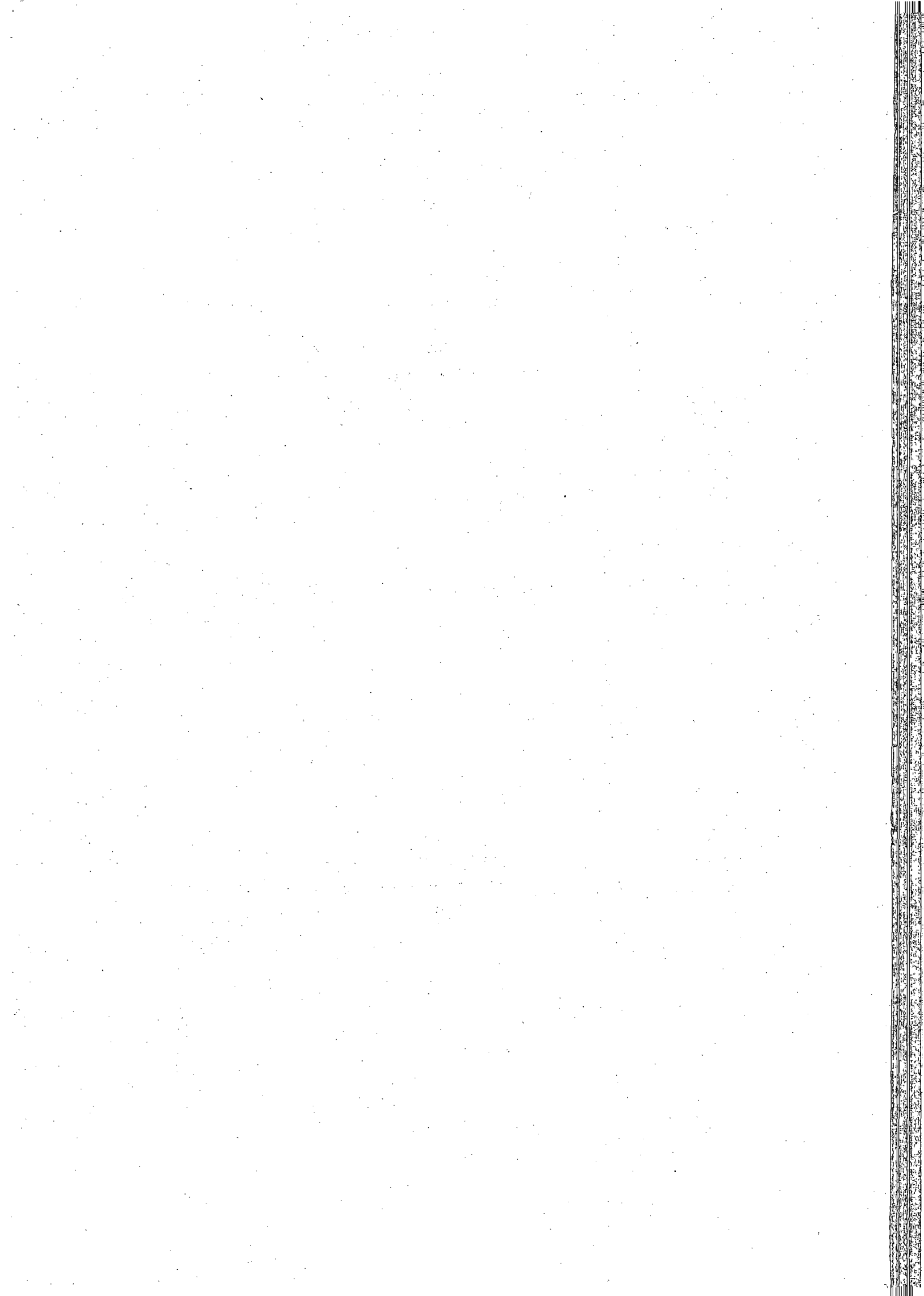


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**Report of the  
Comptroller and Auditor General  
of India**

**For the year ended 31 March 2005**

**(REVENUE RECEIPTS)  
GOVERNMENT OF UTTAR PRADESH**



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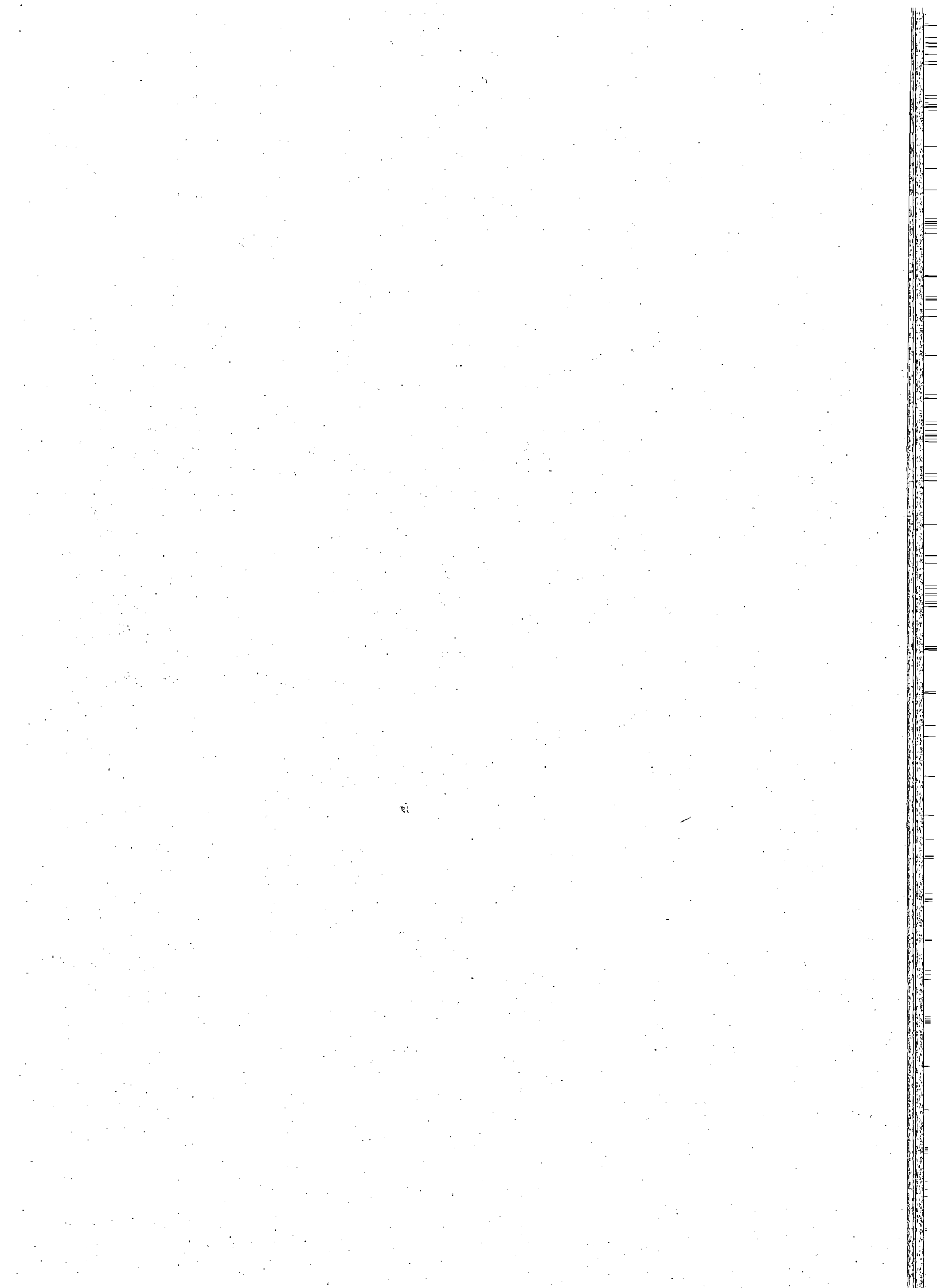
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## Preface

This Report for the year ended 31 March 2005 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 trade tax, state excise, land revenue, taxes on motor vehicles, stamp duty and registration fees, other tax and non tax receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2004-05 as well as those which came to notice in earlier years but could not be included in previous years' Reports.



## OVERVIEW

This report contains 22 paragraphs including two reviews relating to non/short levy of tax, penalty, interest etc., involving Rs.449.74 crore. Some of the major findings are mentioned below:

### I. General

- During the year 2004-05 revenue raised by the State Government, both tax (Rs.15,692.61 crore) and non tax (Rs.2,720.29 crore) amounted to Rs.18,412.90 crore as against Rs.15,883.31 crore during the previous year.

*(Paragraph 1.1.1)*

- Test check of records of trade tax, state excise, taxes on vehicles, goods and passengers, stamp duty and registration fees, land revenue, and other departmental receipts conducted during 2004-05 revealed under assessment, short levy, loss of revenue etc. amounting to Rs.642.86 crore in 2,114 cases. During the course of the year 2004-05, the concerned departments accepted under assessment and short levy etc. of Rs.27.73 crore in 133 cases of which Rs.1.63 crore in 119 cases had been recovered upto March 2005.

*(Paragraph 1.7)*

- Inspection Reports numbering 8,567 issued up to 31 December 2004 containing 17,394 audit observations with money value of Rs.4,102.33 crore were not settled upto June 2005.

*(Paragraph 1.8)*

### II. Trade Tax

A review on "Assessment and collection of Trade Tax" revealed as under :-

- Non/short levy of tax amounting to Rs.5.11 crore in case of 32 dealers in 19 trade tax offices.

*(Para 2.2.8)*

- Non levy of entry tax amounting to Rs.2.51 crore in case of 14 dealers in 10 trade tax offices.

*(Para 2.2.8)*

- Penalty amounting to Rs.4.92 crore in case of 33 dealers in 32 trade tax offices was not levied.

*(Para 2.2.8)*

- Loss of revenue due to incorrect grant of eligibility/recognition certificate to new industrial units resulted in incorrect allowance of exemption or reduction from tax of Rs.57.86 crore.

*(Para 2.2.9)*

- Irregular exemption amounting to Rs.1.67 crore to four dealers in three trade tax offices.

*(Para 2.2.10)*

Other irregularities noticed in audit include:

- Interest amounting to Rs.5.80 crore was not levied.

*(Paragraph 2.5)*

1.67  
4.23  
-----  
6.90

- Penalty under Central Sales Tax Act amounting to Rs.3.99 crore was not levied.

*(Paragraph 2.7)*

- Composition money on vegetable ghee amounting to Rs.98.06 lakh besides interest of Rs.1.26 crore was not levied.

*(Paragraph 2.8)*

#### **IV. Taxes on vehicles, goods and passengers**

A review on "Enforcement Wing of Transport Department" revealed :

- Non realisation of arrears amounting to Rs.533.94 crore due to inadequate follow up action.

*(Para 4.2.6)*

- Loss of revenue amounting to Rs.24.34 crore due to non checking of vehicles plying without permit.

*(Para 4.2.7)*

- Short compounding of offences amounting to Rs.8.97 crore.

*(Para 4.2.8)*

- Loss of revenue amounting to Rs.34.15 lakh due to non checking of vehicles plying without certificate of fitness.

*(Para 4.2.9)*

Other irregularities noticed in audit include:

- Incorrect fixation of seating capacity of stage carriages resulted in loss of revenue of Rs.3.04 crore.

*(Paragraph 4.4)*

#### **V. Other Tax Receipts**

- Collection charges amounting to Rs.1.12 crore were not realised.

*(Paragraph 5.3)*

#### **VI. Other Departmental Receipts**

- Government revenue of Rs.1.09 crore was utilised unauthorisedly towards expenditure.

*(Paragraph 6.2.7)*

- Non realisation of royalty of Rs.2.03 crore on collection of stone boulders, morrum and earth in Public Works Department, Rural Engineering Services and Project Corporation Department.

*(Paragraph 6.4)*

- Loss of royalty due to non execution of lease deeds amounting to Rs.8.92 crore.

*(Paragraph 6.7)*

- Guarantee fee amounting to Rs.310.63 crore was either not recovered or recovered short.

*(Paragraph 6.8)*



## CHAPTER-I – GENERAL

### 1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by Government of Uttar Pradesh during the year 2004-05, State's share of divisible Union taxes and grants in aid received from Government of India during the year and corresponding figures for the preceding four years are given below:

(Rupees in crore)					
	2000-01	2001-02	2002-03	2003-04	2004-05
I. Revenue raised by the State Government					
(a) Tax revenue	10,979.97	10,388.82	12,783.81	13,601.23	15,692.61
(b) Non tax revenue	1,944.65	1,787.07	1,913.49	2,282.08	2,720.29
<b>Total</b>	<b>12,924.62</b>	<b>12,175.89</b>	<b>14,697.30</b>	<b>15,883.31</b>	<b>18,412.90</b>
II. Receipts from the Government of India					
(a) State's share of divisible Union taxes	9,045.47	10,130.49	10,814.87	13,272.97	15,055.26 <sup>1</sup>
(b) Grants in aid	2,773.18	3,291.53	2,309.02	2481.69	4,149.28
<b>Total</b>	<b>11,818.65</b>	<b>13,422.02</b>	<b>13,123.89</b>	<b>15,754.66</b>	<b>19,204.54</b>
III. Total receipts of the State (I + II)	<b>24,743.27</b>	<b>25,597.91</b>	<b>27,821.19</b>	<b>31,637.97</b>	<b>37,617.44</b>
IV. Percentage of I to III	<b>52</b>	<b>48</b>	<b>53</b>	<b>50</b>	<b>49</b>

1.1.2 The details of tax revenue for the year 2004-05 along with the figures for the preceding four years are given in the following table:

(Rupees in crore)								
Sl. No.	Revenue Head	2000-01	2001-02	2002-03	2003-04	2004-05	Increase (+) or decrease (-) in 2004-05 with reference to 2003-04	Percentage of increase or decrease with reference to 2003-04
1.	Trade Tax	5,436.52	5,052.40	6,850.93	7,684.13	8,888.31	(+) 1204.18	(+) 15.67
2.	State Excise	2,238.54	1,961.38	2,555.05	2,472.37	2,686.19	(+) 213.82	(+) 8.65
3.	Stamp Duty and Registration Fees	1,269.75	1,429.29	2,078.68	2,296.06	2,682.36	(+) 386.30	(+) 16.82
4.	Taxes on Goods and Passengers	85.81	76.65	77.33	80.21	81.74	(+) 1.53	(+) 1.91
5.	Taxes on Vehicles	543.08	503.04	618.84	676.96	775.84	(+) 98.88	(+) 14.61
6.	Taxes and Duties on Electricity	136.30	9.22	145.29	174.72	354.36	(+) 179.64	(+) 102.82
7.	Land Revenue	69.85	72.93	64.23	117.67	102.44	(-) 15.23	(-) 12.94
8.	Other Taxes and Duties on Commodities and Services	504.58	152.34	100.02	92.78	112.28	(+) 19.50	(+) 21.03
9.	Other (Hotel receipts and corporation tax, etc.)	4.49	3.67	3.70	6.33	9.09	(+) 2.76	(+) 43.29
	<b>Total</b>	<b>10,979.97</b>	<b>10,388.82</b>	<b>12,783.81</b>	<b>13,601.23</b>	<b>15,692.61</b>	<b>(+) 2091.38</b>	<b>(+) 15.38</b>

The reasons for variation where it was substantial, though called for (December 2005) from the State Government, have not been received (January 2006).

<sup>1</sup> For details, please see statement No. 11- detailed accounts of revenue by Minor Heads in the Finance Accounts of the Government of Uttar Pradesh for the year 2004-05 figures under the major heads "0020 – Corporation Tax, 0021 – Other Taxes on Income and Expenditure, 0028 – Taxes on Income other than Corporation Tax, 0032 – Taxes on Wealth, 0037- Customs, 0038 – Union Excise Duties, 0044 – Service Tax and 0045- Other Taxes and Duties on commodities and Services- 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.

1.1.3 The details of non tax revenue for the year 2004-05 along with the figures for the preceding four years are exhibited in the following table:

(Rupees in crore)

Sl. No.	Revenue Head	2000-01	2001-02	2002-03	2003-04	2004-05	Increase (+) or decrease (-) in 2004-05 with reference to 2003-04	Percentage of increase/decrease with reference to 2003-04
1.	Misc. General Services	55.48	39.44	48.28	41.80	58.02	(+) 16.22	(+) 38.80
2.	Interest Receipts	525.17	543.49	515.38	658.09	597.93	(-) 60.16	(-) 9.14
3.	Forestry and Wild Life	76.86	68.31	86.27	60.96	107.42	(+) 46.46	(+) 76.21
4.	Major and Medium Irrigation	282.13	115.76	90.12	136.10	176.60	(+) 40.50	(+) 29.76
5.	Education, Sports, Art and Culture	177.24	137.66	255.35	227.68	581.02	(+) 353.34	(+) 155.19
6.	Other Administrative Services	61.51	131.47	110.95	116.91	128.23	(+) 11.32	(+) 9.68
7.	Non ferrous Mining and Metallurgical Industries	196.44	190.19	262.54	251.05	292.01	(+) 40.96	(+) 16.32
8.	Police	85.29	67.38	95.40	75.91	97.58	(+) 21.67	(+) 28.55
9.	Crop Husbandry	58.36	75.77	25.58	188.73	18.60	(-) 170.13	(-) 90.14
10.	Social Security and Welfare	23.53	36.33	19.59	33.65	17.25	(-) 16.40	(-) 48.74
11.	Medical and Public Health	31.74	31.14	41.44	42.69	42.03	(-) 0.66	(-) 1.55
12.	Minor Irrigation	18.96	17.73	12.11	18.53	12.53	(-) 6.00	(-) 32.38
13.	Roads and Bridges	29.93	16.27	17.97	41.79	31.67	(-) 10.12	(-) 24.22
14.	Public Works	26.94	14.66	25.26	19.92	31.44	(+) 11.52	(+) 57.83
15.	Cooperation	6.54	5.23	6.18	7.57	8.15	(+) 0.58	(+) 7.66
16.	Others	288.53	296.24	301.07	360.70	519.81	(+) 159.10	(+) 44.11
	<b>Total</b>	<b>1,944.65</b>	<b>1,787.07</b>	<b>1,913.49</b>	<b>2,282.08</b>	<b>2,720.29</b>	<b>(+) 438.20</b>	<b>(+) 19.20</b>

The reasons for variation where it was substantial, though called for (December 2005) from the state Government, have not been received (January 2006).

## 1.2 Variations between budget estimates and actuals

The variations between budget estimates and actuals of tax and non tax revenues during the year 2004-05 are given in the table below:

(Rupees in crore)

Revenue Head	Budget estimates	Actuals	Variation Increase (+) short fall (-)	Percentage of variations
1	2	3	4	5
<b>A. Tax Revenue</b>				
1. Trade Tax	9000.00	8888.31	(-) 111.69	(-) 1.24
2. State Excise	3000.00	2686.19	(-) 313.81	(-) 10.46
3. Stamp duty and Registration fee	2564.00	2682.36	(+) 118.36	(+) 4.62
4. Taxes on Goods and Passengers	582.91	81.74	(-) 501.17	(-) 85.98
5. Taxes on Vehicles	501.58	775.84	(+) 274.26	(+) 54.68
6. Other Taxes and Duties on Commodities and Services	112.58	112.28	(-) 0.30	(-) 0.26
7. Taxes and Duties on Electricity	187.41	354.36	(+) 166.95	(+) 89.08
8. Land Revenue	75.00	102.44	(+) 27.44	(+) 36.59

1	2	3	4	5
<b>B. Non tax Revenue</b>				
1. Misc. General Services	81.10	58.02	(-) 23.08	(-) 28.46
2. Interest Receipts	438.34	597.93	(+) 159.59	(+) 36.41
3. Forestry and Wild Life	79.31	107.42	(+) 28.11	(+) 35.44
4. Major and Medium Irrigation	196.50	176.60	(-) 19.90	(-) 10.13
5. Education, Sports, Art and Culture	55.82	581.02	(+) 525.20	(+) 940.88
6. Non Ferrous Mining & Metallurgical Industries	290.00	292.00	(+) 2.00	(+) 0.69

The reasons for variation where it was substantial, though called for (December 2005) from the State Government, have not been received (January 2006).

### 1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 2002-03, 2003-04 and 2004-05 along with the relevant all India average percentage of expenditure on collection to gross collection for 2003-04 are given below:

(Rupees in crore)					
Revenue head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average for the year 2003-04
Trade Tax	2002-03	6850.93	167.40	2.4	1.15
	2003-04	7684.13	197.13	2.6	
	2004-05	8888.31	178.53	2.0	
Taxes on Vehicles, Goods & Passengers	2002-03	696.17	11.76	1.7	2.57
	2003-04	757.17	12.71	1.7	
	2004-05	857.58	12.99	1.6	
State Excise	2002-03	2555.05	25.75	1.0	3.81
	2003-04	2472.37	28.51	1.2	
	2004-05	2686.19	29.66	1.1	
Stamp Duty and Registration Fees	2002-03	2078.68	36.63	1.8	3.66
	2003-04	2296.06	50.59	2.2	
	2004-05	2682.36	58.84	2.2	

### 1.4 Arrears in assessment

The number of assessments pending at the beginning of the year, cases becoming due during the year, cases disposed of during the year and the cases pending finalisation at the end of the year, as reported by the Trade Tax Department for the years 1999-00 to 2004-05 are given in the table:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
1999-00	4,57,508	4,89,838	9,47,346	4,89,357	4,57,989	51.66
2000-01	4,57,989	4,61,697	9,19,686	4,90,853	4,28,833	53.37
2001-02	4,28,833	5,24,561	9,53,394	4,85,771	4,67,623	50.95
2002-03	4,67,623	5,29,858	9,97,481	5,21,969	4,75,512	52.33
2003-04	4,75,512	4,83,428	9,58,940	4,76,263	4,82,677	49.67
2004-05	4,82,677	5,83,693	10,66,370	5,38,168	5,28,202	50.47

<sup>1</sup> As intimated by Department.

### 1.5 Collection of trade tax per assessee

Number of assesses, trade tax revenue and revenue per assessee during the years 2000-01 to 2004-05 as intimated by the Department are given in table:

(Rupees in lakh)			
Year	No. of assessee (in lakh)	Trade tax revenue	Revenue per assessee
2000-01	3.83	5,82,892	1.52
2001-02	3.85	6,15,855	1.59
2002-03	4.07	7,10,393	1.74
2003-04	4.52	7,65,135	1.69
2004-05	4.76	8,88,831	1.87

### 1.6 Arrears of revenue

As on 31 March 2005, arrears of revenue under principal heads of revenue as reported by the concerned departments were as under:

(Rupees in crore)				
Sl. No.	Heads of revenue	Arrears pending collection		Remarks
		Total	More than 5 years old	
1	2	3	4	5
1	Trade Tax	7209.68	N.A. <sup>1</sup>	Out of Rs.7209.68 crore, demand for Rs.711.00 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs.1018.06 crore and Rs.352.76 crore had been stayed by the Courts and Government respectively. Recoveries amounting to Rs.95.90 crore is outstanding on government departments and Rs.119.62 crore is outstanding on semi government departments. Demand of Rs.979.52 crore was likely to be written off. Rs.126.72 crore is outstanding on transporters. Recovery certificates amounting to Rs.651.39 crore has been sent to other states. Remaining arrears of Rs.3154.71 crore, not covered under recovery certificates is under specific action of Department.
2	Entertainment Tax	12.17	3.61	Analysis of arrears of revenue has not been given by the department.
3	State Excise	60.13	N.A.	Out of Rs.60.13 crore, recoveries amounting to Rs.16.81 crore and Rs.1.46 crore had been stayed by the Courts and Government respectively. Demand amounting to Rs.2.22 crore is likely to be written off. Remaining arrears of Rs.39.64 crore is recoverable by the department.
4.	Taxes on vehicles goods and passengers			N.A.
	Road Tax	4.81	2.84	
	Goods Tax	5.60	2.82	
	Passenger Tax	629.18	228.07	

### 1.7 Results of audit

Test check of records of trade tax, state excise, taxes on vehicles, goods and passengers, stamp duty and registration fee, land revenue, and public works department, irrigation, housing and urban development, education, mines and minerals, police, finance department, etc. conducted during the year 2004-05 revealed underassessments/short levy/loss of revenue amounting to Rs.642.86

<sup>1</sup> Not available.

crore in 2,114 cases. During the course of the year 2004-05 the concerned departments accepted underassessments etc. of Rs.27.73 crore involved in 133 cases, of which Rs.1.63 crore in 119 cases had been recovered upto March 2005.

This report contains 22 paragraphs including two reviews relating to non/short levy of tax, duty, interest, penalty etc. involving Rs.449.74 crore. The departments/Government accepted audit observations during discussion between August 2005 and September 2005 involving Rs.30.39 crore in 25 cases out of which Rs.1.13 crore have been recovered in three cases. No replies have been received in remaining cases (August 2005).

### 1.8 Outstanding inspection reports and audit observations

Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc. as also defects in initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. The more important irregularities are reported to the heads of departments and Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of two months.

The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 2004 which were pending settlement by the departments as on 30 June 2005, along with corresponding figures for the preceding two years are as given below:

Sl. No.		2003	2004	2005
1.	Number of inspection reports pending settlement	9,308	8,412	8,567
2.	Number of outstanding audit observations	15,741	17,506	17,394
3.	Amount of revenue involved (Rupees in crore)	2,727.30	4,296.86	4,102.33

Department-wise break-up of the inspection reports and audit observations outstanding as on June 2005 is given in the following table:

Sl. No.	Nature of receipts	Number of outstanding inspection reports	Number of outstanding audit observations	Amount of revenue involved (in crores of rupees)	Year to which the observations relate
1	Forestry and Wild life	835	1517	1441.11	1991-92 to 2004-05
2	Trade Tax	1228	5685	1628.31	1984-85 to 2004-05
3	State Excise	661	959	382.38	1984-85 to 2004-05
4	Land Revenue	924	1297	43.25	1987-88 to 2004-05
5	Taxes on Vehicle, Goods and Passengers	1105	2421	71.30	1984-85 to 2004-05
6	Public Works	455	754	30.93	1985-86 to 2004-05
7	Irrigation	393	672	88.92	1984-85 to 2004-05
8	Taxes on purchase of sugarcane	97	113	58.93	1985-86 to 2004-05
9	Stamp Duty and Registration Fee	1931	2705	253.20	1984-85 to 2004-05
10	Agriculture	209	311	24.58	1985-86 to 2004-05
11	Electricity Duty	320	365	41.96	1985-86 to 2004-05
12	Food and Civil supplies	119	187	19.81	1991-92 to 2004-05
13	Cooperation	105	113	5.97	1985-86 to 2004-05
14	Entertainment Tax	132	169	5.83	1986-87 to 2004-05
15	Medical & Public Health	42	112	1.34	2002-03 to 2004-05
16	Jail	11	14	4.51	2002-03 to 2004-05
	<b>Total</b>	<b>8567</b>	<b>17394</b>	<b>4102.33</b>	

This was brought to the notice of Government in May 2005; intimation regarding steps taken by the Government to clear the outstanding inspection reports and audit observations has not been received (August 2005).

**1.9 Audit Paragraphs/Reviews outstanding for discussion by Public Accounts Committee**

The details of audit paragraphs and reviews awaiting discussion by the Public Accounts Committee as on 31 July 2005 are as follows:

Year	Trade Tax	State Excise	Taxes on Vehicle, Goods and Passengers	Stamp Duty and Registration Fees	Land Revenue	Other Tax Receipts	Forest Receipts	Other Departmental Receipts
1984-85	10	Nil	09	09	02	Nil	11	09
1985-86	11	07	16	04	05	07	11	14
1986-87	12	04	23	04	03	05	11	14
1987-88	14	10	17	05	05	06	08	Nil
1988-89	19	11	09	04	04	05	07	16
1989-90	12	10	09	02	06	04	11	20
1990-91	17	06	07	02	04	05	11	16
1991-92	13	06	05	04	02	05	06	11
1992-93	13	09	11	03	02	05	09	14
1993-94	15	07	12	03	02	04	06	13
1994-95	09	07	12	03	02	NIL	08	NIL
1995-96	05	03	05	01	NIL	05	08	03
1996-97	13	06	08	03	01	04	01	05
1997-98	NIL	NIL	NIL	NIL	NIL	04	NIL	04
1998-99	03	NIL	NIL	05	NIL	02	NIL	NIL
1999-00	08	01	08	04	04	NIL	03	NIL
2000-01	05	04	01	02	01	02	01	05
2001-02	14	NIL	05	02	01	04	NIL	03
2002-03	13	02	03	03	01	02	01	01
2003-04	12	02	03	05	01	NIL	NIL	02
<b>Total</b>	<b>218</b>	<b>95</b>	<b>163</b>	<b>68</b>	<b>46</b>	<b>69</b>	<b>113</b>	<b>150</b>
<b>Grand Total</b>								<b>922</b>

**1.10 Follow up on Audit Reports -- Summarised position**

To ensure accountability of the executive in respect of all the issues dealt in the various Audit Reports, the Department of Finance issued instructions in June 1987 to initiate suo moto action on all paragraphs/reviews figuring in the Audit Reports irrespective of whether the cases were taken up for examination by the PAC or not. Out of paragraphs/reviews included in Audit Reports relating to the period 1999-2000 to 2003-04 which have already been laid before the State Legislature, Explanatory Notes (ENs) in respect of paragraphs/reviews were not received in audit office as on December 2005 even after the lapse of the prescribed period of three months. The outstanding ENs date back to 1999-2000 are as detailed below.

Year of Report	Date of presentation of Audit Report to the legislature	No. of paragraphs/reviews included in the Audit Reports	No. of paragraphs/reviews on which EN has been received from the Departments	No. of paragraphs/reviews on which EN is awaited from the Departments
1999-2000	31-05-2001	39	39	Nil
2000-2001	17-09-2003	32	29	03
2001-2002	27-07-2004	34	25	09
2002-2003	08-11-2004	26	11	15
2003-2004	20-07-2005	25	10	15
<b>TOTAL</b>		<b>156</b>	<b>114</b>	<b>42</b>

The Audit Reports for the year ended March 2000, March 2001, March 2002, March 2003 and March 2004 were laid on the table of the State Vidhan Sabha in May 2001, September 2003, July 2004, November 2004 and July 2005. Though the time limit of three months for furnishing the ENs for the Audit Reports for the period from 1999-2000 to 2003-04 has since been elapsed, the Department have not submitted/furnished remedial ENs on 42 paragraphs.

## CHAPTER-II TRADE TAX DEPARTMENT

### 2.1 Results of audit

Test check of assessments and other records of trade tax offices conducted in audit during 2004-05 revealed under assessment of tax, non/short levy of penalty/interest, irregular exemption of tax etc. amounting to Rs.152.48 crore in 1,150 cases, which broadly fall under the following categories :

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of penalty/interest	646	48.65
2	Irregular exemption	128	4.20
3	Non levy of additional tax/entry tax	44	0.53
4	Incorrect rate of tax	176	2.53
5	Misclassification of goods	15	0.06
6	Turnover escaping tax	23	0.07
7	Irregularities relating to Central Sales Tax	11	0.36
8	Computation mistake	19	1.12
9	Review on "Assessment and Collection of Trade Tax"	1	72.21
10	Other irregularities	87	22.75
	<b>Total</b>	<b>1,150</b>	<b>152.48</b>

During the year 2004-05, the departments accepted underassessment etc. of Rs.1.01 crore involved in eight cases out of which a sum of Rs.4.95 lakh involved in four cases had been recovered.

A few illustrative cases and one review on "Assessment and Collection of Trade Tax" involving Rs.85.02 crore, are mentioned in succeeding paragraphs:

### 2.2 Review on assessment and collection of trade tax

#### Highlights

- Non/short levy of tax amounting to Rs.5.11 crore in case of 32 dealers in 19 trade tax offices.

(Para 2.2.8)

- Non levy of entry tax amounting to Rs.2.51 crore in case of 14 dealers in 10 trade tax offices.

(Para 2.2.8)

- Penalty amounting to Rs.4.92 crore in the cases of 33 dealers in 32 trade tax offices was not levied.

(Para 2.2.8)

- Loss of revenue due to incorrect grant of eligibility/recognition certificate to new industrial units resulted in incorrect allowance of exemption or reduction from tax of Rs.57.86 crore.

(Para 2.2.9)

- Irregular exemption amounting to Rs.1.67 crore to four dealers in three trade tax offices.

(Para 2.2.10)

### **Introduction**

2.2.1 The registration of dealers, levy, assessment and collection of tax are governed by Uttar Pradesh Trade Tax Act 1948 (UPTT Act) and Central Sales Tax Act, 1956 (CST Act), the Rules framed thereunder and administrative instructions issued from time to time by the Department. Registered dealers having an aggregate turnover of more than Rs.10 lakh and those having less than Rs.10 lakh are required to submit monthly/quarterly returns respectively to the assessing authorities. On receipt of the returns from the dealers, the Department is to ensure prompt completion of assessments in accordance with the provisions of law and executive instructions issued from time to time. Final assessment of the dealer is required to be completed before the expiry of two years from the end of the relevant assessment year, otherwise the assessment would become time barred. After assessment, a demand notice is served on the dealer to pay the balance tax, if any, within 30 days from the receipt of notice. For delayed payment of tax, simple interest at the rate of two *per cent* per month is payable by the dealer. Penalty is also leviable for violation of the provisions of the Act. Thus, tax, interest and penalty, which remain unpaid, constitute arrears in trade tax and are recoverable as arrears of land revenue.

### **Organisational set up**

2.2.2 Overall control, direction and superintendence of Trade Tax Department vests with the Commissioner Trade Tax (CTT) with headquarters at Lucknow. There are 14 zones, each under the charge of an Additional Commissioner, Trade Tax (ACTT) in the state. The zones have been divided into 36 ranges each headed by Joint Commissioner (Executive) [JC(E)]. The range is further divided into circles and sectors each under the charge of departmental assessing authorities i.e. Deputy Commissioner (Assessment) [DC (A)] and Assistant Commissioner (AC).

For effective control over leakage of revenue, 14 zonal Joint Commissioners, Special Investigation Branch, [JC (SIB)], are posted all over the state. They are to conduct raids and submit their reports to assessing authorities in case adverse facts are noticed. The responsibility of collection of tax dues rests with Joint Commissioner (Collection), [JC (C)] at the headquarters, while in the field there are 16 Dy. Commissioners (Tax Recovery Officer) [DC (TRO)].

### **Scope of Audit**

2.2.3 Test check of records of assessing authorities of 15 out of 36 ranges alongwith the concerned DC (TRO) and Assistant Commissioner, Sahayata Kendras (check posts/mobile squads) for the period from 1998-99 to 2002-03 assessed between 2000-01 and 2004-05 was conducted between July 2004 and March 2005.

Audit findings, as a result of review on "Assessment and Collection of Trade Tax" were reported to the State Government in June 2005 with a specific request for attending the meeting of Audit Review Committee for State Receipts (ARC SR) so that view points of the Government/Department was taken into account before finalising the review. The meeting of ARC (SR) was held on 1 August 2005 with Special Secretary (Finance/Kar Evam Nibandhan)



and the representatives of Trade Tax Department. The views expressed by the members have been taken into consideration during finalisation of the review.

### Audit objectives

2.2.4 The review was conducted with a view to :

- ascertain as to what extent the Acts, Rules and departmental instructions are adhered to;
- evaluate the efficiency of the departmental machinery in assessment of cases and collection of revenue and
- assess the internal control mechanism for correct levy of taxes, timely assessment, collection and invoking of penal provisions in case of default.

### Audit findings

2.2.5 In order to assess the effectiveness of internal control mechanism in Trade Tax Department, factors like registration of dealers, monitoring of returns, assessment and recovery etc., were examined in audit. The audit findings of the above are discussed below :

### Trend of revenue

2.2.6 The break up of actual receipt vis-a-vis the budget estimate of the Department during the years 1999-2000 to 2003-04 are given below:

Years	Budget estimates	Actual receipts	Variation	Percentage of variation
1999-00	4,320.00	3,703.59	(-) 616.41	(-) 14.27
2000-01	4,900.00	5,436.52	(+) 536.52	(+) 10.95
2001-02	5,571.32	5,052.40	(-) 518.92	(-) 9.31
2002-03	5,493.70	6,850.93	(+) 1,357.23	(+) 24.71
2003-04	8,138.49	7,684.13	(-) 454.36	(-) 5.58

### Registration

2.2.7 The UPTT Act read with Rules made thereunder provides that every dealer whose annual turnover is more than Rs.1 lakh in the case of a manufacturer and Rs.1.50 lakh in the case of others, is required to apply for registration in a prescribed form within 30 days of the date on which dealer becomes liable to registration.

Under the UPTT Act, if an officer, authorised to seize the goods, is satisfied that the value of goods was omitted from being shown in the accounts, registers and other documents, he shall pass an order imposing a penalty not exceeding 40 *per cent* of the value of such goods and release such goods after realisation of penalty. But there is no provision to get such unregistered dealers registered.

Test check of records of seven trade tax offices<sup>1</sup> revealed that in the case of 243 unregistered dealers goods valued at Rs.7.79 crore (ranging from Rs.1.5 lakh to Rs.58.31 lakh per consignment) were seized by authorities of

<sup>1</sup> AC (MS) Etah, AC (SK) TP Nagar Ghaziabad, AC (MS)-II Ghaziabad, AC (MS)-III Ghaziabad, AC (MS) Hapur, AC (MS)-I Noida and AC (MS)-II Noida.

Mobile Squads (MS)/Sahayata Kendra (SK) during the years from 2001-02 to 2003-04 and penalty of Rs.3.11 crore was levied and realised from them. But no efforts were made to get them registered.

It indicates that there is no internal control mechanism to get the unregistered dealers registered due to which the Department was being deprived of revenue.

### **Assessment**

2.2.8 The UPTT Act provides that no assessment or reassessment for any assessment year shall be made after expiry of two years from the end of such year. Thus efficient assessment procedures have a vital bearing on the revenue of the state.

As per instructions of CTT issued on 12 December 1978 and 29 November 1985, the assessing authority while finalizing the assessment is required to ensure that the declared turnover of the dealer is according to the turnover shown in his books and with reference to survey/SIB report, if any. He is also to check whether the claim for exemption from tax is correct and the rate of tax imposed is at the rates prescribed.

In spite of these instructions/guidelines, the assessing authorities failed to follow such instructions/orders which resulted in loss of revenue as discussed below :

#### **Non/short levy of taxes**

Under the Act, tax on goods at different rates is leviable in accordance with the schedule of rates notified by the Government from time to time. The goods not classified are taxable at the rate of 10 *per cent*.

⊙ During audit of 19 trade tax offices, it was noticed that the assessing authorities while finalising the assessments of 19 dealers for the years from 1994-95 to 2001-02 during the period between December 2000 and March 2004 either failed to levy tax at correct rates or did not levy tax on the sale turnover of such goods. This resulted in non/short levy of tax amounting to Rs.2.88 crore as shown in Appendix-I.

After this was pointed out in audit, the Department levied tax of Rs.8.50 lakh in seven cases between December 2003 and September 2004; replies in remaining cases were awaited (August 2005).

The matter was reported to the Government between May 2002 and July 2004; their replies have not been received (August 2005).

⊙ During audit of 13 trade tax offices, it was noticed between April 2003 to November 2004 that tax was levied on 13 dealers during the period from July 2001 to March 2004 at incorrect rates due to misclassification of goods. This resulted in short levy of tax amounting to Rs.2.23 crore as shown in Appendix-II.

After this was pointed out by audit between April 2003 and February 2004, the Department revised the assessment in three cases between March 2004 and October 2004 and raised demand of Rs.2.95 lakh. Replies in other cases were awaited (August 2005).

The matter was reported to the Government between December 2003 and July 2004; their replies have not been received (August 2005).

**Non levy of Entry tax**

Under the UP Tax on Entry of Goods Act, 2001 (which came into effect from 1 November 1999), entry tax on purchase of machinery and their spares valued at Rs.10 lakh and above is leviable at the rate of two *per cent* with effect from 1 November 1999 and paper at the rate of four *per cent* of value of goods with effect from 1 November 2001.

During the course of audit of records of 10 trade tax offices, it was noticed, that in 14 cases the Department failed to levy entry tax amounting to Rs.2.51 crore on the purchase of machinery and their spares, sugar and paper valued at Rs.124.88 crore during the period 1999-2000 to 2001-02 as detailed below:

(Rupees in crore)

Sl. No.	Name of the Unit	No of dealers	Assessment year ----- Month of assessment	Name of Commodity	Value of Commodity	Rate of entry tax leviable (in <i>per cent</i> )	Entry tax
1.	D.C. (A)-III Varanasi	1	1999-2000 & 2000-01 ----- February 2002 and 2003	Machinery & their spares	97.94	2	1.96
2.	D.C.(A)-XI Lucknow	1	1999-2000 & 2000-01 ----- January 2003	-do-	2.35	2	0.05
3.	A.C.(A)-IX Lucknow	4	1999-2000 & 2000-01 ----- October 2001 & January 2003	-do-	11.29	2	0.23
4.	D.C. (A)-IV Noida	1	2000-01 & 2001-02 ----- January 2003 & December 2003	-do-	2.69	2	0.05
		1	2001-02 ----- December 2003	-do-	0.38	2	0.01
5.	D.C. (A)-V Varanasi	1	2000-01 ----- December 2002	-do-	0.95	2	0.02
6.	DC (A)-II Jhansi	1	2001-02 ----- July 2003	-do-	0.35	2	0.01
7.	DC (A) Rae Bareilly	1	2000-01 ----- January 2003	-do-	1.66	2	0.03
8.	TTO, Sect.1 Unnao	1	1999-2000 ----- March 2002	-do-	0.44	2	0.01
9.	DC (A) Badaun	1	2000-01 & 2001-02 ----- March 2002 & March 2003	Sugar	6.45	2	0.13
10.	A.C.(A)-III Lucknow	1	2001-02 ----- April 2003	Paper	0.38	4	0.01
	<b>TOTAL</b>	<b>14</b>			<b>124.88</b>		<b>2.51</b>

After this was pointed out in audit, the Department stated that entry tax amounting to Rs.0.88 lakh was levied in one case in July 2003, replies in the remaining cases were awaited (August 2005).

**Evasion of tax by suppressing taxable turnover**

Under the Act, turnover means the aggregate amount for which goods are supplied or distributed by way of sale or sold, by a dealer including profit and other expenses incurred before sale of goods, either directly or through another on his account or on account of others, whether for cash or deferred payment or other valuable consideration.

During the course of audit of two trade tax offices<sup>1</sup>, it was noticed that two dealers, assessed between February 2001 and October 2003, sold their goods at lesser rates as compared to the price at which these were purchased and suppressed their taxable turnover amounting to Rs 6.82 crore, during the period from 1998-99 to 2001-02. This undervaluation/suppression of sale turnover resulted in evasion of tax amounting to Rs.15 lakh.

#### Non levy of penalty

Under UPTT Act, if the assessing authority is satisfied that a dealer has concealed his turnover or has deliberately furnished incorrect particulars of his turnover, or has issued or furnished false certificates or declaration by reason of which a tax on purchase or sale ceases to be levied, he may direct such dealer to pay by way of penalty, in addition to tax, a sum not less than 50 *per cent* but not exceeding 200 *per cent* of the amount of tax which would thereby have been avoided.

The main function of the SIB is to raid, search and seize the accounts books of the dealers to prevent evasion of tax. In case of adverse facts noticed, a report is prepared and sent to assessing authority for necessary action. On receipt of the reports from SIB, the assessing authority is required to take action for levy of tax, penalty and interest etc. as per provisions laid down in circular dated 7 December 2000.

During audit of 11 trade tax offices<sup>2</sup>, it was noticed that 12 dealers concealed their sales turnover of Rs.62.84 crore during 1984-85, 1996-97, 1998-99 to 2002-03 assessed between November 2000 and December 2003 on which the Department levied tax of Rs.7.84 crore, but failed to levy penalty of Rs.3.92 crore. This resulted in loss of revenue of Rs.3.92 crore.

After this was pointed out in audit, the Department imposed penalty amounting to Rs.10.66 lakh in two cases between September 2001 and May 2004. Replies in other cases were awaited (August 2005).

○ UPTT Act provides for special relief in tax to manufacturer on purchase of raw material, machinery, plant and equipment required for use in the manufacture of notified goods subject to fulfillment of certain conditions on submission of Form III-B. In cases, where such goods are used for a purpose other than that for which the recognition certificate is granted or have been disposed of otherwise, the dealer shall be liable to pay by way of penalty a sum not less than the amount of relief in tax secured by him but shall not exceed three times of such relief.

During audit of five trade tax offices<sup>3</sup>, it was noticed between July 2003 and June 2004 that five dealers holding recognition certificates for manufacture of goods, purchased raw material valued at Rs.1.83 crore at concessional rate of tax against Form III-B during 1999-2000 and 2000-01. Raw materials were not used in the manufacture of such goods for which the recognition certificates were granted. The dealers were, therefore, liable to pay minimum

<sup>1</sup> DC (A)-VII Kanpur and DC (A)-XI Lucknow

<sup>2</sup> AC Sect.I Azamgarh, DC(A)-II Gorakhpur, DC(A)-V & XIII Kanpur, TTO Mugalsarai, DC(A)-II & IV Muzaffarnagar, DC(A) Pilibhit, AC-Sect.II Sitapur, AC Sect.I Sant Kabir Nagar & DC(A)-I Varanasi.

<sup>3</sup> AC Sect. X Agra, AC Sect. II Sitapur, DC (A) Sikandarabad, DC(A)-III & VI Varanasi.

penalty of Rs.6.47 lakh equal to the relief of tax availed of by them but it was not imposed by the Department.

After this was pointed out in audit, the Department levied penalty of Rs.1.50 lakh in September 2004 in one case. Replies in other cases were awaited (August 2005).

The matter was reported to the Government (between March 2004 and August 2004); their reply has not been received (August 2005).

- Under UPTT Act, every person responsible for making payment to any contractor for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of works contract, shall at the time of making such payments deduct an amount equal to four *per cent* and deposit the same in Government treasury before the expiry of the following month. In the event of default, the assessing authority may direct that such dealer shall pay by way of penalty, a sum not exceeding twice the amount deductible but not so deducted.

During the audit of six trade tax offices<sup>1</sup>, it was noticed between November 2002 and November 2004 that seven dealers assessed between March 2002 and March 2004, deducted tax at source valued at Rs.43.14 lakh from contractors during the years from 1999-2000 to 2001-02 and deposited the tax in treasury belatedly. Thus penalty of Rs.86.28 lakh was leviable but was not levied.

After this was pointed out in audit, the Department raised the demand of Rs.9.19 lakh in one case in September 2004, replies in other cases were awaited (August 2005).

The matter was reported to the Government (between September 2004 and February 2005); their reply has not been received (August 2005).

- Under the UPTT Act if a dealer, without reasonable cause fails to deposit the tax due before furnishing the return or along with the return, he would be liable to pay, by way of penalty in addition to the tax payable by him a sum, which shall not be less than 10 *per cent* but not exceeding 25 *per cent* of the tax due if the tax is upto Rs.10,000 and 50 *per cent* if the tax is due above Rs.10,000.

It was observed in audit of nine trade tax offices<sup>2</sup>, that during May 2002 and May 2004, nine dealers liable to pay the tax due amounting to Rs.83.46 lakh either deposited the tax late or failed to deposit the tax at all. The delay ranged from one day to 52 months for which the dealers were liable to pay minimum penalty of Rs.8.34 lakh, which was not levied.

After this was pointed out in audit, the Department imposed between December 2002 and March 2004 a penalty of Rs.1.63 lakh in two cases; replies in other cases were awaited.

The cases were reported to the Government in December 2002 and May 2004; their reply has not been received (August 2005).

<sup>1</sup> AC Sect. III Bhadohi, AC Sect. I Etawah, DC (A)-VI Ghaziabad, AC Sect. II Lucknow, AC Sect. VI Meerut & AC Sect. I Saharanpur.

<sup>2</sup> TTO Sect.I Ferozabad, DC (A)-II Gorakhpur, DC (A) Gonda, DC(A)-XVIII Kanpur, TTO Khatauli, DC (A)-IV Lucknow, AC Maunathbhanjan, AC Najibabad & DC (A)-I Noida.

**Loss of revenue due to incorrect grant of eligibility/recognition certificates**

**2.2.9 Eligibility Certificate**

Under the UPTT Act, read with CST Act, the State Government notified a scheme to grant exemption from or reduction in rate of tax to new industrial units and the existing units undertaking expansion or modernisation and diversification on or after April 1995. To avail the facility of exemption or reduction of tax, the applicant is required to file an application in prescribed form before the district/zonal/state level committees. Though the Industries Department is the authority to issue EC it does so on the recommendation of the Trade Tax Department. The committee also has a representative of Trade Tax Department. Trade Tax Department issued instructions on 18 March 1986 prescribing certain checks to be exercised while recommending the case for issue of EC so that only eligible units may be allowed the benefit. Further, if the Commissioner is of the opinion that new unit to which the EC has been granted is not entitled to the facility, he may, by an order in writing cancel or amend the EC from a date specified in the order and such date may be prior to the date of such order.

During the course of audit of trade tax offices<sup>1</sup>, it was noticed that 13 units which were not eligible for EC, were issued EC. This resulted in loss of revenue amounting to Rs.57.86 crore to the Department. The cases are discussed below :

- Under the provisions of the UPTT Act read with Government instructions issued on 31 March 1995, exemption or reduction in rate of tax is to be allowed to such existing units which had undertaken diversification of goods of a nature different from those manufactured by the units earlier.

During the test check of trade tax offices, it was noticed that three units were granted EC for diversification of industries to manufacture such goods which were similar and identical to those goods, which were already being manufactured by these units. Thus, grant of EC for diversification in violation of existing provisions of the Act/notification resulted in grant of excess exemption of Rs.40.37 crore out of which the units have availed exemption of Rs.23.03 crore as detailed below :

(Rupees in crore)

Sl. No.	Name of Circle	Period of Exemption	Name of goods manufactured previously by the unit	Name of goods manufacturing under diversification	Amount of exemption allowed through EC	Tax exemption availed
1.	D.C.(A) Gautam Buddha Nagar	September 1995 to September 2005	Automobile two wheeler	Three gear single speed mini motor cycle	16.46	15.72
		January 1996 to January 2006	-do-	Scooter & their parts	18.31	4.40
2.	D.C. (A)-IX Noida	March 1995 to March 2003	Switch fuse units and air circuit breakers and bus duct (electrical items)	H.R.C Fuse <sup>2</sup> (electrical goods)	1.28	0.29
		September 1995 to June 2003	-do-	Electrical switch gears generator parts (electrical goods)	2.83	2.35
3.	DC (A)-IA Ghaziabad	March 1998 to March 2006	Paracetamol tablets (medicine)	Paracetamol IP tablets (medicine)	1.49	0.27
<b>TOTAL</b>					<b>40.37</b>	<b>23.03</b>

<sup>1</sup> DC (A)-XII Agra, DC(A) Gautambuddhanagar, DC(A)-II & XI Ghaziabad, DC(A)-I Kanpur, DC (A)-II Lucknow, DC(A)-IX Noida & DC(A)-V Varanasi.

<sup>2</sup> High Rapture Capacity

- It has been judicially<sup>1</sup> held that a unit engaged in the manufacture of tax free goods is not entitled to exemption of tax on the sale of byproducts/waste products.

During the course of audit of DC (A)-V at Varanasi it was noticed that a unit engaged in manufacture of sugar (tax free) was granted eligibility certificate on 20 December 2002 for 15 years allowing exemption of tax of Rs.75.36 crore of molasses, bagasse and press mud which are byproducts of sugar. This resulted in incorrect grant of exemption of tax of Rs.75.36 crore out of which the dealer has availed tax exemption of Rs.1.25 crore.

- As per the Government notification issued on 14 June 1996, industries engaged in manufacturing coal including coke in all forms and charcoal were not entitled to the facility of exemption from or reduction in the rate of tax.

During the course of audit of DC (A)-V at Varanasi, it was noticed that two units engaged in manufacturing of hard coke low ash and slow smoke fuel coke were granted EC on 27 April 1998 and 16 January 2001 allowing exemption of tax of Rs.2.16 crore on sale of goods. The units started production on 27 November 1993 and 3 January 1997. The units were not entitled for exemption of tax of Rs.2.16 crore out of which tax exemption of Rs.1.47 crore was availed by the dealer.

- Under the provisions of Act, exemption or reduction in rate of tax is to be allowed to such units which are not defaulters in making payment of any dues under the Act or the CST Act or under any loan scheme administered by Pradeshiya Industrial and Investment Corporation of Uttar Pradesh (PICUP) regarding trade tax on sale or purchases of goods and have undertaken expansion or diversification. As per instructions issued by CTT in July 2000, in case of stay of any dues by court, the dealer would be treated as defaulter in payment of tax.

During the course of audit of five trade tax offices<sup>2</sup>, it was noticed that six dealers were granted EC for expansion and diversification to avail exemption of tax of Rs.69.20 crore though they were defaulters in paying their dues. This resulted in incorrect grant of exemption of tax of Rs.69.20 crore out of which the dealers have availed tax exemption of Rs.7.63 crore.

- Government vide notification dated 21 February 1997, introduced a scheme providing exemption from or reduction in tax to new units intending to invest fixed capital of Rs.50 crore and above for establishing new units or undertaking expansion, diversification, modernisation or backward integration from 1 December 1994 with certain conditions specified therein. The facility was, however, not admissible simultaneously to such units which were already enjoying such benefit of exemptions under any other notification issued under the Act for these purposes.

During the audit of DC (A)-IV, Noida, it was noticed that a unit engaged in manufacture of colour television was granted EC in November 1998 for exemption/reduction of tax of Rs.31.73 crore for eight years from June 1997 to June 2005 under the scheme of 1995 on fixed capital investment of Rs.31.73 crore. The unit was again granted EC for exemption/reduction of tax of Rs.76.58 crore for 15 years during the year 2001-02 on total fixed capital investment of Rs.51.05 crore under the scheme notified on 21 February 1997.

<sup>1</sup> Kisan Sahkari Chini Mill Ltd. Nainital V/s State of U.P.(STI-1989 Page -294-Allid.H.C.)

<sup>2</sup> DC(A)-X Kanpur, DC(A)-II Lucknow, DC(A)-II Ghaziabad, DC(A)-XI Ghaziabad & DC(A)-XII Agra

Further, due to additional capital investment of Rs.7.84 crore during the years 1999-2000 to 2001-02, the EC for exemption from tax of Rs.85.82 crore under new scheme was granted in August 1999. As the unit was already availing the benefit of exemption/reduction of tax under the scheme notified on 31 March 1995, the issuance of the EC under notification dated 21 February 1997 was irregular. This resulted in incorrect allowance of exemption of tax amounting to Rs.54.09 crore out of which the dealer has availed exemption of Rs.21.40 crore.

⊙ Under the provisions of the UPTT Act read with Government notification issued on 31 March, exemption or reduction in rate of tax was to be allowed to such units which had undertaken diversification of goods of a nature different from those manufactured by the unit earlier. CTT, UP also clarified vide circular dated 13 August 2001 that black and white TV and colour TV were goods of a similar nature, as such the exemption/reduction of tax was not admissible.

During audit of Assistant Commissioner (Assessment)-II Trade Tax, Ghaziabad, it was noticed in August 2002 that a dealer holding EC for exemption/reduction of tax for the period from 8 May 1997 to 7 May 2005 to manufacture black and white TV under notification dated 31 March 1995, was again granted eligibility certificate to avail exemption/reduction of tax for the period from 17 January 1999 to 16 January 2007 under diversification to manufacture colour TV. Since colour TV is similar in nature to black and white TV, the grant of EC under diversification was irregular. The dealer sold colour TVs valued Rs.25.76 crore during 1999-2000 to 2001-02 on which tax amounting to Rs.3.08 crore was exempted. This resulted in loss of tax of Rs.3.08 crore.

The cases were reported to the Government and Department in May 2003; their replies have not been received (August 2005).

#### **Irregular allowance of exemption**

2.2.10 Section 4 A of the UPTT Act provides exemption/reduction of tax to new industrial units holding EC on sale of specified goods shown therein subject to fulfillment of certain conditions. If a dealer sells goods other than those specified in EC or violates the condition no exemption/reduction in the rate of tax is admissible. As per the terms and conditions of the EC issued under different schemes granting exemption/reduction of tax, a unit is entitled to exemption/reduction of tax only in respect of manufacturing/sale of such goods which are specified in the EC.

CTT issued instructions on 12 December 1978 and 29 November 1985 to the assessing authorities to carefully examine the claim of dealer for exemption from tax while finalising assessments.

Test check of records of DC(A)-V Kanpur revealed that a dealer was granted EC for manufacturing ghee and butter on 16 March 2000. While finalising the assessments for the year from 1998-99 to 2000-01 in March 2002 and May 2004, besides ghee and butter, the assessing authority also allowed exemption of tax of Rs.66 lakh on the sale of skimmed milk powder valued at Rs.10.63 crore which was not included in the EC. This resulted in irregular grant of exemption of Rs.66 lakh.



• Test check of records of DC(A)-V Ghaziabad, revealed that a dealer was granted EC for manufacturing PET<sup>1</sup> bottles and pet pre form<sup>2</sup> to be used in filling beverages and other liquid materials manufactured by him. While finalising the assessment for the year 2000-01 during March 2003 the assessing authority exempted the sale turnover of Rs.5.32 crore of above PET bottles and pet pre form though the dealer was not entitled for the same. This resulted in irregular grant of exemption of Rs 20.70 lakh.

The matter was reported to the Department and Government (June 2004); their replies have not been received (August 2005).

• Under the CST Act read with Rules made thereunder, where a dealer claims that he is not liable to pay tax under this Act, in respect of any goods on the ground that movement of such goods from one state to another was occasioned by reason of transfer of such goods by him to any other place of his business or his agent or principal as the case may be and not by reason of sale; the burden of proving that the movement of those goods was so occasioned shall be on the dealer and for this purpose he may furnish to the assessing authority a declaration in form 'F' duly filled and signed by the consignee for availing exemption from tax.

The Act also provides that if a dealer issues or furnishes a false certificate or declaration by reason of which a tax on sale or purchase ceases to be leviable under this act, he may be liable to pay penalty for a sum not less than 50 *per cent* but not exceeding 200 *per cent* of amount of tax.

During the course of audit of DC (A)-VII Kanpur, it was noticed that a dealer claimed exemption of tax on branch transfer of vanaspati and refined oil valued at Rs.11.71 crore during the years 1997-98 and 1998-99 against forms 'F'. The assessing authority while making assessment in February 1999 and June 2000 allowed exemption of tax of Rs.47 lakh to the dealer. On cross verification by SIB in September 2001, these 'F' forms were found to be fake and the dealers to whom the goods were transferred were not in existence. The Department did not take any action to reassess the cases. This resulted in incorrect exemption of tax of Rs.47 lakh besides non imposition of minimum penalty of Rs.23.50 lakh.

• Under the provision of CST Act, inter State sale or purchase of goods affected by transfer of documents of title to the goods during their movement from one State to another against form E1/C, is exempted from payment of tax. The exemption is not admissible if there exists any purchase order prior to date of transfer of title of goods.

During the course of audit of AC Sector-V Kanpur it was noticed that a dealer sold goods valued at Rs.93 lakh against form E1/C in 2001-02 and was allowed exemption from tax of Rs.9 lakh. Scrutiny of these forms revealed that the goods were sold with purchase orders issued by purchasers prior to transfer of title of goods. Hence the exemption from tax of Rs.9 lakh allowed to the dealer was irregular.

• CTT issued instructions in 1978 that the purchases of big amount are required to be verified from the assessing authority in whose area the selling dealer is situated.

<sup>1</sup>PET: Poly Ethelene Teraphthalate

<sup>2</sup> Pet pre form:- The processing material of PET bottle.

In five trade tax offices<sup>1</sup>, it was noticed that in case of 27 dealers (more than Rs.25 lakh in each case), the sale turnover of Rs.488.54 crore was exempted from levy of tax during the period from 2002-03 to 2003-04 being tax paid goods purchased within UP. The assessing officers did not send verification memos to the respective assessing officers for verification under whose jurisdiction the seller dealers were doing business in disregard of the CTT instruction.

It indicates that there exists no internal control mechanism for the submission of sale list by the dealers and to check whether existing instructions were followed strictly.

### Monitoring of recovery

2.2.11 After the assessment, the dealer is issued a notice to deposit the balance amount assessed within a period of 30 days of receipt of the notice. If the dealer fails to deposit the tax or any amount payable by him under the provisions of the Act within the period specified in the notice issued by the assessing authority, recovery certificate is issued authorising the DC (TRO) to recover the amount as arrears of land revenue.

### Analysis of arrears and collection of revenue

2.2.12 The arrears of revenue and its recovery alongwith irrecoverable arrears likely to be written off for the year ending 31 March 1999 to 31 March 2003 are given below:

(Rupees in crores)

As on 31 <sup>st</sup> March	Amount of arrears	Arrears recovered during the year		Irrecoverable arrears likely to be written off	
		Amount	Percentage of Col. 3 to 2	Amount	Percentage of Col.5 to 2
1	2	3	4	5	6
1999	10,809.33	190.51	1.76	314.97	2.91
2000	9,415.87	168.58	1.79	389.99	4.14
2001	7,896.88	167.28	2.11	441.29	5.59
2002	8,406.44	190.80	2.27	503.97	5.99
2003	9,121.12	239.73	2.62	633.46	6.94

### Institution of certificate proceedings

2.2.13 Tax, interest and penalty, which remain unpaid, constitute arrears in trade tax and are recoverable as arrears of land revenue.

The position of arrears of revenue and certified arrears of three zones during the period from 1998-99 to 2002-03 is as under :

(Rupees in crore)

Zone	As on	Total arrears	Certified cases	Percentage of certified cases to total revenue
Kanpur	31.03.1999	435.57	97.34	22.35
	31.03.2000	537.23	133.64	24.87
	31.03.2001	622.18	149.45	24.02
	31.03.2002	674.85	176.64	26.17
	31.03.2003	554.88	190.52	34.34
Agra	31.03.1999	846.75	391.64	46.25
	31.03.2000	735.68	561.61	76.64
	31.03.2001	729.39	600.96	82.39
	31.03.2002	624.94	361.63	57.87
	31.03.2003	370.36	191.71	51.76
Lucknow	31.03.1999	1,005.60	141.11	14.03
	31.03.2000	917.71	83.50	9.09
	31.03.2001	669.29	56.42	8.43
	31.03.2002	654.14	156.28	23.89
	31.03.2003	639.16	138.88	21.73

<sup>1</sup> AC-II & AC-V Ghaziabad, AC-I Hapur, AC-XIII Kanpur & AC- IX Lucknow.

Test check of records of above zones revealed that:

- details/records of revenue arrears more than five years old have not been maintained by any zone,
- percentage of certified revenue to total revenue arrears in respect of Kanpur and Lucknow zones is very much on lower side than Agra zone during the above period.

Though the position of arrears is reviewed by higher authorities through monthly/quarterly/annual returns, the overall arrears increased steadily from Rs.435.57 crore (1998-99) to Rs.674.85 crore (2001-02) in Kanpur zone.

### **Inordinate delay in implementation of Hon'ble Court's judgement**

**2.2.14** CTT issued a circular in January 2005 to all assessing authorities to levy tax on turnover of meter rent received from the consumers by Electricity Department in exercise of power under Transfer of Right to use Goods (TRUG) on the basis of judicial pronouncement<sup>1</sup> of Honourable Supreme Court in May 2000 and withdraw its previous circular issued in February 1996 regarding not to levy tax on such turnover with immediate effect.

During audit it was noticed that assessing authorities could not levy tax of Rs.11.48 crore on turnover of meter rent of Rs.229.54 crore from May 2000 to 2002-03 (upto the period of assessment) due to belated circulation of Supreme Court judgement. It is evident from the above that no proper mechanism for monitoring court judgement is in place at the commissioner level.

In reply it was stated that in February 2003 against the judicial pronouncement of Hon'ble Supreme Court of India, in case of Bharat Sanchar Nigam Limited, the Department referred the case to the Government in January 2004 for levy of tax on meter rent which was decided by Government in December 2004. Reply is not tenable as non initiation of effective measure to implement Court judgement resulted in avoidable delays and consequent non levy of tax.

### **Conclusion**

**2.2.15** Despite existence of provisions of UPTT Act and CST Act and Rules made thereunder to levy assessment and collection of trade tax, the Department failed to take effective and meaningful action in implementation of such provisions/rules. Non registration of dealers, incorrect assessment, incorrect grant of EC and RC and non follow up of prescribed procedure led to loss of revenue amounting to Rs.72.21 crore to the Department.

### **Recommendation**

**2.2.16** Government may consider taking following steps to enhance the effectiveness in levy, assessment and collection of revenue :-

- cases involving arrears of revenue may be reviewed periodically to avoid their becoming old and leading to defaulters becoming untraceable and
- develop a strong internal control mechanism to check the deficiencies and lapses in the implementation of the various provisions of Acts, Rules and instructions issues by the Government/Department.

<sup>1</sup> STI 2000 Supreme Court: 20<sup>th</sup> Century Finance Corporation Ltd. & Anr. etc. etc. V/s State of Maharashtra dated 09.05 .2000

The review has been sent to the Department/Government (June 2005); their replies have not been received (August 2005).

### 2.3 Non levy of purchase tax

Under Section 3 AAAA of UPTT Act, every dealer who purchases any taxable goods from any person other than a registered dealer, shall be liable to pay purchase tax at the same rate at which tax is payable on the sale of such goods. During the course of audit of Assistant Commissioner, Sector II, Jaunpur it was observed in July 2003, that three dealers purchased 'unfinished carpets' valued at Rs.1.25 crore from unregistered dealers during 2000-01. The assessing authority while finalising assessments between April 2002 to February 2003 did not levy purchase tax. This resulted in non levy of purchase tax amounting to Rs.15.59 lakh.

After this was pointed out in audit, the Department stated in March 2004 that demand of tax of Rs.15.59 lakh was raised in January 2004. Further progress of the cases was awaited (August 2005).

The matter was reported to the Government in December 2003; reply has not been received (August 2005).

### 2.4 Non levy of tax due to turnover escaping assessment

Under the UPTT Act, turnover means the aggregate amount for which goods are supplied or distributed by way of sale, or sold by a dealer, whether for cash or deferred payment or other valuable consideration under the Act. Further, it is the duty of the assessing authority to ascertain the total turnover of the dealer from the records maintained by him irrespective of the fact that it is taxable or not.

During audit of five trade tax offices, it was noticed between August 2002 to September 2004, that while finalising the assessment of eight dealers for the year 1999-2000 to 2001-02, between November 2001 and March 2004, taxable turnover amounting to Rs.4.15 crore escaped assessment. This resulted in non levy of tax amounting to Rs.46.25 lakh as shown below :

(Rupees in lakh)

Sl. No.	Name of office (No. of dealers)	Assessment year Month of assessment	Escaped turnover	Commodity	Rate of tax (in per cent)	Amount of tax not levied	Remark
1.	DC (A) XI, TT Agra (2)	2000-01 February 2003 and 2001-02 and March 2004	22.10	Indian Made Foreign Liquor	32.5	7.19	Licence fee was not included in turnover
2.	DC(A)II, TT Hapur (3)	1999-2000 March 2002	45.91	-do-	-do-	14.92	- do -
		2000-01 January 2003					
		2000-01 February 2003	119.37	Paper cone and paper scrap	10	11.94	Turnover shown in balance sheet differs from the turnover assessed
3.	DC(A)I, TT Saharanpur (1)	2000-01 February 2003	11.90	Timber	20	2.38	Cutting charges were not included
		2000-01 December 2002	54.08	Tractor and Farmers kit	5	2.70	Insurance charges were not included
4.	DC(A)I, Jhansi (1)	1999-2000 November 2001	96.57	Food grain	4	3.86	Assessed turnover was less than shown in account

Sl. No.	Name of office (No. of dealers)	Assessment year Month of assessment	Escaped turnover	Commodity	Rate of tax (in per cent)	Amount of tax not levied	Remark
5.	DC(A)VI, TT Ghaziabad (1)	1997-98 November 2001	65.20	Burnt Transformer Oil	5	3.26	Turnover shown in balance sheet differ from the turnover assessed
		1998-99 March 2001					
		<b>Total</b>	<b>415.13</b>			<b>46.25</b>	

The matter was reported to the Department and the Government in July 2003 and July 2004; their replies have not been received (August 2005).

## 2.5 Non levy of interest

- Under UPTT Act, every dealer liable to pay tax, is required to submit returns of his turnover at prescribed intervals and to deposit the amount of tax due, on the turnover disclosed in the returns. The tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of two *per cent* per month till the date of deposit.

Test check of the records of 10<sup>1</sup> Asstt. Commissioner (A) / Dy. Commissioner (A) revealed that assessment of 12 dealers for the year 1987-88 to 2002-03 were finalized between March 2001 to November 2003. Scrutiny of the assessment records revealed that the dealers belatedly deposited admitted tax of Rs.4.72 crore and the delay ranged between 11 month and 24 days to 191 months and 25 days on which interest of Rs.5.71 crore was leviable but not levied by assessing authorities.

After this was pointed out, the Department levied interest amounting to Rs.10.91 lakh in three cases between September 2003 and July 2004 out of which Rs.0.54 lakh has been recovered. Further reply was awaited (August 2005).

The cases were reported to the Department and Government between June 2002 and September 2004; reply of the Government in all the cases and of the Department in rest of the cases is awaited (August 2005).

- Under the UPTT Act, every person responsible for making payment to any dealer for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of a works contract should deduct an amount equal to four *per cent* of such sum and deposit the same in Government treasury before the expiry of the following month. If such person fails to deposit the amount so deducted into treasury within the time prescribed, he shall be liable to pay simple interest at the rate of 18 *per cent* per annum on the amount not deposited.

During the audit of trade tax offices, Bhadohi and Lucknow it was noticed between July 2004 and September 2004 that in the case of two dealers, the Executive Engineers deducted the tax at source amounting to Rs.30.56 lakh during the years 1999-2000 and 2000-2001 and deposited it in treasury after the due dates. The delay ranged from 18 days to 36 months. Thus, interest amounting to Rs.8.53 lakh was leviable but was not levied.

The matter was reported to the Department and the Government (September 2004 to December 2004); their replies have not been received (August 2005).

<sup>1</sup> DC(A)-III Kanpur, DC (A) Karvi, DC(A) Sonbhadra, DC(A) Mugalsarai, AC Sect.VI & VII Allahabad, AC Sect.II Kanpur, AC Sect.IX Lucknow, AC Sect. II Bareilly, AC Pokhrayan.

## 2.6 Short levy of CST

Under the CST Act, tax on interstate sale of goods not covered by declaration form 'C' is leviable at the rate of 10 *per cent* or at the rate applicable on sale or purchase of such goods within the State, whichever is higher. In case of sale of goods, which are taxable at a rate lower than four *per cent*, the tax shall be calculated at the lower rate as the case may be.

During audit of two trade tax offices<sup>1</sup> it was noticed in October 2003 and July 2004, that during the year 2000-01 and 2001-02, two dealers assessed between February 2003 and December 2003, made inter State sales of potato chips and body of the bus (mounted on the chassis) respectively valued at Rs.2.80 crore without declaration in Form 'C' and levied tax at the rate of four and 10 *per cent* instead of 12 *per cent*. This resulted in short levy of tax amounting to Rs.9.55 lakh.

The matter was reported to the Department and the Government (between November 2004 to June 2005); their replies have not been received (August 2005).

## 2.7 Non imposition of penalty under CST Act

Under CST Act, if a registered dealer purchases any goods from outside the state at concessional rate of tax on the strength of declaration in form 'C', by falsely representing that such goods are covered by his registration certificate or if goods so purchased are used for a purpose other than specified in registration certificate, the dealer is liable to be prosecuted. However, in lieu of prosecution, if the assessing authority deems fit, he may impose a penalty upto one and a half times of tax payable on sale of such goods.

Audit of assessment records of 27 trade tax offices<sup>2</sup> revealed that 29 dealers assessed between January 2001 to March 2004 for the year 1998-99 to 2002-03, purchased goods valued at Rs.23.24 crore against declaration in form 'C' which were either not covered by their certificates of registration, or were used for purpose other than that for which registration certificate was granted. The dealers were, therefore, liable to pay penalty of Rs.3.99 crore.

After this was pointed out in audit, the Department stated that in six cases penalty amounting to Rs.18 lakh had been imposed between January 2002 to July 2004. The report regarding recovery and replies in the remaining cases had not been received (April 2005).

The matter was reported to the Department and the Government (between September 2001 to October 2004); their replies have not been received (August 2005).

## 2.8 Non levy of composition money

Under the provisions of compounding scheme for vegetable ghee manufacturers for the year 1998-99, composition money was to be calculated at the rate of Rs.600 per MT of the installed capacity. If the manufacturer increases the installed capacity, he has to inform the Department within 30

<sup>1</sup> DC(A)-IV TT Noida, DC (A)-II Meerut

<sup>2</sup> A.C.Sector 4 Agra, A.C. (A) T.T, Amroha, D.C. (A) Gonda, D.C.(A) 18 Kanpur, D.C.(A)5 Meerut, D.C.(A) Mainpuri, D.C. (A)2 NOIDA, D.C. (A) Pilibhit, D.C.(A)4 Saharanpur. DC(A)-1 Ghaziabad, DC(A)-2 Meerut. TTO Mogalsari, DC(A)-I TT Jhansi, DC(A)-I Orai, DC(A) Azamgarh, AC(A) Sector-I Gorakhpur, AC(A) Sector-6 Moradabad, DC(A)-4 Lucknow, TTO Sector-6 Varanasi, AC(A) Mawana, AC Sector-6 Ghaziabad, AC(A) Sector-2 Khurja, DC(A)-9 Noida, DC(A)-5 Noida, AC Sector-10 Agra, DC (A)-IV Noida and DC (A)-VII Kanpur.

days and the composition money would be revised accordingly, which is to be deposited by the dealer within the stipulated period failing which he has to pay simple interest at the rate of two *per cent* per month for the delayed period.

During the audit of trade tax circle of Kanpur, it was observed in September 2004 that a dealer manufacturing vegetable ghee opted for compounding scheme for the period 1998-99 and 1999-2000. The installed capacity for production of vegetable ghee for 1998-99 was 15,000 metric tons, which was enhanced to 24,000 metric tons in 1999-2000. Scrutiny of the assessment revealed that the dealer produced 21,850.79 metric tons during 1998-99 and 33,492.66 metric tons during 1999-2000 of vegetable ghee. He did not inform the assessing authorities about the increase in the production capacity as per the scheme. Though the Department was fully aware of the fact regarding enhanced capacity as shown in the assessment, the assessing authority while assessing the dealer in March 2001 and December 2001 did not levy composition money on enhanced production. This resulted in non levy of composition money amounting to Rs.98.06 lakh on additional production. Besides, interest amounting to Rs.1.26 crore was also leviable.

The matter was reported to the Department and Government in June 2005; their replies have not been received (August 2005).

## **2.9 Irregular benefit of compounding scheme to undivisible electrical contractors**

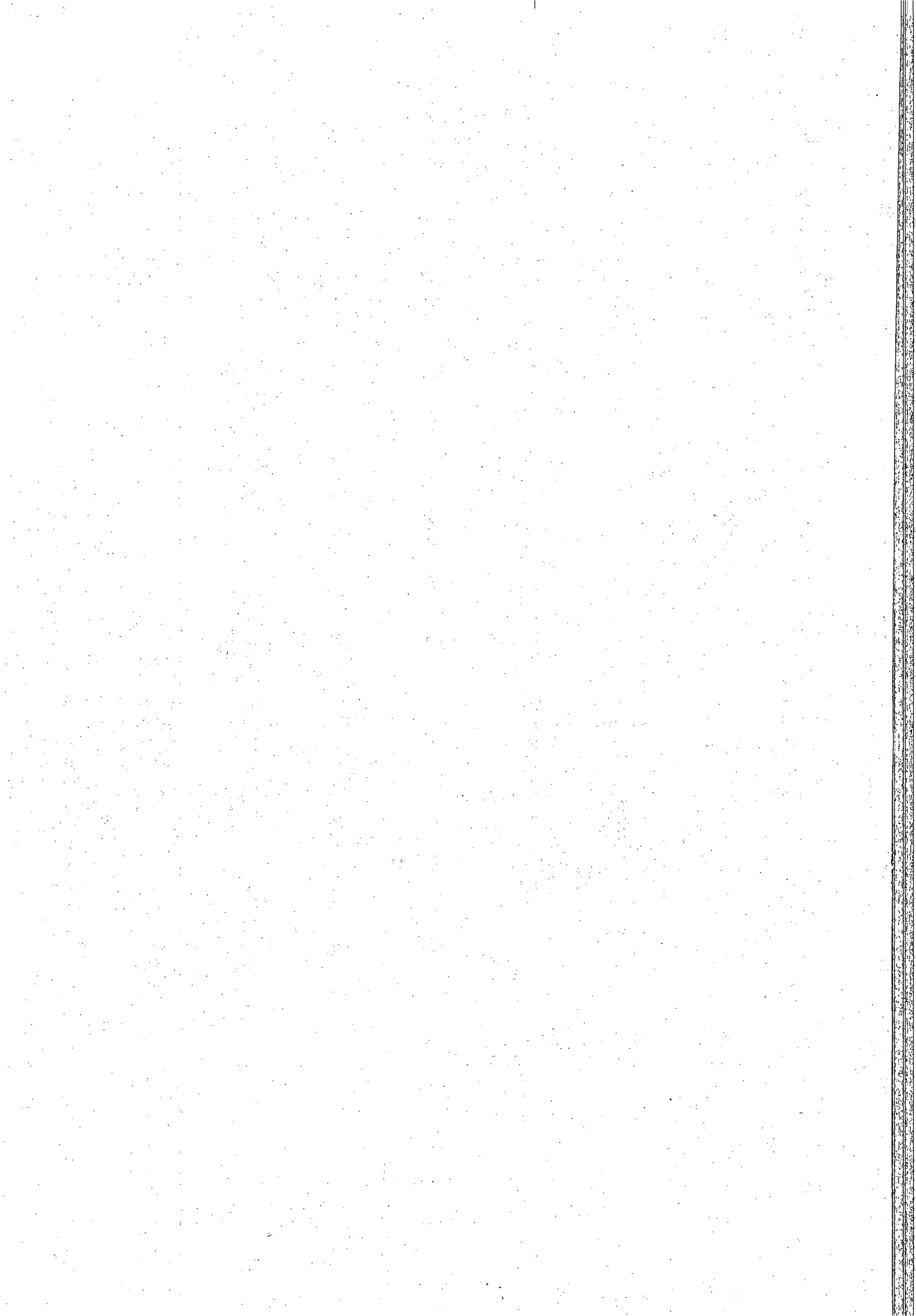
Under the compounding scheme for undivisible electrical contractors, it is provided that the benefit of the scheme will be admissible only to the contracts which are undivisible i.e. for a works contract in which the amount for supply of goods and their works are not specified separately, but are undivisible. It has judicially<sup>1</sup> been held that if the amount for supply of goods and their works are specified separately, the contract will not be undivisible and it would be a complete sale of goods involved in the execution of works contract.

Test check of records of a trade tax circle at Gorakhpur revealed in February 2004, that during 2000-01 in the case of a dealer in respect of two contracts, payment for supply of electrical goods for Rs.86.92 lakh and payment for installation of these goods for Rs.19.50 lakh was received by him on which Department levied composition money of Rs.2.13 lakh in February 2003.

In view of the provisions of scheme and judicial decision the work was not undivisible and the dealer was liable to pay tax of Rs.8.69 lakh on the sale of goods for Rs.86.92 lakh at the rate of ten *per cent* instead of assessing under compounding scheme. This resulted in short levy of tax of Rs.6.56 lakh.

The matter was reported to the Department and Government in June 2005; their replies have not been received (August 2005).

<sup>1</sup> Gannon Duncan and Company V/S State of Rajasthan (1993) 88-STC 204 (S.C.)





## CHAPTER-III - STATE EXCISE DEPARTMENT

### 3.1 Results of audit

Test check of records of State excise offices conducted in audit during the year 2004-05 revealed non/short levy of duties and fees amounting to Rs.48.59 crore in 146 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Non levy of interest	08	1.76
2.	Non realisation of licence fee	31	4.86
3.	Less recovery of alcohol from molasses	23	6.88
4.	Irrational fixation of MGQ	12	11.84
5.	Excess transit / storage wastage	02	0.11
6.	Loss of excise duty due to non lifting of MGQ of country liquor	09	1.51
7.	Other irregularities	61	21.63
	Total	146	48.59

During the year 2004-05 the Department accepted under assessment etc. of Rs.42.64 lakh involved in two cases.

A few illustrative cases involving financial effect of Rs.50.13 lakh are given in the succeeding paragraphs:

### 3.2 Non realisation of difference rate of excise duty

Under the Uttar Pradesh Excise (Settlement of licenses for retail sale of country liquor) Rule, 2002 and notification dated 14 March 2002, entire quantity of country liquor lifted by the licensee during the year shall have to be sold during the validity of his licence and the licensee shall not be permitted to sell it after expiry of the licence. In case the licence is renewed the unsold stock is to be retained by him and he is to pay the difference of excise duty, if any. The rate of excise duty of country liquor was fixed as Rs.79 per bulk litre (BL) for the year 2003-04. Prior to that it was Rs.69 per BL.

Test check of records of district excise officer (DEO), Jyotiba Phule Nagar revealed in May 2003 that licensees who were required to return the balance stock of 1,65,255.55 BL of country liquor for the year 2002-03 did not return it to the wholesalers after the expiry of their licences. As such they were liable to pay difference of excise duty for the year 2003-04 at the rate of Rs.10 per BL. This resulted in non realisation of excise duty amounting to Rs.16.53 lakh.

The matter was reported to the Department and Government in May 2003; their replies have not been received (August 2005).

### 3.3 Non levy of interest on belated payment of excise revenue

Under the provision of the Uttar Pradesh State Excise Act, 1910, where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent annum is recoverable from the date such excise revenue becomes payable.

Test check of records of DEO, Aligarh for the period April 2003 to November 2004 revealed in November 2004 that excise revenue of Rs.14.91 lakh pertaining to the period 1990-91 was deposited by a licensee in October 2003

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i.e. a delay of 150 months. However interest amounting to Rs.33.60 lakh on the belated payment was not levied by the Department.

After this was pointed out in audit in January 2005, the Department raised demand of Rs.33.60 lakh. The position of recovery was still awaited (August 2005).

The matter was reported to Government in March 2005, their reply was awaited (August 2005).

## CHAPTER-IV TAXES ON VEHICLES, GOODS AND PASSENGERS

### 4.1 Results of audit

Test check of records of various offices of the Transport Department conducted in audit during 2004-05 revealed non/short levy of taxes, under assessment of road tax, goods tax and other irregularities amounting to Rs.61.57 crore in 190 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Non / short-levy of passenger tax / additional tax	86	17.51
2.	Underassessment of road tax	15	1.38
3.	Underassessment of goods tax	07	0.15
	Review on "Enforcement Wing in Transport Department"	01	33.71
4.	Other irregularities	81	8.82
	<b>Total</b>	<b>190</b>	<b>61.57</b>

During the year 2004-05, the Department accepted underassessment etc. of Rs.25.15 crore involved in 115 cases out of which Rs.61.38 lakh has been recovered in 114 cases.

A few illustrative cases and one review on "Enforcement Wing in Transport Department" involving financial effect of Rs.37.13 crore are given in the succeeding paragraphs:

### 4.2 Review on Enforcement Wing in Transport Department

#### Highlights

- Non realisation of arrears amounting to Rs.533.93 crore due to inadequate follow up action. [Para 4.2.6]
- Loss of revenue amounting to Rs.24.34 crore due to non checking of vehicles plying without permits. [Para 4.2.7]
- Short compounding of offences amounting to Rs.8.97 crore. [Para-4.2.8]
- Loss of revenue amounting to Rs.34.15 lakh due to non-checking of vehicles plying without certificates of fitness. [Para-4.2.9]

#### Introduction

4.2.1 The Motor Vehicles Act, 1988 (MV Act), Uttar Pradesh Motor Vehicles Taxation Act, 1997 (UPMVT Act), UP Motor Vehicles Taxation Rules, 1998 (UPMVT Rules), Central Motor Vehicles Rules, 1989 (CMV Rules) and Uttar Pradesh Motor Yan Niyamawali 1998 (UPMYN) regulate the functioning of the Enforcement Wing in Transport Department.

The regulatory functions of the Enforcement Wing in the State comprise compliance to various provisions of MV Act and Rules made thereunder and checking of offences, such as plying of unregistered vehicles, plying vehicles without valid permits / driving licenses / fitness certificates etc. or violation of the conditions of Acts and Rules. It checks vehicles which do not comply with norms of pollution, evade taxes, ply without payment of taxes or which require payment of higher rate of taxes applicable as per Act. It also verifies vehicles

during the period when these are declared to be off road. Besides the work of compounding of offences punishable under MV Act, Enforcement Wing is also entrusted with the work of disposal of cases.

### **Organisational Setup**

**4.2.2** The overall responsibility for enforcement of Act, Rules and Regulations on vehicular traffic, rests with the Transport Commissioner (TC), Uttar Pradesh, Lucknow. There are 77 enforcement squads in the State attached to the headquarters office and 70 Regional Transport Officers (RTOs)/Asstt. Regional Transport Officers (ARTOs), under the control and supervision of an Additional TC (Enforcement) at the headquarters and six Deputy TCs at zonal level at Agra, Bareilly, Kanpur, Lucknow, Meerut and Varanasi.

Each enforcement squad consists of an ARTO (Enforcement), one Supervisor and three enforcement constables. Besides manning the check posts, the enforcement squads also check vehicles at any point on roads in the areas falling under their jurisdiction. Sometimes inter regional checking is also done by them.

### **Scope of audit**

**4.2.3** A review of the records in respect of Enforcement Wing maintained by the TC and 24 out of 70 RTOs/ARTOs for the period from 1999-2000 to 2003-04 was conducted between June 2004 and April 2005 with a view to examine the effectiveness of the Enforcement Wing in implementation of the various provisions of Acts and Rules with regards to regulation and control of traffic.

Audit findings as a result of review on the working of Enforcement Wing in Transport Department were reported in June 2005 with specific request for attending the meeting of Audit Review Committee for State Receipt (ARC SR) so that view point of the Government/Department was taken into account before finalising the review. The meeting of ARC (SR) was held on 2 August 2005 with the Government/Department. The meeting was attended by representatives of the Department and State Government. The views expressed by the members have been taken into consideration during finalisation of the review.

### **Audit Objectives**

**4.2.4** The review was conducted with a view to ascertain :

- leakage of revenue due to non compliance of various provisions of MV Act by Enforcement Wing and also due to any flaw/lacunae in rules and regulations and
- effective control of vehicular pollution.

### **Financial Performance**

#### **4.2.5 Short achievement of targets by Enforcement Wing**

As per UPMVT ACT where an officer has reason to believe that a transport vehicle has been used by a person without payment of tax, additional tax or penalty, he may seize and detain such vehicle and recover the dues. For the purpose physical and financial targets are fixed by the TC every year, which

are to be fulfilled by Enforcement Wing through challan of vehicles and realisation of compounding fee from offenders. The position of targets vis a vis achievements during the last five years are as under:

(Rupees in crore)

Year	Recovery of taxes		Compounding fee		Total		Percentage of recovery
	Target	Achievement	Target	Achievement	Target	Achievement	
1999-2000	26.19	20.38	96.36	22.18	122.55	42.56	35
2000-01	39.59	25.33	89.79	27.54	129.38	52.87	41
2001-02	47.21	25.46	29.28	23.52	76.49	48.98	64
2002-03	33.84	25.80	29.16	20.76	63.00	46.56	74
2003-04	30.90	29.77	24.18	25.09	55.08	54.86	100

The comparison between target and achievement revealed less recovery of taxes and compounding fees except during the year 2003-04 and percentage of recovery varied from 35 to 74 per cent of the targets fixed during the period from 1999-2000 to 2002-03. Targets were fixed on the lower side from 2001-02 onwards due to introduction of special token scheme in March 2001. The non-achievement of target was due to constraints of infrastructure and increase of responsibilities of the Enforcement Wing for increase in number of checking of vehicles.

#### 4.2.6 Non recovery of arrears by the Enforcement Wing

As per UPMVT ACT, no vehicle with arrears of tax may be allowed to ply on the road. If such vehicle is detected being used, the ARTO (Enforcement) may seize, detain it and realise the arrears of taxes by selling the vehicle by public auction with the approval of TC. Further, the TC issued instructions in April 2001 that each enforcement squad should ensure realisation of 1/10<sup>th</sup> arrears of tax outstanding as on 1 April 2001 every month alongwith current dues in the next month in respect of such vehicles plying under its jurisdiction. The enforcement squad is required to submit progress report of recovery of arrears to TC every month.

#### Private Sector

• Test check of records of TC revealed that in respect of transport vehicles, other than Uttar Pradesh State Road Transport Corporation (UPSRTC), arrears of tax increased to Rs.22.91 crore as on 31 March 2004 as compared to opening balance of Rs.13.13 crore as on 1 April 2001 as shown under :

(Rupees in crore)

Year	Opening balance	Realised	Percentage outstanding	Addition	Closing balance
2001-02	13.13	7.39	56.05	10.37	16.11
2002-03	16.11	11.52	71.51	12.53	17.12
2003-04	17.12	10.26	59.93	16.05	22.91

As per the direction of TC, no arrear should remain outstanding after 2001-02 but enforcement squad could only recover the arrears ranging between 56 to 72 per cent during 2001-02 to 2003-04. The department also failed to recover the tax due pertaining to the current year.

After this was pointed out, the Department stated in August 2005 that Rs.12.83 crore had been recovered and the enforcement wing has been instructed to recover the balance amount.

UPSRTC

The position of arrears in respect of UPSRTC during the period from 2001-02 to 2003-04 was as under :

(Rupees in crores)

Year	Opening balance	Addition	Total	Arrears realised	Balance
2001-02	275.25	129.19	404.44	29.19	375.25
2002-03	375.25	142.97	518.22	50.01	468.21
2003-04	468.21	153.26	621.47	43.36	511.03

<sup>s</sup>(Rs.67.09 crore pertains to Uttarakhand State)

The arrears of tax increased from Rs.275.25 crore during 2001-02 to Rs.511.03 crore in 2003-04 which was 185.60 per cent as compared to the year 2001-02.

After this was pointed out, Department replied in August 2005 that General Manager UPSRTC was being reminded time to time and again at Government level and demand notices were being issued by the concerned RTOs.

**Audit findings**

**Non compliance to various provisions of Motor Vehicles Act**

**Non levy of taxes on vehicles plying without permit**

4.2.7 Under MV Act, no vehicle owner shall use transport vehicle in a public place without proper permit. Under UPMVT Act, effective from 6 October 2001, no motor vehicle registered or adapted, to carry more than nine persons excluding the driver shall be kept for use without permit unless the vehicle owner has paid in addition to tax, an additional tax at the rate of 25 per cent of tax payable in respect of such vehicles. The RTOs/ARTOs provide a list of vehicles without permits to the concerned enforcement squad.

It was noticed that in 11 RTOs<sup>1</sup> and four ARTOs<sup>2</sup> 845 transport vehicles registered in the State were plying without obtaining permits during the period from October 2001 to March 2004. Though they had paid tax but additional tax as required was not paid by them. A list of such vehicles was provided by RTOs/ARTOs to Enforcement Wing but the vehicles were neither challaned nor additional tax realised. Thus, the Government was deprived of revenue amounting to Rs.24.34 crore as shown in Appendix-III.

After this was pointed out, the Department stated in August 2005 that a sum of Rs.21.10 lakh had been recovered and action to recover the balance amount was being taken.

**Short compounding of offences**

4.2.8 Under the MV Act, any person who drives a motor vehicle in a public place shall always carry on the vehicle a valid certificate "pollution under control" (PUC) and produce the same on demand by the checking officer. The vehicle, which violates the standards prescribed in relation to road safety, control of noise and air pollution shall be punishable in first offence with a fine of Rs.500 upto March 2000 and Rs.1,000 thereafter. Further CMV Rules provide that no motor vehicle shall be fitted with any multi toned horn giving an unduly harsh, shrill, loud or alarming noise.

<sup>1</sup> Agra, Allahabad, Aligarh, Barcilly, Faizabad, Ghaziabad, Jhansi, Kanpur nagar, Lucknow, Moradabad & Varanasi.  
<sup>2</sup> Bulandshahar Etawah Ferozabad & Raibareli

⊙ Test check of records of 12 RTOs<sup>1</sup> and two ARTOs<sup>2</sup> and TC office revealed that 74,544 vehicles which did not carry PUC certificates were challaned and compounded at the rate of Rs 50 by Enforcement Wing instead of Rs.1,000 per vehicle during the period between 1999-2000 to 2003-04. This resulted in loss of revenue amounting to Rs 7.06 crore as shown in Appendix-IV.

After this was pointed out in audit the Department stated in August 2005 that vehicle owners produced requisite certificates after they were challaned; as such fine at the rate of Rs.50 was levied. The reply is not tenable as the vehicles were not carrying the PUC at the time they were challaned and there is no provision in the act to produce the PUC at a later date. As such the offence was required to be compounded at the rate of Rs.1,000.

⊙ In eight RTOs<sup>3</sup> and three ARTOs<sup>4</sup> 16,363 vehicles were challaned, which were fitted with pressure horns and compounded at the rate of Rs.50 instead of Rs.1,000 during the period 1999-2000 to 2003-04 by the Enforcement wing on the ground that pressure horns though fitted on the vehicles were not being used. This resulted in loss of revenue amounting to Rs.1.55 crore as shown in Appendix-IV.

The action of Enforcement Wing was incorrect as the rules clearly provide that vehicle should not be fitted with multi toned horn. It does not limit the use or non use.

⊙ Under CMV Rules, vehicles covered by national permits shall have a minimum of two drivers. The Enforcement Wing, is required to challan such vehicles covered by national permits not having two drivers and to realise compounding fee at the rate of Rs.2,500 from each defaulting vehicle.

In three RTOs<sup>5</sup> and three ARTOs<sup>6</sup> 1,467 vehicles plying under national permits were challaned for the offence of one driver in place of two drivers during the period from April 1999 to 31 March 2004 but compounded by the Enforcement Wing at the rate of Rs.50 per offence instead of Rs.2,500. This resulted in loss of revenue of Rs.35.94 lakh as shown in Appendix-V.

#### **Non enforcement of provisions of road safety**

##### **Loss due to non checking of vehicles plying without certificate of fitness**

4.2.9 Under MV Act and Rules made thereunder, a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness. A fitness certificate granted in respect of newly registered transport vehicle is valid for two years and is required to be renewed every year thereafter. Plying a vehicle without certificate of fitness is compoundable at the rate of Rs.2,500 per offence. List of vehicles without fitness certificate is sent by the respective RTOs/ARTOs to Enforcement Wing from time to time.

Test check of the records of 12 RTOs<sup>7</sup> and 5 ARTOs<sup>8</sup> revealed that 13,915 vehicles were plying where the validity of fitness certificates had expired

<sup>1</sup> Agra, Aligarh, Bareilly, Faizabad, Ghaziabad, Gorakhpur, Jhansi, Kanpur nagar, Lucknow, Moradabad, Saharanpur & Varanasi.

<sup>2</sup> Etawah & Ferozabad.

<sup>3</sup> Agra, Aligarh, Faizabad, Ghaziabad, Gorakhpur, Lucknow, Saharanpur & Varanasi.

<sup>4</sup> Etawah, Ferozabad, Raibareli

<sup>5</sup> Meerut, Mirzapur & Saharanpur

<sup>6</sup> Etawah Ferozabad, Jaunpur

<sup>7</sup> Agra, Bareilly, Faizabad, Ghaziabad, Gonda, Gorakhpur, Jhansi, Kanpur nagar, Lucknow, Moradabad, Saharanpur & Varanasi.

<sup>8</sup> Bahraich, Bulandshahar, Etawah, Ferozabad & Jaunpur

during 1999-2000 to 2003-04. Out of these vehicles, test check of 1,366 vehicles revealed that Enforcement Wing did not challan and compound any of the vehicles. Thus, the Government was deprived of revenue of Rs.34.15 lakh as shown in Appendix-VI. Besides, plying of such vehicles whose roadworthiness had not been certified was hazardous to life and property of other innocent road users.

After this was pointed out in audit, Department stated in August 2005 that list of vehicles is handed over to Enforcement Wing from time to time, but did not accept the objection on the ground that audit indicated the number of vehicles without fitness on the basis of registration. The reply of the department is not tenable because the information of these vehicles where fitness has expired was supplied by the RTOs/ARTOs to the concerned Enforcement Wing.

#### Loss of revenue due to non registration of forwarding / travel agents

4.2.10 Under the MV Act, no person shall engage himself as an agent or a canvasser, in the sale of tickets for travel by public service vehicle or otherwise, soliciting customers of such vehicles or as an agent in the business of collecting, forwarding or distributing goods unless he obtains a licence from the competent authority on payment of fee at prescribed rates. Such licence is required to be renewed after five years.

Test check of records of four<sup>1</sup> RTOs and ARTO, Jaunpur revealed that as per survey conducted in December 1999 by the Department, 552 forwarding agents were carrying on their business from the year 1999-2000 without obtaining licences. The Department did not register them. Thereafter, the Enforcement Wing did not conduct any survey. This resulted in loss of revenue of Rs.5.52 lakh on account of licence fee as shown in Appendix-VII.

After this was pointed out, the Department stated in August 2005 that necessary instructions have been issued to concerned RTOs/Enforcement Wing to register to such agents.

#### Non verification of vehicles surrendered under off road declaration

4.2.11 Under UPMVT Act, read with Rules made thereunder, if any owner of a vehicle does not intend to use the vehicle for a period of more than one month, he will surrender the certificate of registration, token and permit etc. of the vehicle to the Department and declare the place of keeping the vehicle during the period of non use. If the vehicle is not found on the place declared it will be deemed that the vehicle is plying on road and taxes are leviable thereon. The Enforcement Wing was required to conduct spot verification of 15 per cent of such vehicles upto the year 2000-01 and 100 per cent thereafter.

A test check of the records of 10 RTOs<sup>2</sup> and four ARTOs<sup>3</sup> revealed that 32,759 vehicles were surrendered during 1999-2000 to 2003-04 out of which spot verification of 24,456 vehicles was required to be conducted against which only 4,673 vehicles were checked which was merely 14.26 per cent of total vehicles surrendered as per details given in Appendix-VIII.

In five RTOs<sup>4</sup> and three ARTOs<sup>5</sup> no verification of surrendered vehicles was done by the Enforcement Wing.

<sup>1</sup> Azamgarh, Meerut, Mirzapur and Saharanpur

<sup>2</sup> Agra, Allahabad, Azamgarh, Bareilly, Faizabad, Ghaziabad, Jhansi, Kanpur nagar, Meerut, Moradabad, Varanasi

<sup>3</sup> Bulandshahar, Etawah, Ferozabad, Raibareli

<sup>4</sup> Allahabad, Bareilly, Faizabad, Ghaziabad, Kanpur nagar

<sup>5</sup> Bulandshahar, Ferozabad, Raibareli



**Excess collection of tax**

4.2.12 Under UPMVT Act, no transport vehicle shall ply in State under a temporary permit granted by an authority having jurisdiction outside the State unless tax at the appropriate rate is paid. In such cases the tax is payable for any two weeks or part thereof and shall be 2/13<sup>th</sup> of the rate specified in the Act.

Test check of the records of RTOs, Agra, Ghaziabad, Jhansi, and Varanasi revealed that tax of Rs.71.59 lakh was collected at check posts in excess due from vehicles of other states entering the State during the period from 2001-02 to 2003-04 as per details given below :

(Rupees in lakh)

Sl. No.	RTO	Tax realised	Tax actually due	Excess realised
1.	Agra	195.37	180.90	14.47
2.	Ghaziabad	207.26	191.91	15.35
3.	Jhansi	179.69	166.38	13.31
4.	Varanasi	265.59	237.13	28.46
	<b>Total</b>	<b>847.91</b>	<b>776.32</b>	<b>71.59</b>

**Internal Control**

4.2.13 The Enforcement Wing has not prepared any Manual which may provide for proper framework through which enforcement of various provisions of Rules/Acts could be ensured by them. The duties and powers of Enforcement Wing are not clearly defined anywhere to fix accountability of the officials. This had an adverse impact on the efficiency of the Enforcement Wing.

No internal control device was adopted to ensure that prescribed records are maintained and kept in safe custody by Enforcement Wing as the records pertaining to ARTO (Enforcement), Farukkhabad were found missing.

Department stated that internal control shall be strengthened as soon as proposal to increase manpower is accepted by Government. Comments on missing records were assured to be sent after obtaining explanation from the concerned office.

**Recommendations**

4.2.14 The Government may consider taking following measures to improve the efficiency and effectiveness of the Enforcement Wing :

- the Enforcement Wing should act upon the information available with it.
- a manual for the Transport Department may be prepared defining clearly the duties and responsibilities of the Enforcement Wing.

**Conclusion**

4.2.15 Enforcement Wing did not take adequate action in promptly implementing the information available. Manual was not prepared to define clearly the duties and powers of Enforcement Wing and for enforcement of provisions of Motor Vehicles Act more effectively. The failure of the Enforcement Wing in enforcement of various rules and regulations resulted in loss of revenue of Rs.33.71 crore.

The review was sent to the Department/Government in June 2005, their replies have not been received (August 2005).

#### **4.3 Short realisation of additional tax**

Under the UPMVT Act, additional tax in respect of three wheeler vehicles with seating capacity of more than six persons, excluding driver was chargeable at the rate of Rs.675 from November 1998, Rs.742 from March 2000 and Rs.2,000 from 6 October 2001 onwards per quarter respectively.

R&D Division of M/s Scooters India Ltd., Lucknow, (manufacturer and seller of Vikram 750 D, three wheelers) had confirmed that three wheeler was designed to have seating capacity of more than six persons excluding driver.

Test check of records of ARTOs, Mathura and Ballia, revealed in May and November 2003 that, in the case of 697 Vikram three wheelers, with seating capacity of more than six persons excluding driver (as certified by the manufacturer) additional tax was charged during the period from April 1999 to October 2003 at incorrect rates based on seating capacity of less than six persons excluding driver. This resulted in short-realisation of additional tax amounting to Rs.38.07 lakh.

The matter was reported to Department and Government between October 2003 and March 2004; their replies have not been received (August 2005).

#### **4.4 Loss of revenue due to incorrect fixation of seating capacity**

UPMV Rules provide that seating capacity of the vehicle shall be determined by reducing the difference between gross vehicle weight and unladen weight by 90 kgs. and dividing it by 150. The result thus obtained shall represent the maximum seating capacity of the vehicle on which tax / additional tax shall be computed.

As per records of five RTOs<sup>1</sup> and three ARTOs<sup>2</sup>, it was observed that 1,741 stage carriages were registered by the RTOs/ARTOs with less seating capacity in violation of the provisions of rules and tax realised accordingly. This resulted in loss of additional tax of Rs.3.04 crore during the period between November 2002 to March 2004 as shown in Appendix-IX.

Department stated in August 2005 that while calculating seating capacity, as per Rule 139, unladen weight of the vehicle having 205" wheel base cannot be less than 7,200 kgs. and therefore calculation of department was correct. The reply is not tenable because as per registration and fitness certificates of the vehicles the unladen weight shown varied between 6,080 kgs. and 7,200 kgs. so treating 7,200 kgs. as unladen weight for every vehicle was not correct.

The matter was reported to Government in June 2005; their reply was awaited (August 2005).

<sup>1</sup> Saharanpur, Meerut, Mirzapur, Azamgarh, Gonda  
<sup>2</sup> Farrukhabad, Bahraich, Jaunpur

## CHAPTER-V OTHER TAX RECEIPTS

### 5.1 Results of audit

Test check of records of concerned departmental offices, conducted in audit during the year 2004-05, disclosed non/short realisation or losses of revenue of Rs.13.24 crore in 356 cases under the following broad categories:

(Rupees in crore)			
Sl.No	Categories	Number of cases	Amount
	<b>Stamp Duty and Registration Fee</b>		
1.	Short levy of stamp duty and registration fee due to under valuation of properties	139	2.70
2.	Short levy due to misclassification of documents	39	0.75
3.	Other irregularities	17	0.31
	<b>Total:</b>	<b>195</b>	<b>3.76</b>
	<b>Land Revenue</b>		
1.	Non/short realisation of collection charges	48	2.53
2.	Non recovery of fees for supplying Kishan Bahis <sup>1</sup>	09	0.20
3.	Non/short realisation of land revenue	16	1.67
4.	Other irregularities	88	5.08
	<b>Total:</b>	<b>161</b>	<b>9.48</b>
	<b>Grand Total</b>	<b>356</b>	<b>13.24</b>

During the year 2004-05, the Department accepted non realisation of revenue amounting to Rs.0.45 lakh, which has been recovered.

A few illustrative cases involving Rs.1.26 crore are given in the succeeding paragraphs.

### Stamp Duty and Registration Fee

#### 5.2 Short levy of stamp duty due to incorrect computation of lease period

Under Article 35 VI of Indian Stamp Act, 1899 on an instrument where lease purports to be for a term exceeding 30 years or in perpetuity or does not purport to be for any indefinite term, duty is chargeable for a consideration equal to market value of the property. The Inspector General of Registration (IGR) clarified on 22 April 2003 that if a lease for a period less than 30 years contains provision for further extension for a certain or indefinite period, stamp duty is to be charged on the consideration of market value of the property.

Test check of records of Sub Registrar-IV Agra revealed in September 2002 that a lease deed was registered in April 2002 for a period of 29 years for consideration of Rs.7.61 lakh on which Stamp Duty of Rs.0.77 lakh was levied. The recital of deed, however, revealed that a provision of further extension of lease was also made with transfer of ownership rights to the lessee on which stamp duty of Rs.14.37 lakh was leviable. The incorrect computation of lease period resulted in short levy of stamp duty amounting to Rs.13.60 lakh.

The matter was reported to the Department and Government between May and December 2003; their replies have not been received (August 2005).

<sup>1</sup> Books of ledger account on farmers maintained by Land Revenue Department

## Land Revenue

### 5.3 Non recovery of collection charges

As per Uttar Pradesh Public Money (Recovery of Dues) Act, 1972 and Government orders issued from time to time, the revenue authority on receipt of certificates of recovery from a corporation, banking company or local body, shall proceed to recover the amount stated therein, together with the cost of proceedings (collection charges) as arrears of land revenue. Collection charges at the rate of 10 *per cent* of the dues collected/to be collected are to be realised from the concerned corporation/company/bodies. In case the requisitioning authority withdraws the recovery certificate or the amount due is deposited directly by the defaulter, even then, collection charges are recoverable from the requisitioning authority.

During test check of records of six tahsil offices,<sup>1</sup> it was noticed between May 2002 and January 2005 that in four cases the defaulters directly deposited the amount of Rs.1.36 crore with requisitioning authorities and in 33 cases recovery certificates of Rs.9.84 crore were returned to the concerned departments / bodies on their own request. But, the collection charges of Rs.1.12 crore were not realised by the Department in these cases.

The matter were reported to the Department and Government between December 2003 and March 2005; their replies have not been received (August 2005).

<sup>1</sup> Tahsildar, Jansath (Muzaffarnagar); Tahsildar, Sadar, Basti; Tahsildar, Sadar, Etawah; Tahsildar, Sadar, Lalitpur; Tahsildar, Sadar, Rampur and Tahsildar Ghaziabad.

## CHAPTER-VI OTHER DEPARTMENTAL RECEIPTS

### 6.1 Results of audit

Test check of records of concerned departmental offices conducted in audit during the year 2004-05 disclosed non/short realisation/loss of revenue of Rs.366.98 crore in 272 cases, which fall under the following broad categories:

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
<b>POLICE DEPARTMENT</b>			
1.	Receipts of Police department	1	2.15
	<b>Total</b>	<b>1</b>	<b>2.15</b>
<b>PUBLIC WORKS DEPARTMENT</b>			
1.	Misutilisation of departmental receipts	04	0.85
2.	Non/short levy of stamp duty	03	--
3.	Non levy of centage charges	01	0.02
4.	Loss of revenue due to non-auction of empty drums/gunny bags	10	0.48
5.	Non recovery of rent from inspection houses and guest houses	03	0.15
6.	Other irregularities	125	11.08
	<b>Total</b>	<b>146</b>	<b>12.58</b>
<b>IRRIGATION DEPARTMENT</b>			
1.	Loss due to non-realisation of irrigation charges	08	5.16
2.	Other irregularities	95	12.27
	<b>Total</b>	<b>103</b>	<b>17.43</b>
<b>RURAL ENGINEERING SERVICE DEPARTMENT</b>			
1.	Non realisation of royalty on earthwork	01	0.16
	<b>Total</b>	<b>01</b>	<b>0.16</b>
<b>HOUSING AND URBAN PLANNING DEPARTMENT</b>			
1.	Loss due to non-recovery of interest	10	6.43
2.	Other irregularities	07	7.44
	<b>Total</b>	<b>17</b>	<b>13.87</b>
<b>BUREAU OF PUBLIC ENTERPRISES DEPARTMENT</b>			
1.	Non realisation of royalty on earthwork	01	1.00
	<b>Total</b>	<b>01</b>	<b>1.00</b>
<b>EDUCATION DEPARTMENT</b>			
1.	Short realisation of dearness allowance from students	01	0.24
	<b>Total</b>	<b>01</b>	<b>0.24</b>
<b>MINES AND MINERALS DEPARTMENT</b>			
1.	Loss of revenue due to non-execution of lease deed	01	8.92
	<b>Total</b>	<b>01</b>	<b>8.92</b>
<b>FINANCE DEPARTMENT</b>			
1.	Non/short levy of guarantee fee by the concerned Departments.	01	310.63
	<b>Total</b>	<b>01</b>	<b>310.63</b>
	<b>Grand Total</b>	<b>272</b>	<b>366.98</b>

During the year 2004-05 concern departments accepted short recovery of Rs.1.14 crore in seven cases out of which Rs.96.90 lakh was recovered.

A few illustrative cases involving financial effect of Rs.325.84 crore are mentioned in following paragraphs

### 6.2 Receipts of Police Department

#### Introduction

6.2.1 Receipts of the Police Department comprise mainly of receipts for supply of police force to different organisations including Central

Government, public sector undertakings, banks or other autonomous bodies within the State towards guarding treasure/cash chest/remittances or performing watch and ward duties permanently or as a temporary measure. Incidence of recovery also arises in connection with maintenance of law and order in other States under unusual circumstances and at the time of Lok Sabha and Vidhan Sabha elections. Some other police receipts relate to recoveries made from the pay and allowances of police personnel, sale of unserviceable goods, condemned vehicles and unclaimed confiscated goods through auctions and under the Indian Arms Act, 1959.

The assessment, collection and accounting of these receipts are governed by five<sup>1</sup> Acts/Manual/Regulations, Government orders issued from time to time and provisions of Uttar Pradesh Treasury Rules. Cost of police personnel includes pay and allowances and other direct and indirect expenditure incurred on them. Demand for cost of deployment of permanent police guard is raised in advance on quarterly basis while escort charges for providing police personnel as temporary measure are realised in advance.

#### **Organisational set up**

6.2.2 The Director General of Police (DGP) Uttar Pradesh is the head of the Uttar Pradesh police with headquarters at Allahabad. He is assisted by two Additional Directors General, Inspectors General at zonal levels, Deputy Inspectors General at ranges and Superintendents of Police (SP) at district level. The responsibility for assessment and collection of police cost for deployment of police personnel for Railways and duties outside the state is with the DGP and with the SP of each district within the state.

#### **Non realisation of electricity charges**

6.2.3 The police personnel who are residing in quarters, not provided with electricity meters, located in police lines/stations are required to pay electricity charges. This forms the part of receipts of Police Department.

The Government vide orders issued in December 2003 enhanced electricity charges by 30 per cent with effect from 1 May 2002. As per police headquarters order issued in February 2004 arrears for the period from May 2002 to January 2004 were to be recovered in 10 monthly instalments from the officials.

Tests check of records of 12 SP offices revealed between October 2004 and May 2005 that a sum of Rs.44.13 lakh on account of electricity charges for the period from May 2002 to January 2004 was not recovered despite instructions from police headquarters.

After this was pointed out in audit the Department replied in August 2005 that recovery of Rs.10.04 lakh has been made. Further progress was awaited.

#### **Short realisation of cost of police guards**

6.2.4 Under the provisions of Police Regulation and Police Rules and Government orders,<sup>2</sup> cost of permanent police guards provided to

<sup>1</sup> The Police Act 1961, Police Manual, Police Regulations, Indian Arms Act 1959 and the Motor Vehicle Act, 1988.

<sup>2</sup> GO No 3312/VKb-2-700/150/79 dated 31.12.79

banks/units/autonomous bodies etc is recoverable in advance. In case of default, guards should be withdrawn.

◉ A test check of records of nine SP offices<sup>1</sup> revealed that bills amounting to Rs.6.13 crore were raised against banks/units on the basis of Reserve Inspector's attendance sheets during the period from April 1999 to March 2004. It was, however, noticed that the banks/units made payments of Rs.3.23 crore on the basis of their own attendance sheets. As a result, there was short realisation of Rs.2.90 crore. The SP offices failed to reconcile the differences for short payment and ascertain the reasons thereof.

The Department accepted that reconciliation of attendance was essential.

◉ **Police guards provided to individuals**

The Government vide orders dated 4 May 1997 read with orders issued on 30 December 2000 decided that personal security guards/gunners be provided to certain categories of individuals on the recommendation of district level committees headed by district magistrates on receipt of police cost at prescribed rates i.e. ranging between Rs.1,266 and Rs.12,658 per month in advance.

Test check of records of four<sup>2</sup> SP offices revealed that in 33 cases shadow/gunners were provided to individuals during April 2001 to September 2004 without receiving full payment in advance. In 33 cases shadow/gunners were not recalled though advance payment made by individuals was exhausted. This resulted in short recovery of Rs.8.24 lakh. The Department did not take any action to recall shadow/gunner once payment was exhausted.

After this was pointed out in audit, the Department stated in August 2005 that information in respect of recovery was being collected.

**Blockade of revenue**

6.2.5 As per provisions of Police Act, 1961, police officer under the direction of District Magistrate is empowered to dispose of unclaimed confiscated goods through auction after expiry of six months from the date of confiscation. Sale proceeds of such goods shall be credited to Government account. Hon'ble Supreme Court<sup>3</sup> have also directed that all unclaimed vehicles should be auctioned.

Test check of records of 21<sup>4</sup> SP offices revealed that, 17 trucks/buses, 200 cars/jeeps/tractors, 330 motor cycles, 387 scooters and 62 mopeds were lying unclaimed in 315 police stations valued at Rs.1.71 crore (based on rates obtained during previous auctions in different districts)

<sup>1</sup> Azamgarh (Rs.1.77 Lakh), Faizabad (Rs.3.93 Lakh), Ghaziabad (Rs.13.34 Lakh), Gonda (Rs.4.20 Lakh), Kanpur Nagar (Rs.9.38 Lakh), Lucknow (Rs.1.42 Lakh), Mathura (Rs.3.78 Lakh), Merrut (Rs.2.52 Crore) and Shahjahanpur (Rs.0.25 Lakh).

<sup>2</sup> Bahraich, Basti, Ghaziabad and Gonda

<sup>3</sup> Special leave petition criminal Case no. 2745/02 Sunder Bhai Ambalal Desai Vs. State of Gujrat and C.M. Mudaliar Vs. State of Gujrat (Leave petition No. 2755/02).

<sup>4</sup> Agra, Allahabad, Azamgarh, Bahraich, Bareilly, Basti, Faizabad, Ghaziabad, Gonda, Gorakhpur, Jaunpur, Jhansi, Kanpur Dehat, Kanpur Nagar, Lucknow, Mathura, Meerut, Moradabad, Shahjahanpur, Sitapur and Varanasi.

as on 31 March 2004. The authorities had not taken any steps to dispose off the same resulting in deterioration of vehicles due to weather and thereby depreciation in value of the vehicles. Due to inaction of the police authorities there was a blockade of Rs.1.71 crore as detailed in Appendix-X.

The Department intimated in August 2005 that Rs.5.80 lakh have been realised by auctioning 76 vehicles. Further progress will be intimated.

### **Non remittance of amount received on "Phad" to treasury**

**6.2.6** Police Department recovers certain amounts during raids at gambling dens/places for violation of provisions of Gambling Act. The amount found unclaimed on the gambling table known as 'Phad' forms part of unclaimed Government property. Under the provisions of Police Act, such unclaimed amount is kept for six months and thereafter becomes Government money after obtaining orders from judicial magistrates. Such amounts should be deposited into treasury.

Test check of records of 21<sup>1</sup> SP offices revealed that Rs.54 lakh found unclaimed by the Police Department as 'Phad' during 1999-2000 to 2003-04 was not remitted into treasury even after lapse of a period ranging from one to five years. There was no mechanism in Police Department to check whether money has been credited to treasury at expiry of six months of its recovery after obtaining the orders of the judicial magistrates.

After this was pointed out in audit the Department replied that the amount found is subject to litigation and disposed off only in accordance with court's order. The reply is not tenable because amount found at gambling table is not subject to litigation and amount should have been deposited to Government account after expiry of six months.

### **Misutilisation of Police receipts**

**6.2.7** As per UP Financial Rules, revenue realised should be deposited in Government account immediately. Recoveries made from pay on account of electricity charges from police personnel allotted police quarters without electric meters are receipts of the Police Department. These should be deposited into treasury under the head of account "0055 Police". Such receipts should not be utilised towards departmental expenditure without proper authorisation.

Test check of records of 13<sup>2</sup> SP offices revealed that a sum of Rs.1.09 crore collected as electricity charges from police personnel was utilised towards office expenditure unauthorisedly. This was irregular as all receipts are to be credited to Government treasury and any expenditure should be authorised by the Legislature.

After this was pointed out in audit, the Department stated in August 2005 that details have been called for regularisation of expenditure.

<sup>1</sup> Agra, Allahabad, Azamgarh, Bahraich, Bareilly, Basti, Faizabad, Ghaziabad, Gonda, Gorakhpur, Jaunpur, Jhansi, Kanpur Dehat, Kanpur Nagar, Lucknow, Mathura, Meerut, Moradabad, Shahjahanpur, Sitapur and Varanasi.

<sup>2</sup> Agra, Azamgarh, Basti, Bahraich, Faizabad, Gorakhpur, Jaunpur, Jhansi, Lucknow, Mathura, Meerut, Shahjahanpur and Sitapur.



The matter was reported to Government in July 2005; their reply was awaited (August 2005).

## Works Department

### 6.3 Non levy of centage charges

Under the provisions of Financial Hand Book volume VI and Government orders of August 1998 and 24 March 1999 centage charges of 14 *per cent* in respect of Public Works Department (PWD) and 12.5 *per cent* in respect of Irrigation Department of actual outlay on building work are to be levied and credited to Government account for all classes of deposit works undertaken by the PWD and Irrigation Department on behalf of commercial departments, local bodies and private bodies in the state.

• Test check of records of Executive Engineer (EE) Provincial Division PWD, Meerut for the period May 2000 to June 2003 revealed in July 2003 that centage charges amounting to Rs.9.35 lakh on deposit works valued at Rs.66.82 lakh undertaken by the division on behalf of Girls High School, Kithore (a Government aided school) for construction of a building during the year 2003-04 were not levied.

The matter was reported to the Department and Government between April 2004 and February 2005; their replies have not been received (August 2005).

• Test check of records of EE Sharda Canal Division-I, Lucknow revealed in September 2003 that centage charges amounting to Rs.77.75 lakh on deposit works of Rs.6.22 crore undertaken by the division on behalf of Lucknow Development Authority (LDA), Lucknow during the year 2002-03 were not levied. This resulted in non realisation of Rs.77.75 lakh.

The matter was reported to the Department and Government in September 2004; their replies have not been received (August 2005).

### 6.4 Non realisation of royalty on collection of stone boulders, morrum and earth

The Government vide letter dated 22 September 1988 read with instructions issued on 2 February 2001, directed all the drawing and disbursing officers to ensure, before making payment to contractors/suppliers on account of supplies of stone ballast, morrum, earth and sand, that they had made payment of royalty of the supplies to the Mines and Mineral Department and produce receipt in Form MM 11 issued by the Mines and Mineral Department. In case of default, royalty is to be deducted from the bills of contractors.

• In eight<sup>1</sup> public works divisions, it was noticed between April and September 2004 that different contractors/suppliers supplied 3,36,142.24 cum stone ballast/granite, 60 cu.m. morrum and 3,26,439.14 cu.m. earth for construction and embankment works. But the PWD before making payment

<sup>1</sup> EE, PD (PWD), Allahabad, EE, PD (PWD), Bulandshahar, EE, CD-3, Azamgarh, EE, PD (PWD), Etah, EE, PD (PWD), Pilibhit, EE, Bridge construction Division (N.H.) (PWD), Kanpur, EE, PD (PWD), Mahrajganj and EE, N.H. Division (PWD), Jhansi

neither obtained royalty payment receipts in Form MM 11 from contractors nor deducted any royalty from their bills. This resulted in loss of royalty of Rs.86.53 lakh.

The matter was reported to the Department and Government between April 2004 and February 2005; their replies have not been received (August 2005).

⊙ Test check of records of EE, Rural Engineering Services Division Prime Minister Gramin Sarak Yojna (PMGSY), Balia revealed in August 2004, that 402,702.47 cu.m. earthwork was executed during 2002-03 in four works but EE neither obtained from the contractors royalty payment receipt in Form MM 11 nor made any deduction on account of royalty from their bills before making the payment. Thus, there was a loss of royalty of Rs.16.11 lakh.

The matter was reported to the Department and Government in February 2005; their replies have not been received (August 2005).

⊙ Test check of the records of EE Uttar Pradesh Project Corporation Unit, Basti revealed in December 2004 that 24,95,409.20 cu.m. earthwork was executed on behalf of six district<sup>1</sup> rural development agencies but the EE before making the payment to contractors neither obtained MM 11 nor any deduction on the account of royalty was made from their bills. Thus, due to failure of the Department there was a loss of royalty Rs.99.82 lakh.

The matter was reported to the Department and Government in January 2005; their replies have not been received (August 2005).

## Housing and Urban Planning Department

### 6.5 Short realisation of interest

According to G.O. of 11 June 1998, a loan of Rs.1 crore was sanctioned to the Lucknow Development Authority (LDA) for transferring the bus stand situated at Char Bagh to land owned by the authority at cinders dump land. Interest on loan at the rate of 18 *per cent* per annum from the date of drawal was leviable. The repayment of loan was required to be made in four equal quarterly instalments. The rebate on interest at the rate of 3.5 *per cent* per annum was also admissible in case repayment of loan was made in time.

Test check of records of the office of the LDA, in December 2003 revealed that a loan of Rs.1 crore was drawn on 11 June 1998. The authority had not repaid the principal till the date of audit. Interest of Rs.99 lakh was also not demanded by the department.

After this was pointed out in audit, the LDA stated in July 2005 that interest of Rs.81.84 lakh was paid in May 2004. The position of recovery in respect of balance amount of interest was awaited (August 2005).

The matter was reported to Government in January 2005; reply has not been received (August 2005).

<sup>1</sup> District Rural Development Agency Basti, Sant Kabir Nagar, Siddharth Nagar, Gorakhpur, Kushinagar, Mahrajganj

## Education Department

### 6.6 Short realisation of dearness allowance from students

As per Government orders dated 10 August 2000, Government degree colleges and Government aided colleges are required to charge dearness allowance from students at the rate of Rs.20 per month per student in advance.

Test check of the records of four aided degree colleges<sup>1</sup> of Moradabad District, revealed in August 2004 that during the period from April 2004 to March 2005, dearness allowance was charged at lower rate from 12,301 students which resulted in short realisation of revenue amounting to Rs.24.36 lakh.

The matter was reported to the Department and Government in December 2004; their replies have not been received (August 2005).

## Mines and Minerals Department

### 6.7 Loss of revenue due to non execution of lease deeds

Under the provisions of Forest Conservation Act 1980, the Government of India, Ministry of Environment and Forest, New Delhi accorded permission (November 2002) for diversion of 1,145 hectare of forest land for collection of sand, bajri and stone from bed of 11 rivers of Shivalik Forest Division, Saharanpur. The work was to be started from October 2002.

Test check of records of District Mine officer (DMO) Saharanpur, revealed (December, 2004) that Forest Development Corporation applied to the District Magistrate (DM) Saharanpur in December 2003 for execution of lease deed for extraction of river bed material. As per records of the DMO, estimated royalty of Rs.3.96 crore was fixed for first year, Rs.4.96 crore for second year and Rs.6.19 crore during third year of lease. The DM directed the corporation to deposit Rs.88.75 lakh on account of 1<sup>st</sup> instalment of royalty, security and stamp duty. It was deposited in April 2004 but the DM failed to execute the lease deed despite several requests by the corporation. As such no work of extraction was started. Thus due to non execution of lease deed the Government suffered a loss in the shape of royalty of Rs.8.92 crore for the period from October 2002 to September 2004.

The matter was referred to the Department and Government in December 2004; their replies have not been received (August 2005).

### 6.8 Guarantee Fees

Under Article 293 of the Constitution of India, the State Government gives guarantee on loans raised by cooperative institutions, statutory corporations, public sector undertakings and local bodies etc. from various financial institutions, banks and other sources upon the security of the Consolidated Fund of the State within the limits fixed by the Legislature. The guarantees

<sup>1</sup> S.M. College, Chandausi, Moradabad, N.K.B. College, Chandausi, Moradabad, Gokuldas Girls College, Moradabad and K.G.K. College, Moradabad

given by Government constitute contingent liabilities on the revenues of the State. In consideration of the guarantee given, the loanee institutions are to pay guarantee fee at rates prescribed by the Government.

### 6.8.1 Non-levy of guarantee fees

The administrative departments on the recommendations of heads of departments accord sanction to Government guarantees with concurrence of the Finance Department. The proposal for guarantee is approved by the Cabinet followed by relevant Government orders. Finance Department vide their orders dated 15 September 2000 directed all the administrative departments that guarantee fees ranging between 0.25 to 2.5 *per cent* per annum is leviable on loanee institutions on the amount of guarantee including outstanding amount of guarantee on that date. In the event of default in payment, guarantee fee will be leviable at double the normal rate. Concerned administrative departments of Government were required to realise guarantee fees in individual cases of guarantee before according sanction.

Scrutiny of records of four administrative offices during July to December 2004, revealed that in the following cases guarantee fees amounting to Rs.131.52 crore as on 31.3.2004 were not levied by the concerned departments.

(Rupees in crore)

Sl. No.	Name of the Deptt.	Name of the loanee unit	Outstanding amount of guarantee	Period of guarantee	Amount of Guarantee fee leviable at the rate of 2 per cent
1.	Sugar Industries	U.P. Sugar Corporation Ltd. Lucknow	604.80	01.04.2002 to 31.03.2004 (2 Years)	24.19
2.		-do-	556.90	01.04.2003 to 31.03.2004 (1 Year)	11.14
3.		U.P. Cooperative Sugar Mills Federation, Lucknow	841.80	01.04.2002 to 31.03.2004 (2 Years)	33.67
4.		-do-	1,031	01.04.2003 to 31.03.2004 (1 Year)	20.62
5.	Sugarcane Development	Sugarcane Seed Corporation	40	15.09.2000 to 31.03.2004 (3 Year 6 Months & 16 Days)	2.84
6.	Dairy Development	Pradeshik Cooperative Dairy Federation Ltd., Lucknow	41.64	01.04.2001 to 31.03.2004 (3 Years)	2.50
7.	Housing and Urban Planning	Development Authorities and Housing & Development Boards	1,828.29	01.04.2003 to 31.03.2004 (1 Year)	36.56
<b>Total</b>					<b>131.52</b>

After this was pointed out in audit, Government replied in September 2004 that in case of Pradeshik Cooperative Dairy Federation Ltd., Lucknow, guarantees pertained to the period prior to the enforcement of G.O. dated 15 September 2000 (i.e. on 1 August 1987 and 27 September 1995) and therefore guarantee fee was not payable in this case. The reply was not tenable as the aforesaid G.O. was also applicable on the amount of guarantee outstanding on that date. Replies in other cases were awaited (August 2005).

### Industrial Development Department

Industrial Development Department of State Government sanctioned guarantee against bonds/loan to the following institutions during the period 2000-01 to 2003-04 on which guarantee fee amounting to Rs.15.81 crore was not levied.

(Rupees in crore)

Sl. No.	Name of the institution	Period of guarantee	Outstanding amount of		Rate of Guarantee fee		Guarantee fee payable
			Bond	Loan	Bond (in per cent)	Loan (in per cent)	
1.	U.P. Financial Corporation, Kanpur	2001-02	1271.08	---	0.50	---	6.35
2.	U.P. Cooperative Spinning Mills Federation Ltd., Kanpur	15-09-2000 to 31.03.2001 2001-02 to 2002-03 2003-04	55.00	25.45	0.50	2	0.97 1.80
3.	U.P. Industrial Cooperative Association Ltd. (UPICA), Kanpur	15-09-2000 to 31.03.2001 2001-02 2002-03 2003-04	---	16.20	---	2	1.13
4.	U.P. State Handloom Corporation Ltd., Kanpur	15-09-2000 to 31-03-2001 2001-02 2002-03 2003-04	---	13.78 16.30 19.04 22.15	---	2 2 2 2	0.15 0.32 0.38 0.44
5.	U.P. State Industrial Development Corporation Ltd., Kanpur	15-09-2000 to 31-03-2001 2001-02 2002-03 2003-04	---	17.14 14.28 11.42 08.56	---	2 2 2 2	0.18 0.28 0.22 0.17
6.	U.P. Khadi and Village Industries Board, Lucknow	2001-02 2002-03 2003-04	---	57.00	---	---	3.42
Total							15.81

After this was pointed out in audit between July and December 2004, all the loanee institutions except Sl. No. 6 replied that guarantee fee was not payable on guarantees taken before the date of issue of orders of Finance Department. The reply is not tenable as the orders of Finance Department dated 15 September 2000 are also applicable on the amount of guarantee outstanding on that date.

As regards Sl. No. 6 the Chief Executive Officer replied that the Board had no resources to pay guarantee fee and provision of funds would have to be made in the budget for making payment of guarantee fee. The reply is not tenable as guarantee fee was payable as per instructions of the Finance Department.

### 6.8.2 Short levy of guarantee fee

• **Energy Department:**

In the following cases guarantee fees were short levied by the Energy Department:

(Rupees in crore)

Sl. No.	Name of loanee unit	Outstanding guarantee	Period of guarantee	Amount of guarantee fee		
				Leviable	Levied	Short levied
1.	U.P. Rajya Vidyut Utpadan Nigam Ltd., Lucknow	335.60	2003-04	3.36	0.55	2.81
2.	U.P. Power Corporation Ltd., Lucknow	225.00	2002-03 and 2003-04	4.50	0.57	3.93
3.	-do-	400.00	2003-04	4.00	0.38	3.62
4.	-do-	71.19	2000-01	0.71	0.06	0.65
5.	-do-	10.19	2000-01	0.10		0.10
			<b>Total</b>	<b>12.67</b>	<b>1.56</b>	<b>11.11</b>

The matter was referred to Government in January 2005; their reply was awaited (August 2005).

• **Co-operation Department**

Co-operation Department gave guarantee of Rs.3,120 crore for the period from July 2000 to June 2001 to U.P. Cooperative Rural Development Bank to raise loan from National Bank for Agriculture and Rural Development (NABARD) for carrying out development work in the rural sector. The amount of guarantee was increased each year over the preceding year ranging between Rs.400 to Rs.520 crore. Guarantee fee in the above case was levied at the rate of 0.25 per cent instead of correct rate of one per cent per annum and that too only on the amount exceeding that of preceding year instead of the total guarantee outstanding on that date. This resulted in short levy of guarantee fee of Rs.150.05 crore as per details given below :

(Rupees in crore)

Year	Period of guarantee	Amount of guarantee	Guarantee fee payable at the rate of 1 per cent	Guarantee fee paid at the rate of 0.25 per cent	Short levy of guarantee fee
2000-01	1.7.2000 to 30.6.2001	3,120 (400)	31.20	1.00	30.20
2001-02	1.7.01 to 30.6.02	3,640 (520)	36.40	1.30	35.10
2002-03	1.7.02 to 30.6.03	4,100 (460)	41.00	1.15	39.85
2003-04	1.7.03 to 30.6.04	4,620 (520)	46.20	1.30	44.90
<b>Total</b>			<b>154.80</b>	<b>4.75</b>	<b>150.05</b>

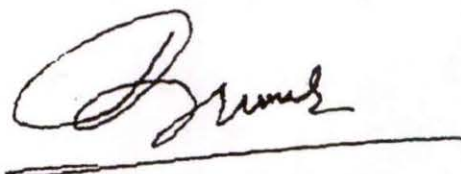
(Figures within brackets denote the amount of guarantee exceeding the previous year's.)

The matter was reported to the Government in January 2005; their reply was awaited (August 2005).

<sup>1</sup> Rs.2,466.00 deposited as guarantee fee.

- Cooperation Department gave guarantee of Rs.110.40 crore for seven years from September 2001 to U.P. State Warehousing Corporation to procure loan from Bank of India consortium (Rs.70.40 crore) and from State Bank of India (Rs.40 crore) for construction of warehouses for storing rice in the ensuing kharif season. Contrary to the instructions of September 2000 the Department levied guarantee fee of Rs.71 lakh at the rate of 0.25 per cent instead of Rs.2.85 crore at the rate of one per cent upto 31 March 2004. This resulted in short-levy of guarantee fee of Rs.2.14 crore.

After this was pointed out in audit, the Department stated in September 2004 that guarantee fee was not leviable prior to 2000-01 in view of the decision of the Cabinet and was leviable at the rate of 0.25 per cent from 2000-01 onwards. The reply is not tenable as the relevant Government orders reducing the rate of guarantee fee have not yet been issued by the Finance Department. Thus the original orders of Finance Department dated 15 September 2000 will be applicable in these cases.



(BIRENDRA KUMAR)

Accountant General (C&RA)  
Uttar Pradesh

Lucknow

The

13 Feb. 2006

Countersigned



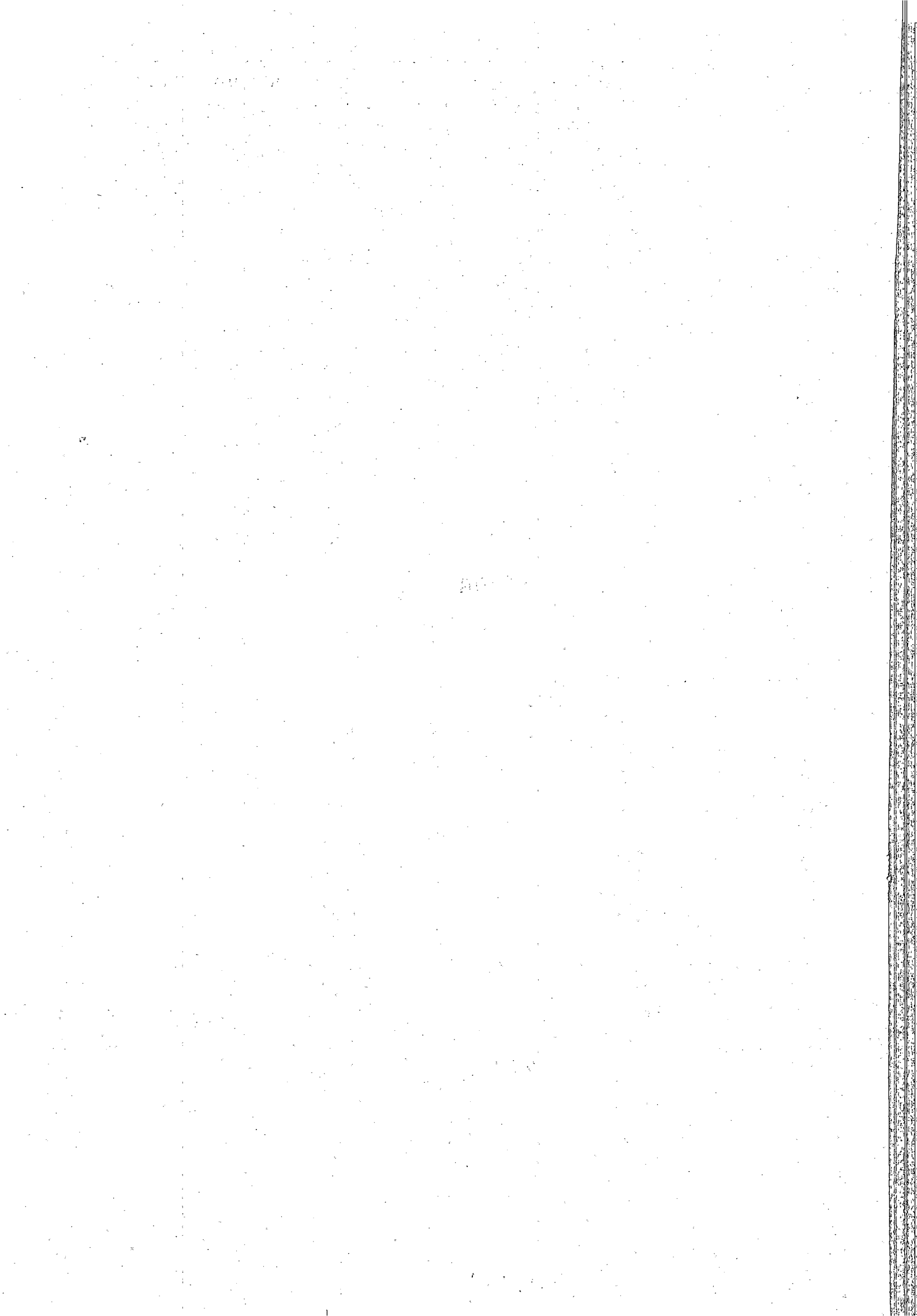
(VIJAYENDRA N. KAUL)

Comptroller and Auditor General of India

New Delhi

The

24 Feb. 2006





# Appendices

Appendices

## APPENDIX - I

### Non/Short levy of tax (Paragraph 2.2.8)

(Rupees in crore)

Sl. No.	Name of Offices	Year of Assessment Month of assessment	Name of commodity	Turnover	Rate of tax leviable (percentage)	Rate of tax levied (percentage)	Tax not/short levied
1.	DC (A)- V Agra	1995-96 & 1996-97 April 2002 & September 2002	Motor Vehicle	0.41	12.5	Nil	0.05
2.	DC (A) -VIII Agra	1999-2000 & 2001-02 April 2003	Motor Vehicle	0.28	12 & 12.5	Nil	0.03
3.	DC (A)-I Kanpur	2000-01 & 2001-02 February 2003 & 2004	Auto Tyre tubes	1.70	12 & 12.5	8	0.07
4.	DC (A) -IV Kanpur	1998-99 & 1999-2000 September 2003 & October 2003	Auto tyre tubes	10.27	12.5	Nil	1.28
		2000-01 August 2003	Shampoo	4.96	15 & 16	12	0.08
5.	DC (A) - II Lucknow	1997-98 to 2001-02 January 2002 & November 2003	Motor vehicle & battery	2.42	12 & 12.5	Nil	0.30
6.	DC (A)-IV Noida	2001-02 January 2004	Plant & Machinery, Office Equipment	5.19	8	Nil	0.42
			Vehicle	0.64	12	Nil	0.08
		2001-02 March 2004	Float Glass	0.11	16	10	0.01
7.	DC (A)-V Varanasi	1990-91 August 2002	Cable tray	1.67	15	7.5	0.13
8.	AC Sector-III Allahabad	1999-2000 December 2001	Cooked food	0.41	8	5	0.01
9.	DC (A) Modinagar	1999-2000 December 2001	Dish antenna	0.52	7.5 & 2	5 & 8	0.02
10.	DC(A)-II Rampur	2000-01 March 2001	Scanner	0.59	8	4	0.02
11.	TTO Sector-II Raebareli	1998-99 December 2000	Molasses	0.10	15	10	0.01
12.	AC Sector-IX Varanasi	1994-95 August 2001	Ayurvedic medicine	0.25	10	7.5	0.01
13.	AC Sector-III Lucknow	1999-2000 December 2001	Supari	0.10	10	5	0.005
14.	DC (A) Etawah	2000-01 January 2003	Timber	1.08	16	15	0.01
15.	AC Sector-VI Meerut	2000-01 February 2003	Cosmetics	0.59	16	15	0.01
16.	AC Sector-IX Kanpur	2000-01 February 2003	Paper cone	0.50	10	5	0.02
17.	TTO-II, Sect.XII Lucknow	1999-2000 January 2002	Cooling plant	0.06	15	Nil	0.01
18.	AC Sector-XII Lucknow	2000-01 December 2002	Plant and Machinery, Furniture fittings and vehicles	0.55	8 & 12	Nil	0.04
19.	AC Sector-III Varanasi	1999-2000 November 2002	Raw silk	2.57	10	Nil	0.26
<b>Total</b>				<b>34.97</b>			<b>2.88</b>

**APPENDIX-II**

**SHORT LEVY OF TAX DUE TO MISCLASSIFICATION OF GOODS**

(Paragraph 2.2.8)

(Rupees in crore)

Sl. No.	Name of office	Assessment year Month of assessment	Nature of misclassification	Taxable Turnover	Rate of tax leviable (in per cent)	Rate of tax levied (in per cent)	Tax non/short levied
1.	DC (A)-XVIII, Kanpur	1999-2000 February 2003	Auto gears treated as machinery parts	0.31	12.5	7.5	0.02
2.	DC (A)-IV, Noida	2000-01 February 2003	Potato chips treated as sweet meat, namkeen; goodwill treated as exempted item	4.40	12/10	5/Nil	0.37
3.	DC (A)-VI, Varanasi	2000-01 February 2003  2001-02 March 2004	Figaro brand olive oil treated as refined edible oil	2.78	10	5	0.14
4.	DC (A)-II, Lucknow	2000-01 December 2002	Voltage Stabilizers treated as electronics goods	0.87	12	8	0.03
5.	AC Sector-X, Lucknow	1999-2000 March 2002 2000-01 February 2003	Medical instruments treated as electronic goods	0.33	10	5	0.01
6.	DC (A)-VII, Lucknow	1999-2000 July 2001 2000-01 May 2002	Disposable diapers treated as readymade garments	0.28	10	5	0.01
7.	DC (A), Mathura	2000-01 December 2002	Oxygen gas treated as fuel gas	0.32	12	10	0.007
8.	DC(A)-XVIII, Kanpur	2000-01 February 2003	CDs and audio cassettes treated as all other electronic goods.	0.26	8	5/4	0.01
9.	AC Sector-III, Hapur	2001-02 March 2003	Rice bran de-oiled cake and Soya de-oiled cake treated as exempted items	3.58	4	Nil	0.14
10.	AC Sector-I, Hapur	1998-99 February 2001 1999-2000 December 2001 2000-01 August 2002	Paint and varnish treated as dyes and colours	0.18	15/12	4/5/10	0.01
11.	DC (A)-IV, NOIDA	2000-01 January 2003	Rubber goods treated as unclassified items	0.37	12	10	0.008
12.	DC (A)-VI, Agra	1999-2000 May 2001 2000-01 November 2002	Stainless steel storage box and Kitchen sink treated as utensils	0.12	15	5	0.01
13.	DC (A)-II, Ghaziabad	2000-01 April 2002	Borolene treated as medicine	3.58	15	8	0.25
14.	DC (A)-XIX, Kanpur	2000-01 November 02	Nylon/Teflon products treated as hardware	0.36	10	8	0.007
		2000-01 December 02	Diagnostic kits treated as medicine	0.27	10	8	0.005
15.	DC (A)-II, Hapur	1999-2000 March 2002	Mobil oil, grease treated as lubricant	23.00	15	10	1.15
		2000-01 February 2003	Imported timber treated as timber product	0.44	20	8	0.05
<b>Total</b>				<b>41.45</b>			<b>2.23</b>

### Appendix- III

Loss of revenue due to non checking of vehicles plying without permit

(Paragraph 4.2.7)

(Rupees in lakh)

Sl. No.	RTO/ARTO	No. of vehicles	Additional tax due	Plus additional tax at the rate of 25 per cent	Total additional tax due
1.	Agra	135	356.67	89.17	445.84
2.	Aligarh	57	154.53	38.63	193.16
3.	Allahabad	31	57.30	14.32	71.62
4.	Bareilly	21	33.75	8.44	42.19
5.	Bulandshahar	37	23.34	5.84	29.18
6.	Etawah	14	37.95	9.49	47.44
7.	Faizabad	52	138.01	34.50	172.51
8.	Ferozabad	42	76.00	19.00	95.00
9.	Ghaziabad	37	70.47	17.62	88.09
10.	Jhansi	27	48.98	12.25	61.23
11.	Kanpur	159	326.02	81.50	407.52
12.	Lucknow	138	363.35	90.84	454.19
13.	Moradabad	01	2.48	0.62	3.10
14.	Raibareli	44	122.82	30.70	153.52
15.	Varanasi	50	135.55	33.89	169.44
	<b>Total</b>	<b>845</b>	<b>1,947.22</b>	<b>486.81</b>	<b>2,434.03</b>

**Appendix -IV**

**Loss due to short compounding of offences.**

**(Paragraph 4.2.8)**

**(i) Air pollution :-**

**(Rupees in lakh)**

Sl. No.	Units	Number of vehicles	Compoun-dable Amount	Compoun-ded Amount	Short Compounding
1.	RTO,Agra	12,337	123.37	6.17	117.20
2.	RTO,Aligarh	3,573	35.73	1.79	33.94
3.	RTO,Bareilly	2,641	26.41	1.32	25.09
4.	ARTO,Etawah	1,179	11.79	0.59	11.20
5.	RTO,Faizabad	2,402	24.02	1.20	22.82
6.	ARTO,Ferozabad	3,744	37.44	1.87	35.57
7.	RTO,Ghaziabad	7,132	71.32	3.57	67.75
8.	RTO,Gorakhpur	6,033	60.33	3.01	57.31
9.	RTO,Jhansi	3,155	31.55	1.58	29.97
10.	RTO,Kanpur Nagar	8,730	87.30	4.37	82.94
11.	RTO,Lucknow	9,962	99.62	4.98	94.64
12.	RTO,Moradabad	4,785	47.85	2.39	45.46
13.	RTO,Saharanpur	609	6.09	2.83	3.26
14.	RTO,Varanasi	8,218	82.18	4.11	78.07
15.	T.C. Office	44	0.44	0.02	0.42
	<b>TOTAL</b>	<b>74,544</b>	<b>745.44</b>	<b>39.80</b>	<b>705.64</b>

**(ii) Noise Pollution :-**

**(Rupees in lakh)**

Sl. No.	Units	Number of vehicles	Compoun-dable Amount	Compoun-ded Amount	Short Compounding
1.	RTO,Agra	409	4.09	0.20	3.89
2.	RTO,Aligarh	2,402	24.02	1.20	22.82
3.	ARTO,Etawah	515	5.15	0.26	4.89
4.	RTO,Faizabad	565	5.65	0.28	5.37
5.	ARTO,Ferozabad	1,882	18.82	0.94	17.88
6.	RTO,Ghaziabad	320	3.20	0.16	3.04
7.	RTO,Gorakhpur	896	8.96	.45	8.51
8.	RTO,Lucknow	1,158	11.58	0.58	11.00
9.	ARTO,Raibareli	1,126	11.26	0.56	10.70
10.	RTO,Saharanpur	6,263	62.63	3.95	58.68
11.	RTO,Varanasi	827	8.27	0.41	7.86
	<b>TOTAL</b>	<b>16,363</b>	<b>163.63</b>	<b>8.99</b>	<b>154.64</b>

## Appendix -V

### Loss of revenue due to absence of two driver (Paragraph 4.2.8)

(Rupees in lakh)

Sl. No.	RTO's/ARTO's	Number of vehicles	Compoundable amount	Compounded amount	Short Compounding
1.	ARTO, Etawah	331	8.28	0.17	8.11
2.	ARTO, Ferozabad	685	17.13	0.34	16.78
3.	RTO, Jaunpur	70	1.75	0.04	1.72
4.	RTO, Meerut	194	4.85	0.10	4.75
5.	RTO, Mirzapur	98	2.45	0.05	2.40
6.	RTO, Saharanpur	89	2.23	0.04	2.18
	<b>TOTAL</b>	<b>1,467</b>	<b>36.68</b>	<b>0.74</b>	<b>35.94</b>

Appendix – VI

Non recovery of compounding/fitness fee from vehicles plying  
without certificate of fitness

(Paragraph 4.2.9)

(Rupees in lakh)

Sl. No.	Region/sub-region	Number of vehicles without fitness	Number of cases test checked	Compounding fee due
1.	Agra	475	85	2.12
2.	Bahraich	78	18	0.45
3.	Bareilly	1,325	--	--
4.	Bulandshahar	244	244	6.10
5.	Etawah	182	--	--
6.	Faizabad	908	19	0.47
7.	Ferozabad	250	--	--
8.	Ghaziabad	535	535	13.37
9.	Gonda	54	35	0.88
10.	Gorakhpur	701	--	--
11.	Jaunpur	53	53	1.33
12.	Jhansi	92	30	0.75
13.	Kanpur Nagar	3,700	29	0.73
14.	Lucknow	44	44	1.10
15.	Moradabad	210	210	5.25
16.	Saharanpur	2,098	--	--
17.	Varanasi	2,966	64	1.60
	<b>TOTAL</b>	<b>13,915</b>	<b>1,366</b>	<b>34.15</b>



Appendix - VII

Loss due to non checking of forwarding agencies

(Paragraph 4.2.10)

(Rupees in lakh)

Sl. No.	Region/Sub-region	Number of agencies	Registration fee
1.	Azamgarh	17	0.17
2.	Bahraich	Nil*	--
3.	Gonda	Nil*	--
4.	Jaunpur	108	1.08
5.	Meerut	115	1.15
6.	Mirzapur	182	1.82
7.	Saharanpur	130	1.30
	TOTAL	552	5.52

\* Survey not conducted by department.

**Appendix - VIII**

**Short achievement of targets  
Spot verification of surrendered vehicles  
(Paragraph 4.2.11)**

<b>Year</b>	<b>No. of Surrendered vehicles</b>	<b>Target</b>	<b>Targets achieved</b>	<b>Short fall</b>	<b>Office of RTO/ARTO who did not achieve target at all</b>
1999-2000	4,912	737	147	590	Bareilly, Faizabad, Allahabad, Rai bareli, Bulandshahar and Kanpur nagar.
2000-2001	4,858	730	100	630	Bareilly, Faizabad, Allahabad, Rai bareli, Bulandshahar, Kanpur nagar and Ghaziabad.
2001-2002	6,885	6,885	812	6,073	Bareilly, Faizabad, Allahabad, Rai bareli, Bulandshahar, Kanpur nagar, Ghaziabad and Ferozabad.
2002-2003	7,492	7,492	2,095	5,397	Ferozabad and Kanpur nagar.
2003-2004	8,612	8,612	1,519	7,093	Ferozabad, Kanpur nagar, Allahabad and Rai bareli.
<b>TOTAL</b>	<b>32,759</b>	<b>24,456</b>	<b>4,673</b>	<b>19,783</b>	

## Appendix - IX

### Loss of revenue due to incorrect fixation of seating capacity (Paragraph 4.4)

(Rupees in lakh)

Sl. No.	District	No. of buses		Capacity (seats)		Capacity as per Rule 139		Difference		Rate of addl. tax (seat/qr.)		Addl. tax due		Total
		A**	B**	A	B	A	B	A	B	A	B	A	B	
1	Farrukhabad	16	-	833	-	992	-	159	-	376	-	3.39	-	3.39
2	Saharanpur	393	300	21,222	16,200	24,366	18,600	3,144	2,400	376	393	66.99	53.45	120.44
3	Meerut	487	-	26,298	-	30,194	-	3,896	-	376	-	83.01	-	83.01
	<i>City buses</i>	105	-	-	-	-	-	-	-	-	-	41.58	-	*41.58
4	Mirzapur	30	-	1,451	-	1,691	-	240	-	458	-	6.23	-	6.23
5	Azamgarh	85	-	3,466	-	3,891	-	425	-	376	-	9.05	-	9.05
6	Gonda	-	43	-	1,811	-	2,033	-	222	-	393	-	4.94	4.94
7	Bahraich	147	34	7,938	1,696	8,673	1,862	735	166	376	393	15.66	3.70	19.36
8	Jaunpur	101	-	4,840	-	5,641	-	761	-	376	-	16.21	-	16.21
	<b>Total</b>											<b>242.13</b>	<b>62.09</b>	<b>304.21</b>

\* Calculated as per city bus rates.

\*\* A and B denote class of routes.

## Appendix -X

### Details of Unclaimed Confiscated Vehicles (Paragraph 6.2.5)

(Rupees in lakh)

Sl. No.	District	No. of Police Station	Truck / Bus	Car/ Jeep/ Tractor	Motor Cycle	Scooter	Moped	Total No. of Vehicle	Value of the Vehicles
1.	Allahabad	30	2	24	42	73	19	160	22.23
2.	Varanasi	15	—	5	17	28	08	58	5.76
3.	Kanpur Nagar	24	4	21	36	74	06	141	21.92
4.	Kanpur Dehat	14	2	4	18	08	—	32	6.20
5.	Lucknow	15	—	14	35	68	13	130	14.16
6.	Sitapur	14	—	4	18	—	—	22	3.80
7.	Shahjahanpur	7	1	—	6	1	—	8	1.65
8.	Bareilly	25	3	8	17	21	1	50	9.77
9.	Moradabad	13	—	12	19	21	—	52	8.95
10.	Faizabad	14	1	10	25	6	5	47	8.90
11.	Gonda	11	—	—	3	3	—	6	0.45
12.	Bahraich	20	1	5	6	3	—	15	4.25
13.	Basti	9	—	2	3	1	—	6	1.35
14.	Gorakhpur	6	—	1	2	2	1	6	0.82
15.	Azamgarh	20	—	7	24	9	4	44	6.43
16.	Jaunpur	22	—	6	7	9	1	23	4.17
17.	Jhansi	14	—	1	2	9	1	13	1.17
18.	Agra	8	—	1	6	3	1	11	1.27
19.	Mathura	13	—	11	12	5	1	29	6.97
20.	Ghaziabad	7	2	18	13	15	—	48	13.05
21.	Meerut	14	1	46	19	28	1	95	27.32
	<b>Total</b>	<b>315</b>	<b>17</b>	<b>200</b>	<b>330</b>	<b>387</b>	<b>62</b>	<b>996</b>	<b>170.59</b>

#### Minimum Price

1.	Truck/Bus	Rs.	$1,00,000 \times 17$	=	17,00,000
2.	Car/Jeep etc.	Rs.	$50,000 \times 200$	=	1,00,00,000
3.	Motor Cycle	Rs.	$10,000 \times 330$	=	33,00,000
4.	Scooter	Rs.	$5,000 \times 387$	=	19,35,000
5.	Moped	Rs.	$2,000 \times 62$	=	1,24,000
	<b>Total</b>			=	<b>1,70,59,000</b>