Report of the Comptroller and Auditor General of India

for the year ended 31 March, 1999

No. 1 (Revenue Receipts)

Government of Uttar Pradesh



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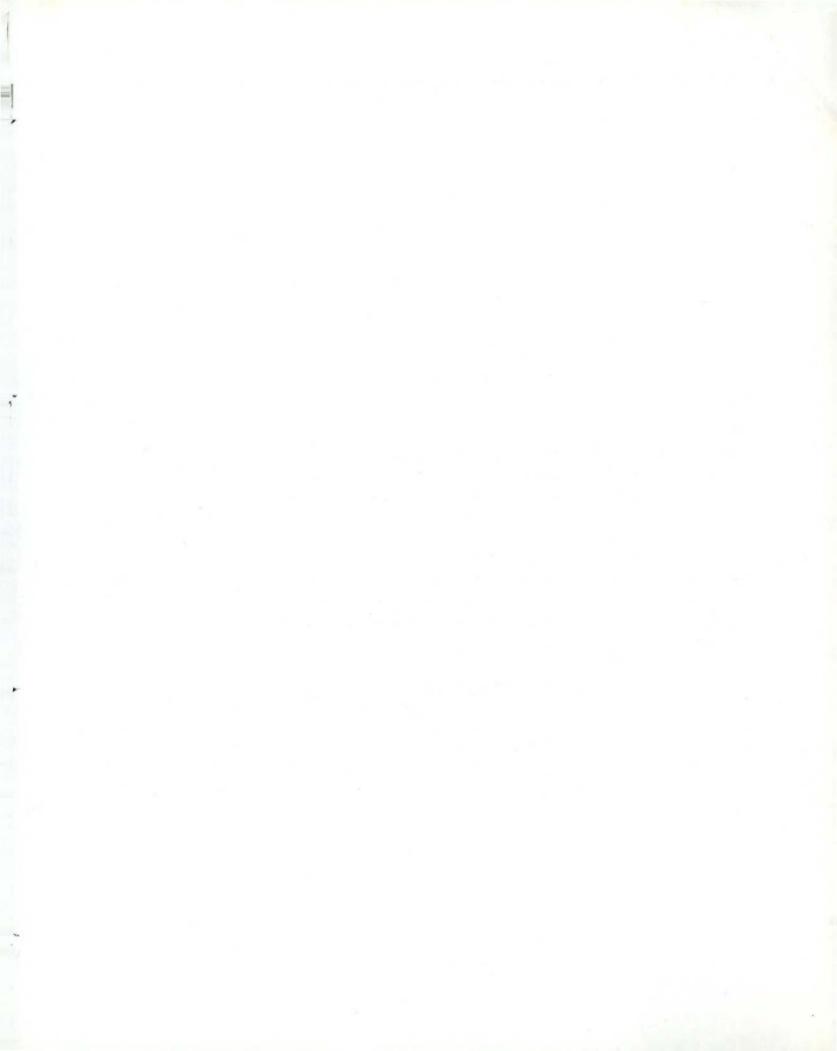
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Prefatory Remarks

This Report for the year ended 31st March, 1999 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, entertainment tax and betting tax, 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 1998-99 as well as those which came to notice in earlier years but could not be included in previous years' Reports.



Overview

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Overview

This report contains 24 paragraphs and 4 reviews relating to non/short levy of taxes, duties, fees, interest and penalties etc. involving Rs. 1025.00 crore. Some of the major findings are mentioned below:

1. General

- During the year 1998-99, revenue raised by the State Government, both tax (Rs.7912.31 crore) and non tax (Rs. 1475.06 crore) amounted to Rs. 9387.37 crore as against Rs. 8289.88 crore during the previous year. Receipts from Government of India including grants-in-aid, during the year aggregated Rs. 7991.32 crore. Receipts under Trade Tax (Rs. 3377.89 crore) and State Excise (Rs. 1631.34 crore) accounted for a major portion (63.30 per cent) of tax revenue receipts. Under non-tax revenue, main receipts came from Interest Receipts (Rs.428.00 crore), Non-ferrous Mining and Metallurgical Industries (Rs. 145.81 crore), Forestry and Wild Life (Rs. 125.91 crore), Other Administrative Services (Rs. 102.58 crore) and Education, Sports, Art and Culture (Rs. 101.34 crore).
- During 1998-99, tax revenue and non tax revenue registered an increase of 13 per cent and 14 per cent respectively over the receipts of previous year.

(Paragraph 1.1)

• Test check of records of Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration Fees, Land Revenue, Electricity Duty, Tax on Purchase of Sugarcane, Forest Receipts and other Departmental Receipts conducted during 1998-99 revealed under assessment, short levy, loss of revenue etc. amounting to Rs. 1299.07 crore in 2546 cases. During the course of year 1998-99, the concerned Department accepted under assessments etc. of Rs.189.36 crore in 1348 cases of which 152 cases involving Rs. 170.52 crore had been pointed out in audit during 1998-99 and the rest in earlier years.

(Paragraph 1.7)

• Inspection reports numbering 6429 (issued up to 31 December 1998)

containing 14565 audit observations with money value of Rs. 1648.51 crore were not settled up to June 1999.

(Paragraph 1.8)

2. Trade Tax

A review on "Ex-parte Assessment Orders in Trade Tax Department" revealed the following:

 Tax of Rs. 692.19 crore assessed on ex-parte basis in respect of three dealers alone remained outstanding in two circles due to cases being under reassessment and appeal.

(Paragraph 2.2.4 (a))

 Tax amounting to Rs. 62.48 crore covered under 2541 Recovery Certificates was not realised even after creation of final demand.

(Paragraph 2.2.4 (b))

Another review on "Pendency of Recovery Certificates in Trade Tax Department" revealed the following:

 Arrear dues amounting to Rs. 1860.66 crore though covered under recovery certificates, were still lying unrecovered.

(Paragraph 2.3.4)

 In 839 cases, recovery certificates involving Rs. 9.20 crore were reduced from demand and returned to assessing authorities for want of complete particulars.

(Paragraph 2.3.6(a))

• In one district, in respect of 31 recovery certificates concerning 9 dealers recovery of Rs. 5.07 crore has not been made for period ranging between 1 and 4 years.

(Paragraph 2.3.6(b))

• Government orders against the provisions of the Act, resulted in unauthorised waiver of Rs. 5.58 crore.

(Paragraph 2.4)

3. Taxes on Vehicles, Goods and Passengers

A review on "Assessment and Collection of Taxes on Vehicles owned by Uttar Pradesh State Road Transport Corporation" revealed the following:

 Passenger tax amounting to Rs. 176.70 crore realised by UPSRTC was not deposited into Government account.

(Paragraph 4.2.5)

4. Stamp Duty and Registration Fees

 Government was deprived of revenue amounting to Rs. 7.12 crore due to short levy of stamp duty on bonds.

(Paragraph 5.2)

5. Forest Department

• Shortfall in extraction of 7898 quintals of resin resulted in loss of revenue of Rs. 1.34 crore.

(Paragraph 8.2)

6. Other Departmental Receipts

B. Public Works Department

A review on "Rent Receipts from Government Guest Houses and Government Quarters" revealed the following:

 Rent and other charges in respect of Vidhayak Niwases and Guest Houses amounting to Rs. 2.24 crore were not realised.

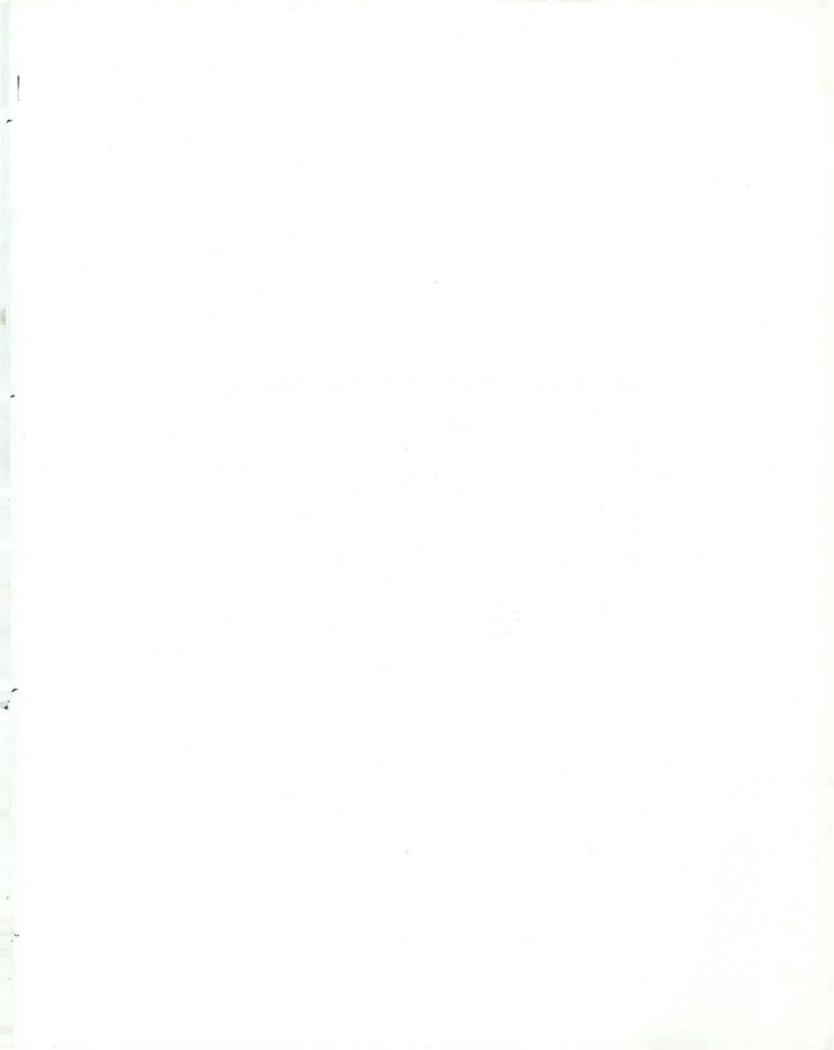
(Paragraph 9.4.4 (a))

• Penal rent of Rs. 1.23 crore was not realised from retired/transferred officials for unauthorised retention of Government quarters.

(Paragraph 9.4.5)

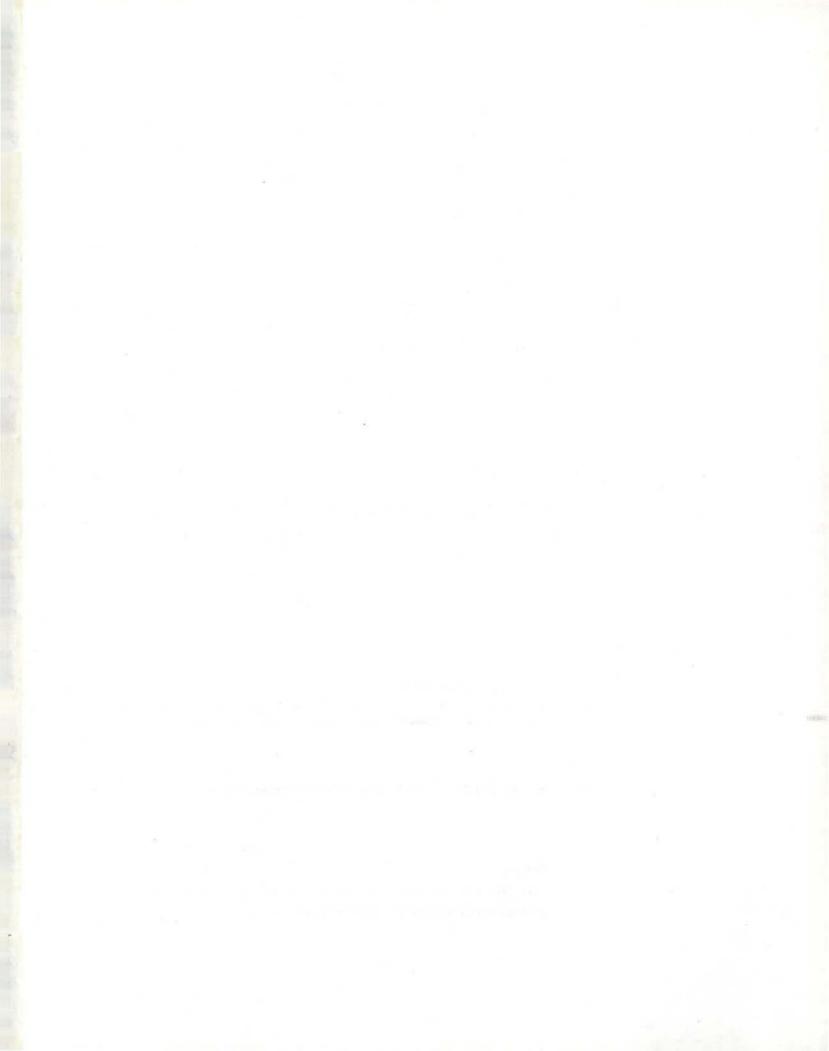
Chapter 1

General



Chapter I : General

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CHAPTER 1: GENERAL

1.1 Trend of revenue receipts

The tax and non tax revenue raised by the State Government of Uttar Pradesh during the year 1998-99, 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 two years are given below:

(Rupees in crore)

	1996-97	1997-98	1998-99
I. Revenue raised by the State Government			
(a) Tax revenue	6305.97	6998.17	7912.31
(b) Non tax revenue	1318.49	1291.71	1475.06
Total	7624.46	8289.88	9387.37
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	6072.38	7114.70	5768.92 ¹
(b) Grants-in-aid	2331.73	2166.53	2222.40
Total	8404.11	9281.23	7991.32
III. Total receipts of the State (I + II)	16028.57	17571.11	17378.69
IV. Percentage of I to III	48	47	54

(i) The details of tax revenue for the year 1998-99 along with the figures for the preceding two years are given in the following table:

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 1998-99. Figures under the Major head "0021 Taxes on Income other than Corporation Tax-share of net proceeds assigned to State" 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.

(Rupees in crore)

Revenue Head		1996-97	1997-98	1998-99	Increase (+) or decrease (-) in 1998-99 with reference to 1997-98	Percentage of increase or decrease with reference to 1997-98
	1	2	3	4	5	6
1.	Trade Tax	2827.41	3083.44	3377.89	(+) 294.45	(+) 9.55
2.	State Excise	1322.91	1404.09	1631.34	(+) 227.25	(+) 16.18
3.	Stamp Duty and Registration Fees	875.06	956.00	1031.78	(+) 75.78	(+) 7.93
4.	Tax on Sale of Motor Spirit and Lubricants	590.77	815.55	1008.76	(+) 193.21	(+) 23.69
5.	Taxes on Goods and Passengers	221.43	222.36	238.18	(+) 15.82	(+) 7.11
6.	Taxes on Vehicles	139.54	166.60	211.30	(+) 44.70	(+) 26.83
7.	Tax on Purchase of Sugarcane	55.01	35.95	71.02	(+) 35.07	(+) 97.55
8.	Taxes and Duties on Electricity	78.32	110.88	100.85	(-) 10.03	(-) 9.05
9.	Land Revenue	72.62	66.57	88.34	(+) 21.77	(+) 32.70
10.	Other Taxes on Income and Expenditure		0.21	nil	(-) 0.21	(-) 100.00
11.	Taxes on Immovable Properties other than Agricultural Land	1.20	3.33	0.01	(-) 3.32	(-) 99.00
12.	Other Taxes and Duties on Commodities and Services	115.56	126.84	136.87	(+) 10.03	(+) 7.91
13.	Others (Hotel receipts and Corporation tax etc.)	6.14	6.35	15.97	(+) 9.62	(+) 151.50
	Total	6305.97	6998.17	7912.31	(+) 914.14	(+) 13.06

The reasons for variation where it was substantial, though called for (August 1999), from the State Government, have not been received (September 1999).

(ii) The details of non-tax revenue for the year 1998-99 along with the figures for the preceding two years are exhibited in the following table:

(Rupees in crore)

Revenue Head		1996-97		1998-99	Increase (+) or decrease (-) in 1998-99 with reference to 1997-98	Percentage of increase/ decrease with reference to 1997-98
	1	2	3	4	5	6
1.	Misc. General Services	62.07	63.88	96.78	(+) 32.90	(+) 51.50
2.	Interest Receipts	478.97	484.34	428.00	(-) 56.34	(-) 11.63
3.	Forestry and Wild Life	104.51	113.26	125.91	(+) 12.65	(+) 11.16
4.	Major and Medium Irrigation	100.78	40.86	49.13	(+) 8.27	(+) 20.24
5.	Education, Sports, Art and Culture	54.65	95.89	101.34	(+) 5.45	(+) 5.68
6.	Other Administrative Services	33.03	36.15	102.58	(+) 66.43	(+)183.76
7.	Non-ferrous Mining and Metallurgical Industries	159.00	151.97	145.81	(-) 6.16	(-) 4.05
8.	Police	59.58	47.83	74.84	(+) 27.01	(+) 56.47
9.	Crop Husbandry	19.55	17.91	17.53	(-) 0.38	(-) 2.12
10.	Social Security and Welfare	16.09	12.12	17.16	(+) 5.04	(+) 41.58
11.	Medical and Public Health	18.85	21.78	33.02	(+) 11.24	(+) 51.61
12.	Minor Irrigation	36.75	34.10	35.09	(+) 0.99	(+) 2.90
13.	Roads and Bridges	20.09	19.13	22.06	(+) 2.93	(+) 15.32
14.	Public Works	17.94	23.08	21.90	(-) 1.18	(-) 5.11
15.	Co-operation	5.96	4.29	4.62	(+) 0.33	(+) 7.69
16.	Others	130.67	125.12	199.29	(+) 74.17	(+) 59.28
	Total	1318.49	1291.71	1475.06	(+) 183.35	(+) 14.19

The reasons for variation where it was substantial, though called for (August 1999) from the State Government, have not been received (September 1999).

1.2 Variations between Budget estimates and actuals

The variations between Budget estimates and actuals of tax and non-tax revenues in respect of major heads during the year 1998-99 are given in the table below:

(Rupees in crore)

Re	venue Head	Budget estimates	Actuals	Variation Increase (+) shortfall (-)	Percentage of variations	
	1	2	3	4	5	
Α.	Tax Revenue					
1.	Trade Tax	4000.00	3377.89	(-) 622.11	(-) 15.55	
2.	State Excise	1697.42	1631.34	(-) 66.08	(-) 3.89	
3.	Stamp duty and Registration fee	1350.00	1031.78	(-) 318.22	(-) 23.57	
4.	Tax on Sale of Motor Spirit and Lubricants	1200.00	1008.76	(-) 191.24	(-) 15.94	
5.	Taxes on Goods and Passengers	437.60	238.18	(-) 199.42	(-) 45.57	
6.	Taxes on Vehicles	212.40	211.30	(-)1.10	(-) 0.52	
7.	Other Taxes and Duties on Commodities and Services, Entertainment Tax	140.76	136.87	(-)3.89	(-) 2.76	
8.	Tax on Purchase of Sugarcane	141.83	71.02	(-) 70.81	(-) 49.93	
9.	Taxes and Duties on Electricity	136.00	100.85	(-) 35.15	(-) 25.85	
10.	Land Revenue	46.75	88.34	(+) 41.59	(+) 88.96	
В.	Non Tax Revenue	*		9.00	Ÿ.	
1.	Misc. General Services	375.16	96.78	(-) 278.38	(-) 74.20	
2.	Interest Receipts	439.51	428.00	(-) 11.51	(-) 2.61	
3.	Forestry and Wild Life	200.90	125.91	(-) 74.99	(-) 37.32	
4.	Major and Medium Irrigation	166.74	49.13	(-) 117.61	(-) 70.53	
5.	Education, Sports, Art and Culture	77.93	101.34	(+) 23.41	(+) 30.04	
6.	Non Ferrous Mining & Metallurgical Industries	300.00	145.81	(-) 154.19	(-) 51.40	

The substantial variation between Budget estimates and actual receipts in a large number of heads of tax and non-tax revenue indicates that the original estimates were based on unrealistic assumptions as seen with reference to the actual incremental trend from 1996-97.

Excise department replied (November 1999) that inspite of increase of 24 per cent in 1998-99 as compared to 1997-98 the actual receipt was not commensurate with budget estimates as the increased revised rates of tax on motor spirit and diesel oil were made effective from 4.7.1998 instead of 1.4.1998 and rates of diesel oil were reduced thrice in 1998-99 by Government of India.

The reasons for variation where it was substantial in respect of other departments, though called for (August 1999) from the State Government, have not been received (September 1999).

1.3 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 1996-97, 1997-98 and 1998-99 along with the relevant All India Average percentage of expenditure on collection to gross collection for 1997-98 are given below:

(Rupees in crore)

Revenue Head		venue Head Year Gross collection	Expenditure on collection	Percentage of expendi- ture to gross collection	All India Average for the year 1997-98	
	1	2	3	4	5	6
1.	Trade Tax	1996-97	2827.41	45.90	1.6	
		1997-98	3083.44	85.32	2.8	1.28
		1998-99	3377.89	80.51	2.4	
2.	Taxes on	1996-97	360.97	10.91	3.0	
	Vehicles, Goods	1997-98	388.96	15.00	3.8	2.65
	and Passengers	1998-99	449.48	14.21	3.2	
3.	State Excise	1996-97	1322.91	16.36	1.2	
		1997-98	1404.09	18.78	1.3	3.20
		1998-99	1631.34	24.48	1.5	
4.	Stamp Duty and	1996-97	875.06	11.94	1.4	
	Registration fees	1997-98	956.00	16.43	1.7	3.14
		1998-99	1031.78	13.71	1.3	

The expenditure incurred on collection and percentage of such expenditure to the gross collection under the heads "Trade Tax" and "Taxes on Vehicles, Goods and Passengers" had been steadily higher than the All India Average percentage of cost of collection.

Excise department stated (November 1999) that cost of collection Rs. 24.48 crore is on gross collection of Rs. 2640.00 crore which includes Rs. 1631.34 crore of state excise and Rs. 1008.76 crore on motor spirit and diesel oil. Thus percentage of expenditure to gross collection works out to 0.92 per cent instead of 1.5 per cent.

1.4 Performance of assessment work in Trade Tax Department

(a) Arrears in assessments

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 from 1994-95 to 1998-99 are given below:

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
1994-95	8,01,418	4,11,320	12,12,738	3,72,718	8,40,020	31.0
1995-96	9,41,134	4,28,990	13,70,124	8,07,277	5,62,847	59.0
1996-97	5,62,847	5,26,778	10,89,625	4,86,648	6,02,977	44.7
1997-98	6,69,353	4,51,315	11,20,668	7,30,551	3,90,117	65.19
1998-99	4,42,379	4,66,899	9,09,278	4,89,535	4,19,743	53.84

It was seen that the closing balance of the years 1994-95, 1996-97 and 1997-98 differs from the opening balance of the succeeding years. The department stated that this was due to information received from other departments during the year and rectification of mistakes. The reply of department is not tenable, as the opening balance of a particular year cannot be different from the closing balance of the

preceding year. The department needs to correct the system of maintenance of records to ensure consistency and correctness of statistics.

Year-wise break-up of cases disposed of during 1998-99 and the assessments pending as on 31 March 1999 are as given below:

Assessment year	Number of cases disposed of	Number of cases pending
Up to 1994-95	26,862	287
1995-96	25,036	1,049
1996-97	3,69,060	20,085
1997-98	57,154	3,93,542
Cases remanded by Courts for reassessment	11,423	4,780
Total	4,89,535	4,19,743

(b) Appeal and revision cases

(i) The number of appeal and revision cases due for disposal and finalised by the Trade Tax Department during the years from 1994-95 to 1998-99 together with the number of appeal and revision cases pending at the end of 1998-99 as reported by the Department are indicated in the following table:

Year	Open- ing balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to the total number of cases
1	2	3	4	5	6	7
Appeal	cases					
1994-95	62,672	30,150	92,822	36,520	56,302	39
1995-96	56,302	36,715	93,017	36,138	56,879	39
1996-97	56,879	42,166	99,045	32,913	66,132	33
1997-98	66,132	48,794	1,14,926	54,932	59,994	48
1998-99	59,994	69,931	1,21,925	61,339	60,586	50

Year	Open- ing balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to the total number of cases
1	2	3	4	5	6	7
Revision	cases					
1994-95	67,369	16,442	83,811	16,458	67,353	20
1995-96	67,353	14,374	81,727	19,853	61,894	24
1996-97	61,894	8,444	70,338	13,226	57,112	19
1997-98	57,112	9,544	66,656	16,609	50,047	25
1998-99	50,047	14,225	64,272	14,858	49,414	23

(ii) Year-wise break-up of the appeal and revision cases pending as on 31 March 1999 was as under:

Year	Pending as o	Pending as on 31 March 1999		
	Appeal cases	Revision cases		
Upto 1995	124	21,116		
1996	19	5,862		
1997	8,931	6,502		
1998	36,605	11,608		
1999	14,907	4,326		
Total	60,586	49,414		

1.5 Analysis of collection

The break-up of total collection (at pre-assessment stage and after regular assessment) of Trade Tax during 1998-99 and corresponding figures for preceding two years as furnished by the Department are given in the following table:

(Rupees in crore)

Year	Amount collected at pre- assessment stage	Amount collected after regular assessment	Amount refunded	Net collection of tax	Percentage of col. 2 to 5	
1	2	3	4	5	6	
1996-97	2640.23	130.12	13.15	2757.20	96	
1997-98	2937.78	156.85	21.06	3073.57	96	
1998-99	3211.84	190.51	24.46	3377.89	95	

The position of revenue collected by Trade Tax Department during the last three years ending March 1999 shows that collection of revenue at pre-assessment stage ranged from 95 per cent to 96 per cent.

1.6 Arrears of revenue

As on 31 March 1999, 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 collection			Remarks	
		Total	More than 5 years old		
1	2	3	4	5	
1.	Trade Tax	5919.75	N.A	Out of Rs. 5919.75 crore, demand for Rs. 952.56 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 1368.52 crore and Rs. 99.25 crore had been stayed by the courts and Government respectively. Recoveries amounting to Rs. 343.46 crore were held up due to rectification/review applications. Demand for Rs. 314.97 crore was likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 2,840.99 crore had not been intimated by the Department.	

Sl. No.	Heads of revenue	Arrears		Remarks
		Total	More than 5 years old	
1	2	3	4	5
2.	Cane Purchase Tax (Sugar Factories)	24.88	11.07	Out of Rs. 24.88 crore, demand for Rs. 1.36 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 0.07 crore had been stayed by courts. Specific action taken in respect of remaining arrears of Rs. 23.45 crore, had not been intimated by the Department.
3.	Forestry and Wild Life	31.05	16.24	Out of Rs. 31.05 crore, demand for Rs. 9.09 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 0.87 crore had been stayed by the courts. Demand for Rs. 0.15 crore is likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 20.94 crore, had not been intimated by the Department.
4.	Entertain- ment Tax	7.48	3.05	Out of Rs. 7.48 crore, demand for Rs. 1.20 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 5.74 crore and Rs. 0.24 crore had been stayed by the courts and Government respectively. Specific action taken in respect of remaining arrears of Rs. 0.30 crore, had not been intimated by the Department.
5.	Electricity Duty	4.15	Nil	Out of Rs. 4.15 crore, recovery of Rs. 0.05 crore had been stayed by the courts. Rs. 2.94 crore which relates to sick units has been stayed by B.I.F.R. The balance of Rs. 1.16 crore is under process of recovery.
6.	State Excise	91.74	N.A	Out of Rs. 91.74 crore, demand for Rs. 10.20 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 79.25 crore had been stayed by the courts. Demand for Rs. 2.29 crore was likely to be written off.

In respect of other departments the position of arrears, though called for (June 1999), has not been received (September 1999).

1.7 Results of audit

Test check of the records of Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration Fee, Land Revenue, Electricity Duty, Tax on Purchase of Sugarcane, Forest Receipts and Other Departmental Receipts conducted during the year 1998-99 revealed under assessments/short levy/loss of revenue amounting to Rs. 1299.07 crore in 2546 cases. During the course of the year 1998-99, the concerned departments accepted under assessments, etc. of Rs. 189.36 crore involved in 1348 cases, of which 152 cases involving Rs. 170.52 crore had been pointed out in audit during 1998-99 and the rest in earlier years.

This report contains 24 paragraphs and 4 reviews relating to non levy, short levy of tax, duty, interest, penalty etc. involving Rs. 1025.00 crore. The Departments/ Government have accepted audit observations involving Rs. 0.21 crore in 13 cases, of which Rs. 0.07 crore had been recovered till September 1999. No replies have been received in the remaining cases (September 1999).

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 1998, which were pending settlement by the departments as on 30 June 1999, along with corresponding figures for the preceding two years are given below:

(At the end of June)

		1997	1998	1999
1177	1	2	3	4
1.	Number of inspection reports pending settlement	4537	4733	6429
2.	Number of outstanding audit observations	11630	11147	14565
3.	Amount of revenue involved (in crore of rupees)	496.68	391.84	1648.51

Department-wise break-up of the inspection reports and audit observations outstanding as on 30 June 1999 is given below:

Nature of receipts	Number of outstanding Inspection Reports	Number of outstanding audit observations	Amount of revenue involved (in crore of rupees)	Year to which the observations relate
1	2	3	4	5
Forestry and Wild Life	892	2602	1392.17	1977-78 to 1998-99
2. Trade Tax	1546	4801	104.76	1989-90 to 1998-99
3. Irrigation	212	374	21.75	1984-85 to 1998-99
4. State Excise	592	862	20.16	1984-85 to 1998-99
5. Land Revenue	736	1172	23.40	1984-85 to 1998-99
6. Taxes on Vehicles, Goods and Passengers	707	1453	14.78	1984-85 to 1998-99
7. Public Works	212	596	16.34	1984-85 to 1998-99
8. Tax on Purchase of Sugarcane	97	108	10.67	1985-86 to 1998-99
Stamp Duty and Registration Fee	908	1892	14.46	1984-85 to 1998-99
10. Other Departments				
a. Agriculture	108	196	10.44	1989-90 to 1998-99
b. Electricity Duty	236	264	5.41	1985-86 to 1998-99
c. Food and Civil Supplies	35	53	0.25	1985-86 to 1998-99
d. Co-operation	88	108	12.14	1985-86 to 1998-99
e. Entertainment Tax	60	84	1.78	1986-87 to 1998-99
Total	6429	14565	1648.51	

Under "Tax on Purchase of Sugarcane" in respect of 62 Inspection Reports, even first replies had not been received.

This was brought to the notice of Government in April and August 1999; intimation regarding steps taken by the Government to clear the outstanding inspection reports and audit observations has not been received (September 1999).

Chapter II)

Trade Tax



Chapter II : Trade Tax

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CHAPTER 2: TRADE TAX

2.1 Results of audit

Test check of assessments and other records of Trade Tax offices, conducted in audit during 1998-99 revealed under assessments of tax, non levy or short levy of penalty/interest, irregular exemption of tax etc. amounting to Rs. 828.44 crore in 1379 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of cases	Amount
1.	Non levy or short levy of penalty/interest	398	758.64
2.	Incorrect exemption	281	999.03
3.	Non levy of additional tax	60	113.50
4.	Incorrect rate of tax	292	1298.32
5.	Incorrect classification of goods	78	112.80
6.	Turnover escaping tax	11	93.18
7.	Irregularities relating to Central Sales Tax	64	196.64
8.	Under assessment due to computation error	49	51.85
9.	Other irregularities	144	1074.13
10	Reviews on (a) Ex-parte Assessment orders in Trade Tax Department	I	76719.17
	(b) Pendency of Recovery Certificates in Trade Tax Department	1	1426.89
	Total	1379	82844.15

During the year 1998-99, the Department accepted under assessment etc. of Rs. 92.37 lakh involved in 926 cases, of which 72 cases involving Rs. 10.72 lakh had been pointed out in audit during 1998-99 and the rest in earlier years. Of this a sum of Rs. 7.09 lakh involved in 52 cases had been recovered up to March 1999.

A few illustrative cases including two reviews on "Ex-parte Assessment Orders in Trade Tax Department" and "Pendency of Recovery Certificates in Trade Tax Department," involving financial effect of Rs. 802.57 crore are mentioned in the following paragraphs:

2.2 Ex-parte assessment orders in Trade Tax Department

Highlights

been passed during 1993-94 to 1997-98, out of which 9491 orders (64.59 per cent) were passed in the last quarter of the limitation period. In respect of three dealers alone, tax assessed but outstanding aggregated Rs. 692.19 crore in two circles.

[Para 2.2.4(a)]

 Out of total ex-parte assessment orders, 9479 cases had been re-opened under Section 30, 2674 cases were in appeal and in respect of 2541 cases, recovery certificates creating demand of Rs. 62.48 crore were issued.

[Para 2.2.4 (b)]

Misutilisation of the provisions of Section 30 of UPTT Act, resulted in re-opening of exparte assessment orders in individual cases repeatedly even to the extent of 8 times over a period of 7 years. In four cases alone, non finalisation of assessment due to repeated re-opening led to blockage of Government revenue of Rs. 1.20 crore.

[Para 2.2.4(c)]

 Non finalisation of remanded case within the prescribed period resulted in loss of Rs. 10.95 crore.

(Para 2.2.5)

Incorrect grant of exemption resulted in loss of Rs. 37.16 lakh.

(Para 2.2.6))

2.2.1 Introduction

Trade Tax, known as Sales Tax in other States, is the major source of revenue of Uttar Pradesh Government, constituting nearly 43 per cent of the total tax revenue. It is levied and collected under the UP Trade Tax Act, 1948 (UPTT Act) and the Central Sales Tax Act, 1956 (CST Act).

Ex-parte assessment orders are passed by the assessing authorities under Section 7(3) of the UPTT Act and Rule 41(8) of the UP Trade Tax Rules, 1948 (UPTT Rules). Penalty orders are passed ex-parte under Section 15 and other penal sections of the Act.

Section 30 of the UPTT Act extends powers to set aside an order of assessment or an order of appeal.

2.2.2 Organisational set up

At the apex level, Commissioner, Trade Tax with Headquarters at Lucknow is the Head of the Trade Tax Department. He is assisted by Additional Commissioners, Deputy Commissioners, Assistant Commissioners (ACs) and Trade Tax Officers (TTOs). For administrative convenience, the State is divided into 39 Ranges each headed by a Deputy Commissioner (Executive). A Range is further divided into Circles which are sub-divided into Sectors each under the charge of an Assessing Authority i.e. Assistant Commissioner (Assessment) and Trade Tax Officer.

2.2.3 Scope of audit

With a view to ascertaining the adequacy of the system of passing ex-parte assessment orders, fulfillment of the conditions of Section 30 for opening the cases for re-assessment and also to study the proper pursuance of appeal cases by the department, a review was conducted from November 1998 to May 1999. For this purpose, relevant records in 13 ranges* (106** Trade Tax Circles) out of 39 ranges (118 Trade Tax Circles) for the period 1993-94 to 1997-98 were test checked

^{*} Agra (2), Aligarh (1), Allahabad (1), Kanpur (3), Lucknow (2), Meerut (2) and Varanasi (2)

^{**} Agra (12), Aligarh (3), Allahabad (4), Kanpur (41), Lucknow (24), Meerut (7) and Varanasi (15)

in audit. Some interesting cases noticed during regular audit have also been included.

2.2.4 Position of ex-parte assessment orders and blockage of revenue

(a) In 106 Trade Tax Circles test-checked, the position of ex-parte assessment orders passed during 1993-94 to 1997-98 was as under:

(Rupees in crore)

Year	No. of	ex-parte asse du	Total No. of cases	Amount of tax assessed			
	April to	December	January to March				
	No. of cases	Amount of tax	No. of cases	Amount of tax			
1	2	3	4	5	6	7	
1993-94	1208	54.53	1941	202.91	3149	257.44	
1994-95	923	22.82	1277	287.55	2200	310.37	
1995-96	998	89.90	2194	493.26	3192	583.16	
1996-97	749	34.14	1415	333.50	2164	367.64	
1997-98	1325	163.73	2664	1323.79	3989	1487.52	
Total	5203	365.12	9491	2641.01	14694	3006.13	

It would be seen that out of 14694 orders involving tax of Rs. 3006.13 crore, 9491 orders (64.59 per cent) had been passed in the last quarter of the year. Major portion of the tax of Rs. 3006.13 crore was outstanding as on 31 May 1999 due to various reasons like cases being under reassessment, appeal/revision/process of recovery.

Out of 14694 cases, 3 dealers alone accounted for Rs. 692.19 crore in 2 Circles* as mentioned below.

(i) In Trade Tax Circle, Agra, a dealer** was assessed (between March 1994

^{*} Agra and Varanasi

^{**} Indian Oil Corporation.

and March 1999) to tax of Rs. 681.02 crore (1989-90 Rs. 70.49 crore, 1990-91 Rs. 123.10 crore and 1995-96 Rs. 487.43 crore) which was outstanding (May 1999), as the cases for 1989-90 and 1995-96 have been reopened (January 1999) and that for 1990-91 is in appeal.

(ii) In Trade Tax Circle, Varanasi, two dealers were assessed (March 1998) to tax of Rs. 11.17 crore for the year 1996-97 and the entire amount was outstanding as the cases had been opened (December 1998) for reassessment and were to be finalised (September 1999).

Demand assessed for Rs.62.48 crore in 2541 Recovery Certificates remained outstanding. (b) Out of 14,694 ex-parte assessment orders passed from 1993-94 to 1997-98, 9,479 orders were re-opened under Section 30 for reassessment, 2,674 orders were in appeal and in respect of 2,541 cases Recovery Certificates had been issued finally creating a demand of Rs. 62.48 crore against which no recovery had been made (September 1999). The details are as under:

(Rupees in crore)

Year	Total ex-parte cases	Reopened In appeal		研究是可以主要的性质的自然的人们的	Certificates ued	
				No.	Amount	
1	2	3	4	5	6	
1993-94	3149	1628	586	935	9.19	
1994-95	2200	1481	434	285	5.91	
1995-96	3192	2205	601	386	9.46	
1996-97	2164	1378	437	349	12.45	
1997-98	3989	2787	616	586	25.47	
Total	14694	9479	2674	2541	62.48	

- (c) It was further seen that in a number of cases in which ex-parte assessment orders were issued, were reassessed again and again and could not be finalised so far (May 1999). A few illustrations are given below:
- (i) In Agra Circle, in the case of a dealer of Assisstant Commissioner (Assessment)-I, Trade Tax, tax of Rs. 42.03 lakh was levied on 3 December 1991 for assessment year 1981-82 on ex-parte basis. On the basis of the application of the dealer the case was opened on 8 occasions for re-assessment and the same tax

The case of a dealer remained undecided for more than 7 years resulting in blocking of revenue of Rs. 42.03 lakh.

of Rs. 42.03 lakh was levied on 17 December 1992, 29 September 1993, 16 July 1994, 15 April 1995, 18 December 1995, 18 September 1996, 26 June 1997 and 27 March 1998. Against the order of 27 March 1998, the dealer went in appeal (September 1998). The Appellate Authority i.e. Deputy Commissioner (Appeal)-1, Agra remanded the case on 31 December 1998 for re-assessment which was not decided as of May 1999. Thus, the case was repeatedly decided under Section 30 and the same remained undecided even after a lapse of more than 7 years resulting in blocking of revenue of Rs. 42.03 lakh.

Misutilisation of provisions of section 30 resulted in non finalisation of the assessment and blocking of revenue of Rs. 43.68 lakh

- (ii) In the above circle, trade tax of Rs. 43.68 lakh for the assessment year 1980-81, was levied on 24 December 1991 on ex-parte basis. The case was opened repeatedly on the application of the dealer under Section 30 and ex-parte assessment orders were passed on 17 December 1992, 29 September 1993, 16 July 1994, 18 December 1995, 18 September 1996 and 26 June 1997 and the same tax was levied again and again. The case was still undecided. Thus, misutilisation of the provisions of Section 30 resulted in non finalisation of the assessment and blocking of revenue of Rs. 43.68 lakh.
- (iii) In Kanpur Circle, test check of records of Assisstant Commissioner (Assessment)-VI revealed that tax of Rs. 42.50 lakh was assessed on 4 June 1994 on ex-parte basis for the assessment year 1992-93 on the taxable turnover of Rs. 500 lakh. After being served the order on 13 June 1994, the dealer gave an application on 28 June 1994 to re-open the case under Section 30. The case was re-opened and the same tax was again levied on 9 December 1994. The case was again opened and tax of Rs. 21.83 lakh was levied on 31 March 1995 on the taxable turnover of Rs. 2.60 crore. Against this, the dealer went in appeal which was dismissed by the Appellate Authority viz. Deputy Commissioner (Appeal) on 17 October 1995. On filing a second appeal, the case was remanded (6 December 1997). At the time of hearing the appeal, the dealer did not appear and the case was again decided on ex-parte basis on 28 September 1998 levying tax of Rs. 21.83 lakh. Thus, during the last five years, the case was either in the process of re-assessment or in appeal resulting in blocking of revenue of Rs. 21.83 lakh.
- (iv) In Trade Tax Office (Sector II), Lucknow, it was noticed that on 10 January 1994, tax of Rs. 12.50 lakh on the turnover of mopeds/accessories worth Rs. 100 lakh was assessed in the case of a dealer for the assessment year 1991-92. Taking into account the amount of Rs. 0.03 lakh already deposited by the dealer, an

additional demand of Rs. 12.47 lakh was created. The dealer went in appeal against the order which was remanded by the Appellate Authority. The remand case was finalised on 4 April 1996 and the same demand was created again. On the application of the dealer, the case was again re-opened under Section 30 creating the same demand on 27 March 1997. The dealer again went in appeal and Appellate Authority further remanded the case on 10 December 1997. Remand case was finalised and the same tax was again levied. This resulted in misutilisation of the provision of the Act and blocking of revenue of Rs. 12.47 lakh.

The Department stated that if the conditions were fulfilled, they were bound to open the case under Section 30. The reply is not tenable inasmuch as the Section was being misused repeatedly by the dealers as the conditions of Section 30 are very liberal. These need to be made tighter in the interest of Government revenue.

2.2.5 Loss due to non finalisation of remanded case

Remanded case was not finalised even after the lapse of 4 years, it became time-barred and the Department suffered a loss of revenue of Rs. 10.95 crore. During test check of the records of Assistant Commissioner (Assessment)-VI, Trade Tax, Lucknow, it was noticed that a dealer* was assessed on ex-parte basis (March 1994) to tax of Rs. 1197.54 lakh (Rs. 357.93 lakh in State and Rs. 839.61 lakh in Central) for 1989-90 on the taxable turnover of electronic goods. After taking into account the amount of Rs. 102.38 lakh already deposited by the dealer, an additional demand of Rs. 1095.16 lakh was created. The dealer, aggrieved with this, went in appeal. The Appellate Authority viz. Deputy Commissioner (Appeal) in his judgement dated 19 September 1994 remanded the case for re-assessment which had not been finalised so far (September 1999). Due to non finalisation of the remanded case even after the lapse of more than 4 years, it became time-barred and the Department suffered a loss of revenue amounting to Rs. 10.95 crore.

2.2.6 Incorrect exemption/classification

The whole turnover of the dealer was taxable as an unclassified item but incorrect grant of exemption resulted in loss of tax of Rs. 37.16 lakh.

During test check of records of Assistant Commissioner (Assessment)-III, Trade Tax, Allahabad, it was noticed that a dealer engaged in the manufacture of Parag pasteurised milk, purchased natural milk (Rs. 316.07 lakh), milk powder (Rs. 39.68 lakh), white butter (Rs. 5.57 lakh) and cream (Rs. 1.97 lakh), during assessment year 1990-91. After taking out the fat contents from natural milk (on

^{*} Uptron India Limited

which tax had been levied), he added to it milk powder, white butter and cream and manufactured pasteurised milk. He sold this pasteurised milk in polypacks for Rs. 446.98 lakh during the same year. The dealer was, however, assessed (July 1995) to tax of Rs. 5.76 lakh on taxable turnover of pasteurised milk worth Rs. 60 lakh determined on best judgement basis and the remaining turnover was exempted treating it as natural milk. Since whole turnover of the dealer (Rs. 446.98 lakh) related to sale of pasteurised milk, it was taxable at the rate of 8.8 per cent up to 31 July 1990 and 10 per cent (inclusive of additional tax) thereafter as an unclassified item. Thus, incorrect grant of exemption resulted in loss of tax of Rs. 37.16 lakh.

On being pointed out in audit, the Assessing Authority stated (April 1999) that the pasteurised milk was exempted from tax as natural milk. The reply is not tenable in view of Commissioner's circular of September 1996, which clarified that milk processed with milk powder and fat etc. is not exempt.

2.2.7 Control records

For exercising control over assessment orders, each assessing authority is required to maintain the Register of pending cases (R-5-A), Register of assessment (R-5-B) and Register of appeal and revision cases (R-12). During test check of records of 7 circles it was noticed that R-5 (B) registers from 1994-95 to 1997-98 did not contain separate column for showing ex-parte orders, due to which accuracy of the figures given by the assessing officers could not be verified. Further, Assistant Commissioner (Assessment)- XIII and III, Trade Tax, Kanpur, could not furnish the figures of the ex-parte orders passed during 1994-95 and 1996-97 respectively. In most of the circles, Register R-12 did not contain any column to indicate the date of actual receipt of the remand cases from the Appellate Authority. Thus, the possibility of remand cases escaping attention of the assessing officer for an indefinite period, cannot be ruled out.

The matter was reported to Department/Government (June 1999); their replies have not been received (September 1999).

2.3 Pendency of Recovery Certificates in Trade Tax Department

Highlights

 Arrear dues amounting to Rs. 1860.66 crore though covered under recovery certificates, were still lying unrecovered.

(Para 2.3.4)

 Against actual collection of Rs. 392.32 lakh, total collection was reported to the Commissioner of Trade Tax as Rs. 4729.04 lakh in 5 districts.

(Para 2.3.5)

 In 839 cases, Recovery Certificates involving Rs. 920.19 lakh were reduced from demand and returned to assessing authorities for want of complete particulars.

[Para 2.3.6(a)]

• In one district, in respect of 31 recovery certificates concerning 9 dealers, recovery of Rs. 506.70 lakh has not been made for period ranging between 1 and 4 years.

[Para 2.3.6(b)]

2.3.1 Introduction

The Uttar Pradesh Trade Tax Act, 1948 and the Uttar Pradesh Trade Tax Rules, 1948, provide that after assessment, the dealer is issued a notice to deposit the balance amount of tax assessed, within a period of 30 days of the receipt of the notice. If the dealer fails to deposit the tax or any amount payable by him under the provision of the Act, recovery certificate is issued by the assessing authority, authorising the revenue authorities or collection wing of the department to recover the amount as arrears of land revenue.

2.3.2 Organisational set-up

The responsibility of collection of dues of Trade Tax Department rests with the Commissioner Trade Tax. Outstanding dues of trade tax recoverable as arrears of land revenue are collected by the revenue authorities (District Magistrates) except

in 14 districts* where Dy. Collectors (Collection) from revenue department were posted for effecting recovery under the control of the Trade Tax Department. However, since October 1998, the work of recovery in these 14 districts has been entrusted to Departmental officers under the control of Dy. Commissioner (Executive).

2.3.3 Scope of audit

With a view to analyse the extent of pendency of recovery certificates of Trade Tax Department and the reasons for heavy pendencies as also to ascertain whether the department has taken effective steps for recovery/reduction of the pendencies, a review was conducted during the period from March 1998 to January 1999 which covered the offices of the Dy. Commissioners (Executive) and Dy. Collectors (Collection), Trade Tax of 14 districts and 12 Sadar Tehsils** out of 68 districts covering the period from 1993-94 to 1997-98.

2.3.4 Position of arrears of revenue covered under recovery certificates

The comparative position of outstanding dues as on 1 April, demand raised during the year, recoveries made during the year and balance as on 31 March for the last four years is given in the following table:

(Rupees in crore)

Sl. No.	Position	1994-95	1995-96	1996-97	1997-98
1	2	3	4	5	6
1	Arrears of recovery as on 1 April	793.45	879.52	1165.32	1459.36
2	Demand raised during the year	412.60	625.63	1070.87	1195.76
3	Total	1206.05	1505.15	2236.19	2655.12
4	Recoveries made in the year	326.53	339.83	776.83	794.46
5	Arrears as on 31 March	879.52	1165.32	1459.36	1860.66
6	Percentage of recovery over gross arrears	27.07	22.58	34.34	29.92

^{*} Agra, Aligarh, Allahabad, Bareilly, Bulandshahar, Dehradun, Gorakhpur, Ghaziabad, Jhansi, Kanpur, Lucknow, Meerut, Moradabad and Varanasi

^{**} Barabanki, Deoria, Etawah, Haldwani, Lakhimpur Kheri, Mirzapur, Muzaffarnagar, Pratapgarh, Saharanpur, Shahjahanpur, Sitapur and Sultanpur.

Age-wise break-up of these arrears was not furnished by Commissioner, Trade Tax as no centralised records were available.

2.3.5 Inflating the figures of collection

Figures of collection were inflated by Rs. 43.37 crore without giving any reason

Under the U.P. Trade Tax Act, 1948, in respect of any sum recoverable as arrears of land revenue, the assessing authority will forward to the Deputy Collector (Collection), a recovery certificate under his signature specifying therein the sum due. Such certificate shall be conclusive evidence of the existing liability of a person and the Deputy Collector (Collection), on receipt of the recovery certificate, shall proceed to recover from such person the amount specified therein as arrears of land revenue.

In the offices of 5 Deputy Collectors (Collection), it was observed that in 1996-97 and 1997-98, total collections reported to the Commissioner Trade Tax, Uttar Pradesh, were Rs. 2140.61 lakh and Rs. 2588.43 lakh against the actual collection of Rs. 200.60 lakh and Rs. 191.72 lakh respectively as per details given below:

(Rupees in lakh)

SI No	District		1996-97		1997-98			
		Reported Figures	Actual Figures	Difference	Reported Figures	Actual Figures	Difference	
1	2	3	4	5	6	7	8	
1.	Allahabad	1075.71	57.22	1018.49	1325.35	44.91	1280.44	
2.	Dehradun	152.05	19.24	132.81	205.09	28.02	177.07	
3.	Gorakhpur	318.96	54.40	264.56	320.11	64.00	256.11	
4.	Jhansi	264.21	10.98	253.23	269.24	15.50	253.74	
5.	Varanasi	329.68	58.76	270.92	468.64	39.29	429.35	
	Total	2140.61	200.60	1940.01	2588.43	191.72	2396.71	

This indicates that figures of collection were inflated by Rs. 4336.72 lakh (Rs. 1940.01 + Rs. 2396.71) during the above period. The concerned Deputy Collectors (Collection) could not explain the reasons for inflating the figures.

Scrutiny of demand register maintained by the Deputy Collector (Collection), Trade Tax, Ghaziabad, revealed that 119 recovery certificates involving Rs. 838.35 lakh were sent to him by various assessing authorities during 1997-98 for realisation as arrears of land revenue. The whole amount had been shown as recovered during the year 1997-98. However, it was observed that these demands related to the years 1989-90 to 1995-96 and all the amounts had already been deposited by the assessees well in time.

2.3.6 Improper pursuance of recovery certificates

Under the U.P.Trade Tax Act, 1948, the tax assessed shall be deposited within thirty days of the service of the notice of assessment and demand. In case it is not deposited within the prescribed time, the assessing authority after expiry of 45 days of the service of assessment order, will issue a recovery certificate for effecting recovery as arrears of land revenue.

Due to non issuance of duplicate Recovery Certificates, Government revenue of Rs. 9.20 crore remained unrealised.

- (a) A test check of demand registers upto 1997-98 maintained by two Deputy Collectors (Collection), Trade Tax, (Ghaziabad and Lucknow) revealed that in 839 cases, recovery certificates involving tax of Rs. 920.19 lakh were returned to concerned assessing authorities for want of essential particulars like name, correct address, father's name, name of the sureties of the assesses etc, but concerned assessing authorities neither took the remedial action nor issued duplicate recovery certificates. On being pointed out in audit, it was stated by the concerned Deputy Collectors (Collection) (December 1998) that these recovery certificates had not been received with requisite details from the assessing authorities in spite of repeated reminders.
- (b) As per Commissioner's circular of 28 April 1983, recovery should be effected within 3 months from the date of receipt of Recovery Certificates. In Varanasi District, 31 recovery certificates in respect of 9 dealers involving tax of Rs. 506.70 lakh were received between 1993-94 and 1997-98 from other districts for recovery. Of this, an amount of Rs. 176 lakh was pending against a single dealer and the recovery certificates were given to the concerned Amins in November 1995. It was, however, noticed that no recovery was made so far (September 1999). On being pointed out in audit, it was stated by the Deputy Collector (Collection) that the details of recovery were being collected from concerned Amins and would be intimated to audit.

2.3.7 Maintenance of records

- (i) According to Trade Tax Manual Vol.3 Part-I, Register of Recovery Certificates was to be maintained in Form R-27 which was not maintained in proper form in any of the offices test checked.
- (ii) No control records were maintained by the department from which pendency of recovery certificates received from assessing authorities could be watched.
- (iii) The quality of internal control was apparently not adequate.

The cases were reported to the Department/Government (April 1999); their replies have not been received (September 1999).

2.4 Points of special importance

Unauthorised waiver

Government introduced an arrear waiving scheme against the provisions of the U.P. Trade Tax Act, 1948, resulting in unauthorised waiver of Rs. 5.58 crore.

Government in their order dated 20 May 1998 introduced an Arrears Waiving Scheme subject to deposit of prescribed amount of arrears of Tax and interest/penalty depending upon the total amount of the arrears. The scheme was initially operative for the period from 1 June 1998 to 31 December 1998 and was extended upto 31 January 1999.

Under the provisions of the UP Trade Tax Act, 1948, Government by issuing general or special orders may permit any dealer to pay the outstanding amount of tax, penalty or other dues in instalments (Section 36) or allow deferment of payment of existing dues payable by an industrial unit if declared sick (Section 38). Besides, Section 8(1-C) of the Act provides that interest or penalty shall be added to the amount of tax and be deemed for all purposes to be part of the tax. It is further mentioned that no provisions for 'waiver' or 'reduction' of interest and penalty have been made in the U.P. Trade Tax Act, 1948.

Government orders against the provisions of the Act resulted in unauthorised waiver of Rs. 5.58 crore It was, however, observed that the amount of interest and penalty aggregating Rs. 557.73 lakh was waived by the Government under the scheme during the period from 1 June 1998 to 31 January 1999. Thus, Government orders of Arrears Waiving Scheme which were not in conformity with the provisions of the U.P.Trade Tax Act,1948 resulted in unauthorised waiver of Rs. 557.73 lakh.

On this being pointed out in audit (April 1999), the Government in its reply stated (June 1999) that though there was no such provision in the UP Trade Tax Act, 1948, the Government had sovereign power to waive interest/penalty. The reply was not tenable as the sovereign power is vested with the State Legislature and not with Government.

2.5 Short levy due to application of incorrect rate of tax

Tax on the sale of refined oil was not levied at the correct rate of tax in 16 cases resulting in short levy of Rs. 4.88 crore.

Under the U.P. Trade Tax Act, 1948, tax is leviable as per schedule of rates notified by the Government from time to time. With effect from 1 April 1993, tax on the sale of refined oil is leviable at the rate of 10 per cent (including additional tax at the rate of 25 per cent of the tax).

Application of incorrect rate of tax resulted in short levy of tax amounting to Rs. 4.88 crore. During test check of records of 14 Trade Tax circles,* it was noticed (between May 1996 and December 1998) that due to application of incorrect rate of tax, there was short levy of tax amounting to Rs. 488.38 lakh in 16 cases during the period from 1990-91 to 1996-97. A few illustrative cases are given below:

(Rupees in lakh)

SI No	Name of the office	No. of dealer	Assess- ment year	Name of commodity	Taxable turnover	Rate of tax leviable including additional tax (per cent)	Rate of tax levied (per cent)	Tax short levied
1.	Assistant Commissioner (Assessment)-I, Trade Tax, Aligarh	I	1993-94 to 1995-96	Refined mustard oil	2340.77	10	2.5	175.56

^{*} Aligarh, Balrampur (Gonda), Etah, Ghaziabad (3), Hapur, Jhansi, Kanpur (2), Lucknow (2), Mathura and Sonebhadra.

(Rupees in lakh)

SI No	Name of the office	No. of dealer	Assess- ment year	Name of commodity	Taxable turnover	Rate of tax leviable including additional tax (per cent)	Rate of tax levied (per cent)	Tax short levied
2.	Assistant Commissioner (Assessment)-X Trade Tax, Kanpur	1	1994-95	Refined oil	2155.04	10	2.5	161.63
3	Assistant Commissioner (Assessment)- VIII, Trade Tax, Ghaziabad	2	1993-94 to 1995-96	Refined oil	1762.43	10	2.5	132.19

On this being pointed out in audit, the Department raised (November 1998) additional demand of Rs. 0.69 lakh in one case.

The cases were reported to the Department and Government (between December 1997 and March 1999); their replies have not been received (September 1999).

2.6 Short levy of tax due to misclassification of goods

Skimmed milk, valves of engine, timber and grinding media misclassified resulted in short levy of tax amounting Rs. 20.27 lakh.

Under the U.P.Trade Tax Act, 1948, tax on sale of goods, not otherwise classified, is leviable at the rate of 8 per cent from 7 September 1981. Additional tax at the rate of 25 per cent of the tax is also leviable.

Misclassification of goods resulted in short levy of tax amounting to Rs. 20.27 lakh. During test check of records of 4 Trade Tax offices,* it was noticed (between August 1997 and June 1998) that in 4 cases due to misclassification of goods (skimed milk, valves of engine, timber and grinding media) correct rate of tax was not applied which resulted in short levy of tax amounting to Rs. 20.27 lakh during the period 1992-93 to 1995-96.

^{*} Bareilly, Jhansi, Lucknow and Varanasi.

The cases were reported to the Department and Government (between July 1997 and August 1998); their replies have not been received (September 1999).

2.7 Incorrect levy of concessional rate of tax

Facility of concessional rate of tax on sale to Government corporation/ undertaking against the prescribed declaration was withdrawn by Government, but was allowed by assessing authority resulting in short levy of tax amounting to Rs. 2.92 crore.

The U.P. Trade Tax Act, 1948, provides for levy of tax at concessional rate of 4 per cent, if the sales of goods are made to a department of the Central or the State Government or to a Corporation or Undertaking against the prescribed declaration. Besides, additional tax at the rate of 25 per cent of the tax was also leviable from 1 August 1990. The facility of concessional rate was, however, withdrawn by the Government during the period from 14 May 1994 to 27 September 1994.

Incorrect levy of concessional rate of tax resulted in short levy of tax amounting to Rs. 2.92 crore During test check of records of 2 Trade Tax circles (Lucknow and Auraiya) it was noticed (June 1998 and August 1998) that tax at concessional rate of 5 per cent (including additional tax) was levied on the sales made to Government Undertakings during the period from 14 May 1994 to 27 September 1994 instead of at the rate of 10 per cent (including additional tax). This resulted in short levy of tax amounting to Rs. 292 lakh.

The cases were reported to the Department and Government (April 1998 and November 1998); their replies have not been received (September 1999).

2.8 Exemption against declarations given by fake firm

Consignment of vanaspati ghee against declaration form by fake firm resulted in incorrect grant of exemption of Rs. 26.96 lakh.

The Central Sales Tax Act, 1956, provides that where a dealer or manufacturer claims exemption on the grounds of stock/branch transfer of goods, the burden of proof that the transfer is a stock transfer and not an inter-State sale, is on the transferor. In order to claim exemption from payment of tax, the dealer is required to furnish to the assessing authority, within the prescribed time and manner, a declaration in Form 'F' duly filled in and signed by the transferee along with the evidence of despatch of goods.

Exemption against declaration given by fake firm resulted in incorrect grant of exemption of Rs. 26.96 lakh.

During test check of records of Trade Tax Officer, Sector-IV, Agra, it was noticed (January 1998) that a dealer declared consignment of Vanaspati Ghee valued at Rs.269.61 lakh against 6 declarations (Form 'F') during 1993-94 to two consignees, one of Madhya Pradesh and another of Rajasthan which were found (April 1996) to be fake during investigation by the department. But the assessing authority who had allowed (November 1995) exemption from tax of Rs. 26.96 lakh to the dealer did not reopen the case. This resulted in incorrect grant of exemption of Rs. 26.96 lakh.

The matter was reported to the Department and Government (April 1998); their replies have not been received (September 1999).

2.9 Short levy of Central Sales Tax

Tax on the sale of refined oil was not levied at the correct rate of tax on inter State sale resulting in short levy of tax amounting to Rs. 1.16 crore.

Under Central Sales Tax Act, 1956, tax on inter-State sale of goods not covered by declaration in Form 'C' or 'D' is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher. It has judicially* been held that ordinary oils and refined oils are two different commercial commodities.

Application of incorrect rate of tax on inter-State sale resulted in short levy of tax amounting to Rs. 1.16 crore During test check of records of 2 Trade Tax circles (Shahjahanpur and Aligarh), it was noticed (October 1997 and July 1998) that tax on inter-State sale of refined rice bran oil and refined mustard oil worth Rs. 1549.30 lakh, made without forms 'C' and 'D' was charged at the rate of 2.5 per cent instead of at the correct rate of 10 per cent during 1993-94 to 1995-96. This resulted in short levy of tax amounting to Rs. 116.20 lakh.

The cases were reported to the Department and Government (February 1998 and December 1998); their replies have not been received (September 1999).

^{*} B.P. Oil Mills Ltd. vrs. Commissioner Trade Tax (STI-1995 Alld. H.C. 74) (STI-1998 S.C. 71)

2.10 Misuse of declaration forms

Misuse of declaration forms by 5 dealers for the manufacture of certain notified goods resulted in undue relief in tax of Rs. 100.22 lakh.

The U.P. Trade Tax Act, 1948, provides that if a person issues false or wrong declaration by reason of which tax on sale or purchase ceases to be leviable or becomes leviable at concessional rate, the dealer becomes liable to pay a sum equal to the amount of relief in tax secured by him on purchase of such materials.

Non levy of amount for misuse of declaration forms resulted in undue relief in tax of Rs. 1 crore. During test check of records of 5 Trade Tax offices,* it was noticed (between December 1995 and July 1998) that 5 dealers holding Recognition Certificate for the manufacture of certain notified goods, purchased raw materials, processing materials etc. free of tax or at concessional rate of tax against prescribed declaration for which they were not authorised as per recognition certificate. The dealers were, therefore, liable to pay an amount of Rs. 100.22 lakh equal to relief in tax secured by them during the period from 1990-91 to 1995-96. Of this, two assessees alone accounted for Rs. 96.64 lakh.

On this being pointed out in audit, the Department stated that a demand of Rs. 0.93 lakh had been raised in one case (February 1998).

The cases were reported to the Department and Government (between November 1997 and December 1998); their replies have not been received (September 1999).

2.11 Non imposition of penalty

Under certain conditions special relief allowed to manufacturers on materials required for manufacture of notified goods but utilised for other purposes attracted levy of penalty of Rs. 0.32 crore and Rs. 3.84 crore under U.P. Trade Tax Act, 1948 and Rs. 0.21 crore under Central Sales Tax Act, 1956 which was not levied resulting in loss of revenue.

(a) Under the U.P. Trade Tax Act

The U.P. Trade Tax Act, 1948, read with Government notification dated 29 August 1987 provides for special relief in tax to manufacturers on purchase of raw materials, processing materials, packing materials etc. required for use in the

^{*} Agra (2), Allahabad, Meerut and Muzaffarnagar.

manufacture of notified goods on fulfilment of certain conditions. Goods so manufactured are required to be sold within the State or in the course of inter-State trade or commerce or in the course of export out of India. In case of use of raw materials for a purpose other than that for which the recognition certificate was granted or where the goods manufactured out of raw materials etc. purchased at concessional rates of tax were sold or disposed of otherwise than by way of sale, 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 not exceeding three times of such relief.

(i) During test check of records of 7 Trade Tax circles,* it was noticed (between November 1994 and May 1998) that 7 dealers holding recognition certificate for manufacture of notified goods purchased during 1989-90 to 1995-96 raw materials valued at Rs. 307.21 lakh tax free/at the concessional rate of tax against declarations (in Form III-B) but utilised the same for other purposes. The dealers were, therefore, liable to pay minimum penalty amounting to Rs. 31.69 lakh.

On this being pointed out in audit, the department stated that penalty amounting to Rs. 1.21 lakh had been imposed in one case (January 1997).

The cases were reported to the Department and Government (between November 1995 and August 1998); their replies have not been received (September 1999).

Non imposition of penalty under U.P. Trade Tax Act, resulted in loss of revenue of Rs. 3.84 crore. (ii) During test check of records of Assistant Commissioner (A)-VI Trade Tax, Lucknow, it was noticed (August 1998) that a dealer holding recognition certificate for the manufacture of urea, purchased natural gas, furnace oil and packing materials (laminated bags) for Rs. 140.17 crore during 1994-95 and 1995-96 at concessional rate of 2.5 per cent against declaration. Out of urea manufactured by use of the above raw materials, he transferred urea worth Rs. 180.42 crore to his branches outside State, which did not constitute sale. The dealer was, therefore, liable to pay a minimum penalty of Rs. 3.84 crore which was not imposed.

The case was reported to the Department and Government (February 1999); their replies have not been received (September 1999).

^{*} Bulandshahar (3), Jhansi (2) and Lucknow (2).

(b) Under the Central Sales Tax Act

Under the Central Sales Tax Act,1956, a registered dealer may purchase goods from a dealer of another State at concessional rate of tax by furnishing declaration in Form 'C' provided such goods have been specified in his Certificate of Registration. Issue of Form 'C' for purchasing goods which are not covered by registration certificate constitutes an offence for which the dealer is liable to prosecution. The registering authority may, however, in lieu of prosecution, impose penalty not exceeding one and a half times of the amount of tax which would have been levied.

Penalty of Rs. 20.89 lakh, for irregular purchase of goods, was not levied under Central Sales Tax Act. During test check of records of 11 Trade Tax circles,* it was noticed (between December 1994 and December 1997) that 11 dealers had purchased against declaration in Form 'C', goods other than those covered by their certificates of registration, valued at Rs. 143.54 lakh during the period between 1989-90 and 1993-94. They were, therefore, liable to pay penalty amounting to Rs. 20.89 lakh which was not levied.

On this being pointed out in audit, the Department stated (between September 1998 and December 1998) that penalty amounting to Rs. 18.29 lakh had been imposed (between January 1997 and August 1998) in all the cases except one.

The cases were reported to the Government (between January 1995 and August 1998); their replies have not been received (September 1999).

2.12 Non levy of additional tax

Every dealer liable to pay tax is required to pay additional tax at the rate of 25 per cent of the tax under the Act, but additional Tax amounting to Rs. 5.32 lakh was not levied on tax amounting to Rs. 21.26 lakh.

Under the Act, every dealer liable to pay tax, is required to pay additional tax at the rate of 25 per cent of the tax with effect from 1 August 1990.

During test check of records of 4 Trade Tax circles,** it was noticed (between July 1996 and July 1998) that in the cases of 4 dealers on a turnover of

^{*} Aligarh, Bareilly, Basti, Faizabad, Hathras, Jaunpur, Kanpur, Lucknow, Meerut, Orai and Varanasi.

^{**} Fatehpur, Kanpur, Khurja and Muzaffarnagar.

Rs. 647.58 lakh, pertaining to the periods between 1992-93 and 1995-96, tax amounting to Rs. 21.26 lakh was levied, but additional tax of Rs.5.32 lakh was not levied.

The cases were reported to the Department and Government (between August 1996 and December 1998); their replies have not been received (September 1999).

2.13 Loss of revenue due to non observance of prescribed procedure of registration

Failure to undertake the prescribed proper verifications as required for the grant of certificate of registration by the department resulted in loss of revenue of Rs. 60.80 lakh.

Under the Act and the Rules framed thereunder, a dealer, liable to pay tax under the Act, shall get himself registered. For this purpose he shall submit an application in prescribed form to the registering authority with full particulars of his trade. The registering authority, after satisfying himself by conducting spot enquiry about the bonafides of the dealer, his correct and complete local and permanent addresses, antecedents and financial status etc. shall issue a registration certificate. In order to safeguard Government revenue, securities and additional securities are also obtained from the dealer before the issue of registration certificate. Similar procedure is also applied for registration of a dealer under the Central Sales Tax Act.

Non observance of prescribed procedures of registration resulted in loss of revenue of Rs. 60.80 lakh. During test check of records of Trade Tax Officer, Sector-III, Hapur, it was noticed (September 1998) that in the case of a dealer, the prescribed verifications were not carried out by the Trade Tax Officer before granting the registration certificate. The dealer after getting himself registered (December 1993) obtained 22 statutory forms during the period 1993-94, 1995-96 and 1996-97 for availing exemption and carried out business involving turnover of Rs. 420 lakh. Later on, verification was made (February 1997) by U.P. Khadi and Gramodyog Board, Meerut Mandal, Meerut and the firm was found fake. Consequently tax of Rs. 60.80 lakh for the above period (assessed in May 1997 and March 1998) could not be demanded and realised and resulted in loss of revenue. Failure to undertake the prescribed verifications as required for the grant of certificate of registration by the department properly, resulted in loss of Rs. 60.80 lakh.

The case was reported to the Department and Government (March 1999); their replies have not been received (September 1999).

2.14 Incorrect exemption from tax

Footwears are not an item listed in the schedule of Khadi and Village Industries Board but incorrect exemption of Rs. 6.38 lakh was granted to a dealer on sale of self made footwear and on purchase of raw materials.

As per Government notification dated 31 January 1985 issued under the U.P. Trade Tax Act, 1948, institutions certified by All India Khadi and Village Industries Commission or the U.P. Khadi and Village Industries Board are exempt from payment of tax on the sale of products and the purchase of any goods connected with manufacture or purchase of products of village industries as specified in the Schedule (mentioned under the notification). Footwears are not an item listed in the Schedule and as such not entitled to exemption. It has also been judicially held that footwears are not covered under the aforesaid notification.

During test check of records of Trade Tax Officer Sector-IX, Kanpur it was noticed (December 1998) that a dealer sold self-made footwear valued at Rs. 34.16 lakh during the year 1995-96 and got exemption from tax amounting to Rs. 3.38 lakh. Besides, he purchased raw materials valued at Rs. 42.71 lakh tax-free on which tax of Rs. 3 lakh was leviable. This resulted in incorrect exemption of Rs. 6.38 lakh.

The matter was reported to the Department and Government (March 1998); their replies have not been received (September 1999).

M/s Gramodyog Chhetriya Samiti, Tajpur, Dhampur, Bijnor Vrs. C.S. T, U.P. Lucknow (S.T. I. 1996
 Alld. H. C. -154)

Chapter III

State Excise

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Chapter III : State Excise

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CHAPTER-3: STATE EXCISE

3.1 Results of audit

Test check of records of the State Excise offices, conducted in audit during 1998-99 revealed non levy or short levy of duties and fees amounting to Rs. 239.53 lakh in 64 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl.No.	Categories	No. of cases	Amount
1.	Excess transit/storage wastage	7	33.14
2.	Short levy of export pass fee	4	10.90
3.	Non levy of interest	18	45.09
4.	Non levy of compounding fee/penalty	26	72.10
5	Other irregularities	9	78.30
	Total	64	239.53

During the course of the year 1998-99, the Department accepted under-assessment etc. of Rs.62.35 lakh involved in 38 cases. A few illustrative cases involving a financial effect of Rs. 95.83 lakh are given in the succeeding paragraphs.

3.2 Short realisation of additional duty

7 lakh bulk litres of country liquor were supplied to a licensee in excess of 14.30 lakh bulk litres M.G.Q. fixed by Excise Commissioner before auction of Excise shop resulting in short realisation of Rs. 70 lakh.

Under the U.P. Excise Act, 1910 and the Rules made thereunder, as amended from 1 April 1991, minimum guaranteed quantity (M.G.Q.) of intoxicant (country liquor) to be lifted during an excise year is fixed by the Excise Commissioner before auction of excise shops. If a licensee intends to lift and sell intoxicant in excess of M.G.Q., he is required to pay an extra amount as additional consideration at the rate (Rs. 11 per bulk litre) prescribed by the Excise Commissioner for grant of special right to sell such additional quantity of the intoxicant.

Illegal enhancement of quota of country liquor resulted in short levy of additional excise duty of Rs. 70 lakh. During test check of records of District Excise Office, Mathura, it was noticed (March 1997) that 7 lakh bulk litres of intoxicant were supplied to a licensee in excess of minimum guaranteed quantity (14.30 lakh bulk litres) announced at the time of annual auction and additional duty of Rs. 7 lakh was realised at the rate of Rupee 1 per bulk litre against leviable duty of Rs. 11 per bulk litre. This resulted in short realisation of duty amounting to Rs. 70 lakh.

On this being pointed out in audit, the District Excise Officer, Mathura stated (March 1997) that though no amendment has been made in the Act/Rules, the M.G.Q. had been increased (October 1994) by the Government in the middle of the excise year and duty was charged accordingly. Reply of the Department is not tenable as no condition with regard to increase in the M.G.Q. in the middle of the excise year was stipulated in the terms and conditions of auction. Thus, the increase in the M.G.Q. even by the Government was not in conformity with the Rules.

The matter was reported to the Department and Government (July 1997 and March 1998); their replies have not been received (September 1999).

3.3 Non realisation of excise duty on unacknowledged exports in bond

Bottles of beer were exported by the manufacturer in bond without payment of excise duty out of the state which attracted realisation of penalty equal to duty amounting to Rs. 5.24 lakh.

According to the U.P. Bottling of Foreign Liquor Rules, 1969, in the case of export of liquor outside the State/district, the manufacturer is required to execute a bond to deliver the liquor at the destination and furnish a certificate from the excise authorities of the importing State/district to this effect within 90 days from the despatch. If the licensee fails to furnish the required certificate within this period, penalty equal to duty involved shall be recoverable from him.

During test check of records of one brewery at Nawabganj (Gonda), it was noticed (September 1998) that 1,80,600 bottles of beer were exported by the manufacturer in bond without payment of excise duty, out of the State during the period from 6 April to 24 June 1998, but the required certificate regarding delivery of beer at the destination, was not furnished by him even after a lapse of more than 3 to 5 months. The department had not taken any action (August 1999) to invoke the bonds to realise penalty equal to duty amounting to Rs. 5.24 lakh.

The matter was reported to the Department and Government (December 1998); their replies have not been received (September 1999).

3.4 Non levy of interest on belated payments

Excise revenue interest amounting to Rs. 20.59 lakh on belated payments was not levied and realised.

Under the Act, as amended from 29 March 1985, 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 per annum is recoverable from the date such excise revenue becomes payable, till the date of actual payment. In respect of excise revenue which had become payable prior to the date of amendment of the Act and not paid within three months of the date of amendment, interest at the same rate is required to be charged from 29 March 1985.

Interest amounting to Rs. 20.59 lakh on the belated payments of excise revenue, was not levied. During test check of records of 8 District Excise offices* and one distillery (Rampur), it was noticed (between July 1997 and October 1998) that excise revenue of Rs. 19.53 lakh pertaining to the period from 1974-75 to 1996-97 was paid during the period from September 1994 to June 1998 after delays ranging from 4 to 161 months. However, interest amounting to Rs. 20.59 lakh was not levied and realised.

The cases were reported to the Department and Government (between January 1998 and December 1998); their replies have not been received (September 1999).

^{*} Banda, Faizabad, Ghaziabad, Hamirpur, Kanpur City, Lucknow, Rampur and Sidharth Nagar.

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Chapter IV

Taxes on Vehicles, Goods and Passengers

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Chapter IV: Taxes on Vehicles, Goods and Passengers

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CHAPTER-4: TAXES ON VEHICLES, GOODS AND PASSENGER TAX

4.1 Results of audit

Test check of records of various offices of the Transport Department, conducted in audit during 1998-99 revealed short levy or non levy of taxes/fees amounting to Rs. 216.57 crore in 157 cases, which broadly fall under the following categories:

(Rupees in lakh)

SI. No.	Categories	No. of cases	Amount 683.70	
1,	Short levy or non levy of passenger tax/additional passenger tax	56		
2.	Under assessment of road tax	15	52.83	
3.	Short levy of goods tax	16	36.62	
4.	Incorrect computation of lump sum passenger tax	18	102.00	
5.	Other irregularities	51	152.25	
6.	Review on "Assessment and Collection of Taxes on Vehicles owned by Uttar Pradesh State Road Transport Corporation"	01	20630.00	
	Total	157	21657.40	

During the year 1998-99, the Department accepted under assessment etc. of Rs. 67.01 lakh involved in 7 cases.

A review on "Assessment and Collection of Taxes on Vehicles owned by Uttar Pradesh State Road Transport Corporation" involving financial effect of Rs. 206.30 crore is given in the succeeding paragraphs.

4.2 Assessment and Collection of Taxes on Vehicles owned by Uttar Pradesh State Road Transport Corporation (UPSRTC)

Highlights

 Short deposit of Passenger Tax realised from passengers by UPSRTC amounted to Rs. 176.70 crore.

(Para 4.2.5)

 Non realisation of Permit Fees from 740 permit holders resulted in loss of revenue of Rs. 78 lakh.

(Para 4.2.6)

 Non assessment of Goods Tax on store vans owned by UPSRTC resulted in loss of revenue of Rs. 61 lakh.

(Para 4.2.7)

 Non levy of penalty for late deposit of Passenger Tax by UPSRTC resulted in non-realisation of revenue of Rs. 23.58 crore.

(Para 4.2.8)

4.2.1 Introduction

The United Provinces Motor Vehicles Taxation Act, 1935, the Uttar Pradesh Motor Gadi (Yatri Kar) Adhiniyam, 1962 and the Uttar Pradesh Motor Gadi (Mal Kar) Adhiniyam, 1964 provide for the levy of road tax, passenger tax and goods tax respectively. The Uttar Pradesh State Road Transport Corporation (UPSRTC) has been given some relaxation in payment of passenger tax by incorporating special provision in the U.P. Motor Gadi (Yatri Kar) Niyamawali, 1962, according to which an amount representing 4/29 of the actual fare plus passenger tax collected by them for the journey performed within the territory of U.P. is payable every month.

The UPSRTC was established by the State Government in 1972 under the Road Transport Corporation Act, 1950. The Corporation had an average fleet strength

of 7352 vehicles and 846 private vehicles on contract during the year 1997-98. It operated its vehicles on 2305 routes and had, at a given time, on an average 6396 vehicles on road with 956 vehicles maintained as spare vehicles.

4.2.2 Organisational set-up

The overall responsibility for levy and collection of fees and taxes rests with the State Transport Commissioner (STC). The Road Tax and Goods Tax on vehicles owned by UPSRTC are levied and collected by the Regional Transport Officers (RTOs), Assistant Regional Transport Officers (ARTOs). Up to March 1996, the passenger tax in respect of vehicles owned by UPSRTC was being collected by RTOs/ARTOs and from April 1996 it is being collected by State Transport Commissioner.

For the purpose of assessment and collection of taxes, there are 17 Regional Transport Officers and 72 Assistant Regional Transport Officers (Administration) in the State.

4.2.3 Scope of audit

With a view to evaluating the efficiency of the Transport Department in assessment and collection of taxes on vehicles owned by the UPSRTC, a test check of records for the period from 1993-94 to 1998-99 (up to January 1999) was carried out in the offices of the State Transport Commissioner, Managing Director, UPSRTC (including Regional Managers and Assisstant Regional Managers concerned) and 11 Regional Transport Officers* (RTOs) and 4 Assistant Regional Transport Officers* (ARTOs) between November 1998 and May 1999.

4.2.4 Trend of revenue

The position of road tax, goods tax and passenger tax collected during the period from 1993-94 to 1997-98 was as under:

 ^{*} RTOs: Agra, Aligarh, Azamgarh, Dehradun, Ghaziabad, Gorakhpur, Jhansi, Kanpur, Kathgodam, Lucknow and Varanasi

^{**} ARTOs : Mainpuri, Mathura, Muzaffarnagar and Rishikesh

Year	Road Goods Tax Tax collected collected		Passenger Tax Collected		Total
			From Private Sector	From UPSRTC	
1	2	3	4	5	6
1993-94	9866.33	6187.29	5844.40	6603	28501.02
1994-95	10748.19	7912.47	6290.48	5021	29972.14
1995-96	12377.73	10089.24	6625.09	5087	34179.06
1996-97	13860.75	10703.04	6783.70	4403	35750.49
1997-98	15407.34	11786.18	6918.77	2801	36913.29

Note 1: The figures of Passenger Tax collected from UPSRTC include the current tax collection and the arrears of tax.

Note 2: Separate figures for Road Tax and Goods Tax collected from UPSRTC and private sector were not available.

An analysis of collection of Passenger Tax from the UPSRTC showed a decreasing trend over the years, despite the fact that all the notified routes were covered by the UPSRTC, the number of vehicles was the same or more and the rates of fare were also enhanced on four occasions between May 1996 and March 1997.

4.2.5 Shortfall in collection/deposit of Passenger Tax

Under the Uttar Pradesh Motor Gadi (Yatri Kar) Adhiniyam, 1962, Passenger Tax at the prescribed rate of 16 per cent is levied on the fare payable to the operator by a passenger in respect of his journey in the State by a stage carriage. The tax is collected by the operator and paid to the State Government.

The department failed to achieve the targets fixed by State Transport Commissioner for the period from 1995-96 to 1997-98 in respect of collection of passenger tax from UPSRTC. No targets were fixed for the year 1993-94 and 1994-95. Besides, the passenger tax collected by UPSRTC was also not deposited into government account in full and an amount of Rs. 176.70 crore was retained by the Corporation

which was irregular. The details are given in the table below:

(Rupees in lakh)

Year	Target for collection of passenger tax	Passenger tax collected by UPSRTC	Passenger tax deposited in Government account	Amount retained by UPSRTC
1993-94		7222.82	6242.99	979.83
1994-95		7347.75	4618.74	2729.01
1995-96	7031.00	8173.00	4663.07	3509.93
1996-97	10600.00	7513.00	3006.77	4506.23
1997-98	10600.00	7626.00	2691.00	4935.00
1998-99 (up to May 1998)		1526.00	516.00	1010.00
Total		39408.57	21738.57	17670.00

Despite being exhibited separately as liability in the accounts of UPSRTC, no action has been taken by the Department to recover the amount short deposited.

4.2.6 Non realisation of Permit Fee

The Motor Vehicles Act, 1988 provides that no owner of a transport vehicle shall use the vehicle in any public place, save in accordance with the conditions of the permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising the use of such vehicle in that place and the manner in which the vehicle is being used.

Permit fees amounting to Rs. 78 lakh was not realised. In 5 Regional Transport offices,* it was noticed that in case of 133 vehicles covered by 40 service stage carriage permits, the permit fee of Rs. 3.12 lakh was realisable but only Rs. 640 was realised. Similarly, 112 permanent permits issued to UPSRTC were not renewed, resulting in non realisation of permit fee of Rs. 6.72 lakh. Besides, in 23 cases, temporary permits were issued for the period from 27 February 1993 to 26 June 1993, but thereafter neither fresh temporary permits were obtained nor the papers of the vehicles surrendered, resulting in non realisation of permit fee of Rs. 11.84 lakh. Further, in the case of 965 stage carriages, the road tax was accepted regularly by the Department without obtaining

^{*} Agra, Aligarh, Gorakhpur, Kanpur and Varanasi.

the prescribed declaration. In these cases permit fee of Rs. 56.33 lakh was not realised. Thus, non realisation of permit fee resulted in loss of revenue of Rs. 78 lakh during the period from April 1993 to January 1999.

4.2.7 Non assessment of Goods Tax on the store vans of UPSRTC

Under the provisions of the Uttar Pradesh Motor Gadi (Mal Kar) Adhiniyam, 1964 and the Rules framed thereunder, there shall be levied and paid to the State Government, a tax on all goods carried by road in a private goods vehicle in the State. As per STC's letter of 23 July 1994, Goods Tax Officers were required to assess Goods Tax on the store vans of UPSRTC.

Non assessment of goods tax on store vans plying as private goods carriers resulted in non realisation of revenue of Rs. 61 lakh In the office of the Managing Director, UPSRTC, Lucknow, it was noticed that 188 store vans plying as private goods carriers under the control of Regional Managers, UPSRTC were registered with the respective RTOs/ARTOs. However, Goods Tax was not assessed by Goods Tax Officers during the period 1993-94 to 1997-98, which resulted in non realisation of revenue amounting to Rs. 61 lakh.

On this being pointed out in audit, one of the RTOs (Ghaziabad) stated (December 1998) that demand notice had been issued to UPSRTC.

4.2.8 Non levy of penalty for late payment of Passenger Tax

Under the Adhiniyam 1962, where the whole or any portion of the Tax payable to the State Government in respect of any stage carriage for any month or part thereof is not paid on or before the 15th of the month immediately succeeding the month to which the tax relates, the Tax Officer may, after allowing the operator an opportunity to show cause, levy a penalty not exceeding 25 per cent of the tax which would have been payable to the State Government.

Penalty amounting to Rs. 23.58 crore was not levied on belated payments of Passenger Tax. In 12 regions/sub-regions and in the office of the Managing Director, UPSRTC, it was noticed that Passenger Tax amounting to Rs.94.34 crore was deposited in the Government treasury, during the period 1993-94 to 1997-98 by UPSRTC after delays ranging from one month to one year but penalty leviable upto Rs. 23.58 crore for late payment of tax was not levied/realised.

4.2.9 Non submission of prescribed returns

Under the U.P. Motor Gadi (Yatri Kar) Niyamawali, 1962, every fleet owner

shall submit a Monthly Declaration (in Form III-B) indicating earnings on account of Passenger Tax plus Passenger Fare, as also the same in respect of concessional and free tickets separately. A separate monthly return indicating the number of tickets issued, amount of fare and particulars of Passenger Tax deposited is also required to be submitted to the Tax Officer.

Penalty amounting to Rs. 4.63 crore was not levied on non submission of prescribed returns. Test check of records of 15 offices* of Regional/Assistant Regional Transport Offices revealed that these returns were not submitted or wherever submitted, were incomplete but penalty at the prescribed rates (Rs. 10 per day subject to a maximum of Rs. 100 per vehicle for each return) was not imposed on the UPSRTC. This resulted in non realisation of penalty leviable upto Rs. 4.63 crore, during the period 1993-94 to 1997-98.

These cases were reported to Department/Government (June 1999); their replies have not been received (September 1999).

 ^{*} RTOs: Agra, Aligarh, Azamgarh, Dehradun, Ghaziabad, Gorakhpur, Jhansi, Kanpur, Kathgodam, Lucknow and Varanasi

ARTOs: Mainpuri, Mathura, Muzaffarnagar and Rishikesh.



Chapter V

Stamp Duty and Registration Fees

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Chapter V: Stamp Duty and Registration Fees

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CHAPTER-5: STAMP DUTY AND REGISTRATION FEES

5.1 Results of audit

Test check of records of District Registrars, Sub-Registrars and District Stamp Officers, conducted in audit during 1998-99, revealed short levy of stamp duty and registration fees amounting to Rs. 11.52 crore in 243 cases, which broadly fall under the following categories:

(Rupees in lakh)

SI. No.	Categories	No. of cases	Amount
1.	Short levy of stamp duty and registration fees due to under valuation of properties	213	290.70
2.	Short levy of stamp duty due to misclassification of documents	15	87.72
3.	Short deposit of stamp duty on bonds	2	712.25
4.	Other irregularities	13	61.49
	Total	243	1152.16

During the year 1998-99, the Department accepted under-assessment etc. of Rs. 88.11 lakh involved in 58 cases. A few illustrative cases highlighting important observations involving Rs. 7.85 crore are mentioned in the following paragraphs.

5.2 Loss of revenue due to short deposit of stamp duty on Bonds

Stamp duty on Bonds issued in the nature of promissory notes by UPFC & PICUP was not correctly deposited resulting into short deposit of Rs. 4.62 crore and Rs. 2.50 crore respectively.

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh) and the Rules made thereunder, the chargeability of an instrument with proper stamp duty is determined on the basis of its subject matter and not by the title

given by the executor. As per Article 49(b) of Schedule-I to the Act read with Article 13(c), stamp duty @ Rs. 20 per Rs. 1000, is to be paid on Promissory Notes, payable after more than one year from the date of issue. However, the stamp duty has been reduced to one half of the rates by the Central Government with effect from 1 June 1976.

Stamp duty amounting to Rs. 4.62 crore was short levied on Bonds issued by UPFC. (a) During test check of records of the Uttar Pradesh Financial Corporation (UPFC), Kanpur, it was noticed (July 1998), that the Corporation had issued during the years 1993-94 to 1997-98, 1217 Certificates of Bonds in the nature of Promissory Notes worth Rs. 462.27 crore payable after more than one year from the date of issue, and stamp duty @ Re. 1 per Certificate amounting to Rs. 1217 was deposited against a payable stamp duty of Rs. 462.27 lakh (@ Rs. 10 per Rs. 1000), which resulted in short deposit of stamp duty of Rs. 462.26 lakh.

The matter was reported to the Corporation (July 1998), Department and Government (December 1998); their replies have not been received (September 1999).

Stamp duty amounting to Rs. 2.50 crore was short levied on Bonds issued by PICUP. (b) During test check of records of the Pradeshiya Industrial and Investment Corporation of U.P. (PICUP), Lucknow, it was noticed (July 1998), that the Corporation had issued 1107 Certificates of Bonds in the nature of Promissory Notes payable after more than one year from the date of issue aggregating Rs. 150 crore and 100 crore during the years 1996-97 and 1997-98 respectively and deposited stamp duty of Rs. 1107 only (@ Re. 1 per Certificate) against payable stamp duty of Rs. 250 lakh, which resulted in short deposit of stamp duty of Rs. 249.99 lakh.

The matter was reported to the Corporation, Department and Government (December 1998); their replies have not been received (September 1999).

5.3 Short levy of stamp duty and registration fees due to incorrect valuation of property

Residential land was valued at agricultural rates instead of residential rates resulting in short levy of stamp duty and registration fees amounting to Rs. 27.73 lakh.

As per the U.P. Stamp Rules, 1942, market rate of various categories of land, situated in a district, is to be fixed biennially by the Collector concerned for

guidance of the registering authorities in his district. Further, stamp duty in respect of a deed of conveyance relating to transfer of non agricultural land situated within the municipal limit of any Town Area, Nagar Palika, Nagar Mahapalika, is leviable on the basis of average price per square meter as fixed by the Collector.

Short levy of stamp duty and registration fees due to incorrect valuation of property, amounted to Rs. 27.73 lakh. During test check of records of 13 Sub Registrar offices, it was noticed (between May 1997 and September 1998) that in 29 cases of sale of land stamp duty and registration fees amounting to Rs. 26.89 lakh and Rs. 0.84 lakh respectively was short levied because the land was valued at agricultural rates instead of residential rates.

The cases were reported to the Department and Government (between April 1998 and January 1999); their replies have not been received (September 1999).

5.4 Incorrect remission of stamp duty

On deeds of conversion of lease-hold rights on Nazul land into free hold rights, remission in stamp duty was allowed even after lapse of the period of six months. This resulted in loss of revenue of Rs. 44.73 lakh.

Under the Act, stamp duty on deed of conveyance is chargeable on the market value or on the value of the consideration set forth therein, whichever is higher.

As per Government Notification dated 21 February 1997, stamp duty chargeable (under Article 23 of Schedule 1-B of the Act) on the instrument executed in favour of a lessee of Nazul land for the purpose of converting lease-hold rights into free-hold rights was reduced for a period of six months.

Incorrect remission of stamp duty on instruments resulted in loss of revenue of Rs. 44.73 lakh. During test check of records of two Sub Registrar offices at Rampur and Kanpur City (March 1998 and October 1998), it was noticed that in 15 instruments, relating to conversion of lease-hold rights on Nazul land into free-hold rights, remission in stamp duty was allowed by the registering officers even after the lapse of the period of six months. This resulted in loss of revenue of Rs. 44.73 lakh.

The cases were referred to the Department/Government (March 1999); their replies have not been received (September 1999).

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Chapter VI

Land Revenue

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CHAPTER-6: LAND REVENUE

6.1 Results of audit

Test check of records of the offices of Revenue Department, conducted in audit during 1998-99 revealed non/short realisation of land revenue, short realisation of collection charges, non-recovery of fees for supplying Kisan Bahis and other irregularities amounting to Rs. 998.45 lakh in 239 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short realisation of land revenue	45	415.30
2.	Short realisation of collection charges	79	103.13
3.	Non recovery of fees for supplying Kisan Bahis	27	120.24
4.	Other irregularities	88	359.78
	Total	239	998.45

During the year 1998-99, the Department accepted under assessment etc. of Rs. 280.06 lakh involved in 197 cases, of which 6 cases involving Rs. 5.30 lakh had been pointed out in audit during 1998-99 and the rest in earlier years.

A few cases involving financial effect of Rs. 5.30 lakh are mentioned in the following paragraph.

6.2 Non recovery of collection charges

Collection charges amounting to Rs. 5.30 lakh were not realised on the amount directly deposited by the loanees with the concerned bodies.

In terms of the Uttar Pradesh Public Money (Recovery of Dues) Act, 1972, the revenue authorities, on receipt of certificates of recovery from a Corporation, Board, 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 realised from the concerned loanees by the revenue authorities. Even in case the recovery certificates are returned to the concerned bodies on their own request or the dues are deposited by the defaulters direct with the concerned bodies, the collection charges at the prescribed rate are to be realised.

During test check of records of 6 Tehsil offices, it was noticed (between June 1997 and October 1998), that collection charges amounting to Rs. 5.30 lakh were not realised in 95 cases in which either the amount was deposited directly by the loanees with the concerned bodies or recovery certificates were withdrawn by them. Details are given below:

(Rupees in lakh)

Sl. No.	Name of Tehsil office	No. of cases	Period	Amount involved in recovery certificates	Collection charges not realised
1.	Kanpur	12	1997-98	12.37	1.24
2.	Belthara Road, Ballia	9	1994-95 to 1995-96	5.17	0.52
3.	Rae Bareli	15	1995-96 to 1997-98	6.65	0.66
4	Dadri, Gautam Budh Nagar	19	1996-97 to 1998-99	12.59	1.26
5	Atrauli, Aligarh	33	1996-97 to 1998-99	10.56	1.06
6.	Mahoba	7	1995-96 to 1997-98	5.62	0.56
	Total	95		52.96	5.30

The cases were reported to the Department and Government (between May 1998 and February 1999); their replies have not been received (September 1999).

Chapter VIII

Other Tax Receipts

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Chapter VII: Other Tax Receipts

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CHAPTER-7: OTHER TAX RECEIPTS

A. ELECTRICITY DUTY

7.1 Results of audit

Test check of records of Assistant Directors (Electrical Safety) and Appointed Authorities, conducted in audit during 1998-99 revealed non levy or short levy of electricity duty and inspection fee amounting to Rs. 131.66 lakh in 35 cases, which broadly fall under the following categories:

(Rupees in lakh)

SI. No.	Categories	No. of cases	Amount
1.	Non levy of electricity duty	25	85.11
2.	Non levy of interest	4	2.96
3.	Non levy of inspection fee	3	0.38
4.	Non levy of electricity duty on electricity consumed	3	43.21
	Total	35	131.66

During the year 1998-99, the Department accepted under-assessment etc. of Rs. 54.31 lakh involved in 22 cases.

A few cases involving financial effect of Rs. 49.83 lakh are mentioned in the following paragraphs.

7.2 Non levy of electricity duty

Electricity duty amounting to Rs. 42.97 lakh & Rs. 6.86 lakh was neither levied nor deposited by appointed authority on electricity consumed by the occupants of the quarters of Railway colony and defence department for domestic use.

(i) Under the Electricity (Duty) Act, 1952 and the Rules made thereunder, electricity duty is leviable on energy sold to a consumer at the rates notified by

the State Government from time to time. The responsibility for levy and realisation of electricity duty in the case of occupants of quarters of Railway colonies rests with the appointed authority (Railways). In case of non-payment of electricity duty within the prescribed period, interest at the rate of 18 per cent per annum shall also be chargeable on the unpaid amount.

Electricity duty amounting to Rs. 42.97 lakh on electricity consumed by the occupants of Railway quarters was not levied. During test check of records of 3 Electricity Distribution Divisions (Firozabad, Allahabad and Lucknow), it was noticed (between August 1997 and January 1998) that electricity was consumed by the occupants of the quarters of the railway colonies for domestic use but electricity duty amounting to Rs. 42.97 lakh was neither levied nor deposited by the appointed authority. Besides, interest on the unpaid amount of electricity duty was also leviable. The details are given below:

(Rupees in lakh)

SI. No	Name of appointed authority	Electricity energy consumed for domestic use (in lakh units)	Period of consumption	Rate of electricity duty per unit	Amount of electricity duty payable
1	Divisional	37.35	April 1996 to December 1996	5 paise	1.87
	Superintendent, Northern Railway, Firozabad	43.27	January 1997 to October 1997	9 paise	3.89
2	Electrical Foreman, Northern Railway, Allahabad				
	(i) Suraj Kund	26.37	July 1995 to December 1996	5 paise	1.32
	Colony	38.98	January 1997 to December 1997	9 paise	3.51
	(ii) Traffic colony	19.07	July 1995 to December 1996	- 5 paise	0.95
		11.29	January 1997 to December 1997	9 paise	1.01
3	Electrical Engineer,	424.21	July 1994 to December 1996	5 paise	21.21
	Northern Railway, Lucknow	102.30	January 1997 to July 1997	9 paise	9.21
	Total	702.84			42.97

The matter was reported to the Department and Government (between January 1998 and July 1998); their replies have not been received (September 1999).

(ii) Government clarified (August 1995) that in respect of energy supplied free of charge or at concessional rates to defence personnel by the appointed authority (Defence Department), the rates for the purpose of calculation of electricity duty on energy consumed, would be deemed to be the full rate applicable to other consumers even though the difference between the ordinary rate/free or concessional rate was being borne by the Defence Department. In case of non-payment of electricity duty within the prescribed period, interest at the rate of 18 per cent per annum shall also be chargeable on the unpaid amount. Director (Electrical Safety) also issued (September 1995) instructions to all the appointed authorities of Defence Department to realise the electricity duty in all such cases where the energy was supplied to defence personnel free of charge or at concessional rates.

During test check of records of 3 appointed authorities, it was noticed (between May 1998 and June 1998) that 89.96 lakh units of electricity were supplied free of charge or at concessional rates to defence personnel for domestic use between March 1995 and May 1998, but electricity duty amounting to Rs. 6.86 lakh was not levied. Besides, interest on the unpaid amount of electricity duty was also leviable. The details are as under:

(Rupees in lakh)

Sl. No	Name of appointed authority	Electricity energy consumed for domestic use (in lakh units)	Period of consumption	Rate of electricity duty per unit	Amount of electricity duty payable
1	Garrison Engineer,	18.72	April 1995 to December 1996	5 paise	0.93
	M.E.S.(Cantt), Dehradun	21.20	January 1997 to March 1998	9 paise	1.91
2	Garrison Engineer, M.E.S.(South), Meerut	1.73	December 1996	5 paise	0.09
		30.36	January 1997 to March 1998	9 paise	2.73
3	Garrison Engineer,	10.33	March 1995 to December 1996	5 paise	0.52
	M.E.S. Clement Town, Dehradun	7.62	January 1997 to May 1998	9 paise	0.68
	Total	89.96			6.86

The matter was reported to the Department and Government (between August 1998 and October 1998); their replies have not been received (September 1999).

B. TAX ON PURCHASE OF SUGARCANE AND ADMINISTRATIVE CHARGES ON SALE OF MOLASSES

7.3 Results of audit

Test check of accounts and relevant records of sugar factories and khandsari units, conducted in audit during 1998-99, brought out non-levy/short- levy of tax on purchase of sugarcane amounting to Rs. 667.61 lakh and administrative charges on sale and supply of molasses amounting to Rs. 6.49 lakh in 17 and 4 cases respectively, which broadly fall under the following categories as mentioned in the following table:

(Rupees in lakh)

I- CA	NE PURCHASE TAX		
Sl. No.	Categories	No. of cases	Amount
1.	Deferment of purchase tax on sugarcane	5	297.29
2.	Other irregularities	12	370.32
	Total	17	667.61
II- Al	DMINISTRATIVE CHARGES		
3.	Other irregularities	4	6.49
	Total	4	6.49

During the year 1998-99, the Department accepted under-assessment etc. of Rs. 4.81 lakh in 2 cases which were pointed out in audit in earlier years. An illustrative case involving financial effect of Rs. 10.40 lakh is given in the succeeding paragraph.

7.4 Incorrect deferment of cane purchase tax

The deferment of Rs. 10.40 lakh allowed by the Government against the provision of the Act, was incorrect and resulted in postponement of realisation of revenue and undue benefit to the sugar factory.

Under Section 3A of the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961, no owner of a sugar factory shall remove any sugar produced in the factory until he

has paid the tax leviable on the purchase of sugarcane consumed in the manufacture of sugar. There is no provision in the Act empowering the Government to defer the payment of tax.

During test check of records of cane purchase tax of a sugar factory at Hardoi, it was seen (October 1998) that out of a total cane purchase tax of Rs. 20.88 lakh due on the sugar factory for the assessment year 1996-97, the factory paid only a sum of Rs. 10.48 lakh and the balance amount of Rs. 10.40 lakh was deferred for two years. The deferment allowed by Government against the Act, was incorrect and resulted in postponement of realisation of revenue and undue benefit to the sugar factory.

The matter was reported to the Department and Government (January, February and May 1999); their replies have not been received (September 1999).

Chapter VIII

Forest Receipts



Chapter VIII: Forest Receipts

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CHAPTER-8: FOREST RECEIPTS

8.1 Results of audit

Irregularities noticed during test check of divisional records of Forest Department conducted in audit during 1998-99 broadly fall under the following categories:

(Rupees in lakh)

SI. No.	Categories	No. of cases	Amount
1.	Allotment of forest products at concessional rate	2	44.36
2.	Irregularities in extraction of resin	30	2870.34
3.	Incorrect fixation of royalty	5	34.36
4.	Loss of revenue due to non registration of saw mills	7	23.11
5.	Non/short levy of penalty	17	731.91
6.	Irregularities in collection and disposal of tendu leaves	4	26.29
7.	Non realisation of lease rent	6	76.22
8.	Miscellaneous irregularities	262	17752.55
	Total	333	21559.14

During the course of the year 1998-99, the Department accepted under-assessment etc. of Rs. 18286.92 lakh involved in 98 cases of which 74 cases involving Rs. 17035.59 lakh had been pointed out in audit during 1998-99 and the rest in earlier years.

A few illustrative cases involving Rs. 1.54 crore are given in following paragraphs.

8.2 Loss due to short production of resin

Extraction of resin to the extent of 40 per cent only of the prescribed norms resulted in short fall of extraction of resin involving revenue of Rs. 1.34 crore.

Forest divisions select trees for extraction of resin from selected Pine trees as per

their working plan. Resin is extracted from selected Pine trees by setting up specified number of channels in the selected trees. As per departmental order (November 1996), the norm of collection was fixed at 2 quintal per one hundred channels.

Short extraction of resin resulted in loss of revenue of Rs. 1.34 crore.

A test check of two forest divisions of Kumaon region (West Almora and East Almora) revealed that during the crop year 1997, against the prescribed norms of 13,336 quintals of resin only 5438 quintals were extracted which was only 40 per cent of the prescribed norms. This resulted in shortfall of extraction of resin to the extent of 7898 quintals involving revenue of Rs. 1.34 crore.

On this being pointed out in audit (May and June 1998), the department stated that the reason for short collection of resin was non-availability of trained and willing workers.

The reply was not tenable as the department had organised (August and September 1996) several camps in different parts of the district to train mates and labourers for proper extraction of resin. In fact the short collection was mainly due to large scale pilferage which was evident from minutes of meeting held in September 1996 presided over by P.C.C.F. Uttarakhand, Nainital.

The matter was reported to Government in July 1999; reply had not been received (September 1999)

8.3 Illicit felling of trees

Commercial felling of trees in sanrakshan vrit was declared prohibited but some trees which were not marked for felling were also illicitly felled by UPFC for which a demand of Rs. 1.36 crore has been raised against it by the department.

In order to maintain environmental equilibrium in forest, commercial felling of trees in Sanrakshan Vrit was declared prohibited.

During the test check of records of Uttar Kashi Forest Division, Uttar Kashi, it was noticed (October 1997) that 6358 number of trees were found illicitly felled by UPFC as the department ignoring working plan allowed commercial felling in Sanrakshan Vrit which was incorrect. During combing operations carried out by

enquiry officer (between July 1996 to November 1996) it was noticed that some trees which were not marked for felling were also illicitly felled by the Corporation.

On this being pointed out in audit (October 1997) the department stated that a demand of Rs. 1.36 crore (Rs. 79.73 lakh for value of trees and Rs. 56.11 lakh as penalty) has been raised against UPFC in April 1997 and action is being taken against the officials for this lapse.

The matter was reported to Government in July 1999; reply had not been received (September 1999).

8.4 Non recovery of royalty

The UPFC left lots of bamboos unexploited due to being uneconomical. Thus, the objective of scientific treatment of forests could not be achieved in addition to loss of royalty of Rs. 19.79 lakh.

According to general terms and conditions for sale of forest produce (1995-96), the buyer was required to pay full royalty on all allotted lots of bamboo whether the work on the same had been carried out or not. No bamboo lot would be left unexploited on the ground of being uneconomical as the supreme necessity of exploitation was scientific treatment of forests and not royalty alone.

Unexploitation of bamboo lots resulted in loss of royalty amounting to Rs. 19.79 lakh.

A test check of records of Kalagarh Tiger Reserve Forest Division, Landsdowne revealed (June 1998) that lots covering an area of 9874.80 hectares having an estimated outturn of 683.19 kori of bamboos as per Working Plan involving royalty of Rs. 19.79 lakh, were allotted to Uttar Pradesh Forest Corporation (UPFC) for exploitation during 1997-98. The UPFC left it unexploited due to being uneconomical. Thus, the objective of scientific treatment of forests could not be achieved in addition to loss of royalty of Rs. 19.79 lakh.

The matter was referred to Government in July 1999; reply was awaited (September 1999).

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Chapter IX

Other Departmental Receipts

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Chapter IX : Other Departmental Receipts

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CHAPTER-9: OTHER DEPARTMENTAL RECEIPTS

A. Co-operation Department

9.1 Results of audit

Test check of records of the offices of Registrar, Co-operative Societies, conducted in audit during 1998-99 revealed irregularities involving Rs. 17.34 lakh in 10 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of cases	Amount
1.	Non deposit of collection charges	08	17.34
2.	Other irregularities	02	NIL
	Total	10	17.34

A few illustrative cases involving financial effect of Rs.17.19 lakh are mentioned below.

9.2 Non/short deposit of collection charges

Collection charges of Rs. 17.19 lakh were kept out of Government account.

Under the Uttar Pradesh Co-operative Societies Act, 1965 and the Rules framed thereunder, when the loaning units like Co-operative Societies/Co-operative Banks etc. fail to recover the loans granted by them they can request the Registrar Co-operative Societies to recover the same. While the amount of loan so recovered is passed on by the Registrar to the loaning units, 10 per cent of collection charges is to be deposited by him into the Government treasury.

Rs. 17.19 lakh were kept out of Government account which was incorrect in terms of relevant Act.

During test check of records of 5 offices of Assistant Registrar, Co-operative Societies, it was noticed (between September 1997 and August 1998) that against

total collection charges of Rs. 18.14 lakh payable, a sum of Rs. 0.95 lakh only was deposited by them into the treasury. This resulted in short deposit of Rs. 17.19 lakh. Details are given below:

(Rupees in lakh)

SI. No	Name of office	Period	Amount creditable to Govern- ment account	Amount credited to Govern- ment account	Amount short- credited
1.	Assistant Registrar, Pilibhit	1992-93 to 1997-98	7.85		7.85
2.	Assistant Registrar, Kanpur Nagar	1995-96 to 1997-98	1.24	0.12	1.12
3.	Assistant Registrar, Almora	1990-91 to 1997-98	0.79	0.06	0.73
4.	Assistant Registrar, Ballia	1994-95 to 1996-97	2.26	0.23	2.03
5.	Assistant Registrar, Jhansi	1994-95 to 1996-97	6.00	0.54	5.46
	Total		18.14	0.95	17.19

The cases were reported to the Department and Government (between March 1998 and October 1998); their replies have not been received (September 1999).

B. Public Works Department

9.3 Results of audit

Test check of the accounts and relevant records of Public Works Department, conducted in audit during 1998-99 revealed irregularities involving Rs. 6.34 crore in 65 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of cases	Amount
1.	Misutilisation of departmental receipts	01	0.10
2.	Non realisation of stamp duty	09	1.78
3.	Non realisation of trade tax from contractors	01	0.41
4.	Non realisation of centage charges	04	20.59
5.	Other irregularities	49	115.82
6.	Review on "Rent Receipts from Government Guest Houses and Government Quarters"	01	495.51
	Total	65	634.21

A review on "Rent Receipts from Government Quarters and Guest Houses" involving a financial effect of Rs. 4.96 crore is given in the following paragraphs.

9.4 Rent Receipts from Government Guest Houses and Government Quarters

Highlights

 Rent and other charges from the members of dissolved Vidhan Sabhas and room rent of guest houses amounting to Rs. 223.91 lakh remained unrealised.

[Para 9.4.4 (a)]

 30 visitors stayed in the guest houses beyond the permissible limit without paying the required rent amounting to Rs. 62.71 lakh.

[Para 9.4.4(b)(ii)]

 Penal rent of Rs 123.26 lakh was not realised from retired/transferred officials staying in Government quarters beyond the permissible period.

(Para 9.4.5)

Rs. 47.36 lakh was not realised from unauthorised occupants.

(Para 9.4.6)

 Due to non imposition of revised rates, the Government suffered a loss of Rs. 19.07 lakh.

[Para 9.4.8(a) & (b)]

9.4.1 Introduction

With a view to mitigate the shortage of residential accommodation for the Members of the Legislative Assembly/Council and also for various categories of officers and officials, the State Government undertakes the construction of residential accommodation under the "Residential Scheme for State Employees and MLAs/MLCs in Lucknow" and "Pooled Housing Scheme" including Officers' Hostels in other district headquarters.

9.4.2 Organisational set-up

The Estate Properties Officer of the Uttar Pradesh Government (who also enjoys the status of Head of the Department) monitors realisation of rent through the Director, Estate Properties, Lucknow, in respect of Government quarters and guest houses located at Lucknow, whereas the Executive Engineers of PWD Construction Divisions are responsible for watching the recovery of rent and maintenance of proper accounts pertaining to the Government quarters, under the "Pooled Housing Scheme" in other district headquarters.

9.4.3 Scope of audit

In order to ascertain the extent of compliance with the provisions of U.P. Financial Rules and instructions issued from time to time by the Government regarding assessment and realisation of rent from the occupants of Government quarters

and guest houses, a review was conducted from November 1998 to April 1999. For this purpose, a test check of records for the period from 1993-94 to 1997-98 was carried out in the offices of Director, Rajya Sampatti Nideshalaya, Lucknow and Management Officers, Vidhayak Niwas and guest houses located at Lucknow and New Delhi and in 12 offices of Executive Engineer of PWD of 10 districts*.

9.4.4 Non/short recovery of rent

(a) According to the provisions contained in the Rules for residences of members of the U. P. State Legislative Council, 1963, the members of the dissolved Assembly are liable to pay rent and other charges as assessed by the Government Estate Officer for which bill is raised against them. Further, under the Rajya Sampatti Vibhag Niyamawali (1981), the Management Officer of the guest house is responsible for realisation of room rent from the occupants before they leave the guest house.

Rent and other charges of Vidhayak Niwases and room rent of guest houses amounting to Rs. 2.24 crore remained unrealised. Test check of records revealed that in respect of Vidhayak Niwases (at Lucknow) rent and other charges from the members of dissolved assembly occupying Vidhayak Niwases and room rent from occupants of guest houses (at Lucknow and New Delhi) amounting to Rs. 223.91 lakh, as detailed below, remained unrealised due to effective measures not being taken by the Government Estate Officer/Management Officers:

(Rupees in lakh)

Sl. No	Name of the Vidhayak Niwas/ Guest House	Period of occupation falling between No. of occupants		Amount out- standing
1	2	3	4	5
1.	Vidhayak Niwas-6, Lucknow	May 1984 and January 1998	214	58.42
2.	Vidhayak Niwas-2 (old), Lucknow	July 1980 and November 1998	227	37.71
3.	Vidhayak Niwas-1, Lucknow	February 1987 and December 1998	282	35.85
4.	VIP Guest House, Lucknow	June 1991 and October 1998	1391	29.06

^{*} Agra, Allahabad, Bareilly, Ghaziabad, Gorakhpur, Kanpur, Lucknow (3), Meerut, Rae Bareli and Varanasi.

(Rupees in lakh)

SI. No	Name of the Vidhayak Niwas/ Guest House	Period of occupation falling between	No. of occupants	Amount out- standing
5.	Vidhayak Niwas-4, Lucknow	February 1975 and March 1997	126	13.71
6.	State Guest House, Lucknow	April 1993 and October 1998	121	12.74
7.	UP Bhawan, New Delhi	August 1981 and March 1998	NA	12.44
8.	Vidhayak Niwas-3, Lucknow	May 1987 and October 1996	99	7.38
9.	Vidhayak Niwas-2 (New), Lucknow	July 1982 and September 1997	113	7.20
10.	Bahukhandiya Mantri Awas, Lucknow	October 1989 and March 1998	128	5.38
11.	Vidhayak Niwas-5, Lucknow	May 1977 and November 1993	49	3.07
12.	UP Niwas, New Delhi	June 1973 and March 1998	116	0.82
13.	UP Sadan, New Delhi	April 1998 and January 1999	191	0.13
		Total		223.91

While analysing the arrears, it was noticed that the defaulters under the various categories were as under:

Sl.No.	Amount outstanding	No. of defaulters involved
1.	Below Rs. 50,000	2961
2.	Rs. 50,000 and above but less than Rs. 1 lakh.	74
3.	Rs. I lakh and above.	22

(b) (i) As per orders issued by the Government (November 1987) in respect of guest houses at New Delhi, visitors are allowed to stay in the guest house for 3 days on payment of normal rent, and thereafter at higher rates fixed for different types of accommodation. For guest houses at Lucknow, the Government directed (June 1988) that the rent at normal rates would be realised for 7 days and thereafter at higher rate. With effect from 31 March 1998, in respect of guest houses at both the places, the normal rent is to be realised for a period of 7 days and beyond that the rent was to be realisable at higher rates.

During test check of records of three Guest Houses (VIP Guest House and VVIP Guest House, Lucknow and U. P. Bhawan, New Delhi), it was noticed that during the period between May 1995 and October 1998, 27 visitors vacated these guest houses after staying therein for 11 to 525 days for which rent amounting to Rs. 4.44 lakh was recoverable. Against this Rs. 0.41 lakh only was recovered. This resulted in short recovery of rent amounting to Rs. 4.03 lakh.

While scrutinising the unpaid amount, it was noticed that the period of default can be categorised as follows:

Sl.No.	Category	Number of defaulters
Ι.	Less than 2 months	13
2.	2 months and above but below six months.	8
3.	6 months and above but below one year.	5
4.	One year and above.	1
	Total	27

(ii) Test check of records of 5 Guest Houses revealed that 30 visitors continued to stay (January 1999) in the guest houses beyond the permissible limit during the period from August 1981 to January 1999 (date of audit) from whom rent as detailed below was not realised:

(Rupees in lakh)

Sl. No.	Name of the Guest House	No. of visitors	Duration of overstay (days)	Unrealised rent
1	2	3	4	5
1.	State Guest House, Lucknow	6	94 to 3765	9.47
2	VIP Guest House, Lucknow	12	35 to 1735	15.29
3.	VVIP Guest House, Lucknow	10	67 to 584	8.20
4.	UP Bhawan, New Delhi	1	6384	17.63
5.	UP Niwas, New Delhi	1	6028	12.12
	Total	30		62.71

In spite of specific orders of the Government (June 1998) for vacating the unauthorised occupants, the management officers have not taken any action to get the suites vacated and to realise the outstanding rent from them.

9.4.5 Non realisation of rent from retired/transferred employees

As per orders (January 1992), Government accommodation allotted to Government servant is required to be vacated within one month of their transfer or retirement/ death. The accommodations may, however, be allowed to be retained for a further period of three months in case of retirement/death and six months in the case of transfer, at an increased rate of rent. The allottee will not be allowed to stay thereafter in any case and if one does, will be treated as an unauthorised occupant and be liable to pay penal rent at the rate fixed by the Government.

Penal rent of Rs. 1.23 crore was not realised from retired/ transferred officials for unauthorised retention of Government quarters. In 10 offices* 140 employees were transferred to other stations and 69 employees retired/died during the period between October 1977 to September 1998. But no intimation was sent to the Maintenance Divisions by the concerned Drawing and Disbursing Officers, as a result the Government accommodation allotted to them continued to be retained for periods ranging between 1 and 129 months, without

^{*} Director Estate Property Lucknow, Construction Division-I (Agra, Allahabad and Bareilly), Construction Division-II (Kanpur and Ghaziabad), Provincial Division, Meerut, Vidhayak Niwas 3, Lucknow, Maintenance Division-I, Lucknow, Maintenance Divison-III, Lucknow

sanction of the competent authority and no action was taken to realise the dues amounting to Rs. 123.26 lakh from them.

9.4.6 Non recovery of rent from unauthorised occupants

According to provisions contained in Allotment of Government Residences (General Pool in Lucknow) Rules, 1980, no person shall stay in a Government residence without valid allotment by the competent authority, in absence of which he will be treated as an unauthorised occupant. The Government further instructed (December 1988), that damages at the rates prescribed, will be recoverable from the unauthorised occupants.

Test check of records of 7 offices revealed that 115 persons occupied the Government residences unauthorisedly for periods ranging from 1 and 98 months after cancellation/expiry of their allotments or without any allotment.

(Rupees in lakh)

Sl. No	Name of office	No. of occupants	Period of unauthorised occupation (in months)	Amount of penal rent
1	2	3	4	5
1.	Provincial Division, PWD, Meerut	7	59-95	5.77
2.	Vidhayak Niwas-6, Lucknow	3	56-61	5.28
3.	Director Estate Property, Lucknow	13	16-84	12.09
4.	Vidhayak Niwas-1, Lucknow	9	12.79	3.60
5.	Construction Division-1, PWD, Agra	7	10-98	2.20
6.	Bahukhandiya Mantri Awas, Lucknow	48	2-39	13.55
7.	Vidhayak Niwas-3, Lucknow	28	1-93	4.87
	Total	115		47.36

Rent amounting to Rs. 47.36 lakh was not realised from unauthorised occupants. The penal rent recoverable from these unauthorised occupants worked out to Rs. 47.36 lakh (up to February 1999). Out of the above, 83 occupants had already vacated their residences without payment of rent amounting to Rs. 24.07 lakh and 32 occupants were still occupying the accommodation (February 1999). The Department had taken no action so far (September 1999) for evicting the

unauthorised occupants or for recovering the rent.

9.4.7 Non assessment of rent against sub-tenants

According to instructions contained in the Rules issued (April 1978) by Chief Engineer, Public Works Department, Lucknow, no person will be entitled for tenancy of a house under the Pooled Departmental Housing Schemes, unless he receives allotment order from the prescribed authority. Hence, allottee means the person in whose favour allotment has been made and includes an occupant of a residence under a valid allotment.

In Construction Division-II, Kanpur and Ghaziabad and Provincial Division, Meerut, it was noticed that ten allottees handed over possession of their houses to non-allottees unauthorisedly as revealed in survey during the period between July 1976 and May 1996 despite the fact that sub-tenancy is not permitted in the rules. Out of these, five persons were still illegally occupying the houses and no action had been taken by the Government to get these houses vacated or to assess and recover the rent amounting to Rs. 6.26 lakh (calculated at penal rates).

9.4.8 Non recovery of rent at revised rates

(a) The rent of category "A" and "B" suites of Vidhayak Niwases realisable from the allottees other than the sitting members of the State Legislature was raised from Rs. 9 to Rs. 20 (with effect from 1 January 1988) and from Rs. 7 to Rs. 15 (with effect from 1 July 1988) per day, respectively. These rates were applicable upto 17 January 1993.

In Vidhayak Niwas 1, 2 (old) and 5, Lucknow, it was noticed that increased rates had not been made effective and as a result, the Government had to suffer a loss of Rs. 9.25 lakh due to short assessment of rent during the period between 1 January 1988 to 17 January 1993.

(b) As per orders issued by the Government (December 1988), the rent of all the Government quarters was to be revised with effect from 1 July 1988 on the basis of their living area. Keeping in view the increase in expenditure on maintenance, the Government ordered (August 1998) to double the existing monthly rent of quarters with effect from 1 August 1998.

It was noticed in Construction Division-II, PWD, Ghaziabad that the orders to revise the rent on the basis of living area were made effective only in May 1990. As a result, rent amounting to Rs 3.03 lakh for the period from July 1988 to April

1990 was short assessed from 646 occupants. Besides, Construction Division II, Kanpur, Construction Division-I, Allahabad and Varanasi did not take any action to assess the rent at double the existing rates from August 1998, owing to which rent amounting to Rs. 6.79 lakh could neither be assessed nor realised (December 1998) from 1866 occupants of Government quarters.

(c) As per orders issued by the Government (December 1988), rent from occupants who do not come under the category of Government officers/employees, shall be recovered at double the flat rate with effect from 1 July 1988.

In 6 P.W.D. Divisions* and Transit Hostel Lucknow, it was noticed that rent at the flat rate instead of double the rate was realised from 57 occupants of this category, which resulted in short realisation of rent amounting to Rs. 8.91 lakh during the period from July 1988 to March 1999.

These matters were reported to Department/Government (June 1999); their replies have not been received (September 1999).

Lucknow,

The 6-3-2000

(P. MUKHERJEE)

Accountant General (Audit)-II Uttar Pradesh

Countersigned

New Delhi,

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1. K. Shunglu

Comptroller & Auditor General of India

^{*} Construction Divisions-I P.W.D (Allahabad and Gorakhpur), Construction Divisions-II P.W.D. (Ghaziabad and Kanpur), Provincial Division, Meerut and Maintenance Division-III P.W.D. Lucknow

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