a dealer for the period 1985-86 (finalised in May 1994) that purchase tax was levied at the rate of 1 per cent as against 2 per cent leviable. This resulted in short levy of tax of Rs. 1.53 lakhs.

On this being pointed out in audit (May 1996) the department accepted the audit observation (November 1996) and recovered the amount.

FR for one dealer (E) According to the provisions of Section 19-B of Gujarat Sales Tax Act, 1969 purchase tax is leviable at the rate of 4 per cent on all kind of oil seeds. As per entry 172 of notification issued under Section 49(2) of the Act the tax leviable on oil seeds viz groundnut and peanut was reduced to 1 per cent upto March 1992 and 2 per cent from April 1992 and the tax payable on oil seeds other than groundnut and peanut is reduced to 2 per cent from 2nd December 1991.

During the course of test check of records of Sales Tax Office Surendranagar it was noticed in the assessment of 2 dealers for the periods between 1991-92 and 1993-94 (finalised in June 1993 and October 1994) that on purchases of cotton seeds valued at Rs. 16.97 lakhs purchase tax was levied at the incorrect rate of 2 per cent for the period from 1.4.1991 to 1.12.91 as against the tax leviable at the rate of 4 per cent. Similarly on purchases of groundnut valued at Rs. 30.82 lakhs from April 1992 onwards purchase tax was levied at the incorrect rate of 1 per cent as against 2 per cent leviable. This has resulted in short levy of purchase tax of Rs. 79050.

The above cases were pointed out to the department in April and May 1996. The department accepted the audit observation in one case and raised the demand of Rs. 52560 (January 1997). Further details of recovery and reply in remaining case have not been received (January 1998).

This was reported to Government in May 1997; their reply has not been received (January 1998).

2.9 Incorrect allowance of deduction

(A) According to section 5 of the Gujarat Sales Tax Act, 1969, the sales and purchases of certain goods specified in schedule-I to the Act are free from all taxes. Such sales and purchases are deducted from the gross turnover to compute taxable turnover.

In 5 Sales Tax Offices, it was noticed in the assessment of 15 dealers for the assessment periods between January 1986 and March 1992 (finalised between January 1992 and July 1995) that sales of goods valued at Rs.460.55 lakhs were incorrectly allowed as deduction under section 5 of the Act from sales turnover though such sales were liable to be taxed. This has resulted in non-levy of tax of Rs.56.24 lakhs (including interest) as detailed below:

Sr. no.	Location & number of dealers	Period of assessment	Date of assessment	Item of goods sold	Value of goods sold (Rs.in lakhs)	Nature of irregularity	Amount of short levy (Rs.in lakhs)
1.	13 dealers (7 of Ahmedabad, 4 of Junagadh, and one each of Dahod and Baroda)	Between January 1986 and March 1993	Between April 1992 and April 1995	PVC Pipes	268.44	According to different determinations issued under section 62 between 1982 and 1990 PVC pipes are not agricultural implements but goods made of plastics and falls under entry 98 of schedule II-A.	42.58
2.	Kadi	1992-93	11.7.95	Thrasher	188.39	As per Tribunal's decision (84-2-188-D) "Thrasher" is agricultural machinery and falls under entry 11 of Schedule II A.	13.19
3.	Ahmedabad	SY 2044 to 3/89	17.1.92	Camel fountain pen ink	3.72	As per section 62 determination dt.25.7.81 liable to tax under entry 104 of Schedule II A.	0.47
Total					460.55		56.24

The above cases were pointed out to the department between May 1994 and January 1997 and reported to Government in January and April 1997; their replies have not been received (January 1998).

(B) Under Section 13 of Gujarat Sales Tax Act, 1969 and as per different notifications issued under Section 49(2) of the Act, goods are allowed to be sold without payment of tax subject to satisfaction of conditions laid down therein.

In 4 Sales Tax Offices, it was noticed in the assessment of 4 dealers that sales valued at Rs. 306.91 lakhs were incorrectly deducted from the taxable turnover resulting in short levy of tax of Rs 53.04 lakhs (including interest) as detailed below :

Sr. no.	Place	Period of assessment	Date of assessment	Name of the commodity	Nature of irregularity	Amount of sales (—Rs.in lakhs—)	Amount of short levy
1.	Gondal	1.1.88 to 31.3.90	31.1.96	Cement bags	Cost of cement bags were deducted from the sales turnover although tax was leviable on it at the rate applicable to cement.	246.71	36.12
2.	Kadi	March 1990 to June 1990	2.7.93	Yarn	As per entry 208 of notification issued under section 49(2) sale of processed yarn purchased from the dealers registered under GST Act, is exempted. Sales of yarn brought from its branch outside the state for process were incorrectly allowed tax free.	32.34	12.63
3.	Rajkot	1990-91	17.11.92	Timber	Dealer imported timber from Singapore and sold to a dealer at Surrendranagar. The sales were deducted as High sea sales and no tax was levied. However the customs duty was found paid by the dealer. The sale is therefore a local sale and tax is leviable.	19.48	3.87
4.	Ahmedabad	1992-93	1.12.95	Telephone	Sales of goods to Government departments on Form P is leviable to tax at the rate of 5 per cent. But such sales were deducted from taxable turnover without levying any tax	8.38	0.42
Total						306.91	53.04

The above cases were pointed out to the department between June 1995 and September 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(C) Under Gujarat Sales Tax Act 1969, sales of prohibited goods against declaration in form 19 without payment of tax is not permissible.

During the course of test check of records of six Sales Tax Offices it was noticed in the assessment of 7 dealers that sales of prohibited goods valued at Rs. 51.48 lakhs made against declarations in Form 19 were allowed as deduction from the sales turnover though such sales were liable to be taxed. This resulted in non levy of tax of Rs. 7.31 lakhs as mentioned in Annexure-II.

FR for
2 dealer

The above cases were pointed out to the department between May 1996 and January 1997 and reported to Government in April 1997; their replies have not been received (January 1998).

2.10 Irregular allowance of concessional rate of tax

(A) As per entry 136 of notification issued under section 49(2) of the Gujarat Sales Tax Act, 1969, tax is leviable at a concessional rate of 3 per cent on the sales of all kinds of electronic goods specified in schedule II and III and their components and parts. It was held, by Commissioner by issue of Public Circular dated 23.11.1990, that "Air cooler" is not electronic goods and hence not entitled to the benefit of entry 136 of notification issued under section 49(2) of the Act.

FR

During the course of test check of the records of Sales Tax Office, Kadi, it was noticed in the assessment of a dealer for the period 1991-92 (finalised on 27.4.1995) that sales of air coolers valued at Rs.209.70 lakhs were levied to tax at a concessional rate of 3 per cent instead of levying tax at the rate of 15 per cent under entry 92 of schedule II A. This has resulted in short levy of tax of Rs.65.56 lakhs including interest and penalty.

This was brought to the notice of the department in January 1997 and reported to Government in March 1997; their replies have not been received (January 1998).

(B) Under the provisions of Central Sales Tax Act, 1956, tax is leviable at concessional rate of 4 per cent when a declaration in Form 'C' is furnished. One declaration in Form 'C' can cover transaction relating to one purchase order although delivery of goods may be spread over to different periods but separate declaration shall be necessary if the delivery of goods is spread over to different financial years.

FR

During the course of test check of records of Sales Tax Office, Godhra it was noticed in the assessment of a dealer for the period 1991-92 (finalised on 28.2.1995) that inter state sales valued at Rs.79.63 lakhs were levied to tax at concessional rate of 4 per cent based on 'C' forms relating to earlier financial year. This has resulted in short levy of tax of Rs.15.90 lakhs.

This was brought to the notice of the department in April 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

NR (C) As per entry 44 of notification dated 1 August 1995 issued under section 49(2) of the Gujarat Sales Tax Act, 1969, sales of Biogas stoves are exempted from whole of tax from 1st August 1995. Prior to this date Biogas stoves were leviable to tax under residual entry 195 of Schedule II A to the Gujarat Sales Tax Act, 1969.

During the Course of test check of the records of Sales Tax Office, Ahmedabad it was noticed in the assessment for the period 1992-93 (finalised in December 1994) that the sales of Biogas stoves valued at Rs. 50.47 lakhs were levied to tax at the concessional rate of 4 per cent instead of at the correct rate of 14 per cent. This has resulted in short levy of tax of Rs.7.62 lakhs including interest.

This was pointed out to the department in May 1996 and reported to Government in February 1997, their replies have not been received (January 1998).

NR (D) As per entry 225 of notification issued under Section 49(2) of the Gujarat Sales Tax Act, 1969, tax is leviable on the sales of sheets, rods, bars, blocks, ingots, circles and scraps of non-ferrous metals and alloys and extrusion products made therefrom at the concessional rate of 4 per cent.

During the course of test check of records of Sales Tax Office, Kalol it was noticed in the assessment of a dealer for the period 1990-91 (assessed on 6.9.1993) that sales valued at Rs.17.76 lakhs of aluminium pipes manufactured by the dealer reducing the thickness/diameter of the pipes purchased by him were levied to tax at concessional rate. The benefit of concessional rate is admissible to extrusion products made out of sheets, rods, blocks etc and not to goods made out of extrusion products. The incorrect application of concessional rate has resulted in short levy of tax of Rs.2.55 lakhs.

This was brought to the notice of the department in March 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

NR (E) As per entry 145 of notification issued under Section 49(2) of the Gujarat Sales Tax Act, 1969, tax is leviable at a concessional rate of 5 per cent on the

sales of drilling rigs, spare parts and accessories thereof used for exploration of oil.

During the course of test check of the records of Assistant Commissioner (Enforcement), Rajkot it was noticed that sales of "Rock Drill parts" made during 23.10.1987 to 31.3.1989 were levied to tax incorrectly at a concessional rate of 5 *per cent* by applying the above notification instead of levying tax under the residual entry. This has resulted in short levy of tax of Rs.1.73 lakhs (including interest).

This was pointed out to the department in May 1996 and reported to Government in February 1997, their replies have not been received (January 1998).

(F) As per section 12 of Gujarat Sales Tax Act, 1969 a license holder can purchase goods on Form 17 at concessional rate of 4 *per cent*. FR

During the course of test check of records of Sales Tax Office, Vyara it was noticed in the assessment of a dealer for the period 1990-91 (assessed on 31.12.1994) that sales valued at Rs.4.73 lakhs were levied to tax at concessional rate of 4 *per cent* on form 17 given by the purchaser when he was not holding license. This has resulted in short levy of tax of Rs.45,414.

This was pointed out to the department in April 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

(G) As per entry 36 of notification issued under section 49(2) of the Act tax is leviable at concessional rate on spare parts of machinery. However, component parts of machinery, which are neither spare parts nor accessories of machinery in terms of different determinations issued under Section 62, do not get the benefit of concessional rate and leviable to tax under residual entry 13 of schedule III to the Act. FR

During the course of test check of records of Sales Tax Office, Godhra it was noticed in the assessment of a dealer for the period from April 1989 to March 1991 (finalised on 12.1.1995) that sales of component parts valued at Rs.5.33 lakhs were levied to tax at concessional rate. The incorrect application of concessional rate has resulted in short levy of tax of Rs. 38,362.

This was pointed out to the department in May 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

(H) As per entry 172 of notification issued under Section 49(2) of Gujarat Sales Tax Act, 1969 tax is leviable at a concessional rate of one *per cent* on purchases of groundnut if it is used by the purchaser in the manufacture of oil for sale within the state of Gujarat. NR

During the course of test check of records of Sales Tax Office, Vyara it was noticed in the assessment of a dealer for the period from 23 October 1987 to March 1989 (finalised on 18.8.1994) that inter state sales of groundnuts valued at

Rs.6.41 lakhs were levied to tax at concessional rate of one per cent. The incorrect application of concessional rate has resulted in short levy of tax of Rs. 32644.

This was pointed out to the department in April 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

2.11 Short levy of turnover tax due to incorrect computation of permissible deduction

Under the provisions of Gujarat Sales Tax Act, 1969, with effect from 6 August 1988 where the turnover of either of all sales or of all purchases made by any dealer exceeds Rs.99,99,999 in any year, a turnover tax is to be levied on the total turnover of sales of specified goods after allowing permissible deductions under the Act. With effect from 1 August 1990, the provision was amended to charge turnover tax on taxable turnover of sales. Further, if any dealer has changed the year of accounts and adopted a transitional accounting year, the liability to turnover tax was to be calculated on a proportionate basis for the transitional period of assessment involving a period of more than 12 months. Turnover tax is leviable at the rate applicable to different slabs of turnover given in the Act. This section was further amended with effect from April 1993 bringing the sales made on different forms under section 13 and exempted sales under section 49(2) under the purview of turnover tax. The maximum rate of turnover tax was also revised to 2 per cent from 1.5 per cent for turnover exceeding Rs.8 crores.

(i) During the course of test check of records of 15 sales Tax Offices it was noticed in 120 assessments of 103 dealers* relating to the periods between April 1987 and March 1990 and finalised between August 1991 and January 1996, that turnover tax was levied on net turnover of sales after reducing the amount of sales tax which resulted in short levy of turnover tax of Rs.560.38 lakhs.

These cases were brought to the notice of the department between April 1996 and September 1996. The department did not agree with the audit observation and stated that deduction of sales tax was permitted as per the Departmental circular of 5 August 1988. Reply is not tenable as the amendment of August 1990 provided that turnover of sales should include sales Tax.

The matter was brought to the notice of the Government in April 1997; their reply has not been received (January 1998).

(ii) During the course of test check of the records of the sales tax offices it was noticed in the assessment of 52 dealers that though the dealers were liable to pay turnover tax of Rs.51.77 lakhs the tax was either not levied or short levied detailed as follows:

* 55 of Ahmedabad, 10 of Surat, 8 of Baroda, 6 of Nadiad, 5 of Vapi, 4 of Kalol, 3 of Bharuch, 2 each of Mehsana, Anand, Porbandar and Junagadh and 1 each of Valsad, Himatnagar, Gandhinagar and Palanpur

Sr. no.	Location and number of dealers	Period of assessment	Date of assessment	Taxable turnover (Rs.in lakhs)	Nature of irregularity	Amount (Rs.in lakhs)
1.	22 dealers (5 of Baroda, 4 of Ahmedabad 2 of Bhavnagar 1 each of Unjha, Valsad, Godhra, Vyara, Dahod, Rajkot, Surat, Broach, Kadi, Gondal and Dharangandhra	Between October 1987 and February 1994	Between April 1992 and March 1996	1158.88	Turnover tax was leviable only if the gross turnover of sales/purchases of a dealer exceeded Rs.1 crore upto 31.3.90 and thereafter if the taxable turnover exceeded Rs.50 lakhs. In these cases although TOT was leviable no T.O.T. was levied due to incorrect computation of turnover	16.14
2.	7 dealers (2 each of Rajkot and Bharuch and 1 each of Ahmedabad, Surat and Jamnagar)	Between April 1989 and March 1993	Between December 1993 and December 1994	1096.01	Turnover Tax was leviable at the rate applicable as per the slab on the total turnover of sales including the sales turnover of all its branches within the State. In these cases Turnover Tax was levied without considering the sales taken place on its branches giving undue benefits of lower rate and deduction of Rs.50 lakhs in each branches.	10.22
3.	3 dealers (1 each of Ahmedabad, Baroda and Gandhinagar)	Between 1988-89 and 1989-90	Between October 1994 and March 1995	2201.46	Turnover Tax was leviable at a fixed rate based on gross turnover of sales/purchases upto 31.3.90. From April 1990 a slab rate of TOT was introduced which was to be applied if the net taxable sales exceeded Rs.50 lakhs. TOT was levied in these cases at the slab rate although the assessment periods were prior to April 1990	7.45
4.	8 dealers (2 each of Ahmedabad and Surat and 1 each of Godhra Kadi, Mehsana and Baroda	Between March 1988 and June 1993	Between October 1993 and April 1995	1658.52	Turnover tax was levied short due to application of incorrect lower rate.	5.24
5.	2 dealers (1 each of Baroda and Ahmedabad	Between April 1992 and March 1994	December 1994 and March 1995	614.13	From April 1993 although turnover tax was leviable at the rate of 2 per cent on the sales exceeding Rs.8 crores and tax was leviable on the exempted sales under Section 49(2) no TOT was levied.	4.57
6.	2 dealers of Nadiad	July 1987 to March 1989	February and March 1994	161.12	In respect of transitional year involving more than 12 months the liability to turnover tax was to be calculated on proportionate basis no TOT was levied due to incorrect calculation of liability to TOT.	3.76
7.	7 dealers (4 of Ahmedabad 2 of Kadi 1 of Ankleshwar	Between April 1988 and March 1993	Between March 1993 and January 1996	308.17	Turnover tax was levied short due to incorrect computation of taxable turnover, incorrect calculation and exclusion of certain taxable sales.	3.71
8.	1 dealer of Surat	1989-90	18.4.94	31.57	As per entry 201(ii) of notification issued under section 49(2) of the Act turnover tax was leviable at the rate of 0.25 per cent on sales of hydrogenated oil only upto 30.9.89. TOT was however levied at concessional rate of 0.25 per cent on the sales beyond 1.10.89 resulting in short levy of TOT.	0.68
Total				7184.07		51.77

The above cases were pointed out to the department between March 1996 and January 1997. The department accepted the audit observation in 21 cases involving an amount of Rs.20.15 lakhs and recovered Rs.8.33 lakhs in 12 cases. In respect of remaining cases reply has not been received (January 1998).

The above cases were reported to Government in April 1997; their reply has not been received (January 1998).

2.12 Other topics of Interest

(A) Under the provisions of Section 62 of Gujarat Sales Tax Act, 1969, Dy.Commissioner of Sales Tax can give determination to the effect whether any tax is payable in respect of any particular sale if so the rate of tax thereof. Commissioner can review such determinations under section 67 of the Act and reverse/cancell such determinations if necessary. "Pan masala" is an item covered under entry 12(C) of Schedule III from 6.8.1988 and leviable to tax at the rate of 14 per cent.

Deputy Commissioner had given determinations separately in 4 cases viz. M/s. Rajesh & Co and 3 other cases between December 1990 and November 1991 classifying "Pan masala" (Jhardayukt) as falling under entry 3(F) of schedule II-A with the benefit of entry 134 of notification issued under Section 49(2) of the Act making it tax free although there was a separate entry for it in the schedule to the Act. As the above determinations were found incorrect Commissioner had issued orders on 11.8.1992 under Section 67 cancelling the above determinations and issued a circular instructions to treat the transactions of the above 4 dealers, from the date of determination to the date of cancellation (11.8.1992) i.e.. the period during which the determinations were operative, as tax free.

FR During the course of test check of the records of Sales Tax Office Ahmedabad, it was noticed in the assessment of a dealer reseller of gutka for the period 1991-92 (finalised on 31.3.1994) that his transactions were allowed tax free based on Tribunals decision dated 28.12.1994 wherein Tribunal has ordered that the determination given in the case of M/s.Rajesh & Co. and orders passed by Commissioner of Sales Tax would be applicable to all the dealers dealing in "Jardayukt Pan Masala" and also ordered for the refund of tax, interest and penalty etc. wherever recovered. Issue of incorrect determination under section 62, when regular entry was available in the schedule, has resulted in loss of revenue of Rs.41.87 lakhs in respect of only one dealer for one year alone. Whereas the tax free benefit as per above determinations would be from December 1990 to 11th August 1992 and available to Jardayukt Pan Masala dealers of entire state.

This was pointed out to the department in May 1996 and repoted to government in May 1997; their replies have not been received (January 1998).

(B) Under the provisions of the Gujarat Sales Tax Act, 1969 read with the provisions under the Gujarat Sales Tax Rules, 1970, a registered dealer who is holding recognition certificate is permitted to purchase goods without payment of tax on Form 19 for use as raw or processing materials or consumable stores in the manufacture of taxable goods. Similarly a registered dealer, (manufacturer of iron and steel of the type specified under entry 3 of Schedule II-A) holding the certificate issued by the commissioner for this purpose, can purchase iron and steel on form LL without payment of tax for use in the manufacture of iron and steel of any other type described in the said entry 3 of Schedule II-A. FR

During the course of test check of records of Sales Tax Offices Division I and IV of Bhavnagar it was noticed in the assessment of 3 dealers for the periods between November 1990 and March 1993 (finalised in May and July 1994) that two dealers had purchased fire bricks and plastic granules valued at Rs.15.41 lakhs on form 19 without payment of tax although they were not holding recognition certificate during the above period and in another case the dealer had purchased iron and Steel valued at Rs. 156.14 lakhs on form 'LL' without payment of tax although he had not obtained the necessary certificate from the Commissioner. This has resulted in non levy of tax of Rs.8.58 lakhs.

The above cases were pointed out to the department between June and August 1995 and reported to Government in May 1997; their replies have not been received.

(C) According to classification of goods condemned old vehicles fall under entry 195 of Schedule II A to the Gujarat Sales Tax Act, 1969 and leviable to tax at the rate of 14 per cent. Further as per definition under Section 2(10) of the Act state Government is a dealer and is liable to collect tax in respect of sales made by them. NR

During the course of test check of records of Health and Medical services, Gandhinagar it was noticed that 211 lots of old vehicles of different health schemes were auctioned in July 1993 and an amount of Rs. 30.36 lakhs were collected as sale proceeds but sales tax of Rs. 4.25 lakhs though leviable was not levied. This has resulted in loss of revenue of Rs.4.25 lakhs.

This was pointed out to the department in January 1994. The department pleaded ignorance of law as an excuse of non-collection of this tax.

This was reported to Government in May 1997; their reply has not been received (January 1998).

(D) Under the provisions of the Gujarat Sales Tax Act 1969 if a dealer fails to comply with the terms of any notice issued under the provisions, the assessment is done to the best of the judgement of the assessing authority under Section 41(4) of the Act *ibid*. On request from the dealer the assessment done above can be reopened under Section 44-A. This section 44-A was however deleted from 1.4.1989.

FR for 1 dealer

During the course of test check of records of Sales Tax Office Godhra and Ahmedabad it was noticed in the assessment of 2 dealers that their assessments were completed ex-parte under Section 41(4) of the Act and demand of Rs. 2.59 lakhs was raised. In one case the dealer had filed an appeal against the assessment and the case was remanded for reassessment. The reassessment has not yet been done since the dealer could not produce the records as the entire records were seized by the Drugs department Bombay. In the meanwhile the case has become time bar and the dealer has also closed down the business. In the other case the order passed by Sales Tax Officer for reopening the assessment done under Section 41(4) of the Act was cancelled by Assistant Commissioner on 6.3.1990. In spite of this the case was reopened on 22.11.1993 at the request of the dealer under Section 44 (A) (which was deleted from April 1989) and reassessed raising the dues of Rs. 9701. Delay in reassessment of the case and the incorrect reopening of the assessment when the provision for such reopening was not existing has resulted in loss of revenue to the extent of Rs. 2.50 lakhs.

The above cases were pointed out to the department in July 1995 and March 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

NR

(E) It was held by Gujarat Sales Tax Tribunal in July 1992 that once the seller has satisfied himself that the purchaser, who had issued forms, was holding registration certificates and licences the liability do not extend to him unless any collusion is shown between the seller and the purchaser.

During the course of test check of records of Sales Tax Office Bhavnagar it was noticed in the assessment of 3 dealers for the period 1989-90 finalised between April 1992 and December 1992 that sales of iron scraps valued at Rs.38.56 lakhs were allowed on Form 'OO' tax free to five different registered licence holders although the registration numbers and licences of these dealers have been cancelled ab initio as it was established that the above purchasers were not existing at the places and were found bogus dealers. The above sales were however allowed by the department as genuine sales based on the Tribunal's decision above although a collusion is seen between the seller and the purchaser since the dealer could not have sold any goods to a non-existent dealer. The department should have disallowed the sales on forms and levied to tax. This has resulted in loss of revenue of Rs. 1.70 lakhs.

This was pointed out to the department in June 1995 and reported to Government in May 1997; their replies have not been received (January 1998).

2.13 Short levy of Central Sales Tax

DP-18
DP-34

According to the sections 8(1) and 8(4) of Central Sales Tax Act, 1956, production of "C" form is mandatory for availing the benefit of concessional rate of tax of 4 per cent or at the lower rate if a notification issued under section 8(5) of the said Act provides so. In the event of failure to produce "C" forms, tax shall

be levied at twice the rate in respect of declared goods and at the rate of 10 per cent or at the rate applicable for such goods inside the state whichever is higher, in respect of goods other than declared goods as specified in section 8(2) *ibid*. As per Rule 12(3) of the Central Rules in the event of 'C' form is lost or destroyed, a duplicate 'C' form may be produced.

In the assessment of 12 dealers for the assessment periods between 1988-89 and 1993-94 (finalised between March 1993 and January 1996) it was noticed that incorrect application of concessional rate of tax has resulted in short levy of tax of Rs.26.34 lakhs as detailed below:

Sr. no.	Location and number of dealers	Period of assessment	Date of assessment	Taxable turnover (Rs.in lakhs)	Nature of irregularity	Amount of short levy (Rs.in lakhs)
1	2	3	4	5	6	7
1.	2 dealers (1 each of Ahmedabad and Dahod)	Between 1989-90 and 1992-93	Between March 1994 and November 1995	95.04	As decided by Supreme Court of India on 27/4/93 CI casting is not an item of iron and steel but falls under residual entry 13 of schedule III and leviable to tax at the rate of 14.4 per cent and 14 per cent. Commissioner by issuing a circular on 29.9.94 remitted, the tax leviable in excess of 4 per cent, under section 55 of G.S.T. Act. This remission order is not applicable to inter state sales covered by C.S.T. Act. In the assessments inter state sales of CI castings without "C" forms were levied to tax at the incorrect rate of 8 per cent and 10 per cent.	8.70
2.	Gandhidham	1990-91	24.5.95	28.75	Inter state sales of Machines, without E-1 and "C" forms, were allowed as deduction treating it as a sale taking place in the course of transit under section 6(2) of C.S.T. Act, instead of levying tax.	6.67
3	Division - I Surendranagar	1991-92 & 1992-93	31.8.94	14.23	As per notification issued under section 8(5) of Central Sales Tax Act, inter state sales of timber is leviable to tax at 2 per cent on form 'C'. In the assessment, sales of timber without 'C' forms were levied to tax at the rate of 2 per cent instead of 14.4 and 14 per cent.	3.30
4	Division 3 Ahmedabad	1989-90 to 1992-93	3.7.1995 & 17.10.95	27.95	In the assessment for the period 1989-90 to 1992-93 no 'C' forms could be produced in support of inter-state sales of Rs.27.95 lakhs as 'C' forms were destroyed	2.61

1	2	3	4	5	6	7
					in fire. Dealer could not produce duplicate 'C' forms. However the sales were taxed at concessional rate of 4 per cent instead of 10 per cent.	
5.	Gondal	26.9.1988 to March 1989	10.1.96	12.60	Inter state sales were allowed at concessional rate of 4 per cent on invalid "C" forms.	1.98
6.	2 dealers (1 each of Petlad and Porbandar)	Between 1988-89 and 1990-91	Between March 1993 and December 1994	12.15	Inter state sales without "C" forms were allowed at concessional rate of 4 per cent	1.42
7.	2 dealers (1 each of Dn.17 Ahmedabad and AC (Enf) Dn.1 Ahmedabad)	1991-92	29.4.94 and 30.3.1995	15.11	Inter state sales of cement leviable at the rate of 14.4 per cent and footwears leviable at the rate of 12 per cent (including additional tax leviable with effect from 27.6.91 as per Commissioner's circular dt.11.6.1992) without "C" forms were levied to tax at the rate of 10 per cent.	0.93
8.	2 dealers (1 each of Ahmedabad and Nadiad)	1991-92 and 1993-94	31.1.95 & 24.11.95	20.58	As per notification No.8(5) dated 1.4.1991 Inter state sales of timber falling under entry 172 of schedule II-A is leviable to tax at the rate of 2 per cent with "C" forms whereas sizes (processed timber) falling under entry 173 of schedule II A have been levied to tax at concessional rate.	0.73
Total						26.34

This was brought to the notice of the department between August 1995 and October 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

2.14 Application of incorrect rate of tax

According to Gujarat Sales Tax Act, 1969, tax is leviable at the rate prescribed in the Schedules to the Act. However where goods are not covered under any of the Schedules, general rate of tax applicable from time to time is leviable. In the following 12 cases application of incorrect rate of tax resulted in short levy of tax of Rs. 11.54 lakhs (including interest and penalty wherever applicable) as mentioned in Annexure-III.

The above cases were pointed out to the department between September 1994 and January 1997 and reported to Government in February and March 1997; their replies have not been received (January 1998).

2.15 Non-levy of additional tax.

Under the Gujarat Sales Tax Act, 1969, an additional tax is leviable on the sale or purchase of goods liable to tax under Sales Tax Act at the applicable rate. However, in respect of declared goods, the tax plus additional tax shall not exceed four *per cent*. As decided by Gujarat High Court on 27.6.91, this additional tax is leviable on Central Sales Tax also. Commissioner by issue of a circular made this decision applicable to transactions taking place on or after 27.6.91. F R

During the course of test check of records of 2 sales tax offices it was noticed in the assessment of 4 dealers that the additional tax leviable, at the rate of 20 *per cent* of Central Sales Tax on the inter state sales taken place after 27.6.1991, were not levied. This resulted in short levy of tax of Rs.8.98 lakhs as mentioned in Annexure-IV.

The above cases were pointed out to the department in April 1996. Department accepted the audit observation in one case and recovered the amount of Rs.44560. Reply in remaining cases has not been received (January 1998).

The above cases were reported to Government in April 1997; their reply has not been received (January 1998).

2.16 Non-levy of tax

According to entry 127 of Schedule II-A to the Act goods of incorporeal or intangible character like Patents, Trade Marks, Import licence etc. is chargeable to tax at the rate of 4 *per cent* when a premium is charged on its sale.

During the course of test check of records of 3 Sales Tax Offices it was noticed in the assessment of 7 dealers (3 of Mahuva 2 each of Gandhidham and Surendranagar) for the periods between 1989-90 and 1991-92 (finanlised between September 1994 and October 1995) that premium of Rs. 37.43 lakhs received on sale of import/export licence although leviable to tax at the rate of 4 *per cent* no tax was levied. This has resulted in non-levy of tax of Rs. 4.86 lakhs including interest and penalty. F R for
4 dealers

The above cases were pointed out to the department between March and May 1996. The department accepted the audit observation in 3 cases and raised the demand of Rs.1.28 lakhs. Further details of recovery and reply in respect of remaining cases have not been received (January 1998).

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

2.17 Non/short levy of penalty

As per the provisions of section 45(6) of the Guajrat Sales Tax Act, 1969, where the amount of tax assessed or reassessed exceeds the amount of tax paid by a dealer by more than 25 per cent, penalty at the slab rates as enumerated in the Commissioner of Slaes Tax's circular No.273 dated 30.6.1992 would become leviable.

During the course of test check of records of Sales Tax Offices it was noticed in 115 assessments of 100 dealers* for the assessment periods between April 1990 and March 1995 (finalised between Spetember 1992 and March 1996) that although the difference between the tax assessed and tax paid with the returns exceeded 25 per cent, no penalty was levied. This resulted in non-levy/short levy of penalty of Rs.321.76 lakhs.

This was brought to the notice of the department between March 1995 and January 1997. The department accepted the audit observation in 12 cases and raised the demand involving an amount of Rs.32.90 lakhs and recovered Rs.7.89 lakhs. In respect of remaining cases reply has not been received (January 1998).

The matter was brought to the notice of the Government in April 1997; their reply has not been received (January 1998).

2.18 Non-levy/Short levy of interest

(i) Under the provisions of the Gujarat Sales Tax Act, 1969, if a dealer does not pay the amount of tax within the prescribed period, simple interest at the rate of 24 per cent per annum is leviable on the amount of tax not so paid or any amount thereof remaining unpaid for the period of default. This provision also applies to the levy of interest in the case of assessments made under the Central Sales Tax Act, 1956.

In 49 assessments of 40 dealers** for the assessment periods between 1983-84 and 1993-94 (finalised between December 1991 and March 1996) interest amounting to Rs.71.33 lakhs was either not levied or was short levied on the amount of tax due and remained unpaid on finalisation of the assessments.

This was brought to the notice of the department between April 1996 and January 1997. The department accepted the audit observation in two cases involving an amount of Rs.2.01 lakhs and recovered an amount of Rs.59605. In respect of the remaining cases reply has not been received.

* 24 of Ahmedabad, 19 of Baroda, 9 of Godhra, 7 of Kalol, 6 of Vyara, 5 of Kadi, 4 each of Bhavnagar and Dahod, 3 each of Jamnagar, Gandhidham and Mehsana, 2 each of Nadiad, Rajkot and Surendranagar, 1 each of Amreli, Unjha, Himatnagar, Jamkhambhalia, Surat, Anand and Vijapur.

** 14 of Ahmedabad, 6 of Vyara, 2 each of Anand, Petlad, Nadiad, Kalol, Rajkot, Jamnagar and Baroda, 1 each of Gandhidham, Surendranagar, Dahod, Mehsana, Bhavnagar and Visnagar

The matter was brought to the notice of the Government in May 1997; their reply has not been received (January 1998).

(ii) Under the Gujarat Sales Tax Act, 1969 and the Rules made thereunder, every dealer, whose total amount of tax payable in the previous year is not less than Rs.25,000, is required to make monthly payments of tax for the first two months of every quarter in the current year. If the assessee fails to make monthly payments within the prescribed time, interest at the rate of 24 *per cent* per annum is to be levied on the amount of tax not so paid. As judicially held # in terms of Section 9(2) of the Central Sales Tax Act, 1956, provisions relating to advance payment of tax, levy of penalty and interest under the local Act are also applicable to assessments under the Central Act. As such interest payment under Section 47 of Gujarat Sales Tax Act and monthly payment of tax as per Rule 31 (1A) is equally applicable in payment of Central Sales Tax also.

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for 25 dec.

In 64 assessments of 35 dealers* for the assessment period between 1985-86 and 1992-93 (finalised between January 1993 and February 1995) it was noticed that the tax paid by the dealers under the Central Sales Tax Act was above Rs.25000 but they did not make the monthly payments. For non-payment of tax in time, interest of Rs.26.84 lakhs, though chargeable, was not charged.

This was brought to the notice of the department between September 1995 and June 1996. The department did not accept the audit point and stated that liability to pay tax monthly in central assessment arises only if tax paid by the assessee under the local Act is not less than Rs.25,000. They also argued that, the quantum of tax payable under the local Act decides the tax liability and the tax payable under the Central Act is not relevant.

The contention of the department runs counter to the aforesaid decisions and Section 9(2) of the Central Sales Tax Act and is, therefore, not acceptable.

The matter was brought to the notice of the Government in May 1997; their reply has not been received (January 1998).

M/s Shanthi Moulding Works vs. The State of Gujarat (GSTB 1985) and State Trading Corporation vs. The State of Gujarat 1993.

* 21 of Ahmedabad, 5 of Unjha, 2 each of Baroda, Anand and Patan, and 1 each of Viramgam, Rajkot and Bharuch.



Chapter - III

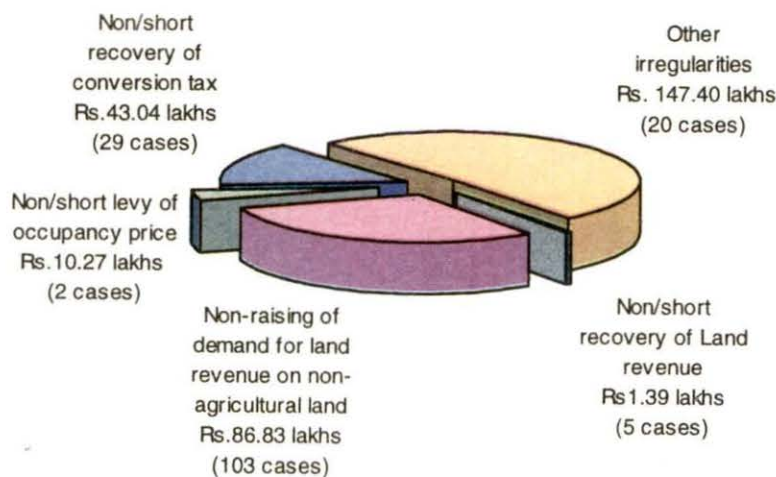
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LAND REVENUE

3.1 Results of Audit

Test check of Land Revenue records in the office of the District Development offices, Taluka Development offices, District Inspector of Land Records and City Survey Superintendent offices, conducted in audit during 1996-97, disclosed short recovery and losses of revenue amounting to Rs. 288.93 lakhs in 159 cases. These cases broadly fall under the following categories.



Total cases 159 - Tax effect Rs. 288.93 lakhs

During the year 1996-97, the department accepted and recovered an amount of Rs. 231.73 lakhs in 203 cases of under assessment. Out of these, 3 cases involving Rs. 4.92 lakhs were pointed out during the year 1996-97 and the rest in earlier years. A few illustrative cases involving revenue of Rs. 433.75 lakhs highlighting important observations are given in the following paragraphs.

3.2 Non-raising of demand for occupancy price

Under the Bombay Land Revenue Code, 1879, as applicable to Gujarat, and the Rules made thereunder, Government can dispose of available lands to needy

persons for cultivation and for any other purposes, on payment of occupancy price subject to such terms and conditions as may be specified by them.

During the course of test check of the records of Taluka Development Office, Bhavnagar, Rajkot, Gandhinagar and Babra (Dist. Amreli) it was noticed that land admeasuring 3.54 lakhs sq.mts was allotted to four autonomous bodies between July 1982 and June 1989 subject to payment of occupancy price either in instalments or in lumpsum within a specified time-limit with interest at the rate of 15 per cent per annum for the period of delay.

No demand either for occupancy price or for interest was however raised resulting in non-recovery of occupancy price of Rs. 162.85 lakhs including interest as mentioned in Annexure-V

The above cases were pointed out to the department between May 1996 to July 1996 and reported to Government in May 1997; their replies have not been received.

3.3 Non levy of ground rent and non agricultural assessment

Gandhidham (Kutch) a princely state which merged with Government of India in 1949 was allocated to ex-Bombay state on 1.11.1956 and on bifurcation of ex-Bombay State from 1.5.1960 this district came under the jurisdiction of Gujarat State. Under Bombay Land Revenue Code, 1879 (as applicable to Gujarat) and the Rules made thereunder land revenue is payable at the prescribed rate on all lands put to agricultural or non-agricultural use, unless specifically exempted from payment. Land revenue is to be assessed with reference to the purpose for which the land is used such as, agricultural, residential, commercial or industrial.

During the course of test check of the records of Mamlatdar, Gandhidham it was noticed that land measuring 2600 acres was handed over to Sindhu Resettlement Corporation in 1952 by the Government of India on 99 years lease for the purpose of resettlement of displaced persons by allotting these lands to them. As per the terms of agreement the corporation has to pay to Government a basic rent at the rate of Rs. 200 per annum alongwith ground rent at the rate prescribed from time to time. The ground rent fixed by Government was payable by the Sindhu Resettlement Corporation alongwith basic rent till the allotment of the plots to individuals and thereafter it is recoverable from the plot holders. Although ground rent was recoverable from 1952 onwards the rate of ground rent was fixed only in 1981 as 0.06 paise per sq.mtrs. There were no land revenue records with the mamlatdar showing the details of occupants of this land from whom the ground rent/NAA is recoverable. No demand was also raised. Non raising of demand of ground rent/NAA has resulted in non-realisation of Rs. 105.71 lakhs for the period from 1981 onwards i.e. from the date of fixation of rate of ground rent. Further ground rent is recoverable from 1952 onwards at the rate of Rs. 7.55 lakhs per annum.

This was pointed out to the department in May 1995 and reported to Government in May 1997; their replies have not been received (January 1998).

3.4 Short recovery/non-recovery of conversion tax

Under the Bombay Land Revenue Code, 1879 as applicable to Gujarat, conversion tax is payable on change in mode of use of the land from agricultural to non-agricultural purposes or from one non-agricultural purpose to another in respect of land situated in city or town, including peripheral areas falling within one to five kilometres. Different rates of conversion tax are prescribed for residential, industrial and commercial/other uses depending upon the population of the city or town. In case of Corporations and Boards etc. no formal non-agricultural permission is necessary and conversion tax is leviable in the year in which land is acquired.

(a) In cases of Gandhinagar, Junagadh, Rajkot, Valsad, Viramgam (Dist. Ahmedabad), Sidhpur (Dist Mehsana), Pardi (Dist Valsad), Naysari (Dist Surat) and Khambhat (Dist Kheda) it was noticed between October 1995 and October 1996 that conversion tax on 24.55 lakh sq.mtrs.of land for change in the mode of use though leviable was not levied. This resulted in non-recovery of conversion tax amounting to Rs.44.23 lakhs in 12 cases as mentioned in Annexure -VI

The above cases were brought to the notice of the department between June 1996 and January 1997 and reported to Government in May 1997; their replies have not been received (January 1998).

(b) Similarly it was noticed in seven Talukas between March 1994 and October 1996 that conversion tax was not levied at correct rates. This resulted in short recovery of conversion tax amounting to Rs.5.13 lakhs as mentioned in Annexure-VII.

The above cases were pointed out to the department between March 1996 and January 1997. The department accepted the audit observation in two cases at Sr.No.1 and 2 and recovered Rs. 1.88 lakhs. Reply in respect of remaining cases has not been received (January 1998)

This was reported to Government in May 1997; their reply has not been received (January 1998).

3.5 Application of incorrect rates of non-agricultural assessment

Under the Gujarat Land Revenue Rules 1972, Cities, towns and villages in Gujarat are divided into five classes "A" to "E" for the purpose of determining the rates of non-agricultural assessment. Peripheral areas within five kilometers of the major cities falling in class "A" and the area falling within one kilometer of the cities and towns falling in class "B" and "C" are classified alongwith respective cities and towns. Certain industrial and allied areas notified by the Government

irrespective of the population of the concerned city etc. are also classified as class " B " .

The classification of areas for the purpose of non-agricultural assessment is done by the Collector in respect of the urban areas under the jurisdiction of municipalities and by the District Development Officer in respect of other areas under the control of panchayats. Different rates of non-agricultural assessments are fixed under the rules for different classes of land depending upon the use of the land. Government revised the rates of non-agricultural assessment with retrospective effect from 1 August 1976, by the notification issued in January 1978, which were further revised from 1 August 1989 by another notification issued in April 1992. In addition, to land revenue, local fund cess and education cess at the prescribed rates are also leviable.

(a) According to 1981 and 1991 census, nine Talukas of six districts covering sixteen villages were upgraded. It was noticed in audit that in 89 cases of Bhuj, Surat, Mehsana, Kheda, Bharuch and Rajkot districts non-agricultural assessment was continued to be levied at the rates applicable prior to upgrading of village/town. This resulted in short levy of non-agricultural assessment of Rs.27.83 lakhs for the periods between 1989-90 and 1995-96.

The above cases were pointed out to the department between April 1996 and January 1997. The department accepted the audit observation in respect of three talukas and recovered an amount of Rs.3.43 lakhs. Reply in respect of remaining cases has not been received (January 1998)

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

(b) In respect of 17 cases of five talukas of Junagadh, Broach, Surat and Panchmahal district and city survey Superintendent 1 & 2, Surat District, the non-agricultural assessment on land admeasuring 66.97 lakhs sq.mts allotted to the Gujarat Industrial Development Corporation (GIDC), Appex Marketing committee (APMC), Gujarat Electricity Board (GEB) and Gas Authority of India (GAI) was not levied at the appropriate rate according to its use, but only agricultural assessment was made in these cases. This resulted in short levy of non-agricultural assessment of Rs.11.79 lakhs for the period 1976-77 to 1995-96.

The above cases were pointed out to the department between July 1996 and January 1997. The department accepted the audit observation in respect of 1 taluka and recovered Rs.4.14 lakhs including local fund and Education cess. Reply in respect of remaining cases has not been received (January 1998)

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

(c) In 8 talukas it was noticed (between May 1995 and Febraury 1996) that in 109 cases on the land measuring 23.85 lakhs sq.mts. the non-agricultural

assessment continued to be levied at the pre-revised rates. This resulted in short levy of revenue amounting to Rs.5.24 lakhs for the period 1989-90 to 1994-95 as mentioned in Annexure-VIII.

The above cases were pointed out to the department between July 1996 and January 1997. The department accepted the audit observation in case of Mandvi and recovered the amount of Rs.34510. Reply in respect of remaining cases has not been received (January 1998).

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

3.6 Non-recovery/short recovery of non-agricultural assessment

(A) Under the Bombay Land Revenue Code, 1879, (as applicable to Gujarat) and the rules made thereunder, land revenue is payable at the prescribed rates on all lands put to agricultural or non-agricultural use, unless specifically exempted from payment. Land revenue is to be assessed with reference to the purpose for which the land is used such as, agricultural, residential, commercial or industrial.

An occupant of agricultural land can put his holdings to any non-agricultural use only with prior permission of the Collector. Prior to 1 August 1976, non-agricultural assessment was levied from the date of commencement of non-agricultural use. However, from 1 August 1976, levy of non-agricultural assessment is effective from the commencement of the revenue year in which the land is permitted or deemed to have been permitted to be used for any other purpose or is used without the permission of the Collector. Executive instructions issued in May 1967, provide that where land is acquired for specific non-agricultural purposes and handed over to the acquiring bodies (Boards, Corporations etc.) no separate permission for non-agricultural use is necessary. In such cases non-agricultural assessment is leviable from the date of handing over possession of land to the acquiring body. In addition to land revenues, local fund cess and education cess at the prescribed rate is also leviable.

(a) Land measuring 111.62 lakhs square metres situated in eleven talukas was acquired and handed over to Gujarat Industrial Development Corporation (GIDC) for Industrial use between the period 1969-70 and 1995-96. The non-agricultural assessment in respect of these lands was either not levied or levied at incorrect rates. This resulted in non/short recovery of non-agricultural assessment of Rs.12.79 lakhs as mentioned in Annexure -IX

This was pointed out to the department between April 1996 and November 1996. The department while accepting the audit observation in case of Dabhoi recovered Rs. 1.88 lakhs including local fund. Reply in respect of remaining cases has not been received (January 1998)

The above cases were reported to Government in May 1997 their reply has not been received (January 1998).

(b) In respect of land measuring 106.81 lakhs square metres situated at ten talukas which was acquired and handed over/allotted to Sardar Sarovar Narmada Nigam Ltd. (SSNNL), Gujarat Water Supply & Sewerage Board (GWSSB), Gujarat Energy Development agency (GEDA) and Indian Oil Corporation (IOC) for non-agricultural use viz for commercial purpose, the non-agricultural assessment revenue was not levied/short levied for the period between 1988-89 and 1995-96. This resulted in non/short levy of non-agricultural assessment amounting to Rs.16.72 lakhs as mentioned in Annexure -X.

The above cases were pointed out to the department between April 1996 and February 1997. The department accepted the audit observations in the case of Dabhoi and raised the demand. Reply in respect of remaining cases and recovery particulars of Dabhoi have not been received (January 1998)

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

(B) Under the Bombay Land Revenue Code, 1879, as applicable to Gujarat State and the Rules made thereunder, land revenue is payable at the prescribed rates on all land put to agricultural or non-agricultural use unless specifically exempted. Land revenue is to be assessed with reference to the purpose for which the land is used, such as, agricultural, residential, industrial or commercial. Agricultural land can be used for any non-agricultural purposes only with the prior permission of the collector. In case of unauthorised use of agricultural land a fine, which may extend to forty times the amount of non-agricultural assessment, is leviable. In August 1980, Government prescribed the amount of fine to be levied for different types of unauthorised use of land.

During the course of test check of records of Mamlatdar and Taluka Development Offices at Choryasi taluka (Dist.Surat) Dholka taluka (Dist. Ahmedabad), Vadodara and Gandhinagar it was noticed that 1.93 lakhs sq.mts of land was unauthorisedly used for various non-agricultural purposes without obtaining prior permission of the competent authority. Fine for unauthorised use of agricultural land and land revenue at the rates applicable for non-agricultural use of the land was not recovered from the land holders. Thus for unauthorised use of agricultural land, conversion tax, non-agricultural assessment for non-agricultural use of the land and fine aggregating to Rs. 7.72 lakhs though leviable was not levied from the occupants of the land.

This was pointed out to the department between May 1995 and November 1996. The department accepted the audit observation in the case of Mamlatdar Choryasi and stated that case has been regularised and an amount of Rs. 1.78 lakhs has been recovered. In remaining cases reply has not been received (January 1998).

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

3.7 Non recovery of pot-hissa* charges

Under the Bombay Land Revenue Code 1879, as applicable to Gujarat, Government is empowered to direct the survey of land with a view to settlement of the land revenue and the record and preservation of rights connected therewith or for any other similar purpose. Survey charges are to be borne by the Government if the survey is conducted for the purpose of settlement or revenue, but if it is carried out for updating the records of rights the entire cost of such survey is recoverable from the beneficiaries of the survey as revenue demand. In accordance with the prescribed recovery procedure the District Inspectors of Land Records maintain, Khatedar-wise** village-wise and Taluka-wise accounts of various survey charges to be recovered while the recoveries are effected by village Talaties*** to whom detailed statement of khatedar-wise demands are sent on completion of survey work.

(a) In five districts, pot-hissa survey was conducted for updating the records of rights of beneficiaries in respect of 13047 units of land at a cost of Rs.18.98 lakhs. However, neither unit rates of pot-hissa survey charges were fixed nor demands were raised. This resulted in non-recovery of survey charges amounting to Rs.18.98 lakhs as mentioned in Annexure-XI.

(b) Under section 132 of Bombay Land Revenue Code 1879, a Survey fee not exceeding Rs.70 for each building, site or portion thereof for which survey is conducted is payable, where a survey is extended to the site of a town or city.

During the test check of records of the City Survey Office at Upleta, it was noticed (April 1996) that in survey work of buildings of 2313 units were carried out, but the fee at Rs.70 per unit was neither demanded nor recovered from beneficiaries. This has resulted in non-recovery of survey fee of Rs.1.64 lakhs including late fee.

The above cases were brought to the notice of the department in July 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

3.8 Short/non-recovery of lease rent

Under the Bombay Land Revenue Code, 1879 as applicable to Gujarat, Government can dispose off unoccupied land on lease for a specified period subject to payment of rent fixed by the Government from time to time.

* "Pot hissa" survey means survey of Sub-division of original numbers resulting from partition of properties amongst family members, sales, gifts and other mode of transfer.

** "Khatedar" means the land holder from whom the land revenue is recovered.

*** "Talati" is an official at village level who is responsible for maintaining land revenue accounts and for collecting recoveries of land revenue.

During the course of test check of records of four talukas it was noticed that the unoccupied land measuring 418.45 lakhs sq.mts were leased out to 32 private parties for the period varying from 1991-92 to 1994-95 for various purposes, subject to payment of lease rent as prescribed under the Government notification issued from time to time. The lease rent was either not levied or levied at the incorrect pre-revised rates. This resulted in short/non-recovery of lease rent of Rs.8.23 lakhs as mentioned in Annexure - XII.

The cases were pointed out to the department between April 1995 and December 1996. The department accepted the audit observation in one case at Sr.No.2 and recovered Rs. 8042. In the remaining cases reply has not been received (January 1998)

This was reported to Government in May 1997; their reply has not been received (January 1998).

3.9 Short recovery of premium

(a) Government in July 1983 decided to permit the land holders, holding the land under the new and restricted tenure under Bombay Tenancy and Agricultural land Act 1948 as applicable to Gujarat, to sell, transfer their land subject to payment of a premium computed on the difference between the estimated sale price of the land and the occupancy price recovered at the time of allotment of land subject to payment of difference on actual sale price later. The rate of premium recoverable is based on the period for which the land was held and the purpose of sale viz agricultural or non-agricultural purpose. The premium recoverable is 70 per cent of the difference when the land held for more than 20 years is permitted to be sold for non-agricultural purpose.

During the course of test check of the records of the Taluka Development Offices it was noticed that land measuring 15884 sq.mts held by agriculturists under new and restricted tenure was permitted to be converted into old tenure for non-agricultural use after payment of premium price, but premium at prescribed rate of 70 per cent on differential amount of sale price was not recovered in respect of land of 4760 sq.mts sold. This resulted in short levy of premium price amounting to Rs.1.24 lakhs as mentioned in Annexure -XIII

The above cases were pointed out to the department between May 1995 and August 1995. The department accepted the audit observation and recovered Rs.1.24 lakhs.

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

(b) Government in January 1980 decided to levy penal premium price at two and half times of the occupancy price fixed by the collector of a district in cases where unauthorised occupancy on encroached land is regularised by the District Collector.

During the course of test check of the records of Taluka Development Office Gondal (Dist Rajkot) it was noticed that a Gochar land measuring 1782.89 sq.mts which was under unauthorised occupation by a trust was regularised by the collector (September 1995) by fixing the price of the land at Rs.1.52 lakhs. Instead of recovering penal premium price of Rs.3.80 lakhs at two and half times of Rs.1.52 lakhs, occupancy price of Rs 1.52 lakhs only was recovered resulting in short levy of tax of Rs.2.28 lakhs.

This was pointed out to the department in November 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

3.10 Short levy of non-agricultural assessment due to incorrect computation of land area

Under the Bombay Land Revenue Code, 1879 (as applicable to Gujarat) and the rules made there under, land revenue is payable at the prescribed rates on all lands put to agricultural or non-agricultural use, unless specifically exempted from payment. Land revenue is to be assessed with reference to the purpose for which the land is used such as, agricultural, residential, commercial or industrial.

(a) During the course of test check of the records of Taluka Development Office, Upleta, it was noticed that land measuring 6.27 lakhs sq. mts was acquired and handed over to Gujarat Energy Development Agency (GEDA) during 1993-94. For levy of non-agricultural assessment the area of land was incorrectly computed as 627.23 sq.mts instead of 6272.37 sq.mts and non-agricultural assessment was accordingly levied at the rate of Rs. 5018 per annum as against Rs. 50179 per annum leviable. This resulted in short levy of non-agricultural assessment amounting to Rs.90322 for the period 1993-94 and 1994-95.

(b) During test check of records of Taluka Development Office, Kalol (Dist Panchmahal), it was noticed that land measuring 715307 sq.mts was acquired and handed over to Gujarat Industrial Development Corporation (GIDC) during 1979-80. The non agricultural assessment was however, being assessed on land measuring 666829 sq.mts instead of on the entire land of 715307 sq.mts. Incorrect computation of area of land resulted in short levy of non-agricultural assessment of Rs.46542 for the period from 1979-80 to 1995-96.

The above cases were pointed out to the department between January 1996 and November 1996. The department accepted the audit observation and recovered Rs.90322 in respect of the case of (a) above. In the remaining case reply has not been received (January 1998).

These cases were pointed to Government in May 1997; their reply has not been received (January 1998).

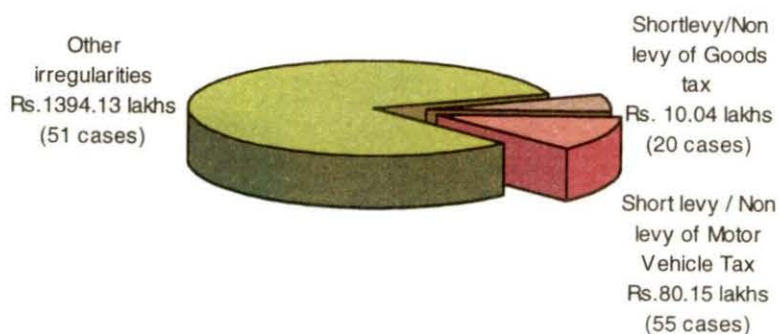
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TAXES ON VEHICLES

4.1 Results of Audit

Test check of records in the office of the Commissioner of Transport, Regional Transport Offices and Assistant Regional Transport Offices in the state, conducted in audit during 1996-97, disclosed under-assessments amounting to Rs. 1484.32 lakhs in 126 cases. These cases broadly fall under the following categories:



Total cases 126 - Tax effect Rs. 1484.32 lakhs

During the year 1996-97 the department accepted and recovered an amount of Rs. 195.10 lakhs in 69 cases of under-assessment. Out of these, 2 cases involving Rs. 3.74 lakhs were pointed out during 1996-97 and the rest in earlier years. A few illustrative cases highlighting important audit observations involving Rs. 1242.51 lakhs are given in the following paragraphs.

4.2 Non/short levy of composite tax

Under the provisions of the Bombay Motor Vehicles tax Act, 1958 as applicable to Gujarat, an additional tax commonly known as composite tax is leviable in lieu of passenger tax with effect from 1 May 1982 on all omnibuses exclusively used or kept for use as contract carriages in the State. The rates of additional tax were revised from 1 April 1989 and again from 1 April 1991. According to the rules made under the Act,

if a non use declaration is filed in advance and is accepted by the taxation authority, no tax is payable for the period of non-use.

(i) During the course of test check of records of twelve taxation authorities it was noticed that operators of 537 omnibuses exclusively kept for use as contract carriages did not file the necessary non-use declarations for various periods between April 1991 and March 1996. In the absence of the declarations, the operators were liable to pay the composite tax. The composite tax recoverable in these cases amounted to Rs.238.63 lakhs.

The above cases were pointed out to the department between February 1994 and January 1997. The department accepted the audit observation and stated that demand notices have since been issued to all vehicle owners and recovered an amount of Rs. 11.59 lakhs in 44 cases. Details of recovery in respect of remaining cases have not been received (January 1998).

The above cases were reported to Government in April 1997; their reply has not been received (January 1998).

(ii) During the course of test check of the records of Commissioner of Transport Ahmedabad it was noticed that in five luxury omnibus vehicles of Ahmedabad Municipal Transport Services (AMTS) though covered by contract carriage permit tax was levied at the rate applicable to stage carriages. Incorrect application of the rate of tax applicable to stage carriages instead of levying composite tax resulted in short levy of tax of Rs.14.08 lakhs.

This was pointed out to the department in December 1995 and June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

4.3 Non-recovery of motor vehicles tax and goods tax

Under the Bombay Motor Vehicles Tax Act, 1958, as applicable to Gujarat, tax is levied and collected on all the motor vehicles used or kept for use in the State. The owner of a motor vehicle, who does not intend to use the vehicle or keep it for use in the state and desires to avail of exemption from payment of tax, has to make declaration accordingly within the period for which tax has been paid. Such a declaration is valid only upto the end of the financial year in which it is made. The declarations of non-use of vehicles are noted in the tax-index-cards and registration records after their acceptance by the taxation authority. In addition to motor vehicles tax, goods tax is leviable on goods vehicles under the Gujarat Carriage of Goods Taxation Act, 1962. For non-payment of tax in time, penalty not exceeding 25 per cent thereof is also leviable besides interest.

During the course of test check of the records of the Regional Transport Offices/ Asstt. Regional Transport Offices it was noticed (Between March 1994 and February 1997) that in 920 cases motor vehicles tax and goods tax were not levied and collected for the period from 1992-93 to 1995-96 even though the tax index cards and registration

records did not show any declaration regarding non-use of the vehicles. Non-levy of motor vehicles tax and goods tax in respect of these vehicles amounted to Rs.59.32 lakhs as mentioned in Annexure - XIV.

This was pointed out to the department between May 1995 and February 1997. The department accepted the audit observation in 229 cases and recovered an amount of Rs.11.48 lakhs. Reply in respect of remaining cases has not been received (January 1998).

The above cases were reported to Government in April 1997; their reply has not been received (January 1998).

4.4 Short levy of motor vehicles tax on non transport vehicles

Under the Bombay Motor Vehicles Tax Act, 1958 as applicable to Gujarat with effect from 3 April 1987 the State Government specified rates of one time (Lumpsum) motor vehicles tax leviable on all non-transport vehicles used or kept for use in the State whose unladen weight does not exceed 2250 kgs. The rates are based on unladen weight, fuel used ownership and age of vehicles. The rates were revised in August 1990, and again in April 1992.

During the course of test check of the records of twelve taxation^{*} authorities it was noticed (between March 1995 and May 1996) that in respect of 260 non-transport vehicles one time tax was not levied and collected at correct rate based on the unladen weight of the vehicles, fuel used and ownership etc.. This resulted in short levy of motor vehicle tax of Rs.14.40 lakhs.

The above cases were pointed out to the department between April 1996 and February 1997. The department accepted the audit observation in 50 cases and recovered an amount of Rs.2.37 lakhs. Reply in respect of remaining cases has not been received (January 1998).

This was reported to the Government in April 1997; their reply has not been received (January 1998).

4.5 Irregular grant of exemption from payment of tax

The tractor-cum-trailers belonging to the agriculturists and used for personal agricultural purposes are exempted from payment of tax. Trailers belonging to persons other than agriculturists are liable to tax. Under the Bombay Motor Vehicles Tax Act, 1958, as a measure of internal control it was prescribed that owner claiming exemption from payment of tax shall apply in Form "MT" to the taxation authority either at the time of registration or within seven days of expiry of period of exemption granted earlier. The taxation authority is required to make entries thereof in the certificate of registration and in tax index cards.

^{*} Ahmedabad, Amreli, Baroda, Bharuch, Bhavnagar, Godhra, Himatnagar, Surat, Rajkot, Valsad, Nadiad and Mehsana.

(a) During test check of records of RTO/ARTO Ahmedabad, Godhra, Rajkot and Amreli, it was noticed that the owners of 207 tractor-cum-trailer did not file "MT" forms during the period 1992-93 to 1993-94 after expiry of earlier exemption and the taxation authorities continued to exempt these vehicles from payment of tax without ascertaining the owners' continued eligibility for exemption. This resulted in irregular exemption of Rs.14.66 lakhs.

(b) In Rajkot, Godhra and Junagadh, in respect of 13 tactors-trailers belonging to persons other than agriculturists on which one time tax was leviable, tax was not levied for the period 1993-94 & 1995-96. The irregular grant of exemption resulted in non-levy of lumpsum motor vehicles tax amounting to Rs.2.40 lakhs.

This was pointed out to the department between February 1994 & June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

4.6 Short recovery of Composite fee under National Permit Scheme

Under the National permit scheme, the permit holders have to pay a composite fee in respect of each state, other than home state, in which vehicle will operate. Such fee is payable in addition to the motor vehicle tax and goods tax leviable in the home state. The composite fee was payable at the annual rate of Rs. 1500 for each state till August 1993 and at Rs.4000 thereafter. The composite fee is payable before 15 March every year. However, the owner of the vehicle is given an option to pay the fee in two equal instalments, before 15 March and 15 September every year. Under the scheme, it is obligatory for the holder of National Permit to pay the fee by demand draft and obtain an authorisation for plying his vehicle in other states. The demand drafts are collected by Regional Transport Officers/Assistant Regional Transport Officers of the home state and forwarded to the concerned states. In the event of delay in payment of fee a penalty at the rate of Rs.300 per month or part thereof is leviable.

(i) During the course of test check of the records of the Commissioner of Transport, Ahmedabad it was noticed (November 1995) that Regional Transport Officers/Assistant Regional Transport Officers of Maharashtra, Rajasthan and Union Territory Silvassa continued to recover and remit the fees at pre-revised rates upto 31 March 1995. This resulted in short recovery of composite fee to the extent of Rs. 6.58 lakhs in 507 cases.

This was pointed out to the department in June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(ii) During the course of test check of the records of the Commissioner of Transport, Ahmedabad, it was noticed (November 1995) that in respect of 2240 vehicles though the composite fee was paid late, penalty leviable at the rate of Rs.300 per month was not recovered. This resulted in non-levy of penalty of Rs.6.70 lakhs.

This was pointed out to the department in June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

4.7 Pending collection of tax due to inadequate action

Under the provisions of Bombay Motor Vehicles Tax Act, 1958 tax arrears are recoverable as arrears of land revenue. In accordance with the provisions of Bombay Land Revenue Code 1879 arrears of tax certified as arrears of land revenue shall be recoverable at mamlatdar's level by serving demand notices to the defaulters, by distraining and selling the movable and immovable properties and by arresting and sending him in prison.

During the course of test check of the records of two Regional Transport Offices it was noticed that in 12 cases composite and goods tax amounting to Rs.2.93 lakhs remained uncollected due to inadequate action by the departmental authorities for its recovery as detailed below. In addition interest and penalty is also leviable.

Sr. No.	Place	No. of cases	Period of recovery	Reasons for non-recovery	Amount (Rs.in Lakhs)
1.	Jamnagar	9	Between November 1974 and November 1993	In 8 cases no action could be taken for recovery due to non availability of whereabouts of the vehicle owners and in one case Revenue Recovery certificate for recovery as arrears of land revenue was issued only in May 1992 and August 1993 after a lapse of 18 years in respect of recovery outstanding since 1974 onwards.	1.52
2.	Vadodara	3	Between March 1988 and November 1994	R.R.C. issued after 2 years. Although the vehicles of the defaulters were seized the same could not be auctioned for want of fixing its upset price.	1.41
Total		12			2.93

The above cases were pointed out to the department in December 1995 and February 1997 and reported to Government in April 1997; their replies have not been received (January 1998).

4.8 Non-recovery of passengers tax

In terms of the understanding reached with the police department, the Ahmedabad Municipal Transport Service (AMTS) does not issue tickets to the Police staff nor is the fare recoverable from them and Police Department pays an agreed amount annually to the AMTS. The amount so payable by the Police Department for the year 1990-91 to 1992-93 worked out to Rs.3.13 crores. However, an amount of Rs.32.55 lakhs only was paid, there by leaving a balance of Rs.2.81 crores with the police department

as on 31st March 1993. The AMTS paid the tax on the amount actually received from the Police Department. The passenger tax payable by the AMTS on the outstanding balance of Rs.2.81 crores amounted to Rs.2.81 lakhs. (1 per cent of fares).

Non-payment of passengers tax would also attract levy of penalty (up to 25 per cent of fares payable) and interest at 12 per cent per annum.

This was pointed out to the department in July 1995 and reported to Government in April 1997; their replies have not been received (January 1998).

4.9 Non-recovery of goods tax on vehicles plying under countersignature permit

According to the reciprocal agreement entered by the State of Gujarat with other States and Union Territories etc, the vehicles of other states operating in Gujarat under such an agreement are exempted from payment of motor vehicles tax under a countersignature permit. However, such vehicle owners operating in Gujarat State are required to pay goods tax leviable under the Gujarat Carriage of Goods Tax Act, 1962. The vehicle owners who ply in Gujarat on the invalid countersignature permit are required to pay motor vehicles tax and also goods tax of the State.

During the course of test check of records of the Commissioner of Transport office, it was noticed (February 1996) that goods tax for the period from April 1994 to March 1995 was not recovered from 34 vehicle owners of Maharashtra State, 11 of Andhra Pradesh and one of Punjab State operating in the state under the above scheme. This resulted in non-levy of goods tax amounting to Rs.1.07 lakhs.

This was pointed out to the department in June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

4.10 Short levy of motor vehicles tax due to application of incorrect rates.

Under the Bombay Motor Vehicles Tax Act, 1958, as applicable to Gujarat, motor vehicles tax shall be levied and collected on all motor vehicles used or kept for use in the state at a rate, not exceeding the maximum rates specified in the first schedule to the Act by a notification issued in the official gazette. Further in respect of vehicles brought for use in the state for a period exceeding 7 days but less than one month, a composite tax applicable to a month is leviable. The existing rates were revised with effect from 1 August 1995.

During the course of test check of the records of the Assistant Regional Transport Officer, Dahod Dist. Panchmahal, it was noticed that motor vehicles tax in respect of 289 vehicles brought for use in the state for a period exceeding 7 days was levied at the pre-revised rates. This resulted in short levy of motor vehicles tax amounting to Rs. 1.03 lakhs.

This was pointed out to the department in October 1996. The department accepted the audit observation and recovered an amount of Rs. 25875. Recovery particulars for the remaining amount have not been received (January 1998).

This was reported to the Government in April 1997, their reply has not been received (January 1998).

4.11 Short levy of interest on passenger tax

Under the provisions of Bombay Motor Vehicles Tax Act, 1958, and the rules made thereunder, a fleet-owner is required to make payment of passenger tax before the end of the month immediately succeeding the month to which it relates. Failure to pay the tax in time, attracts simple interest at the rate of 12 per cent per annum on the outstanding amount of the tax for the period of default.

During the test check of records of the office of the Commissioner of Transport, it was noticed that Gujarat State Road Transport Corporation (GSRTC) was not paying the passenger tax on due dates. For belated payment of tax dues during 1993-94 and 1994-95 demand for interest amounting to Rs.298.42 lakhs at the rate of 12 per cent was raised as against the correct amount of interest of Rs.1152.92 lakhs leviable. The incorrect calculation of interest has resulted in short levy of interest of Rs.854.50 lakhs.

This was pointed out to the department in May 1995 and June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

4.12 Incorrect computation of penalty

Under the provisions of Bombay Motor Vehicles Tax, Act, 1958, as made applicable to Gujarat, where the whole or portion of the tax payable under the Act is not paid within the prescribed time, a penalty not exceeding 25 per cent is leviable.

During the course of test check of the records of the Commissioner of Transport Ahmedabad, it was noticed (August 1994) that Ahmedabad Municipal Transport Service (AMTS) was not paying the motor vehicle tax regularly within the prescribed time for the assessment years 1984-85 onwards.

Penalty leviable for default in payment of tax within the prescribed time was however calculated on the net tax outstanding as on 31.3.94 after reducing the amount of tax recovered till then instead of calculating the penalty from time-to-time on defaulted amount not paid within the time limit. This resulted in short levy of penalty of Rs.23.40 lakhs.

This was pointed out to the department in May 1995 and reported to Government in April 1997; their replies have not been received (January 1998).

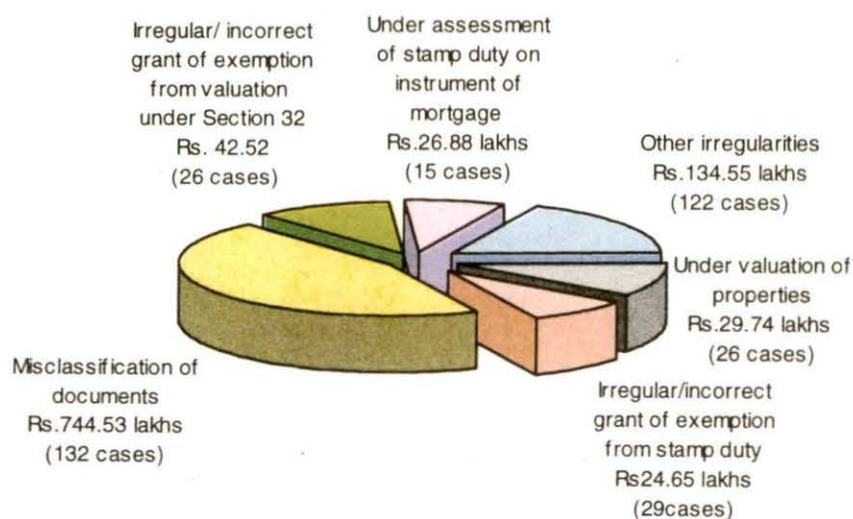
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STAMP DUTY AND REGISTRATION FEES

5.1. Results of Audit

Test check of documents and records in the registration offices and collection of stamp duty (valuation of properties) organisation in the state conducted in audit during the year 1996-97 disclosed short realisation of stamp duty and registration fees under valuation of property etc. amounting to Rs. 1002.87 lakhs in 350 cases, which broadly fall under the following categories.



Total cases 350 - Tax effect Rs. 1002.87 lakhs

During the year 1996-97 the department accepted and recovered an amount of Rs. 156.65 lakhs in 117 cases of under assessment, of which two cases amounting to Rs. 0.90 lakh were pointed out during the year 1996-97 and the rest in earlier years. A few illustrative cases involving Rs. 3930.47 lakhs highlighting important observations are given in the following paragraphs.

5.2 Short levy of stamp duty due to incorrect application of concessional rate of duty

By a notification issued in April 1992 under the Bombay Stamp Act, 1958, as applicable to Gujarat, Government reduced the rate of stamp duty to one percent for loan up to Rs.15 lakhs and two per cent for the loan exceeding Rs. 15 lakhs on mortgage deeds executed by any industrial undertaking in favour of certain financial institutions. However, from November 1994, the maximum duty was restricted to Rupees two lakhs. This reduced rate is applicable only to those industrial undertakings which are engaged in any of the activities mentioned in the explanation III of the notification and further the mortgage deed is executed in favour of the financial institutions mentioned in the above notification.

(i) It was noticed (August 1996) from cases adjudicated under section 31 of the Act in the office of the Additional Superintendent of Stamps, Ahmedabad that one industrial undertaking raised a loan of Rs.150 million dollars equivalent to Rs.450 crores for its industrial purpose. The loan was raised from 12 foreign banks with a condition that the Industrial Credit and Investment Corporation of India (ICICI) would act as their agent and trustee in India. With a view to safeguard their interests, the foreign banks, asked the borrower to execute a mortgage deed in favour of ICICI. Since the loan was not advanced by the specified financial institutions mentioned in annexure - I of the notification, the benefit of reduced rate of stamp duty was not admissible to the unit. Incorrect application of reduced rate of duty resulted in short levy of stamp duty to the tune of Rs.18.20 crores.

This was pointed out to the department in September 1996 and reported to Government in February 1997; their replies have not been received (January 1998).

(ii) During the course of audit of the records of Sub-Registrar, Naroda IV Ahmedabad, it was noticed from the documents adjudicated under section 31 of the Act in the office of the Additional Superintendent of Stamps, Ahmedabad, that one industrial undertaking raised a loan of Rs.123.48 crores in foreign currency for its industrial purpose from Bank of New York. This was against the security created by mortgaging immovable properties situated at various places in Ahmedabad in favour of Industrial credit and Investment Corporation of India (ICICI) who agreed to act as security agent and trustees for the security of the money so advanced by the Foreign Bank. Since the loan was not given by the specified institutions mentioned in the aforesaid notification and the ICICI merely acted as an agent for securing the loan, the benefit of reduced rate of stamp duty was not admissible to the unit. Incorrect application of reduced rate of stamp duty resulted in short levy of stamp duty to the tune of Rs 460.55-lakhs.

This was pointed out to the department in December 1996. The department accepted the audit observation (July 1997). Further recovery particulars have not been received (January 1998).

This was reported to Government in March 1997; their reply has not been received (January 1998).

(iii) Similarly it was noticed (August 1996) from the cases adjudicated under Section 31 of the Act in the Office of the Additional Superintendent of Stamps, Ahmedabad that an industrial undertaking raised a loan in foreign currency to the extent of pound sterling of 3.5 million equivalent to Rs.1650 lakhs. The loan was taken from "Common Wealth Development Fund" (CDF) with a condition that ICICI would act as their agent in India. Further it was mutually agreed that title deeds of the industrial unit would remain in the custody of ICICI till the entire loan amount with interest is repaid by borrower to the CDF. As the loan was not advanced by the specified financial institution mentioned in the notification, the benefit of reduced rate of stamp duty was not admissible to the industrial undertaking. Incorrect application of reduced rate of duty resulted in short levy of stamp duty amounting to Rs. 66.83 lakhs.

This was pointed out to the department in September 1996 and reported to Government in February 1997; their replies have not been received (January 1998).

(iv) It was noticed (August 1996) from cases adjudicated under section 31 of the Act in the office of the Additional Superintendent of Stamps, Ahmedabad that one industrial undertaking raised a loan of Rs.35.30 crores by mortgaging his properties in favour of two financial institutions to provide "Cellular Mobile Telephone Services" to the public. The said activity of the industrial undertaking is not covered by the explanation below the notification and as such benefit of concessional rate of duty was not admissible. Incorrect grant of benefit of reduced rate of duty resulted in short levy of stamp duty amounting to Rs.1.31 crores.

This was pointed out to the department in September 1996 and reported to Government in January 1997; their replies have not been received (January 1998).

(v) Similarly, it was noticed (August 1996) from the cases adjudicated under section 31 of the Act in the office of the Additional Superintendent of Stamps, Ahmedabad that an industrial undertaking raised a loan of Rs.10 crores by way of private placement of non-convertible debentures with a financial institution mortgaging his properties. The loan was raised for the purpose of cultivation and marketing of tea. Since activity of cultivation and marketing of goods is not covered by the explanation, the benefit of concessional rate of duty was not admissible to the industrial undertaking. Incorrect grant of benefit of reduced rate of duty resulted in short levy of stamp duty amounting to Rs.35.00 lakhs.

This was pointed out to the department in September 1996 and reported to Government in January 1997; their replies have not been received (January 1998).

5.3 Short levy of stamp duty due to incorrect application of rates

(A) Under the Bombay Stamp Act, 1958, as applicable to Gujarat, stamp duty leviable on mortgage deed is the same as on a conveyance deed and is based on the amount secured by such deed.

By a notification dated 8 April 1987, Government reduced the rate of stamp duty leviable on mortgage deed to Rs.2 for every Rs.100 or part thereof in respect of certain documents specified in the schedule and executed by Co-operative Societies registered under the Gujarat Co-operative Societies Act 1961. The reduced rates are applicable only to those documents mentioned in the Schedule. Documents relating to mortgage for securing a loan of Rs.5000 or more executed by registered societies are not included in the Schedule of the said notification and therefore not entitled for reduced rate of duty.

During the course of test check of records of Sub-Registrar, Junagadh and Nadiad, it was noticed (January 1995 and August 1996) that two mortgage deeds were executed by two Cooperative Housing Societies in favour of Housing and Urban Development Corporation Ltd. (HUDCO) for securing loan aggregating to Rs.223.67 lakhs. Stamp duty on these deeds were levied at the rate of 2 percent instead of the correct rate of 10 percent which resulted in short levy of stamp duty amounting to Rs.16.78 lakhs.

This was pointed out to the department in July 1995 and October 1996 and reported to Government in April 1997, their replies have not been received (January 1998).

(B) By a notification issued in April 1992 under the Bombay Stamp Act, 1958 as applicable to Gujarat, Government reduced the rate of stamp duty to one percent for loans upto Rs.15 Lakhs and two percent for the loans exceeding Rs.15 lakhs on an instrument of mortgage executed by any person on behalf of any industrial undertaking in favour of specified financial institution.

During the course of test check of records of Sub-Registrar, Khambhat and Ahmedabad, it was noticed that on two mortgage deeds executed by industrial units in favour of financial institutions for loans aggregating to Rs.127.80 lakhs stamp duty was levied at incorrect rates. This has resulted in short levy of stamp duty amounting to Rs.1.99 lakhs.

This was pointed out to the department in May and June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(C) Under the provisions of Bombay Stamp Act, 1958, stamp duty at conveyance rate is leviable on deeds of dissolution of partnership wherein property brought by one partner as his share is taken away by another partner. However, it has been judicially held that the documents whereby property purchased out of firm's capital is taken away by its partners on dissolution as their share are also required to be assessed at the rate applicable to conveyance deeds i.e. Rs. 8 per Rs.100 of the amount of consideration.

During the course of test check of records of Sub Registrar, Jamnagar it was noticed (April 1996) that stamp duty and registration fees on document of dissolution of partnership worth Rs. 4.63 lakhs, was not levied at the rate applicable to conveyance deed although the properties were purchased from the capital of

the firm. The document was assessed to duty and fees as applicable to dissolution of partnership deed. Incorrect application of rate resulted in short levy of stamp duty and registration fees of Rs.53115.

This was pointed out to the department in July 1996 and reported to Government in February 1997, their replies have not been received (January 1998).

(D) By a notification issued in March 1987 Government revised the rate of stamp duty on mortgage deeds executed by any industrial undertaking in favour of certain financial institutions from *advalorem* rates to slab rates. The amount of stamp duty leviable on the amount of loan exceeding Rs.30.00 lakhs was Rs.1.00 lakh from 8.4.1992.

During the course of test check of records of Sub-Registrar Mangrol it was noticed from a document of mortgage deed registered on 7.11.1992 that an industrial unit had obtained a loan of Rs.1.40 crores from a bank by mortgaging his properties. Stamp duty on this document was levied at the *advalorem* rate applicable prior to March 1987 instead of levying tax at the slab rate of Rs.one lakh. This has resulted in short levy of stamp duty of Rs.40,500.

This was pointed out to the department in February 1996. The department accepted the audit observation. Further details of recovery have not been received (January 1998).

This was reported to Government in April 1997; their reply has not been received (January 1998).

5.4 Short levy of stamp duty and registration fees due to misclassification of documents

(a) Deposit of title deeds treated as mortgage

Under the Bombay Stamp Act, 1958 (as applicable to Gujarat), any instrument evidencing an agreement relating to the deposit of title deeds or being evidence of title of any property, attracts duty at the rate of half per cent up to the loan of Rs.15 lakhs and at the rate of one per cent for the loan exceeding Rs.15 lakhs. If the document of deposit of title deed contain provisions creating by its own force a right or interest in the property as in a mortgage deed, the document would be classifiable as a mortgage deed and assessed to duty accordingly. Further an instrument, coming within the description of two or more of the articles of Schedule I having different duties, shall be chargeable with the highest of such duties.

It was noticed (August 1996) from the cases adjudicated under section 31 of the Act in the Office of the Additional Superintendent of Stamps that though 50 documents did not contain any provision of mortgage yet the deeds were classified as mortgage and assessed to duty accordingly. The recitals of these documents

clearly indicate that the deeds did not create any right or interest in the property as such the deeds were classifiable as deposit of title deeds. Incorrect classification of deposit of title deeds as mortgage deeds resulted in short levy of stamp duty of Rs.11.77 crores.

This was pointed out to the department in September 1996 and reported to Government in January 1997; their replies have not been received (January 1998).

(b) Conveyance deed treated as agreement

Under the Bombay Stamp Act, 1958, "conveyance" includes every instrument by which property, movable or immovable is transferred, between living persons. An agreement containing recitals by virtue of which immovable property is transferred between two persons, is also to be classified as conveyance deed. Stamp duty and registration fees on conveyance deed is higher than that on an agreement.

(i) During the course of test check of records of the Sub-Registrar, Ahmedabad, Amreli, Baroda, Gandhinagar, Jamnagar, Nadiad and Rajkot it was noticed that 90 documents styled as "agreement to sell" in respect of various properties presented for registration were registered and assessed to stamp duty accordingly. The recitals of these documents however indicated that possession of the property has been handed over to the purchasers and all rights, titles and interest in the property were transferred in favour of them. Irrevocable power of attorney was also executed in favour of the purchasers to get the property transferred in their names. The properties were thus transferred by virtue of these agreements. These documents were therefore required to be classified as "conveyance deed". The misclassification resulted in short levy of stamp duty and registration fees of Rs.75.43 lakhs.

This was pointed out to the department between May 1995 and October 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(ii) During the course of test check of records of Sub-Registrar (Paldi) Ahmedabad, it was noticed in two cases from the recitals of documents registered in April 1994 and May 1995 that the properties now conveyed were purchased by the vendors on 6.7.90 and 7.12.92 respectively by registering the documents styled as "Agreement to sell". The possession of the land was handed over to the purchaser against full consideration value of the property and all rights, titles, and interest on property were transferred in favour of purchasers. The property was thus transferred by virtue of these agreements. These documents were therefore required to be classified as "Conveyance deed". The misclassification resulted in short levy of stamp duty and registration fees of Rs.1.09 lakhs.

This was pointed out to the department between July 1996 and August 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

(c) Conveyance deed treated as release

Under the Bombay Stamp Act, 1958 as amended in April 1994 'Conveyance' includes every instrument by which property movable or immovable is transferred inter-vivos i.e. between living persons. Instrument whereby a co-owner of any property transfers his interest to another co-owner of the property and which is not an instrument of partition is also classifiable as conveyance. Prior to amendment, such documents of transfer by one co-owner to another co-owner were classifiable as release deeds. The stamp duty and registration fee on conveyance deed is higher than that on release deed.

During the course of test check of records of Sub Registrar, Gandhinagar and Ahmedabad (Paldi and Wadaj) it was noticed between October 1995 and June 1996 that sixteen documents though classifiable as conveyance were classified as release deeds and assessed to stamp duty and registration fee accordingly. Incorrect classification of conveyance deed as release deed resulted in short levy of stamp duty and registration fee of Rs. 12.49 lakhs.

This was pointed out to the department between July 1996 and September 1996 and reported to Government in February 1997; their replies have not been received (January 1998).

(d) Mortgage deed treated as equitable mortgage

The rates of stamp duty on mortgage deed is higher than that on an equitable mortgage also known as mortgage by deposit of title deeds. If an equitable mortgage contains provisions creating by its own force a right or interest in the property as in mortgage deed, the document would be classifiable as mortgage and not as a deed of equitable mortgage for the purpose of levy of stamp duty.

During the course of test check of records of sub-Registrar, Jamnagar, Kalol, Gondal and Rajkot it was noticed that in 69 cases styled as equitable mortgage contained provisions creating by its own force a right or interest in the properties and therefore were classifiable as mortgage deeds. The incorrect classification of these deeds as deeds of equitable mortgage resulted in short levy of stamp duty and registration fees of Rs. 6.81 lakhs detailed as follows:

Sr. No.	Place	No. of documents	Details of recitals	Amount of short levy (Rs. in lakhs)
1	Jamnagar	24	As per the agreement mortgagee will have right over the property.	2.03
2	Kalol	07	Mortgagor executed separate loan agreements with mortgagee.	0.55
3.	Gondal	11	In the event of default in repayment of loan the mortgagee may sell the house to recover the dues.	1.17
4.	Rajkot	27	Mortgagors executed separate loan agreements and also demand promissory notes.	3.06
			Total	6.81

The above cases were pointed out to the department between September 1995 and September 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(e) Conveyance deed treated as cancellation deed

Under the provisions of the Bombay Stamp Act 1958 as applicable to Gujarat, right on the property once passed on to the purchaser through conveyance cannot be re-transferred through a cancellation deed. A fresh conveyance deed is necessary if the buyer wants to reconvey the property to the vendor. The stamp duty and registration fees on conveyance deed is higher than that on cancellation deed.

During test check of records of Sub-registrar, Paldi (Ahmedabad) and Gandhinagar it was noticed between April and June 1996 that in five cases properties worth Rs.14.12 lakhs were re-conveyed to the original vendors through cancellation deeds. The documents were classified as cancellation deed and assessed to stamp duty and registration fees accordingly. Incorrect classification of conveyance deed as cancellation deed resulted in short levy of stamp duty and registration fees of Rs.2.13 lakhs.

This was pointed out to the department between August and September 1996, and reported to Government in February 1997; their replies have not been received (January 1998).

(f) Transfer of lease treated as surrender of lease/agreement to sell

When the leasehold rights of any property held by an individual on lease are subsequently transferred to a third party by way of transfer of lease, the stamp duty and registration fee is leviable as on a "Conveyance deed" for the amount of consideration for the transfer or on market value of the property whichever is greater. An instrument of "surrender of lease" means a document through which a lessee surrenders the unexpired part of a term of lease or portion of the property and instrument of "agreement to sell" means a document through which the seller agrees to sell the property at a later date on the terms and conditions settled between them. Stamp duty and registration fees on transfer of lease is higher than that on a surrender of lease/agreement to sell.

(i) During the course of test check of records of Sub-Registrar, Nadiad (District Kheda) it was noticed (February 1995) that one party holding land on lease transferred its lease hold rights to two parties by way of assignment with the approval of Gujarat Industrial Development Corporation. The documents were classified as surrender of lease and assessed to stamp duty and registration fees accordingly. The value of the property transferred was Rs.18.41 lakhs (approximately) on which deficit stamp duty and registration fees recoverable works out to Rs.2.12 lakhs.

This was pointed out to the department in May 1995 and reported to Government in February 1997; their replies have not been received (January 1998).

(ii) During the course of test check of records of Sub-Registrar Rajkot it was noticed (October 1994) in a document that one industrial undertaking transferred its lease hold rights to another party by way of assignment. The document was classified as agreement to sell and assessed to stamp duty and registration fees accordingly. The value of the property transferred was Rs. 5.08 lakhs (approximately) on which deficit stamp duty and registration fees recoverable worked out to Rs. 57534.

This was pointed out to the department in May 1996 and reported to Government in February 1997; their replies have not been received (January 1998).

(g) Conveyance deed treated as correction deed.

Under the provisions of the Bombay Stamp Act, 1958, as applicable to Gujarat "Conveyance" includes every instrument by which property, movable or immovable is transferred, between living persons whereas correction deed is executed for correcting only minor errors in original deed and is chargeable to duty as agreement. The rate of stamp duty on "Conveyance" is higher than that prescribed for agreement. Document whereby nature of property and purchaser's name is changed are required to be classified as conveyance deed and stamp duty and registration fees are leviable at the rate applicable to conveyance on the market value of the property.

During test check of records of Sub-Registrar, Nadiad and Vadodara it was noticed between August and October 1995, that in six cases immovable properties valued at Rs.14.79 lakhs were transferred by individuals/proprietors to registered partnership firms or housing society through correction deeds. These documents were treated as agreements and assessed to stamp duty and registration fees accordingly. As the name of purchaser was changed the documents were classifiable as conveyance deed and assessed to duty and fee accordingly. Incorrect classification of documents resulted in short levy of stamp duty and registration fees of Rs.1.92 lakhs.

This was pointed out to the department between May and June 1996 and reported to Government in February 1997; their replies have not been received (January 1998).

(h) Conveyance deed treated as dissolution of partnership.

Under the provisions of Bombay Stamp Act, 1958, stamp duty at conveyance rate is leviable on deeds of dissolution of partnership wherein property brought by one partner as his share is taken away by another partner. It has been judicially held that the documents whereby property, purchased out of firms capital is taken by its partners on dissolution as their share are also required to be assessed at the rate applicable to conveyance deeds.

During the course of test check of records of Sub-Registrar Rajkot, it was noticed that a document styled as "dissolution of partnership" was assessed to stamp duty and registration fees accordingly. The recital of the document, however, revealed that one partner had contributed his share in the firm in cash (Rs.8.26 lakhs) and on dissolution of the firm he had acquired a flat constructed by the partnership firm. As no immovable property was brought in by the said partner who had contributed cash with the intention to have a flat in lieu of cash, stamp duty was required to be levied at the rate applicable to conveyance deed. This resulted in short levy of stamp duty and registration fees of Rs.97,672.

This was pointed out to the department in May 1996 and reported to Government in March 1997; their replies have not been received (January 1998).

(i) Partition deed treated as dissolution of partnership.

In accordance with the provisions of the Bombay Stamp Act, 1958, as applicable to Gujarat "an instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty. On an instrument of partition, stamp duty is leviable on the amount or the market value of the separated share or shares of the property. However, in the case of deed of dissolution of partnership whereby no immovable property is transferred among partners by virtue of dissolution of firm, stamp duty is leviable at fixed rate of Rs. two hundred.

During the course of test check of records of Sub-Registrar, Jamnagar it was noticed (June 1994) that six persons jointly purchased land measuring 372 sq.metres for Rupees three lakhs and constructed flats thereon. On completion of construction of flats, the co-owners divided the said property among themselves. Each co-owner got one flat by virtue of partition. The Sub Registrar classified the document as dissolution of partnership instead of partition deed and assessed the duty and fees accordingly. Incorrect classification of deed of partition as dissolution of partnership resulted in short levy of stamp duty and registration fees of Rs. 37,152.

This was pointed out to the department in May 1996 and reported to Government in February 1997, their replies have not been received (January 1998).

5.5 Short levy of stamp duty on document of further charge

By a notification issued in March 1987 under Bombay Stamp Act, 1958 as applicable to Gujarat, Government reduced the rate of stamp duty on mortgage deeds executed by industrial undertakings in favour of certain financial institutions including Life Insurance Corporation of India from *advalorem* rates (Rs.8 for every Rs.100 or part thereof) to slab rates varying from Rs.50 (for loan/debt not exceeding Rs.10,000) to Rs.25,000 (for loan/debt exceeding Rs.30 lakhs). These rates are not applicable to documents of further charge on which the *advalorem* rate is leviable.

The legal department in Government opined (May 1991) that since additional burden (charge) was created on a property already mortgaged (to the financial institutions) such instruments would fall within the purview of Article 27 *ibid* and were, therefore, liable to be charged accordingly.

During the course of test check of records of Sub-Registrar Dholka (District Ahmedabad) it was noticed (April 1995) that an industrial undertaking executed a deed of further charge of Rs.3.70 crores in favour of a Bank against various immovable properties already mortgaged to the Bank. The Stamp duty on the deed was levied at reduced rate applicable to mortgage deeds instead of at the higher rate applicable to deeds of further charge. The application of incorrect rate resulted in short levy of stamp duty amounting to Rs.36.66 lakhs.

This was pointed out to the department in February 1996. The department accepted the audit observation. Further recovery particulars have not been received (January 1998).

This was reported to Government in January 1997; their reply has not been received (January 1998).

5.6 Short levy of stamp duty and registration fees due to incorrect computation of consideration

(A) Under the Bombay Stamp Act, 1958, as applicable to Gujarat, "conveyance" includes a conveyance on sale and every instrument by which property, movable or immovable, is transferred inter-vivos i.e. between living persons. Stamp duty on a conveyance deed is levied on the basis of the consideration for such conveyance or the market value of the property whichever is greater.

Further, when any property held by an individual on lease and lease hold rights are subsequently transferred to third party by way of assignment the stamp duty and Registration fees are leviable as on conveyance deed for the amount/consideration for the transfer or the market value of the property which is subject matter of such conveyance, whichever is greater.

(i) During the course of test check of records of the Sub-Registrar, Odhav (Ahmedabad), it was noticed that the assignor has assigned to a firm the lease hold rights for land admeasuring 102821 sq.mts. out of the total lease hold land admeasuring 172626 sq.mts alongwith various constructions constructed thereon for a consideration of Rs.4 crores in June 1994. While transferring the lease hold rights on the remaining property of 69805 sq.mts. of land in August 1994 to the same firm, it was mentioned in the document that value of 50728 sq.mts. of land has already been included in the consideration of Rs.4 crores (June 1994) and balance of 19077.88 sq.mts of land excluding building and super structure on this land now agreed to Rs.7 lakhs. Thus, the value of 50728 sq.mtrs of land was neither included in document of June 1994 nor in August 1994. Non-inclusion of consideration of Rs.197.34 lakhs in respect of land of 50728 sq.mts resulted in short levy of stamp duty of Rs.19.73 lakhs.

This was pointed out to the department in June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(ii) During the course of test check of records of sub-Registrar, Rajkot, Matar, Ankleshwar, Baroda and Anand it was noticed from 10 documents registered during 1992 and 1993 that 8 documents were of transfer of lease hold rights to third parties on the plots allotted by GIDC and two were of conveyance registered in favour of a trust. Although these documents were registered as conveyance deeds the value of the properties were not found determined properly for levy of stamp duty. In six cases of deeds of assignment, the cost of plot per sq.mts was taken at the rate prevailing 19 years back instead of taking the minimum rate of Rs.500 as per the records of Sub-Registrar (1993). In one case a token rate of Re.1 per Sq.mts was adopted for 1888 sq.mts and in another two cases a token consideration of Re.1 for 39.46 hectares of land each were adopted. Since the documents were grossly undervalued the stamp duty was required to be levied on the market value prevailing at the time of execution of documents as per the records of Sub-Registrar. The incorrect computation of consideration resulted in short levy of stamp duty and Registration fees amounting to Rs.9.23 lakhs.

This was pointed out to the department between May 1995 and June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(iii) During the course of test check of records of Sub-Registrar Vadodara, it was noticed that a company entered into an agreement in September 1995 for purchase of land, factory shed and other civil structure for a total consideration of Rs. 11.50 lakhs. However, on execution of deed of conveyance in November 1995 stamp duty and registration fees were charged only on cost of land and transfer fee amounting to Rs. 67032 excluding the value of factory shed and other civil structure. Thus, the property valued at Rs. 11.50 lakhs was conveyed for a consideration of Rs. 67032. This has resulted in short levy of stamp duty and registration fees amounting to Rs. 1.24 lakhs.

The above cases were pointed out to the department in December 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(B) Under the Bombay Stamp Act, 1958, as applicable to Gujarat, "Conveyance" includes a conveyance on sale and every instrument by which property, movable or immovable, is transferred inter-vivos. Thus when movable as well as immovable property is sold or transferred, the total value of such property is to be taken as consideration for the purpose of levy of stamp duty and registration fees.

In accordance with the scheme for providing houses to persons belonging to economically weaker sections excess land is acquired by the Collector under the Urban Land Ceiling Act, 1976 and houses are constructed by landowners and sold to eligible persons at lumpsum price, including cost of land as certified by the competent authority in the occupation certificates given to land owners and purchaser.

During the course of test check of records of Sub-Registrar Vadodara, it was noticed (July 1995) that in 59 cases conveyance deeds executed during 1993 in respect of such housing units, the cost of the land only was taken into consideration for the purpose of levy of stamp duty excluding the cost of construction of houses, which resulted in short levy of stamp duty and registration fees amounting to Rs. 3.46 lakhs.

This was pointed out to the department in November 1995 and reported to Government in February 1997; their replies have not been received (January 1998).

5.7 Short levy of stamp duty due to non levy of additional duty

(A) Under the Bombay Stamp Act, 1958, as amended with effect from 1 August 1990 additional duty at a rate of 25 per cent was leviable on instruments of sale, exchange, gift and lease etc. of vacant land in urban areas, other than vacant land

intended to be used for residential purpose not exceeding 100 square meters. This additional duty was further enhanced to fifty per cent from 8 April 1992 on the above category of document. Additional duty at a rate of 25 per cent was also leviable on non-agricultural land exceeding 100 sq.mts. situated in other than urban areas from 8th April 1992.

During the course of test check of records of offices of different Sub-Registrar, it was noticed that in 145 conveyance deeds valued at Rs.643.37 lakhs of vacant land or land with nominal construction situated in urban areas/other than urban areas (in case of non-agricultural land) registered between 1993 and 1995, additional duty leviable at 25 and 50 percent as applicable in addition to normal duty was not levied. Non-levy of additional duty resulted in short levy of stamp duty amounting to Rs.22.79 lakhs as mentioned in Annexure-XV.

The above cases were pointed out to the department between March 1994 and October 1996 and reported to Government in March and April 1997; their replies have not been received (January 1998).

(B) Under the provisions of Section 184 and 186 of Gujarat Panchayat Act, 1961, an additional stamp duty at a rate varying from 10 per cent to 35 per cent of the basic stamp duty is leviable on the mortgage deeds registered under the Bombay Stamp Act, 1958, when the property is situated in an area falling under the jurisdiction of any district/taluka panchayats.

During the course of test check of cases adjudicated in the office of the Additional Superintendent of Stamps, Ahmedabad it was noticed that four documents registered as mortgage deeds additional duty leviable on the stamp duty of Rs.4.00 lakhs was not levied . This has resulted in short levy of tax of Rs.85,000.

This was pointed out to the department in April 1996 and reported to Government in March 1997; their replies have not been received. (January 1998).

5.8 Irregular grant of exemption

(A) By a notification issued in March 1979, Government remitted the Stamp duty on instrument of mortgage executed by small farmers, marginal farmers, rural artisans and agricultural labourers in favour of all commercial Banks in respect of loans taken for agricultural allied activities.

(i) During the course of test check of records of Sub-Registrar Manavadar, it was noticed (August 1995) from the supplementary documents that no stamp duty was levied on the instrument of mortgage in respect of loan of Rs.117.50 lakhs obtained by the Agricultural Produce Market Committee (APMC) from the Gujarat State Co-operative Agricultural and Rural Development Bank Ltd. for the purpose of construction of building complex, shops, godowns, canteen etc,. As the remission of duty is available to small and marginal farmers and artisans for

agricultural and related activities the remission granted from stamp duty to APMC is irregular. The incorrect exemption has resulted in short levy of tax of Rs.11.75 lakhs.

This was brought to the notice of the department in May 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(ii) During test check of records of Sub-Registrar Manavdar and Bhavnagar it was noticed that 49 cases of mortgages executed by farmers in respect of loans amounting to Rs.46.59 lakhs were exempted from payment of stamp duty. The scrutiny of supplementary documents revealed that in 30 cases loans were taken by the farmers for the purpose of erection of mini oil mill, purchase of pick-up van and construction of building etc. and in 19 cases the purpose for which loan was taken itself was not mentioned. Since the exemption as per above notification was available only in respect of loan taken for agricultural purposes the exemption given to above loan documents were irregular. The incorrect exemption has resulted in short levy of stamp duty of Rs.3.04 lakhs.

This was brought to the notice of the department in May 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(B) By a notification of 20th March 1979, Government exempted and by a subsequent notification lowered the rate of stamp duty to 4 percent from 3rd November 1992 on instruments of conveyance executed in favour of a charitable trust registered under Bombay Public Trust Act, 1950, from payment of duty subject to fulfillment of several conditions. Certain conditions prescribed in the notification, inter alia, required that (i) the trust shall not discriminate between citizens on the basis of caste, creed and sex. (ii) Immovable property shall be utilised only for carrying out the object of trust (iii) Acquisition of immovable property shall be from trust's own fund.

(i) During the course of test check of records of Sub-Registrar, Ahmedabad, Baroda and Rajkot it was noticed that 4 documents of conveyance deeds registered in favour of 4 trusts conveying various immovable properties valued at Rs.16.00 lakhs, were exempted from payment of stamp duty, though the recitals of these documents did not indicate the trust satisfying of the aforesaid conditions. Trustees of these trusts had also not given any undertaking required under the notification. The incorrect grant of exemption/application of concessional rate resulted in non-levy /short levy of stamp duty of Rs.1.18 lakhs.

This was pointed out to the department between May 1995 and May 1996 and reported to Government in April 1997; their reply has not been received (January 1998).

(ii) By a notification of March 1993, Government exempted the stamp duty on instruments of gifts executed in favour of Public Trust from May 1991. This exemption was withdrawn from May 1994. Further under the provisions of section

36 of Bombay Public Trust Act, 1950 a public trust cannot gift/ transfer its property without the prior sanction of charity Commissioner.

During test check of records of Sub-Registrar Bharuch it was noticed that one Public trust transferred its property without obtaining prior sanction of charity Commissioner by executing gift deed without consideration on 28.4.1994 without payment of stamp duty. As sanction for gifting the property was given by the charity Commissioner on 10.6.1994 the document executed in April 1994 was classifiable as conveyance and stamp duty leviable accordingly. This has resulted in short levy of stamp duty of Rs.70,680.

This was pointed out to the department in June 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(C) By a notification of July 1981 as amended in May 1983 and March 1987, Government remitted the stamp duty and registration fees on the instrument of conveyance of land subject to a limit of 2 hectares executed in favour of outstees affected by Narmada Project for purchase of agricultural land/construction of houses etc.

During the course of test check of records of Sub-Registrar, Broach it was noticed that in 3 documents of conveyance deed executed by outstees stamp duty leviable on lands in excess of 2 hectares were also exempted from stamp duty. This resulted in non-levy of stamp duty amounting to Rs.49,253.

This was pointed out to the department in April 1996 and reported to Government in April 1997; their replies have not been received (January 1998).

(D) By a notification issued in November 1977 Government remitted the stamp duty payable on instrument of sales or lease of plots/sheds to industrialists/ individuals by Gujarat Industrial Development Corporation. The notification was amended by issue of another notification in March 1987 levying stamp duty at the rate of 4 per cent on such documents.

During the course of test check of records of Sub-Registrar, Broach it was noticed in 2 documents of lease and conveyance deeds executed in 1995 between Gujarat Industrial Development Corporation and an Industrial unit that no stamp duty was levied although stamp duty at the rate of 4 percent was required to be levied. The incorrect exemption has resulted in short levy of stamp duty of Rs.36160.

This was brought to the notice of the department in December 1996 . The department accepted the audit observation. Recovery particulars have not been received (January 1998).

This was reported to Government in April 1997; their reply has not been received (January 1998).

5.9 Short levy of stamp duty and registration fees on instrument comprising several distinct matters

In accordance with the provisions of the Bombay Stamp Act, 1958 as applicable to Gujarat, any, instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties for which such separate instrument would be chargeable under the Act *ibid*.

An instrument by which certain existing movable or immovable property is transferred voluntarily and without consideration by a person to another is called a "gift deed" according to the Transfer of Property Act, 1882 read with the Bombay Stamp Act, 1958. Any instrument through which a person renounces a claim in a property in favour of another person who has a pre-existing claim or right in that property so as to enlarge the transferee's right or claim is called an instrument of "release". Stamp duty chargeable on an instrument of "gift" is higher than that on an instrument of "release".

During the course of test check of records of the Sub-Registrar City-I, Ahmedabad, it was noticed that the document was registered as "release deed" (April 1994). But the recitals of the document disclosed that one brother has released his share of ancestral immovable property of 4108.70 sq.mts. in favour of his brother, brother's wife and brother's son. As brother's wife and son had no pre-existing right over the property the release of 2/3 shares of the property in their favour is to be treated as gift which attract levy of stamp duty under section 5 of the Act *ibid*.

The value of 2/3 share of immovable property worth Rs.23.60 lakhs is to be treated as gift. Duty and fee for two distinct matters were, therefore, to be levied: viz "release deed" and "gift deed". However, duty and fees were levied only for release of the property. This resulted in short levy of stamp duty and registration fees amounting to Rs.2.74 lakhs.

This was pointed out to the department in July 1996; and reported to Government in March 1997; their replies have not been received (January 1998).

5.10 Short levy of registration fees

(i) According to the provisions of the Bombay Registration Manual on a deed of cancellation of "agreement to sell", registration fee is chargeable on an *ad-valorem* scale on consideration fixed for agreed sale provided the deed of cancellation is executed by the claimant or by both claimant and executant under the original agreement to sell.

During the course of test check of records of Sub-Registrar, Ahmedabad it was noticed that nine deeds of cancellation which were executed between May 1995 and December 1995 by claimant or by both claimant and executant under the original agreement to sell registration fee was not levied on *advalorem* scale

on the amount of consideration fixed for agreed sale. This has resulted in short levy of registration fees amounting to Rs.71820.

This was pointed out to the department in August 1996 and reported to Government in February 1997, their replies have not been received (January 1998).

(ii) In accordance with the provisions of a notification issued by the Government of Gujarat in May 1970 as amended in August 1987, the registration fee in respect of the documents styled as "agreement to sell" is leviable on *advalorem* scale on the amount of consideration for which the property is conveyed, in case the possession of the property has been handed over to the buyer or there is description to that effect in the recitals of the document.

During the course of test check of records of Sub-Registrar, Vadodara it was noticed (July 1995) that in sixteen cases possession of property was handed over to the buyer or there was description to that effect in the recitals of the document. However, registration fee on these documents was charged at fixed rate instead of at *advalorem* scale on the amount of consideration. This resulted in short levy of registration fee of Rs.85,305.

This was pointed out to the department in June 1996 and reported to Government in February 1997, their replies have not been received. (January 1998).

5.11 Short levy of stamp duty and registration fees on lease deed

Under the Bombay Stamp Act, 1958, as applicable to Gujarat, where lease is granted for a premium or for money advanced, in addition to the rent reserved, stamp duty is leviable as on deed of conveyance for a consideration equal to the amount or value of such premium or advance in addition to the duty which would have been payable on such lease if no premium or advance had been paid.

(i) During the course of test check of records of Sub-Registrar, Gondal (District Rajkot), it was noticed (June 1996) that a document purporting lease of an industrial plot for 99 years was executed in 1995. The lessee was required to pay Rs.10 and Rs.968 per annum towards rent and taxes respectively. In addition to the rent reserved lessee was required to pay premium of Rs.8.87 lakhs. The lessee paid Rs.3.54 lakhs at the time of execution of lease agreement and agreed to pay remaining amount with interest in instalments. However while assessing stamp duty and registration fees the balance amount of premium of Rs.5.33 lakhs was not considered by Sub-Registrar. This resulted in short levy of stamp duty and registration fees amounting to Rs.35,970.

This was pointed out to the department in September 1996 and reported to Government in January 1997; their replies have not been received. (January 1998).

(ii) Similarly, it was noticed during the test check of records of Sub-Registrar Vadodara that in 17 cases lessees deposited six months rent with lessors with a

condition that the amount would be refunded by lessors only after termination of lease. These deposits though forms part of premium was not considered for levy of stamp duty and registration fees. This resulted in short levy of stamp duty and registration fees amounting to Rs.30,905.

This was pointed out to the department in June 1996 and reported to Government in January 1997; their replies have not been received (January 1998).

Chapter - VI

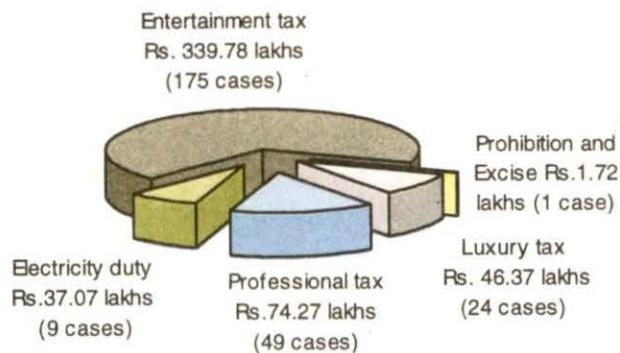
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Other Tax Receipts

OTHER TAX RECEIPTS

6.1 Results of Audit

Test check of assessment records of various departmental offices relating to the following receipts conducted during the year 1996-97 revealed under-assessment of Rs.499.21 lakhs in 258 cases as detailed below:



Total cases 258 - Tax effect Rs. 499.21 lakhs

During the year the department accepted under assessment amounting to Rs. 54.74 lakhs in 100 cases and recovered Rs.53.27 lakhs in 71 cases, of which 9 cases involving Rs. 1.62 lakhs were pointed out during 1996-97 and the rest in earlier years. A few illustrative cases involving Rs.1292.94 lakhs highlighting important observations are given in the following paragraphs.

(A) ELECTRICITY DUTY

6.2 Non-recovery of interest on belated payment of Electricity duty

Under the Bombay Electricity Duty Act, 1958 (as applicable to Gujarat) and the Bombay Electricity Duty (Gujarat) Rules 1968, every licensee who supplies electricity to consumers is required to pay duty in respect of energy sold in each month, within forty days after the expiry of the calendar month for which it is

levied, failing which, interest at 24 per cent per annum on the amount paid after the due date, becomes chargeable.

During the course of test check of records of Collector Office of Electricity Duty, it was noticed (August 1995) that Ahmedabad Electricity Co. Ltd. (AEC) and Surat Electricity Co. Ltd. (SEC) had made payments of electricity duty pertaining to the period from March 1992 to January 1995 late, delay ranged from 41 to 126 days, for which interest was chargeable, but was not recovered. This resulted in non-recovery of interest of Rs.998.52 lakhs.

This was brought to the notice of the department in April 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

6.3 Non-realisation of Inspection fees

Under Indian Electricity Rules, 1956 read with Government notifications issued in regard to inspection to be done by Electrical Inspectors extra high, medium voltage electrical installations and all low voltage electrical installations in factory premises and in all public places of amusements including cinemas/theaters is required to be inspected once in a year and inspection fee is chargeable at a prescribed rate by Government which is required to be paid in advance.

During the course of test check of records of 7 offices of Electrical Inspectors/ Assistant Electrical Inspectors, it was noticed between February 1996 and May 1996 that though the inspection has been carried out by the Inspectors inspection fees amounting to Rs.52.78 lakhs for the period 1992-93 to 1994-95 have not been recovered as mentioned in Annexure-XVI.

These cases were brought to the notice of the department between July 1996 and September 1996. The department accepted the audit observation and stated (July 1997) that Rs. 37.36 lakhs have since been recovered. Reply in respect of remaining cases and further details of recoveries have not been received (January 1998).

This was reported to Government in May 1997; their reply has not been received.

6.4 Non/short recovery of Electricity duty

Under the Bombay Electricity Duty Act, 1958, as applicable to Gujarat, electricity duty is leviable at the rates specified in schedule I to the Act on the units of consumption of electricity. For energy consumed in respect of any premises not falling under items (1) to (6) of the schedule the rate of duty is 60 per cent of consumption charges.

During the course of test check of the records for the periods 1996-97 of Gujarat Electricity Board Office, O and M divisions Baroda, Bavla, Ankleshwar,

Mehsana, Rajkot, Surat and Vapi it was noticed that incorrect grant of exemption and incorrect application of rates of duties etc. have resulted in short realisation of electricity duty of Rs.44.19 lakhs as detailed below :

Sr. No.	No. of consumers	Nature of irregularity	Amount of short levy (Rs.in lakhs)
1.	7	In respect of premises not falling under items 1 to 6 of the schedule to the Act electricity duty was recovered at the rate of 20 per cent as against 60 per cent chargeable.	20.56
2.	1 (colony)	Electricity duty was not leviable on the energy consumed on state and Central Government buildings but duty was incorrectly exempted on residential colony.	15.87
3	7	Exemptions from payment of electricity duty given for specified periods were continued even after the expiry of exemption period.	3.48
4	1	Exemption given in one case with the condition that energy was not to be sold or transferred was found sold and in another case exemption given for industrial use was found utilised for non-industrial use.	4.28
Total			44.19

The above cases were pointed out to the department between June 1996 and March 1997. The department accepted the audit observation in five cases (Sr.No.2,4 and part amount of 1 and 3) and recovered Rs. 25.71 lakhs. In the remaining cases reply has not been received (January 1998).

The above cases were reported to Government in May 1997; their reply has not been received (January 1998).

(B) ENTERTAINMENT TAX.

6.5 Non-recovery of entertainment tax from cable operators.

Under the provisions of Gujarat Entertainment Tax Act, 1977, tax is leviable from 10 October 1993 for exhibition of films or moving pictures or series of pictures or serials or any other programme with the aid of antenna or cable television. The tax is payable at the annual rate of Rs.120 per cable connection holder in the case of urban area and Rs.60 per connection holder in other areas till 31 July 1995. The rates were revised from 1 August 1995. The revised rate for urban area is Rs.600 per month for first 100 connections plus Rs.300 per month for every additional 50 connections or part thereof. The rate of tax in other area is half the rate applicable to urban areas. Every proprietor shall pay the tax in advance in quarterly instalments and furnish the return alongwith the proof of payment by 11th of the month from which the quarter begins. In case of delay in payment of tax simple interest at the rate of twenty four per cent per annum is leviable on unpaid amount of tax for the period of delay.

During the course of test check of records of 54 taxation authorities in 18 districts, it was noticed between August 1995 to December 1996 that 1030 cable operators did not pay the Entertainment tax for the period from 1993-94 to 1995-96. The entertainment tax recoverable amounted to Rs.90.12 lakhs as mentioned in Annexure - XVII. Besides the tax, interest is also leviable.

This was pointed out to the department between March 1996 and February 1997. The department accepted the audit observation and recovered an amount of Rs.10.74 lakhs. In the remaining cases demand notices have been issued. Further report on recovery of balance amount has not been received (January 1998).

The matter was reported to Government in May 1997; their reply has not been received (January 1998).

6.6 Irregular exemption from payment of entertainment Tax

By a notification issued in July, 1979, under the powers conferred by section 29(1) of Gujarat Entertainment Tax Act, 1977 Government exempted a few Indian Trophy Cricket Tournaments from payment of entertainment tax. This notification which was amended by issue of notification in September 1992 was further amended in November 1993 as follows :

(i) All Ranji Trophy matches, Duleep trophy matches, Deodhar Trophy tournaments and any other tournament arranged by the Board of Control for Cricket in India (BCCI) or the State Cricket Association, as the case may be.

(ii) Matches arranged by the Board of Control for cricket in India or the State Cricket Associations for the benefit of players who have earned name and fame in the National or International Cricket.

This notification did not cover international matches.

During the course of test check of records of the Collector, Vadodara, it was noticed (June 1995) that collector issued orders (October 1994) exempting an international cricket match "one day international cricket match" between India v/s New Zealand played at Vadodara on 28.10.94 sponsored under "Wills world series". The irregular exemption resulted in non-levy of entertainment tax of Rs.17.85 lakhs.

This was pointed out to the department in April 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

6.7 Non-levy of entertainment tax in respect of Video parlours

Under the provisions of Gujarat Entertainment Tax Act, 1977, tax is leviable on entertainment by video cassette recorder/player on television. Rates of tax are based on the seating capacity of the video parlour and population of the area in which the place of entertainment is situated. Every proprietor is required to submit return every month and pay tax in advance alongwith the return by 15th day of the month preceding the month to which tax relates. In case of delay in payment of tax simple interest at the rate of 24 per cent is leviable on unpaid amount of tax for the period of delay.

During the course of test check of records of Mamlatdar Offices at Ahmedabad, Probandar, Vyara (Dist.Surat), Vijapur (Dist.Mehsana), Babra (Dist.Amreli), Dholka (Dist.Ahmedabad), it was noticed that proprietors of 32 video parlours did not pay the tax for the period indicated in the table. The entertainment tax recoverable along with interest amounted to Rs.5.88 lakhs as mentioned in Annexure-XVIII

This was pointed out to the department between April 1996 and September 1996, their final replies have not been received (January 1998).

The matter was reported to Government in May 1997; their reply has not been received (January 1998).

6.8 Non levy of interest on belated payment of Entertainment tax

Under the provisions of Gujarat Entertainment Tax Act, 1977, and the Rules made thereunder, entertainment tax shall be paid by the proprietors of a cinema house weekly within 14 days of the end of the week and of a video parlours monthly 15 days in advance. If the payment of tax is delayed, simple interest at

the rate of twenty four per cent per annum is chargeable on the unpaid amount of tax for the period of delay.

During the course of test check of records of Collector's office at Ahmedabad and Bhavnagar and Mamlatdar Ahmedabad, it was noticed between February 1996 and April 1996 that proprietors of 11 cinema houses and 18 video parlours did not pay tax within the stipulated period of 14 days of the end of the week and 15 days in advance of every month respectively. The delay in payment of tax ranged between 4 days and 6 years. Interest of Rs.3.69 lakhs though leviable in these cases was not levied.

This was pointed out to the department in June 1996. The department accepted the audit observation in all 29 cases involving an amount of Rs. 3.69 lakhs and recovered Rs.0.54 lakhs. Recovery details in respect of remaining cases have not been received (January 1998).

The matter was reported to Government in May 1997; their reply has not been received (January 1998).

6.9 Non/short recovery of compound tax

Under the Gujarat Entertainment Tax Act, 1977, a proprietor of a cinema hall in a designated or specified area shall have an option of payment of compound tax at prescribed rates. The rate of compound tax was revised from 1 October 1993 on the basis of population of 1991 census.

During the course of test check of records of Mamlatdar, Ankleshwar and Danta, it was noticed that the proprietors of two cinema halls paid the compound tax at pre-revised rates between the period from October 1993 and March 1996. This resulted in short recovery of compound tax of Rs.1.56 lakhs.

This was pointed out to the department in May 1996 and February 1997. The department accepted the audit observation and recovered Rs. 1.56 lakhs.

This was reported to Government in May 1997; their reply has not been received (January 1998).

(C) LUXURY TAX

6.10 Non-levy of luxury tax

Under the provisions of Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, and Rules made thereunder the proprietor of a hotel is required to pay tax within five days and file returns within eight days after the expiry of the month to which tax collected/return relates. If the payment of tax is delayed, simple interest at the rate of two per cent per month or part thereof is chargeable on the

unpaid amount of tax for the period of delay. Where any proprietor liable to pay tax fails without sufficient cause or neglects to file returns or pay tax within the stipulated period the Collector may impose by way of penalty a sum not exceeding one and half times of the amount of tax.

During the course of test check of records relating to luxury tax at Collectors office it was noticed that in one case proprietor of a hotel did not pay tax for the period 1995-96 and in another case Gujarat Tourism Corporation is not paying luxury tax since last 10 years in respect of luxury rooms provided by them at a rate ranging from Rs.150 to Rs.500 per day to tourists in Tarnetar mela held every year. This has resulted in non-levy of luxury tax of Rs.28.23 lakhs including interest. Maximum penalty leviable in the above cases amounted to Rs.50.12 lakhs as mentioned in Annexure-XIX.

This was pointed out to the department in February 1997, and reported to Government in May 1997; their replies have not been received (January 1998).

Chapter - VII

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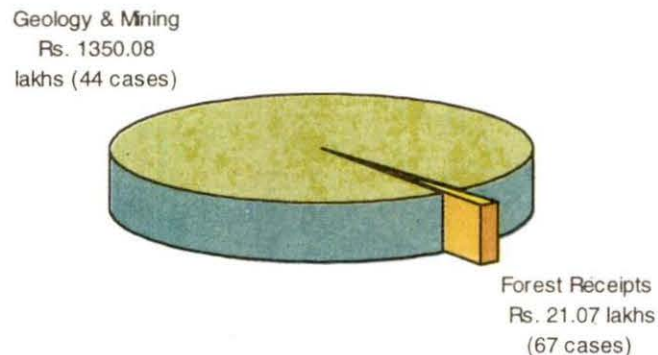
Non Tax Receipts



NON TAX RECEIPTS

7.1. Results of Audit

Test check of records of departmental offices relating to the following receipts conducted during the year 1996-97 revealed non/short recovery of receipts and losses of revenue amounting to Rs.1371.15 lakhs in 111 cases as detailed below :



Total cases 111 - Tax effect Rs. 1371.15 lakhs

During the year the department accepted audit observation amounting to Rs.170.44 lakhs in 35 cases relating to earlier years and recovered Rs. 166.67 lakhs in 12 cases. A few illustrative cases highlighting important audit observations and the results of a review on "Collection of royalty and dead rent for the mines and quarries" involving Rs. 9824.42 lakhs are given in the following paragraphs.

(A) Mining Receipts

7.2 Review on collection of royalty and dead rent for the mines and quarries

7.2.1 Introduction

In the State of Gujarat the important minerals available are limestone, bauxite, lignite, dolomite, china clay, marble, bentonite, chalk, fireclay, gypsum, manganese, mineral oil and natural gas. Minerals are of two types major minerals and minor minerals. As per section 3(C) of the Major & Minor Mineral (R & D) Act, 1957 minor minerals are building stones, gravel, ordinary clay, ordinary sand other

than sand used for prescribed purposes and any other mineral which the Central Government may, by notification, in the Official Gazette declare to be a minor mineral. The rest of the minerals are major minerals. Out of total area of 97 lakhs hectares of the State, 45.52 lakhs hectares is covered under mines and quarries. 9433 Mining/Quarries leases were sanctioned upto 31.03.1996. The extraction of minerals in the country is governed by the "Mines* and Minerals** (Regulation and Development) Act, 1957" and the "Mineral Concession Rules, 1960" issued thereunder. The quarry lease for minor minerals are governed by the "Gujarat Minor Mineral Rules, 1966". Mining of mineral oil is regulated by the "Oil fields (Regulation and Development) Act, 1948" and "Petroleum and Natural Gas Rules, 1959".

The Act and the Rules made thereunder provides for levy of royalty and dead rent*** in the lease deed.

7.2.2 Organisational set up

Mineral administration in the state is entrusted to the Director of Geology and Mining, who is assisted by an Additional Director, two Deputy Directors, three Assistant Directors and number of staff at district offices. Flying squads under the control of three Assistant Directors are located at Rajkot, Baroda and Gandhinagar.

7.2.3 Scope of audit

The records maintained in respect of mining receipts for the years 1993-94 to 1995-96 were test checked in ten # out of seventeen district offices and Deputy Director, Flying Squad, Gandhinagar during December 1996 to February 1997, mainly to ascertain the collection of royalty and dead rent for mines and quarries granted on lease plus study of systems prevailing in the department for detection and arresting of illegal mining.

* Mines means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on.

** Minerals means all substances which can be obtained from the earth by mining, drilling, hydrauceling, quarrying or by any other operation.

*** Royalty is a rent which varies with the quantum of mineral extracted from mines while dead rent is a minimum guaranteed sum as royalty whether the mineral is extracted or not from the lease hold mines.

Junagadh, Amreli, Bhuj, Palanpur, Vadodara, Broach, Surat, Godhra, Surendranagar and Rajkot.

7.2.4 Highlights

(i) Non verification of correctness of returns submitted by lessee resulted in short levy of royalty of Rs. 6584 lakhs on crude oil and Rs. 105 lakhs on Natural Gas.

(Paragraph 7.2.6.(A & C))

(ii) Royalty of Rs. 1265 lakhs was not levied on the quantity of Natural Gas flared up in the atmosphere or otherwise lost..

(Paragraph 7.2.6.(B))

(iii) Non scrutiny of returns and production register in time, resulted in short levy of royalty of Rs. 2.05 lakhs on Dolomite and Rs. 274 lakhs on lime stone..

(Paragraph 7.2.7.(A & B))

(iv) Illegal excavation of manganese by a Jagirdar resulted in loss of Rs. 484 lakhs.

(Paragraph 7.2.8)

(v) Illegal removal of Black Trap from the land not included in the lease agreement resulted in loss of royalty of Rs.67.29 lakhs..

(Paragraph 7.2.9)

(vi) Incorrect application of rates resulted in short recovery of dead rent of Rs.3.92 lakhs.

(Paragraph 7.2.10)

(vii) In 9 cases, out of 13 permits, irregularly issued by the state government in respect of major mineral (manganese) even the dead rent of Rs. 6 lakhs was not recovered.

(Paragraph 7.2.11)

(viii) Interest of Rs.298 lakhs for belated payment of royalty for major minerals in respect of 6 cases is yet to be collected..

(Paragraph 7.2.12)

(ix) Due to lack of mechanism and systems in the mining department royalty amounting to Rs. 79.53 lakhs could not be realised from the works contractors.

(Paragraph 7.2.13)

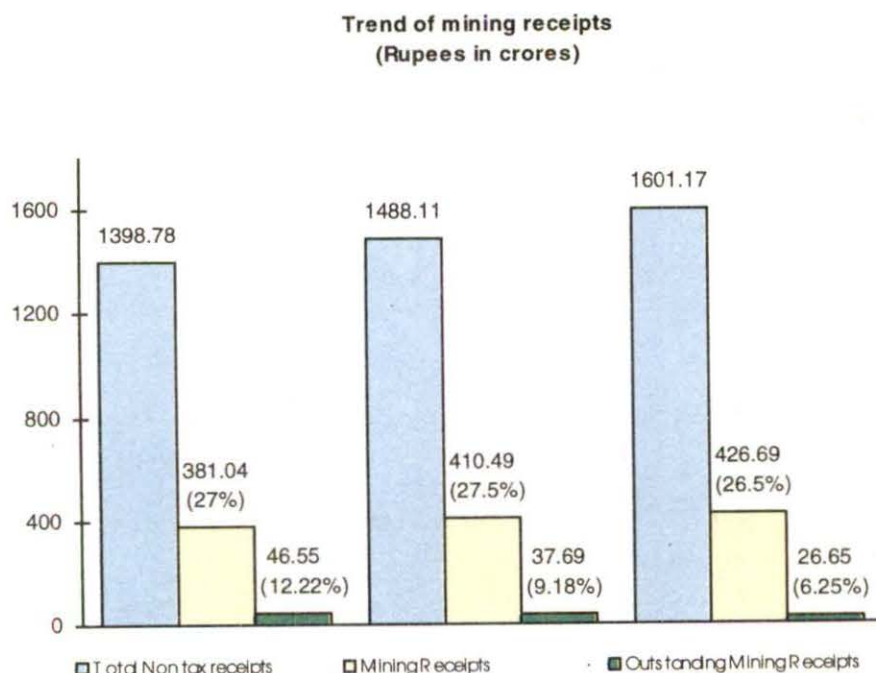
(x) In ten cases surrender of leases was accepted without realisation of outstanding dues amounting to Rs. 23.76 lakhs.

(Paragraph 7.2.15)

7.2.5 Trend of revenue receipts

Mining receipts constituted 26.5 per cent to 27.5 per cent of the total non-tax revenue of the state during the year 1993-94 to 1995-96. The arrears of revenue

varies from 12.22 per cent to 6.25 per cent. There was decreasing trend in the arrears of mining receipts as shown in the Bar Chart.



7.2.6 Short levy of royalty on oil and gas

Petroleum and Natural Gas Rules, 1959, provide that the royalty is to be levied on quantity of crude oil and natural gas obtained from the well head of the area leased. However, royalty shall not be payable in respect of any crude oil/ natural gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production. In order to ensure that royalty is paid on the correct quantity, the concerned officers of the Mining Department are empowered to carry out necessary inspections to verify the correctness or otherwise of the returns submitted by various lessees. It was however, noticed that no such inspection was ever done during the period of review by the Assistant Geologist at Vadodara. Due to non conduct of such inspection and non-verification of the correctness of returns submitted by ONGC, it was noticed that the State could not realise the royalty pointed out below. In addition, unpaid royalty increased by ten per cent for each month is also payable but not paid. The rules also provide for issue of specific direction by the Government to lessees to prevent waste, etc.

(A) On Crude Oil

At Vadodara it was noticed that the quantity of crude oil on which royalty was paid during 1993-94, 1994-95 and 1995-96 by the Oil and Natural Gas Corporation Ltd (ONGC) was considerably less than the quantities obtained and

depicted in the Annual Report of ONGC (Western Region Business Centre (WRBC) Baroda, as under:

Period	Quantity despatched as per WRBC report (.....In lakh Tonnes.....)	Quantity on which Royalty was paid by ONGC. (.....In lakh Tonnes.....)	Difference
93-94	59.69	55.76	3.93
94-95	62.27	58.12	4.15
95-96	63.01	58.62	4.39
Total	184.97	172.50	12.47

Thus on 12.47 lakh tonnes of crude oil no royalty was paid, the ONGC was liable to pay an amount of Rs.65.84 crores. The department asked ONGC to pay the differential royalty (September 1997)

(B) On flared up natural gas

Royalty is chargeable and to be paid on the total quantity of natural resources extracted other than the gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production of petroleum or natural gas. In order to monitor the correct charging of royalty on natural gas extracted by ONGC the Director of Geology and Mines had set up a special cell in his office at Gandhinagar. The Petroleum and Natural Gas Rules, 1959 also empower the Government to issue necessary instructions to prevent waste of natural gas extracted.

In the course of monitoring, a discrepancy between production figures reported by ONGC to State Government and the corresponding figures published by the Ministry of Petroleum & Natural Gas of Government of India was noticed and production figures reported to Government of Gujarat for the purpose of payment of royalty were found to be lower. As the difference in the positions in this respect taken by the ONGC and State Government could not be resolved by correspondence, the Government had appointed (May 1993) an enquiry officer under the provisions of Rule 14(3) of Petroleum and Natural Gas Rules 1959, to enquire on short payment of royalty by ONGC. The Enquiry Officer gave his findings in his report submitted in March, 1995 in respect of "flared up gas" that there were proven means to avoid flaring and so the loss due to flaring did not fall within the scope of "unavoidably lost". Under the circumstances it was held that the gas flared was not unavoidably lost and so it had to be counted for payment of royalty. The royalty was therefore leviable on the flared up gas from 1972 onwards.

However, it was noticed in audit that ONGC was still paying the royalty based on the quantity of natural gas sold to various parties instead of paying on the quantity produced as required under PNG Rules, 1959. As a result 816 million cubic metres (M.Cmt.) of natural gas which ONGC had flared up during the

period 1993-94 to 1995-96 escaped charge of royalty amounting to Rs.12.65 crores. In addition an increased amount equal to 10% per month of the royalty not paid was also chargeable.

Although the enquiry committee had given its report in March 1995, and the audit pointed out the omission in May 1995, the Government is yet to take any measures to enforce the recovery of royalty of flared up gas from 1972 onwards. However, a demand for Rs.259.11 crores for the period from 1972 to 1992-93 was raised for the flared up gas. The department had accepted the audit observation in December 1995.

(C) On Natural Gas

At Vadodara it was noticed that the data relating to production and supply of gas during 1993-94, 1994-95 and 1995-96 as published in the Monthly publication of ONGC "Western Regional Business Centre" (WRBC) Baroda for March 1994, 1995 and 1996 was as below.

Sr. No.	Year	Total Production as per W.R.B.C. (.....in million cubic metres.....)	Quantity Internally used and flared up	Quantity on which royalty was payable	Quantity on which royalty was actually paid	Difference (5-6)
1	2	3	4	5	6	7
1	1993-94	2166	420	1746	1727	19
2	1994-95	2462	467	1995	1975	20
3	1995-96	2968	478	2490	2461	29
Total		7596	1365	6231	6163	68

As indicated above ONGC did not pay any royalty on 68 million cubic metres of natural gas even though it was clearly payable. This resulted in short realisation of royalty to the extent of Rs.1.05 crores. In addition increased amount equal to 10 per cent per month of the royalty short paid was also payable by the ONGC to the Government. The department asked ONGC to pay the differential royalty (September 1997).

7.2.7 Short realisation of royalty on minerals

Mines and Minerals (Regulation & Development) Act, 1957 requires the holder of a mining lease granted on or after the commencement of this Act to pay royalty in respect of any mineral removed or consumed by him or his agent, manager, employee, contractor or sub-lessee, from the leased area at the rates for the time being specified in the second schedule in respect of that mineral.

Further as per Mineral Concession Rules 1960 interest at the rate of twenty four per cent is also recoverable on belated payment of royalty from the sixtieth day of the expiry of the date fixed by the Government for payment of such royalty. In order to ensure that royalty paid in respect of these minerals is correct, the lessees are required to submit monthly returns and also to maintain certain prescribed registers. The departmental officers are required to scrutinise these registers/returns and ensure that the royalty paid is not less than the royalty due. It was however, seen that the returns received were not thoroughly scrutinised and there were instances of short realisation of royalty with reference to the returns submitted which the concerned departmental officers failed to detect. Some such instances are narrated below:

(A) On Dolomite

At Baroda the lease for Dolomite was granted in village Bedava taluka Chhota Udaipur, on land measuring 58.86 hectares for the period of 20 years. A test check of the production register revealed that during January 1991 to June 1996, the total quantity despatched was 1.07 lakh tonnes and royalty payable was Rs.24.27 lakhs. As against this royalty of Rs.22.22 lakhs only was paid, this has resulted into short realisation of royalty of Rs.2.05 lakhs, in addition to interest.

(B) On Limestone

A lease was granted for limestone at village Chhaya & Odedar, district Junagadh for 20 years with effect from 22.6.1977. However, a review of the relevant records revealed that the company had not paid Rs.1.80 crores as royalty amount due upto 31.7.1996. In addition to this interest amount of Rs.93.91 lakhs was also due upto 30.9.1996.

7.2.8 Loss of royalty due to illegal excavation of manganese

The Mines and Minerals (Regulation and Development Act, 1957) provides that all mineral excavated from the private land/ mines belonging to any persons would be the property of the State Government and mining rights would be regularised according to the Provisions of the Act (Regulation and Development) Act, 1957. Further under the provisions of this Act, no person shall undertake any prospecting or mining operation, in any area except under and in accordance with the terms and conditions of a prospecting licence or, as the case may be, a mining lease, granted under this Act and the rules made thereunder.

It was observed from the returns submitted by a lessee to Geologist Godhra that during 1982 to 1989, certain Manganese Mines situated in Shivrajpur Jagirdari belonged to a private lessee. With the promulgation of Bombay Revenue Code and Land Tenure Abolition laws Gujarat Amendment Act 1982, the rights of Jagirdari on private lands was abolished. The lessee of Manganese Mines situated in the erstwhile Shivrajpur Jagirdari continued with the excavation of manganese

and excavated and despatched 36207 tonnes manganese of different grades even though the rights of Jagirdari were abolished in 1982 and no fresh lease for excavation of manganese was either applied or granted to him. The royalty amounting to Rs. 13.11 lakhs was payable on these despatches and cost of mineral at market value amounting to Rs. 39.83 lakhs, as per section 21(5) of the Act *ibid*, was also recoverable from the lessee. No recovery was made (January 1998).

Further this lessee executed two agreements in October 1980 & September 1981 with two private parties for 30 years with annual rental value of Rs.8000 and Rs.4000 per annum, both the agreements were illegal in view of the provisions of the said Act. It was observed from the records of Geologist Godhra that the two parties to whom the lease rights were given illegally, had also despatched 81240 tonnes of manganese during 1994-95 and 1995-96, the value of which as per lessees invoices works out to Rs. 4.30 crores.

Illegal extraction has thus resulted in loss of revenue of Rs.4.84 crores.

7.2.9 Loss owing to illegal removal of minerals

According to Rule 22 of Gujarat Minor Mineral Rules, 1966 the lessee has to pay the royalty on minor minerals quarried from the leased area at the rates for the time being specified in Schedule. If the lessee is found to have encroached upon an area not included in the lease the Director or the Competent Authority shall issue a notice to vacate the area immediately and stop excavation in the disputed area. The Director (G&M) Ahmedabad vide their circular letters dated 16.8.1975 and 1.7.1986 had instructed the district offices to inspect, once in a year, and collect the samples & also assess the work done by the lease holders during the year with a view to ascertain whether he has paid the royalty in proportion to the material excavated from the mines.

At Baroda a lease for Black Trap## was granted to a lessee in village Udapur in the year 1984 for the period of ten years, the renewal was due in 1994. During the inspection of site in the year 1994 the department found that the lessee had done illegal excavation of the minerals from the near by site. Out of the 7.92 lakh tonnes of minerals excavated 5.61 lakh tonnes were cleared illegally. The total royalty due on such illegal clearance amounted to Rs. 67.29 lakhs, which is yet to be recovered (January 1998)

On being pointed out by Flying squad Vadodara, the Collector, Vadodara issued an order (October 1995) to stop the mining activities and in April 1996 instructed the lessee to pay 50 per cent of the amount as bank guarantee for renewal of the lease. In subsequent appeals the amount to be collected was reduced from 67.29 lakhs to 8.73 lakhs and in February 1997 the Government finally ordered remission of royalty due and paid. The specific reasons for allowing remission and reduction of royalty were not mentioned in the relevant Government order.

Black trap is a minor mineral

7.2.10 Short recovery of dead rent

The Mines & Minerals (Reg. & Dev.) Act, 1957 requires the holder of a mining lease to pay dead rent as specified in Third Schedule for the areas included in the instrument of lease. Government of India, vide their Notification dated 5.5.87 amended Third Schedule of the Act. According to amendment in Third Schedule of the Act *ibid*, the rates of dead rent, from 11th year of the lease and onwards, is Rs.150 per hectare per annum for the lease area above 100 hectares. However according to para (2) of the said Third Schedule, the rates of dead rent to be charged is Rs.90 per hectare per annum for the lease holder obtaining raw material for the industry owned by him. Further, interest at the rate of 24 per cent per annum is also recoverable on the belated payment of dead rent.

At Baroda, Gujarat Mineral Development Corporation (GMDC) was excavating the mineral Fluorite, from the land measuring 726.60 hectares, since November 1970. GMDC does not own any industry, but was despatching the materials outside the lease area. Thus the GMDC was liable to pay dead rent at the rate of Rs.150 per hectare per annum as per amended schedule. However, the department recovered the dead rent at the rate of Rs.90 only. As against the dead rent dues of Rs.9.81 lakhs an amount of Rs.5.89 lakhs only was recovered. This has resulted in short recovery of dead rent amounting to Rs.3.92 lakhs for the period of 1988-89 to 1995-96. In addition interest on this short recovery was also payable.

7.2.11 Illegal issue of permits

According to Section 4 of Mines & Minerals (Reg. & Dev.) Act, 1957, licence or lease for excavating Major Minerals shall be granted by the Central Government. Further, as per Section 4(3) *ibid*, any State Government may, after consultation with the Central Government and in accordance with the rules made under Section 18 *ibid*, undertake prospecting or mining operation in respect of any minerals, specified in the First Schedule, in any area within the State, which is not already held under any prospecting licence or mining lease.

At Baroda, the Director of Geology and Mining, Government of Gujarat had granted 13 permits in respect of major mineral "Manganese" for temporary period of five years at fixed dead rent ranging from Rs.10000 to Rs.50000 per annum according to area of mine. Since the Manganese is a major mineral the permits granted by the Director were irregular and contrary to provisions of the Act. The Director stated in April 1997 that the permits have been issued on the basis of the State Government orders dated 24.11.1992 without concurrence of Central Government.

Out of 13 permits, in 9 cases even the dead rent amounting to Rs.6 lakhs, for the period 1991-92 to 1995-96, were not recovered. (January 1998).

63.83
13.11
4.30
72.24
39.83

7.2.12. Non recovery of interest

Government of India vide their notification dated 5.8.1987 and 17.2.1992 increased the rates of royalty in respect of Major Minerals. In Junagadh district against these notifications certain lessees went for litigation, as a result, an amount of Rs.22.24 crores, on account of royalty, was blocked as on September 1994. The Honorable High Court of Gujarat, rejected the plea of lessees and ordered to pay the royalty, in accordance with the increased rates prescribed by Government Notifications. Accordingly payment was made by the lessees. The Government of Gujarat vide their letter dated 19 April 1995 directed the Director of Geology and Mining to collect the interest at the rate of 18 percent on above said belated payment of royalty. The Geologist Junagadh worked out the interest amount as Rs.14.31 crores in August 1995 and recovered Rs.11.33 crores from the concerned parties. A sum of Rs.2.98 crores is still to be recovered from six lessees. The reasons for delay in recovery of this amount were not on records.

7.2.13 Non realisation of royalty on Government contracts

According to Government of Gujarat Resolution (Industries, Mines & Energy Department) dated 1.1.1987, whenever a contractor is taking up the Government Contract in Roads and Building, Irrigation and other Departments, requiring the excavation of minerals from the Government land, they have to pay the royalty according to Gujarat Minor Mineral Rules 1966.

Clause 36 of the contract agreement, provides that the contractor shall pay the royalty to Competant Authority/Local Body as per rules, and copies of the bills etc. for purchase of mineral shall be shown to Geology and Mining Department or authority competent to levy the royalty in the area of work.

During test check of records of Geologist Palanpur and Flying squad Gandhinagar it was observed that though the statements of excavation of minerals were received from the concerned divisions in October 1990 & August 1995, yet no efforts were made to realise the royalty dues from the concerned contractors.

Thus the royalty amounting to Rs. 79.53 lakhs could not be realised from the contractors. Even the final bills of these contractors were paid (March 1997) without obtaining no dues certificate, as required under Industries and Mines Department Resolution No. MCR-1088-2135-(1)-CHH dated 25.8.1994.

It was also observed that there was no mechanism/records in the Geology & Mining Department to watch the total number of contracts executed by the works divisions, material used and amount of royalty due and actual realisation against the contracts.

Due to lack of mechanism and non-observance of Government instructions royalty amounting to Rs.79.53 lakhs could not be realised from the contractors.

7.2.14 Illegal transportation of minerals on duplicate passes

According to item 5 of part VI of Gujarat Minor Mineral Rules, 1966, the lessee has to issue passes in triplicate for removal of minor minerals from the leased area as may be prescribed by the Government/Director or the Competent Authority. He should also direct the purchaser or the truck driver of the vehicles to deliver one copy of the pass to the Naka Clerk or Office of Royalty Inspector or Mines Supervisor.

However, it was observed in Junagadh, Palanpur and Flying squad office Gandhinagar that during the year 1994-95 and 1995-96, the minor minerals were cleared by the lessee without valid passes. The Department detected that the minerals were cleared on duplicate passes. The royalty amount involved in these cases works out to Rs.1.82 lakhs.

When this was brought to notice, the department stated that the royalty amount is being recovered and police action is being taken separately. Final report is awaited (Janaury 1998).

7.2.15 Surrender of lease

According to rule 18 A of Gujarat Minor Mineral Rules, 1966 the holder of a quarry lease may surrender whole or part of the area leased to him during the period of lease by giving a notice in writing of not less than 6 months to the Competent Authority. Further sub rule 2(c) of the rule 18 A provides that arrears of royalty, dead rent, surface rent and other dues, if any, should be collected before taking over the possession of the area to be surrendered.

(A) At Baroda 4 leases were surrendered during the period of March 1992 to February 1994 and possession was also taken over by the department but no steps were taken to recover the outstanding dues on account of royalty amounting to Rs.17.23 lakhs before taking possession.

(B) Similarly in Palanpur, six lessees surrendered a part of their quarries in 1992-93 to which the department had not agreed, as part surrender was not provided in the Act or in the Rules made thereunder. The dead rent fixed in lease-deeds was also not recovered. This has resulted in non recovery of Rs.6.53 lakhs.

These cases were brought to the notice of the department in February 1997; their reply has not been received (Janaury 1998)

7.2.16. Non-reconciliation of receipts

According to Rule 98 (2)(V) of the Bombay Treasury Rules, 1960 when Government money in the custody of a Government officer are paid into the Treasury or the Bank, the head of the office, making such payments should compare with the Treasury officer's or the bank's receipt on the chalan or his pass book with the entry in the cash book before attesting it and satisfy himself that the amount has actually been credited into the Treasury or Bank. When such payments

are appreciable, he should as soon as possible after the end of the month, obtain from the Treasury a consolidated receipt for all remittances made during the month, which should be compared with the posting in the cash book. The Director (G&M) Ahmedabad had also instructed on 28.1.1988 that the monthly reconciliation must be done with the treasury.

However, it was observed in Gandhinagar (Flying squad) office and Junagadh district office, that no such reconciliation was done. The reconciliation had not been carried out so far (January 1998) despite repeated pointing out in Audit.

7.2.17 Inadequate inspection of mines and quarries

As per Director (G & M) Ahmedabad and Government instructions issued in August 1975 and in July 1986 respectively, each mine and quarry is required to be inspected once in a year by the District Geologist Officer. In ten district offices test checked, against the prescribed norms of inspection, the coverage by the District Geologist Officers was 1.74 per cent per annum during 1993-94 to 1995-96. Out of 6389 mines and quarries only 1233 were inspected (March 1996). No inspection was conducted by District officers of Amreli, Palanpur and Baroda.

The above points were reported to the Government and referred to department (8 June, 1997); their replies have not been received (August 1997).

7.3 Non levy of dead rent royalty and interest

Under the Gujarat Minor Mineral Rules, 1966, a lessee is liable to pay in respect of each mineral dead rent or royalty whichever is higher. The rent is payable at the rate of 50 per cent if land granted on lease was less than a hectare. However, no dead rent or royalty is payable if the lessee surrenders the lease and authorities accept it. If the payment of royalty or dead rent is not made within the date fixed for the payment in the lease deed interest at the rate of twenty four per cent per annum is chargeable for the period royalty or dead rent remains unpaid.

(i) During the course of test check of the records of Geologist, Surendranagar it was noticed (March 1995 and April 1996) that in twenty two cases the lease holders stopped extraction of sand stone and Black trap from the year 1992-93 and had not paid dead rent for the year 1992-93 and 1993-94. In 5 other cases the royalty paid during 1992-93 and 1993-94 was far less than the dead rent payable for that period and hence they were liable to pay the difference. This resulted in non/short recovery of dead rent of Rs. 9.75 lakhs. Besides dead rent interest of Rs. 1.71 lakhs is also recoverable.

The above cases were pointed out to the department in April and August 1996 and reported to Government in May 1997. Government accepted (December 1997) the audit observation amounting to Rs. 9.23 lakhs and recovered Rs. 2.30 lakhs dead rent and Rs. 0.26 lakh interest. Recovery details for the remaining amount have not been received (January 1998).

(ii) During the course of test check of the records of Geologist Surendranagar it was noticed (April 1996) that in 18 cases although the lease holders extracted the minerals viz Black trap, fire clay etc. no demand for the payment of royalty due for the period 1995-96 was raised. This resulted in non-recovery of royalty of Rs. 3.25 lakhs. Besides dead rent interest is also leviable.

This was pointed out to the department in August 1996 and to the Government in May 1997. Government accepted (December 1997) the audit observation and recovered Rs. 2.80 lakhs. Recovery details for the remaining amount have not been received (January 1998).

(B) FOREST RECEIPTS

7.4. Other irregularities

In order to discourage exploitation of adivasi labourers working in the Forest by contractors and to improve their social and economic status Government decided in 1951 to allot forest coups to registered co-operative societies formed by labourers. The allotment of coups to the societies was further subject to fulfillment of certain conditions. One of the condition is that the society should be financially sound and pay all the outstanding dues in advance. Each such Forest Labourers Co-operative Societies (FLCS) sells the forest produces, collected from the coups allotted to them, by auction and recover the sales tax dues from the bidder and credit it into Government treasury.

During the course of the test check of the records of Dy. Conservator of Forests, Ahwa Dangs (South) it was noticed (May 1997) that 24 F.L.C.S. collected sales tax amounting to Rs. 4.36 crores between the periods 1983-84 and 1994-95 from the bidders, in respect of Forest produces sold to them, but did not credit the amount into government treasury resulting in incorrect retention of the Government money by F.L.C.S. Since a number of societies have gone into liquidation and in other cases due to their financial position not being sound, the amount of Rs. 4.36 crore has become unrecoverable from the societies. Had the department ensured that the sales tax collected by F.L.C.S. be paid into government treasury before allowing the defaulting FLCS from further coup cutting and lifting the forest produces, the loss of revenue of Rs. 4.36 crores could have been avoided.

This was pointed out to the department in May 1997 and to the Government in May 1997; their replies have not been received (January 1998).

7.5 Non-recovery of Royalty and Interest

The Government of Gujarat entered into an agreement in November 1960 with a company owning a pulp mill, allowing the latter to extract bamboos on payment of royalty for a period of 40 years from the forest areas in Dangs, Surat district and Rajpipla forest division of Broach district. The bamboos were used by the mill for producing pulp, part of which was consumed by the mill itself for production of papers. The dues recoverable in respect of the bamboos supplied

to the mill accumulated to Rs.38.79 lakhs. The mill in the meanwhile became a sick mill and obtained a package concession from the Government of India for its revival.

(i) During the test check of records of Dy.Conservator of Forest Vyara (October 1993), it was noticed that though the mill did not pay old dues of Rs.38.79 lakhs it was allowed to cut further bamboos with the condition that Mill will not be allowed to lift the bamboos unless the old dues are recovered from them. However the mill was allowed to transport 7102.870 M.Ts. of bamboos without payment of old dues on the grounds that cut bamboos may get spoiled in the ensuing summer. The royalty recoverable on the bamboos lifted during 1992-93 alone amounted to Rs.7.88 lakhs. The dues recoverable accumulated to the tune of Rs.46.67 lakhs. Further recovery details have not been received (January 1998).

(ii) During test check of records of Dy.Conservator of forest Vyara division (June 1996), it was noticed from the accounts of 1994-95 finalised in February 1996 that old dues of Rs.2.96 lakhs of above mill relating to the bamboos cut and lifted during 1983-84 to 1985-86 was found adjusted against the deposit. However interest recoverable @6.25 per cent p.a. on Rs.2.96 lakhs as per condition No.23 of agreement was not recovered. This resulted in non-recovery of interest of Rs.1.95 lakhs. It is further noticed that 11276.040 M.T. cut bamboos relating to the above period found missing on the site were deducted from the balance. This resulted in loss of revenue to the extent of Rs.6.25 lakhs.

(iii) During the test check of records of Rajpipla (Western Area) Division, it was noticed (December 1995) from the stock account of bamboos in the division that 6836.441 MTS of bamboos were issued to CPM Mill, whereas as per the letter of the mill (May 1995) the mill has transported only 6094.110 MTS of bamboos to the mill. Thus there is a shortfall of 742.331 MTS of bamboos resulting in loss of revenue of Rs.82,399.

This was pointed out to the department between May 1994 and September 1996 and reported to Government in May 1997; their replies have not been received (January 1998)

7.6 Short realisation of revenue due to non-disposal of grass

In the grass-growing areas of Saurashtra, grass is procured and preserved for supply to the scarcity affected areas of the State. According to Agriculture, Forest and Co-operation Department Resolution dated 23 December 1968 its preservation period when stored in godowns is three years and in Ganji one year. The grass so preserved is to be sold at the rate fixed by the Government in Forest and Environment Department's Resolution dated 16 December 1993. Grass that remains undisposed within the period of preservation is required to be disposed of by auction only in consultation with the Revenue Department and after obtaining a certificate from the veterinary officer regarding its fitness for animal consumption. An upset price is fixed every year by the Forest departments for the sale of grass

other than the grass procured for scarcity areas. Grass which is certified to be unfit for animal consumption would normally fetch lower price. Weight loss at the rate of 10/25 per cent every year by way of driage is allowed in respect of grass stored in godowns/Ganji respectively.

(i) During the course of test check of records of Dy.Conservator of Forests at Jamnagar and Dhari for the periods between December 1994 and December 1996 it was noticed that grass weighing 9.68 Tonnes relating to the period 1983-84 to 1991-92 lying in godown/ganji could not be disposed within the prescribed preservation period. Auction sale fetched Rs. 21805/- only as against Rs.9.55 lakhs realisable on the basis of rates fixed by the department for the sale of the grass relating to that year. Thus delay in disposal of grass resulted in loss of revenue of Rs.9.34 lakhs.

(ii) It was further noticed in Jamnagar division that grass account maintained in the division is reduced every year after every monsoon at the rate of 10/25 per cent respectively of the grass stored in godown/ganji as driage as per the norms prescribed by the Government. The grass account becomes nil after a certain period although the period upto which such reduction is permissible has not been mentioned in the Resolution. The cost of grass so reduced during 1994-95 in respect of grass stored from 1988-89 onwards in the above division for one year alone amounted to Rs. 11.55 lakhs. Had the grass been auctioned immediately after the preservation period or old grass is disposed of earlier the loss of revenue of Rs. 11.55 lakhs occurring every year could be avoided.

(iii) As a measure of scarcity relief work, Vyara division (Dist.Surat) and Devgadhbharia division (Dist.Godhra) of forest departments were asked to collect 3 lakhs and 3.48 lakhs Kgs of grass respectively for distribution by the Collectors as fodder in the scarcity affected areas of Jamnagar, Kutch and Panchmahal. Against the target, the division could collect 5.42 kgs of grass. Out of the total quantity of grass collected, revenue department lifted 2.28 lakh kgs of grass, and remaining 2.27 (0.87 kgs driage) (cost of collection Rs.1.87 lakhs) became totally unfit for consumption as fodder due to rains. This resulted in loss of Rs. 1.87 lakhs to the Government.

This was pointed out to the department in June 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

7.7 Short realisation of revenue and interest

In order to discourage exploitation of adivasi labourers, working in the forest, by contractors and to improve their social and economic status, Government decided in 1951 to allot forest coups to registered Co-operative societies formed by forest labourers. As per recommendations of a committee appointed in 1958, it was decided that from the year 1960-61, the net realisation from forest revenue would be shared by the department and the societies in the ratio of 80:20. The net realisation was to be arrived at by deducting expenditure incurred on authorised items from the amounts realised by sale of materials from the coups.

During the course of test check of records of 5 Dy. Conservator of forest offices, it was noticed (between February 1995 and June 1996) that seventy forest Co-operative societies were allowed to deduct the expenditure incurred on pay & allowances and transportation charges amounting to Rs. 14.33 lakhs though not admissible. This resulted in reduction in Government share of the net revenue from forest to the extent of Rs. 11.46 lakhs as detailed below :

Sr. No.	No. of Division & place	Period	No. of Society	Nature of objection	Short realisation (Rs. in lakhs)
1.	5 divisions (2 each of Rajpipla and Vyara & 1 of Ahwa)	84-85 & 86-87 88-89 to 93-94	45	It is the responsibility of the successful bidder to load the auctioned timber from the sale depots in his trucks at his expenses. In departmental auctions the bidder removes the material at his expense. However due to incorporation of a incorrect condition in the wage board such expenditure is allowed as an admissible expenditure when auctioned by FLCS resulting in loss of revenue to government	7.30
2.	5 divisions (2 each of Vyara and Ahwa and 1 of Godhra)	88-89 to 93-94	25	Although yield of timber was less than 450 Cu.M depot clerks were employed for the whole year instead of 6 months and further all allowances were allowed to the staff employed by the societies as against the admissibility of only pay and DA resulting in inadmissible expenditure being allowed as deduction.	4.16
Total			70		11.46

This was brought to the notice of the department between June 1996 and September 1996. In respect of item at Sr. no 1 above the department intimated (September 1997) that Government has issued orders treating the expenditure as inadmissible from September 1997. The case was reported to Government in May 1997; their replies have not been received (January 1998).

7.8 Non-levy of penalty

As per the condition No. 3(A) of the agreement entered into with the Forest Labourers Cooperative Societies for forest coupes and selling of forest products, the annual accounts of the Societies closed on 30 September every year are required to be submitted to the Deputy Conservator of Forest by 15 October of the corresponding year. In case of delay in submission of accounts, the Deputy Conservator of Forest is empowered to levy penalty, not exceeding Rs.5 per day, per coupe for the period of delay in submission of the accounts.

During the course of test check of records of the Forest divisions, Dangs Ahwa (North) and Rajpipla (West), it was noticed (December 1995 and July 1996) that though 24 societies had not submitted their annual accounts for the years 1986-87 to 1991-92 and 1994 to 1996 by the due dates and the delays ranged from 517 days to 2190 days, no penalty was levied. The maximum penalty leviable at the prescribed rate of Rs.5 per day per coupe worked out to Rs. 1.68 lakhs in these cases.

The omission was brought to the notice of the department between December 1995 and July 1996 and reported to Government in May 1997; their replies have not been received (January 1998).

(C) INTEREST RECEIPTS


7.9 Short payment of interest due to application of incorrect rate and non-levy of penal interest

Industries, Mines and Power Department sanctioned seven loans aggregating to Rs.193.54 lakhs to the Gujarat State Khadi Gram Udhog Board for development of village Industries. The terms and conditions of these loans interalia contained that interest @ 6 per cent on Rs.34 lakhs, @ 12.75 per cent on Rs.119.54 lakhs and @ 4 per cent on Rs.40 lakhs would be chargeable. In the event of delay in payment of instalment of principal or interest penal interest @ 2.5 per cent would be charged.

During the course of test check of records of the Gujarat State Khadi Gram Udhog Board Ahmedabad, it was noticed (August 1994) that Board has paid the interest at the incorrect rate of 4 per cent instead of 6 per cent and 12.75 per cent on loan of Rs. 34 lakhs and Rs.119.54 lakhs respectively. This resulted in short levy of interest to the extent of Rs.87.75 lakhs including penal interest.


This was reported to Government in May 1996; their reply has not been received (January 1998).

Ahmedabad
The


(B.M. OZA)
Principal Accountant General (Audit) Gujarat

Countersigned

New Delhi
The


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

Annexures



Annexure - I

Mis-classification of goods

(Referred to in paragraph 2.7)

Sr. no.	Location and number of dealers	Period of assessment Date of assessment	Name of the commodity and nature of irregularity	Turn over of Sales (Rs.in lakhs)	Rate of tax leviable (Per cent)	Rate of tax levied (Per cent)	Amount of short levy (Rs.in lakhs)
1	2	3	4	5	6	7	8
1	14 dealers (1 each of Kadi Baroda and Gondal 5 of Rajkot and 6 of Ahmedabad)	Between 1989-90 and 1993-94 Between May 1994 and January 94	<u>Iron Powder</u> As per Gujarat Sales Tax Tribunal's decisions dt.17.6.80 (1981-GSTB-Ptl-P-28) and dt.18.1.95 (RA 138 of 1988) iron powder is leviable to tax under general entry, whereas the same was levied to tax under entry 3 of schedule II -A to the Act.	781.25	12 & 14	4	98.78
2.	10 dealers(3 each of Anand and Ahmedabad,2 of Rajkot, 1 each of Bhavnagar and Gondal	Between 1990-91 and 1992-93 Between May 1993 and January 1996	<u>Gharghanti With Motor</u> As per Tribunal's decision dt.9.9.91 (No.1991-GST3- part II P148) Gharghanti fitted with electric motor is leviable to tax as domestic appliances under entry 96 of schedule II-A to the Act. But it was levied to tax as machinery falling under entry 16 (1) of schedule II-A (entry/39 with effect from April 1992).	284.24	18	7	37.43
3	Dist.Dn.III Ahmedabad	1990.91 and 1991-92 20.1.94 17.3.94	<u>PVC Synthetic Resin</u> As per determination under section 62 (No.1985-D-63-64) dt.30.5.1989 read with public circular dt. 21.8.89 "PVC Synthetic Resin" falls under entry 13 of Schedule III from 31.5.1989, whereas the sales of PVC synthetic resins were levied to tax under entry 9 of schedule II A as chemical.	190.23	12	5	35.40
4	10 dealers (5 of Bhavnagar, 2 each of Ahmedabad and Rajkot and one of Ahmedabad	Between November 1987 and March 1995 Between February 1990 and December 1995	<u>Gharghanti Without Motor</u> As per determination issued under section 62 of GST Act (No.1992-D-555-36(2)) dt.27.1.93 Gharghanti without electric motor is leviable to tax under general entry, but sales of such goods were levied to tax as machinery falling under entry 16 (i) of schedule II-A	258.30	11,12 & 14	5,6 & 7	31.57
5.	2 dealers Ahmedabad	Between 1988-89 and 1991-92 August 1993 and February 1994	<u>PVC Insulated winding wire</u> Gujarat High Court (85-STC-464) had reversed (15-4-91) the decision of Tribunal(GSTB-Part III-P.82) and held that super enameled copper winding wire is a part of electric motor covered by entry 16(2) of schedule II-A. Commissioner by issue of a circular decided to give the effect of the above decision from July 1991 and to treat the winding wire as falling under entry 41 IIA till then as electrical goods as per Tribunal's decision.	327.26	10 & 12	4	29.65

1	2	3	4	5	6	7	8
			In the assessment sales of "PVC insulated winding wires of electric motor used in submersible water pumps were incorrectly treated as parts of submersible water pumps and levied to tax at the rate applicable to water pumps instead of treating it as parts of electric motor based on certain incorrect determinations given subsequently under section 62 in spite of the existence of the above High Court decision.				
6. 10 dealers (8 of Surat and 1 each of Khambhat & Navsari)	Between 1988-89 and 1992-93 Between March 1993 and January 1995	<u>Diamond Cutting Machinery</u> Machinery used for cutting, polishing and reshaping of diamonds considered as machinery used in the manufacture of goods instead of levying tax under general entry.	250.25	12 & 14	6 & 7	25.04	
7. 2 dealers (1 each of Dn.9 Ahmedabad and AC (Enf.) Baroda)	Between Feb. 1987 and March 1995 Between July 1992 and March 1996	<u>Valona and Bio-gas stoves</u> As per entry 116 and 44 of notification issued under section 49(2) of the Act Biogas plants and Biogas engines etc are leviable to tax at concessional rate of 1 per cent upto 30.5.88 and Biogas stoves are exempted with effect from 1.8.1995. Sales of Valona not included in the above notification and sales of Biogas stoves prior to 1.8.1995 were allowed at concessional rates.	111.64	14	1 & 4	19.51	
8. 2 dealers of Anand	1984 to 1990-91 Between July 1994 and January 1995	<u>Rough Castings</u> As per section 62 determination dt. 17.9.95 and Tribunals decision (No. 1982-GSTB Vol II) rough castings were leviable to tax under General entry whereas the sales of rough castings were levied to tax under entry 3 of schedule II A to the Act.	109.22	10 to 12	4	16.25	
9. 2 dealers of Dahod	Between 1989-90 and 1994-95 Between May 1992 & March 1996	<u>Radiator Cores</u> As per determination issued under section 62 of the Act (NO.3-B-91-92-429-432) dt. 15.7.91 "Radiator core" is a part of motor vehicle and leviable to tax under entry 74 (2) (128 (3) with effect from April 1992) of schedule II A to the Act. In the assessment sales of radiator cores were levied to tax as tractor parts.	39.62	12 and 14	4,5 & 6	4.03	
10 Ankleshwar	1989-90 6.10.92	<u>Miscellaneous Scrap</u> Since there is no specific entry "Miscellaneous Scrap" is leviable to tax under residuary entry 13 of Schedule III.	45.75	12	5	3.84	

1	2	3	4	5	6	7	8
11	Division IV Bhavnagar	<u>1992-93</u> 16.9.94	<u>Stainless steel articles</u> Stainless steel articles (Other than utensils) were leviable to tax under entry 182 (4) of schedule II A whereas the sales of the same were levied to tax at the rate applicable to utensils under entry 182(1) of schedule II A to the Act.	34.16	7	1	3.38
12	2 dealers of STO Division I Jamnagar	<u>1990-91</u> March 1994	<u>Brass Fittings</u> Brass fittings are electrical goods leviable to tax under entry 41 of schedule II A to the Act.	14.85	12	8 and 4	2.14
13	Himatnagar	<u>1992-93</u> <u>1993-94</u> 30.12.94 30.11.94	<u>Starter</u> As per Tribunals decision dated 12.8.1991 (1992-GSTB- Pt.I P 113) starter is part of electric motor and leviable to tax under entry 26 of Schedule II-A	17.83	10	5	1.36
14	Vyara	Between 1988-89 and <u>1992-93</u> 29.12.94	<u>PVC insulated wire scrap</u> PVC insulated wire scrap are covered by residual entry	7.99	15, 14	4.5, & 7	0.69
15	Godhra	November 1985 to November <u>1986</u> 22.5.92	<u>Auto Wire Cord</u> Auto wire Cord viz clutch wire is a spare part of motor vehicle and is leviable to tax under entry 74(2) of Schedule II-A.	5.34	12	4	0.47
16	Vapi	July 1987 to June <u>1988</u> 20.10.94	<u>M.S.Structural</u> As per determination under Section 62 (1982-D-375) dt.27.12.83 "M S Structural" is leviable to tax under residual entry with benefit under entry 36 of notification issued under Section 49(2) of the Act but the sale of the same was levied to tax under entry 3 of Schedule II A.	19.56	6	4	0.39
17	Division I Ahmedabad	1987-88 <u>to 1990-91</u> 31.3.92 and 10.8.92	<u>Staple pin machine</u> As per determination under Section 62 (No.82-1-208-D) staple pin machine is covered by entry 104 of schedule II A but sales of staple pin machines were considered as machinery used in the manufacture of goods.	4.34	10	6	0.30
Total							310.2

Annexure II
Incorrect allowance of deduction of sales on Form 19
(Referred to in paragraph 2.9 (C))

Sr. no.	Name of Office	Period of assessment	Date of assessment	Item of goods sold	Sales turnover (Rs.in lakhs)	Amount of short levy (Rs.in lakhs)
1.	Surat and Ahmedabad	1989-90 to 1991-92	31.3.94 and 24.5.93	Machinery parts	20.11	3.98
2.	Mehsana	1989-90 and 1990-91	24.6.94	crucibles	7.93	1.00
3.	Jamnagar	1993-94	20.12.95	Bearings	9.51	0.76
4.	Ahmedabad	1992-93	30.6.95	Chemicals	6.14	0.66
5.	Ahmedabad	1990-91	31.3.95	Drug intermediate	4.41	0.57
6.	Ahmedabad	1991-92	31.2.95	Rubber stoppers	3.38	0.34
				Total	51.48	7.31

Annexure III
Short levy due to incorrect application of rate of tax
(Referred to in paragraph 2.14)

Sr. no.	Location and number of dealers	Period of assessment	Date of assessment	Sales turnover (Rs. in lakhs)	Reference to entry of the Schedule	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Amount of short levy (Rs. in lakhs)
1.	6 dealers (4 of Ahmedabad & 2 of Bhavnagar and Vapi)	Between November 1985 and March 1994	Between March 1994 and October 1995	82.99	Entry 13 of schedule III upto 31.3.92 and entry 195 of schedule II-A with effect from 1.4.1992	6,11, 12 & 14	3,4, & 10	5.56
2.	AC(Enf) Rajkot	4.11.75 to 23.10.76	29.3.95	63.15	Entry 34 A of Schedule II A	5	4	3.60
3.	Gondal	1992-93	22.6.95	66.18	Entry 94 of Schedule II A	7	6	0.66 ✓
4.	Prantij	23.10.87 to March 1990	27.9.93	6.33	Entry 104 of Schedule II A	10	6	0.53 ✓
5.	Dahod	1992-93	6.2.96	28.71	Entry 55 of Schedule II A	7	6	0.49 ✓
6.	Vapi	August 1987 to March 1989	31.1.91	8.57	Entry 21 of Schedule II A	2 & 5	1	0.38 ✓
7.	Division I, Rajkot	1992-93	30.6.94	10.92	Entries 19,70,94,97 of Schedule II A	5,6, 7,10, 14,17, & 18	4,5, 6,8, 12,14 & 15	0.32 ✓
Total								11.54

Annexure IV
Short levy due to non levy of additional tax
(Referred to in paragraph 2.15)

Sr. no.	Name of the office	No. of dealers	Period of assessment	Date of assessment	Name of the Commodity	Sales turnover	Short levy of tax (Rs. in lakhs)
1.	Godhra	3	1991-92	Between October 1994 and February 1995	Films, Springs and cables	207.41	7.34
2.	Dist.Dn.3 Ahmedabad	1	1991-92	31.3.1995	Electronic items	440.09	1.64
						Total	8.98

Annexure V
Non recovery due to non raising of demands for occupancy price
(Referred to in paragraph 3.2)

Name of autonomous Bodies	Date of allotment	land allotted (Sq.mts in lakhs)	Non/short levy of O.P. (Rs. in lakhs)	Interest	Total Short levy
Tourism Corporation of Gujarat Ltd. (TCGL) Babra (Dist.Amreli)	June 1989	0.49	72.85	65.56	138.41
Rajkot Urban Development Authority (RUDA), Rajkot	July 1982	0.76	2.95	0.90	3.85
Bhavnagar Urban Development Authority (BUDA), Bhavnagar	July 1982	0.27	3.71	6.67	10.38
Gujarat Cricket Association Gandhinagar	July 1983	2.02	5.39	4.82	10.21
	Total	3.54	84.90	77.95	162.85

Annexure VI

Short levy due to non recovery of conversion tax

(Referred to in paragraph 3.4(a))

Sr. No.	Name of Taluka	No.of cases	Area of land (Sq.mts in lakhs)	Non levy (Rs.in lakhs)	Remarks
1.	Gandhinagar	1	3.40	20.41	Conversion tax not levied on the land allotted to SSNL
2.	Junagadh	2	9.48	9.48	Conversion tax not levied on the land allotted to GIDC and Gujarat Oil seeds Co-operation Federation.
3.	Sidhpur (Dist Mehsana)	2	5.71	7.15	Conversion tax not levied on land allotted to GIDC and Indian Oil Corporation.
4.	Khambhat (Dist Kheda)	2	3.02	3.15	Conversion tax not levied on land allotted to GHB and ONGC Ltd..
5.	Viramgam (Dist Ahmedabad)	1	2.34	1.75	Conversion tax not levied on the land allotted to SSNL
6.	Rajkot	1	0.05	0.76	Conversion tax not levied on land allotted to GSRTC.
7.	Navsari (Dist Surat)	1	0.11	0.76	Conversion tax not levied on land allotted to GEB.
8.	Pardi (Dist Valsad)	1	0.36	0.45	Conversion tax not levied on land allotted to GIDC
9.	Valsad	1	0.08	0.32	Conversion tax not levied on land allotted to GEB.
Total		12	24.55	44.23	

Annexure VII

Short levy due to application of incorrect rate of conversion tax (Referred to in paragraph 3.4(b))

Sr. no.	Name of Taluka	No. of cases	Area of land (Sq. mts. in lakhs)	Short levy (Rs. in lakhs)	Remarks
1.	Himatnagar	21	2.18	1.54	Conversion tax levied at lower rates.
2.	Bharuch	8	1.63	0.97	Conversion tax levied at lower rate.
3.	Gandhinagar	1	0.10	0.62	Conversion tax not levied though the use was changed for religious purpose.
4.	Sanand	2	0.49	0.61	Conversion tax levied at lower rate.
5.	Amreli	2	0.23	0.50	—do—
6.	Deesa	4	0.29	0.46	—do—
7.	Anand	3	0.25	0.43	—do—
	Total	41	5.17	5.13	

Annexure VIII

Short levy due to application of incorrect rate of non-agricultural assessment

(Referred to in paragraph 3.5(c))

Sr. No.	Name of Place	No. of cases	Period	Area of land (Sq.mts in lakhs)	Amount short levied (Rs.in lakhs)
1.	Surat	82	1989-90 to 1993-94	3.76	1.45
2.	Khambhat (Dist Kheda)	2	1989-90 to 1994-95	4.99	1.25
3.	Morbi (Dist.Rajkot)	4	1989-90 to 1993-94	5.11	0.53
4.	Vadodara	3	1989-90 to 1994-95	2.49	0.48
5.	Navsari	5	1989-90 to 1993-94	3.77	0.44
6.	Nadiad	2	1989-90 to 1994-95	1.53	0.37
7.	Babra (Dist Amreli)	2	1989-90 to 1993-94	0.80	0.37
8.	Mandvi (Dist Surat)	9	1989-90 to 1993-94	1.40	0.35
Total		109		23.85	5.24

Annexure IX
Non/short recovery of non-agricultural assessment
(Referred to in paragraph 3.6(A)(a))

Sr.No.	Name of place	Area of land (Sq.mts.in lakhs)	Period	Amount of N.A.A Short levied (Rs. in lakhs)
1.	Solsumba & Dehri (Tal Umargaum)	7.39	92-93 to 94-95	3.80
2.	Balasinor (Tal.Balasinor)	2.59	69-70 to 94-95	2.04
3.	Hansalpur (Tal.Viramgam)	4.22	87-88 to 94-95	1.26
4.	Chanasma (Tal. Chanasma)	1.87	89-90 to 95-96	1.05
5.	Dabhoi (Tal Dabhoi)	1.13	76-77 to 94-95	1.00
6.	Talodara & Randevi (Tal.Jhagadia)	51.39	92-93 to 93-94	0.95
7.	Ramdi (Tal Baroda)	0.62	80-81 to 94-95	0.79
8.	Sidhpur (Tal Sidhpur)	1.26	90-91 to 94-95	0.76
9.	Moti-Rajsthali (Tal Palitana)	1.45	92-93 to 95-96	0.46
10.	Pokhran & Kukuva (Tal Songadh)	37.74	90-91 to 93-94	0.37
11.	Jamvadi (Tal Gondal)	1.96	93-94 to 94-95	0.31
	Total	111.62		12.79

Annexure X

Non/short recovery of non-agricultural assessment

(Referred to in paragraph 3.6(A)(b))

Sr. No.	Name of taluka	Area of land (Sq.mts. in lakhs)	Name of allottees	Period	Amount of N.A.A short levied (Rs.in lakhs)
1.	Halol (Panchmahal)	0.67	Sardar Sarovar Narmada Nigam Ltd (SSNNL)	88-89 to 94-95	5.21
2.	Rajpipla	39.33	—do—	88-89 to 95-96	3.16
3.	Gandhinagar	3.40	—do—	91-92 to 94-95	2.11
4.	Viramgam	2.33	—do—	90-91 to 94-95	1.40
5.	Siddhpur	2.88	Indian Oil Corporation (IOC)	92-93 to 94-95	1.38
6.	Kalyanpur	47.28	Gujarat Energy Development Agency (GEDA)	93-94 to 94-95	1.08
7.	Rajkot	0.34	Gujarat Water Supply & Sewerage Board (GWSSB)	84-85 to 94-95	0.87
8.	Naswadi	9.22	Sardar Sarovar Narmada Nigam Ltd. (SSNNL)	89-90 to 95-96	0.74
9.	Balasinor	1.00	Gujarat Water Supply & Sewerage Board (GWSSB)	91-92 to 95-96	0.60
10.	Dabhoi	0.36	Sardar Sarovar Narmada Nigam LTD (SSNNL)	88-89 to 94-95	0.17
Total		106.81			16.72

Annexure XI
Non recovery of survey charges
(Referred to in paragraph 3.7(a))

Sr. No.	Place	No. of Villages	Khatedars/ Units	Pot-hissa charges recoverable (Rs.in lakhs)
1.	Palanpur	6	3219	8.33
2.	Bhuj	30	437	4.03
3.	Amreli	41	6873	3.91
4.	Junagadh	19	2518	2.71
	Total	96	13047	18.98

Annexure XII
Non/short recovery of lease rent
(Referred to in paragraph 3.8)

Sr. No.	Name of place	No. of cases	Area of land leased (Sq.mts in lakhs)	Period	Short/non recovery of lease rent (Rs.in lakhs)
1.	Kalyanpur (Dist. Jamnagar)	19	97.62	1994-95 to 1995-96	6.27
2.	Khambhat (Dist. Kaira)	2	255.18	1993-94 to 1994-95	1.20
3.	Jamnagar	1	0.04	1991-92 to 1993-94	0.41
4.	Mahuva (Dist Bhavnagar)	10	65.61	1993-94 to 1994-95	0.35
	Total	32	418.45		8.23

Annexure XIII

Short recovery of premium price

(Referred to in paragraph 3.9(a))

Sr. No.	Name of place	Area of land converted into old tenure (Area in sq.mts)	Area of land sold at higher price	Differential premium price recoverable (Rs. in lakhs)
1.	Kalol (Dist Panchmahal)	13557	2433	0.69
2.	Petlad (Dist Kheda)	2327	2327	0.55
	Total	15884	4760	1.24

Annexure XIV

Non recovery of motor vehicles tax and goods tax

(Referred to in paragraph 4.3)

Sr. No.	Taxation Office	No.of vehicles	Motor Vehicle tax (----- Rupees in lakhs -----)	Goods Tax	Total short levy
1.	Ahmedabad	170	2.69	1.71	4.40
2.	Nadiad	17	0.16	0.41	0.57
3.	Bharuch	69	3.76	1.67	5.43
4.	Gandhinagar	16	0.24	0.38	0.62
5.	Jamnagar	31	4.49	0.52	5.01
6.	Bhuj	40	1.34	0.45	1.79
7.	Himatnagar	58	0.95	0.75	1.70
8.	Bulsar	18	0.62	0.06	0.68
9.	Rajkot	77	6.02	1.76	7.78
10.	Amreli	61	3.44	1.12	4.56
11.	Junagadh	45	0.79	0.46	1.25
12.	Bhavnagar	96	6.20	1.24	7.44
13.	Surendranagar	7	0.22	0.14	0.36
14.	Vadodara	74	6.52	2.25	8.77
15.	Mehsana	11	1.32	0.30	1.62
16.	Godhra	45	1.34	0.42	1.76
17.	Palanpur	20	1.60	0.54	2.14
18.	Surat	65	2.35	1.09	3.44
	Total	920	44.05	15.27	59.32

Annexure XV

Short levy of stamp duty due to non levy of additional duty

(Referred to in paragraph 5.7(A))

Sr. No.	Place	No. of documents	Period of Registration	Amount of consideration (-----Rupees in lakhs-----)	Amount short levied
1.	Ahmedabad	60	1994 & 1995	360.00	14.02
2.	Vadodara	14	1993	110.10	4.40
3.	Palanpur	40	1995	51.03	1.52
4.	Bhavnagar	2	1995	29.25	1.17
5.	Gandhinagar	12	1995	53.49	0.73
6.	Ahmedabad	16	1990	33.72	0.57
7.	Junagadh	1	1995	5.78	0.38
Total				643.37	22.79

Annexure XVI
Non recovery of inspection fees
(Referred to in paragraph 6.3)

Location	Name of licensee	Amount of inspection fees (Rs.in lakhs)
Surat	Gujarat Electricity Board	26.03
Surat	Surat Electricity Co.Ltd.	3.40
Himatnagar	Gujarat Electricity Board	10.57
Rajkot	—do—	5.21
Nadiad	—do—	3.50
Palanpur	—do—	2.86
Junagadh	—do—	0.88
Mehsana	—do—	0.33
	Total	52.78

Annexure XVII

Non recovery of entertainment tax from cable operators

(Referred to in paragraph 6.5)

Sr. No.	District	No. of offices Inspected	No. of cable operators	Non/short levy of tax (Rs. in lakhs)
1.	Bhavnagar	4	146	24.25
2.	Ahmedabad	1	220	16.07
3.	Jamnagar	5	67	11.29
4.	Vadodara	7	102	7.07
5.	Rajkot	4	86	4.53
6.	Surat	5	104	4.44
7.	Junagadh	3	25	3.57
8.	Himatnagar	4	60	3.36
9.	Mehsana	3	33	3.23
10.	Amreli	3	28	2.98
11.	Kheda	4	47	2.49
12.	Godhra	3	31	2.28
13.	Bhuj	2	8	1.41
14.	Palanpur	2	11	1.05
15.	Gandhinagar	1	17	0.59
16.	Surendranagar	1	15	0.56
17.	Bharuch	1	21	0.54
18.	Valsad	1	9	0.41
	Total	54	1030	90.12

Annexure XVIII

Non levy of entertainment tax from video parlours

(Referred to in paragraph 6.7)

Sr. No.	Name of place	No. of cases	Period	Amount recoverable (Rs. in lakhs)	Remarks
1.	Ahmedabad	17	August 93 to March 95	2.30	Recovery particulars not received.
2.	Vyara (Dist.surat)	4	August 94 to March 96	1.48	Recovery particulars not received.
3.	Dholka (Dist Ahmedabad)	6	Between December 94 and March 96	0.65	Recovery particulars not received.
4.	Vijapur (Dit.Mehsana)	2	1993-94	0.60	The Deptt. had obtained all machinery from the proprietor as against outstanding dues.Further action is awaited.
5	Porbandar	2	1994-95 1995-96	0.48	The Deptt.accepted the audit observation and stated that Rs.36000 had since been recovered.
6	Babra (Dist.Amreli)	1	1994-95	0.37	Recovery particulars not received.
Total		32		5.88	

Annexure XIX
Non recovery of luxury tax
(Referred to in paragraph 6.10)

Sr. No.	Name of Collectorate	Luxury Tax recoverable (Rs.in lakhs)	Interest leviable (Rs. in lakhs)	Maximum penalty leviable (Rs.in lakhs)
1.	Ahmedabad	24.76	2.81	49.14
2.	Surendranagar	0.66	—	0.98
	Total	25.42	2.81	50.12

