







REPORT  
OF THE  
COMPTROLLER  
AND  
AUDITOR GENERAL OF INDIA

FOR THE YEAR 1985-86

(REVENUE RECEIPTS)

GOVERNMENT OF UTTAR PRADESH





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## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Uttar Pradesh for the year 1985-86 is presented in this separate volume. The material in the Report has been arranged in the following order :

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

(ii) Chapters 2 to 9 set out certain cases and points of interest which came to notice during the audit of Sales Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duties and Registration Fees, Tax on the Purchase of Sugar-cane, Land Revenue, Electricity Duty and Non-Tax Receipts.

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## CHAPTER 1 GENERAL

### 1.1. Trend of Revenue Receipts

The total revenue receipts of the Government of Uttar Pradesh for the year 1985-86 were Rs. 3876.86 crores, against the anticipated receipts of Rs. 3429.29 crores. The total receipts during the year registered an increase of 45 per cent over those in 1983-84 (Rs. 2655.42 crores) and an increase of 23 per cent over those in 1984-85 (Rs. 3144.94 crores). Of the total receipts of Rs. 3876.86 crores, revenue raised by the State Government amounted to Rs. 1815.31 crores, of which Rs. 1291.41 crores represented tax revenue and the balance Rs. 523.90 crores non-tax revenue. Receipts from the Government of India amounted to Rs. 2061.55 crores.

### 1.2. Analysis of Revenue Receipts

#### (a) General analysis

An analysis of the revenue receipts for the year 1985-86, alongside those for the preceding two years, is given below :

	1983-84	1984-85	1985-86
	(In crores of rupees)		
I. Revenue raised by the State Government—			
(a) Tax revenue	992.10	1140.17	1291.41
(b) Non-tax revenue	404.75	384.39	523.90
Total ..	1396.85	1524.56	1815.31
II. Receipts from the Government of India—			
(a) State's share of divisible Union taxes	682.12	961.66	1234.59
(b) Grants-in-aid	576.45	658.72	826.96*
Total ..	1258.57	1620.38	2061.55

\* For details, please see Statement No. 11—Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Government of Uttar Pradesh 1985-86.

III. Total receipts of the State (I+II)	2655.42	3144.94	3876.86
IV. Percentage of I to III	53	48	47

(b) *Tax revenue raised by the State*

Receipts from tax revenue constituted 71 per cent of the State's own revenue receipts during the year 1985-86 as compared to the corresponding figure of 75 per cent during the previous year. There was an overall increase of 13 per cent over the receipts of the previous year. An analysis of tax revenue for the year 1985-86 and for the preceding two years is given below :

	1983-84	1984-85	1985-86	Increase (+) or decrease (—) in 1985-86 with reference to 1984-85
(In crores of rupees)				
1. Land Revenue	34.86	24.11	27.92	(+) 3.81
2. Stamps and Registration Fees	109.70	118.72	149.98	(+) 31.26
3. State Excise	130.19	180.80	173.67	(—) 7.13
4. Sales Tax	460.13	527.23	628.23	(+) 101.00
5. Tax on Purchase of Sugarcane	27.73	30.45	23.78	(—) 6.67
6. Tax on Sale of Motor Spirits and Lubricants	63.28	73.23	82.26	(+) 9.03
7. Taxes on Vehicles	33.23	40.08	42.45	(+) 2.37
8. Taxes on Goods and Passengers	67.85	76.43	84.27	(+) 7.84
9. Taxes and Duties on Electricity	15.03	17.85	30.79	(+) 12.94
10. Other Taxes and Duties on Commodities and Services	50.10	51.27	48.06	(—) 3.21
Total ..	992.10	1140.17	1291.41	(+) 151.24

There was shortfall of 22 per cent in receipts under the head 'Tax on Purchase of Sugarcane', as compared to the receipts of the previous year; reasons for shortfall are awaited from the department (March 1987).

(c) *Non-tax revenue of the State*

Interest Receipts, Miscellaneous General Services, Education, Minor Irrigation, Soil Conservation and Area Development, Forest and Irrigation, Navigation, Drainage and Flood Control Projects were the principal sources of non-tax revenue of the State.

Receipts from non-tax revenue constituted 29 per cent of the revenue raised by the State during the year 1985-86. It registered an increase of 36 per cent over the receipts of the previous year. An analysis of non-tax revenue for the year 1985-86 and for the preceding two years is given below :

	1983-84	1984-85	1985-86	Increase (+) or decrease (---) in 1985-86 with reference to 1984-85
(In crores of rupees)				
1. Interest Receipts	151.19	160.77	180.00	(+) 19.23
2. Miscellaneous General Services	25.11	33.06	57.00	(+) 23.94
3. Education	12.70	13.46	11.01	(---) 2.45
4. Social Security and Welfare	26.79	0.88	1.88	(+) 1.00
5. Minor Irrigation, Soil Conservation and Area Development	12.53	14.05	23.25	(+) 9.20
6. Forest	55.22	60.85	55.95	(---) 4.90
7. Irrigation, Navigation, Drainage and Flood Control Projects	39.41	27.39	107.01	(+) 79.62
8. Others	81.80	73.93	87.80	(+) 13.87
<b>Total</b>	<b>404.75</b>	<b>384.39</b>	<b>523.90</b>	<b>(+) 139.51</b>



Receipts under the head 'Social Security and Welfare' went down from Rs. 26.79 crores in 1983-84 to Rs. 0.88 crore in 1984-85 and Rs. 1.88 crores in 1985-86; shortfall in receipts of the Education Department was also considerable (18 per cent). There was, on the other hand, phenomenal rise (more than 300 per cent) in receipts from 'Irrigation, Navigation, Drainage and Flood Control Projects'. Reasons for variations are awaited (March 1987).

### 1.3. Variations between Budget estimates and actuals

(a) The variations between Budget estimates and actuals of tax revenue and non-tax revenue during the year 1985-86 are given below:

	Budget estimates	Actuals	Variation Increase (+)/Short-fall(—)	Percentage of variation
(In crores of rupees)				
A. Tax revenue	1163.40	1291.41	(+) 128.01	10
B. Non-tax revenue	438.34	523.90	(+) 85.56	19

(b) The break-up of the variations under the principal heads of revenue is given below:

Revenue Head	Budget estimates	Actuals	Variation Increase (+)/Short-fall(—)	Percentage of variation
(1)	(2)	(3)	(4)	(5)
A—Tax revenue				
1. Land Revenue	35.24	27.92	(—) 7.32	21
2. Stamps and Registration Fees	120.39	149.98	(+) 29.59	25
3. State Excise	180.00	173.67	(—) 6.33	3
4. Sales Tax	535.41	628.23	(+) 92.82	17
5. Tax on Purchase of Sugarcane	21.17	23.78	(+) 2.61	10
6. Tax on Sale of Motor Spirits and Lubricants	70.04	82.26	(+) 12.22	17

(1)	(2)	(3)	(4)	(5)	
7. Taxes on Vehicles	40.36	42.45	(+)	2.09	5
8. Taxes on Goods and Passengers	77.24	84.27	(+)	7.03	9
9. Taxes and Duties on Electricity	28.08	30.79	(+)	2.71	10
10. Other Taxes and Duties on Commodities and Services	55.41	48.06	(—)	7.35	13

**B—Non-tax revenue**

11. Interest Receipts	145.92	180.00	(+)	34.08	23
12. Miscellaneous General Services	40.94	57.00	(+)	16.06	39
13. Education	17.49	11.01	(—)	6.48	37
14. Minor Irrigation, Soil Conservation and Area Development	16.94	23.25	(+)	6.31	37
15. Forest	62.42	55.95	(—)	6.47	10
16. Irrigation, Navigation, Drainage and Flood Control Projects	60.02	107.01	(+)	46.99	78

The actual receipts fell short of the budget estimates by more than 10 per cent under 'Land Revenue', 'Other Taxes and Duties on Commodities and Services' and 'Education'. The actual receipts increased by more than 10 per cent as compared to budget estimates under 'Stamps and Registration Fees', 'Sales Tax', 'Tax on Sale of Motor Spirits and Lubricants', 'Interest', 'Miscellaneous General Services', 'Minor Irrigation, Soil Conservation and Area Development' and 'Irrigation, Navigation, Drainage and Flood Control Projects'. Reasons for these wide variations are awaited from the departments concerned (March 1987).

#### 1.4. Cost of collection

Expenditure incurred in collecting the receipts under the principal heads of revenue during the three years 1983-84 to 1985-86 is given below :

Revenue Head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
(1)	(3)	(3)	(4)	(5)
(In crores of rupees)				
1. Land Revenue	1983-84	34.86	22.11	63
	1984-85	24.11	22.67	94
	1985-86	27.92	26.93	96
2. Sales Tax	1983-84	460.13	9.95	2
	1984-85	527.23	11.50	2
	1985-86	628.23	14.12	2
3. Taxes on Vehicles	1983-84	33.23	0.94	3
	1984-85	40.08	1.17	3
	1985-86	42.45	1.17	3
4. Other Taxes and Duties on Commodities and Services—				
(a) Entertainment Tax	1983-84	50.10	0.60	1
	1984-85	51.27	0.82	2
	1985-86	48.06	1.17	2
(b) Electricity Duty	1983-84	15.03	0.52	3
	1984-85	17.85	0.63	4
	1985-86	30.79	0.67	2
(c) Taxes on Goods and Passengers	1983-84	67.85	0.89	1
	1984-85	76.43	0.66	1
	1985-86	84.27	0.21	Negligible

### 1.5. Arrears in assessment

(a) The number of assessments finalised by the Sales Tax Department during the assessment years 1984-85 and 1985-86 and the assessments pending finalisation at the end of March, as reported by the department are indicated below :

## (i) Assessments to be completed :

	1984-85	1985-86
Pending cases	4,41,359	5,82,733*
Current cases	2,53,983	2,66,169
Remand cases	7,861	8,865
Total ..	<u>7,03,203</u>	<u>8,57,767</u>

## (ii) Assessments completed :

Pending cases	1,49,845	2,05,078
Current cases	19,612	11,972
Remand cases	5,054	5,447
Total ..	<u>1,74,511</u>	<u>2,22,497</u>

## (iii) Assessments pending finalisation :

Pending cases	2,91,514	3,77,655
Current cases	2,34,371	2,54,197
Remand cases	2,807	3,418
Total ..	<u>5,28,692*</u>	<u>6,35,270</u>

(b) In both the years 1984-85 and 1985-86, bulk of the cases were finalised in the last quarter of those years, as indicated in the table below :

Quarter	1984-85		1985-86	
	Number of assessments finalised	Demands raised (In crores of rupees)	Number of assessments finalised	Demands raised (In crores of rupees)
April to December	71,707	48.26	1,16,317	67.94
January to March	1,02,804	105.36	1,06,180	175.84
Total ..	<u>1,74,511</u>	<u>153.62</u>	<u>2,22,497</u>	<u>243.78</u>

\* Addition of 54,041 cases in the opening balance of 1985-86 as compared with the closing balance of 1984-85 was stated by the department to be due to inclusion of cases as a result of scrutiny of records and cases opened under section 21 of the U. P. Sales Tax Act, 1948.



Year-wise break-up of the pending assessments as on 31st March 1986 was as follows :

Assessment year	Number of cases
Up to 1980-81	200
1981-82	13,636
1982-83	1,51,510
1983-84	2,12,309
1984-85	2,54,197
Cases remanded by Courts for re-assessment	3,418
Total ..	6,35,270

Progress of disposal of appeal and revision cases during the assessment years 1984-85 and 1985-86, as reported by the department, was as under :

(i) Number of cases to be decided :

	Appeal cases		Revision cases	
	1984-85	1985-86	1984-85	1985-86
Pending cases	74,254	43,457	45,408	52,595
Current cases	39,881	45,632	21,398	23,615
Total ..	1,14,135	89,089	66,806	76,210

(ii) Number of cases decided :

	Appeal cases		Revision cases	
	1984-85	1985-86	1984-85	1985-86
Pending cases	56,634	34,357	10,011	9,918
Current cases	13,859	17,533	4,200	6,440
Total ..	70,493	51,890	14,211	16,358

(iii) Number of pending cases :

	Appeal cases		Revision cases	
	1984-85	1985-86	1984-85	1985-86
Pending cases	17,435	8,965*	35,397	42,677
Current cases	26,022	28,099	17,198	17,175
Total ..	43,457	37,064	52,595	59,852

\* Number of pending appeal cases works out to 9,100. Difference of 135 cases was reported to be due to scrutiny of cases.



The year-wise break-up of the appeal and revision cases, pending as on 31st March 1986, was as under :

Year	Pending as on 31st March 1986	
	Appeal cases	Revision cases
1977-78	40	..
1978-79	35	1,451
1979-80	55	1,274
1980-81	90	3,790
1981-82	299	7,234
1982-83	2,066	8,762
1983-84	4,812	12,916
1984-85	17,970	18,601
1985-86	11,697	5,824
Total ..	37,064	59,852

### 1.6. Uncollected revenue

Details of the arrears of revenue pending collection, as at the end of the year 1985-86 (as furnished by the departments), in respect of some receipt heads, are given below :

(i) *Sales Tax*—Rs. 499.08 crores (provisional) remained uncollected as on 31st March 1986, the year-wise details of which are given below :

Year	Amount of arrears (In crores of rupees)	Remarks
Up to 1980-81	78.52	Includes arrears amounting to Rs. 18.09 crores outstanding for more than ten years, i.e., pertaining to the period up to 1975-76.
1981-82	26.37	
1982-83	42.06	
1983-84	46.35	
1984-85	85.14	
1985-86	220.64	
Total ..	499.08	

Out of the arrears amounting to Rs. 78.52 crores up to the period 1980-81 pending collection as on 31st March 1986, recoveries of Rs. 20.17 crores and Rs. 0.58 crore had been stayed by Courts and Government respectively, while Rs. 11.28 crores were reported to be irrecoverable. The remaining arrears of Rs. 46.49 crores include Rs. 7.09 crores (up to 1970-71), the prospects of recovery of which were reported to be bleak, as the defaulters had settled in other States.

In 11 districts of the State, recovery of sales tax is effected under the departmental recovery scheme whereas in other 45 districts it is made by revenue officers subordinate to district officers. According to the department, revenue officers make recoveries of sales tax dues like those of other dues which does not prove so effective as it does under the departmental recovery scheme in the case of 11 districts. The proposal to introduce the departmental recovery scheme in certain other districts also is under the consideration of Government and, on this being done, the prospects of recovery are expected to improve.

The arrears of Rs. 499.08 crores were in the following stages of action :

Stage of action	Amount of arrears (In crores of rupees)
(a) Demands covered by recovery certificates	115.17
(b) Recovery stayed by—	
(i) Courts	62.88
(ii) Government	12.69
(c) Recovery held up due to	
(i) rectification/review applications	9.23
(ii) dealers becoming insolvent	1.39
(d) Amount likely to be written off	28.91

(e) Other reasons	268.81
(i) Against Government departments : Rs. 24.18 crores ;	
(ii) Against transporters (who pass through U. P. but whose where- abouts noted at check posts are incomplete) ; Rs. 58.95 crores ;	
(iii) Recovery certificates sent to other States : Rs. 16.47 crores ;	
(iv) Demands not finally determined for various administrative reasons : Rs. 169.15 crores and	
(v) Amounts payable in instalment : Rs. 0.06 crore	
Total ..	499.08

The table below shows the number of assessees from whom arrears of more than Rs. 5 lakhs were due, as on 31st March 1986 :

Arrear demands	Number of assessees	Total arrears of tax (In crores of rupees)
(a) More than Rs. 5 lakhs but less than Rs. 10 lakhs	186	12.54
(b) Rs. 10 lakhs and more but less than Rs. 1 crore	157	38.78
(c) Rs. 1 crore and more	14	41.11
Total ..	357	92.43

(ii) *State excise duty*.—Normally, there should be no arrears relating to State excise duty, vend fee etc., as they are payable in advance before the products are removed from distilleries/breweries and/or bonded warehouses. Even in cases of auction of country spirit and foreign liquor shops, a part of the bid money is collected in advance and the balance realised in suitable instalments within the period of validity of the licence/contract. However, as per information furnished by the department, the arrears as on 31st March 1986 amounted to Rs. 64.35 crores, out of which recoveries amounting to



Rs. 42.01 crores and Rs. 0.34 crore had been stayed by Courts and Government respectively and arrears of Rs. 0.15 crore were proposed to be written off, being irrecoverable. The remaining arrears of Rs. 21.85 crores were pending recovery.

(iii) *Electricity duty*—The arrears as on 31st March 1986 amounted to Rs. 35.73 crores, out of which an amount of Rs. 2.34 crores was due from the U. P. State Electricity Board; recoveries amounting to Rs. 33.13 crores (Rs. 32.81 crores from Renu Sagar Power Company and Rs. 0.32 crore from 9 sugar factories) had been stayed by Supreme Court and High Court; demands for Rs. 0.06 crore were recoverable from the Central Government appointed authorities and the balance demands for Rs. 0.20 crore from other persons were being pursued for recovery.

(iv) *Tax on Purchase of Sugarcane*—Out of Rs. 10.86 crores pending collection as on 31st March 1986, arrears amounting to Rs. 7.08 crores pertained to the period prior to 1981-82, Rs. 1.42 Crores to the years 1981-82 to 1983-84 and Rs. 2.36 crores to the years 1984-85 and 1985-86.

(v) *Land Revenue*—Out of Rs. 26.39 crores pending collection as on 31st March 1986, recovery of Rs. 14.91 crores had been stayed by Government.

Similarly, out of Rs. 2.52 crores of land development tax pending collection as on 31st March 1986, recovery of Rs. 1.10 crores had been stayed by Government.

(vi) *Forest*—For supplies of timber and other forest products to indentors, full payments are required to be collected before despatch and, as such, normally there should not be any arrears on this account. However, as per information furnished by the department, the arrears of forest receipts, as on 31st March 1986, amounted to Rs. 5.54 crores, out of which arrears amounting to Rs. 1.85 crores pertained to the period

- prior to 1981-82, Rs. 1.61 crores to the years 1981-82 to 1983-84 and the remaining Rs. 2.08 crores to the years 1984-85 and 1985-86.
- The arrears of Rs. 5.54 crores were in the following stages of action :

Stage of action	Amount of arrears (In crores of rupees)
(a) Demands proposed to be adjusted against contractors' securities and material in the custody of the department	3.53
(b) Demands covered by recovery certificates	1.19
(c) Recovery stayed by Courts	0.49
(d) Amount likely to be written off	0.11
(e) Other stages	0.22
<b>Total</b>	<b>5.54</b>

(vii) In Police, Industries and Medical Departments also, a few instances of uncollected revenue were noticed in audit during the year, which are indicated below :

Department	Amount of arrears (In lakhs of rupees)	Period of arrears	Reported to Government (date) ; their reply	Remarks
(1)	(2)	(3)	(4)	(5)
1. POLICE				
Outstanding dues against :				
(a) Central Government departments	6.18	April 1976 to December 1985	July 1986 ; Awaited	Arrears accumulated due to non-submission of bills for the charges in time, as noticed in seven districts (Etawah, Hardoi, Jhansi, Kheri, Kanpur, Pratapgarh and Sultanpur).
(b) State Government departments	19.90			
(c) Banks	8.60			
(d) Autonomous bodies	0.24			
<b>Total</b>	<b>34.92</b>			

(1)	(2)	(3)	(4)	(5)
<b>2. INDUSTRIES</b>				
Outstanding recoveries of royalty on mining leases under the Uttar Pradesh Minor Minerals (Concession) Rules, 1963	20.57	1974-75 to 1984-85	July 1986 ; awaited	Mining operations for minor minerals, undertaken without payment of royalty, were noticed in 8 collectorates (Aligarh, Bijnor, Fatehgarh, Gopeshwar, Hardoi, Kanpur, Mirzapur and Varanasi).

**3. MEDICAL**

Outstanding fee on account of test/analysis of effluent samples received from autonomous bodies, factories etc. conducted by the State Hygiene Institute, Lucknow	0.74	April 1976 to September 1985	Government, to whom the matter was reported in July 1986, stated (January 1987) that efforts were being made to recover the outstanding dues.	Of these, Rs. 0.34 lakh were more than five years old.
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**1.7. Internal Audit Organisation**

The position of internal audit organisation as on 31st March 1986, as reported by a few departments, is given below :

(a) *Sales Tax*—Thirteen Audit Officers, 103 Senior Auditors and 60 Auditors were required to carry out the job, against which only 10 Senior Auditors and 52 Auditors manned the internal audit wing during 1985-86. 2,710 cases involving loss of Rs. 3.80 crores were pointed out by internal audit. Out of these, tax of Rs. 12.53 lakhs was levied in 363 cases, while in 256 cases tax amounting to Rs. 10.52 lakhs was not considered leviable. In the remaining cases, follow up action was under way.



(b) *Electricity Duty*—A proposal to set up an internal audit wing was under consideration of the department.

### 1.8. Outstanding audit inspection reports

Under-assessments, financial irregularities and defects in maintenance of initial accounts noticed in audit, which are not settled on the spot, are communicated to the heads of offices and to the next higher departmental authorities through audit inspection reports. The more important irregularities are also reported to the heads of departments and Government. Half-yearly reports of audit objections remaining outstanding for more than six months are also sent to the heads of departments and Government for expediting their settlement. First replies to the audit inspection reports are required to be sent within one month of their receipt.

The number of inspection reports and audit objections issued up to March 1986, which were pending settlement by the departments as on 30th September 1986, alongside the corresponding figures in the preceding two years, are given below :

	As at the end of September		
	1984	1985	1986
1. Number of outstanding inspection reports	1,959	2,014	1,992
2. Number of outstanding audit objections	5,118	5,063	5,066
3. Amount of receipts involved (in crores of rupees)	32.03	47.21	53.90

The table below indicates receipt-wise details of the inspection reports and audit objections issued up

to March 1986 but remaining outstanding as on 30th September 1986 :

Nature of receipt	Number of outstanding inspection reports/paragraphs and the revenue involved			Year to which the earliest report pertains
	Inspection reports	Paragraphs	Amount of revenue involved (In crores of rupees)	
1. Land Revenue	145	325	1.74	1976-77
2. Stamps and Registration Fees	546	1,000	1.84	1976-77
3. State Excise	142	379	2.36	1978-79
4. Sales Tax	299	970	2.63	1980-81
5. Tax on Purchase of Sugarcane	130	176	1.07	1975-76
6. Taxes on Vehicles, Goods and Passengers	145	522	1.52	1979-80
7. Electricity Duty	47	76	1.15	1977-78
8. Entertainment and Betting Tax	5	6	0.01	1982-83
9. Public Works	21	72	0.27	1982-83
10. Co-operation	14	25	0.05	1981-82
11. Agriculture	23	58	0.12	1982-83
12. Food and Civil Supplies	27	76	0.13	1981-82
13. Forest	342	1,003	35.88	1975-76
14. Irrigation	106	378	5.13	1980-81
Total	1,992	5,066	53.90	



In the case of 516 audit inspection reports pertaining to the following receipt heads, even first replies had not been received from the departments :

	Number of audit inspection reports outstanding for			Total
	Three years and more (issued up to March 1983)	Two years and more but less than three years (issued during 1983-84)	Less than two years (issued during 1984-85 and 1985-86)	
1. Land Revenue	..	..	37	37
2. Stamps and Registration Fees	..	..	13	13
3. State Excise	..	..	15	15
4. Sales Tax	..	..	95	96
5. Tax on Purchase of Sugarcane	..	..	21	21
6. Taxes on Vehicles, Goods and Passengers	..	2	28	30
7. Electricity Duty	..	..	11	11
8. Public Works	4	4	34	42
9. Co-operation	..	..	7	7
10. Agriculture	..	7	26	33
11. Food and Civil Supplies	3	3	22	28
12. Forest	17	16	51	84
13. Irrigation	17	26	56	99
	—	—	—	—
Total	.. 41	59	416	516
	—	—	—	—

## CHAPTER 2

### FINANCE DEPARTMENT

### SALES TAX

#### 2.1. Results of Audit

Test check of records of the Sales Tax Offices, conducted in audit during the year 1985-86, revealed under-assessments of tax and non-levy or short levy of interest and penalty amounting to Rs. 97.95 lakhs in 896 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Irregular grant of exemptions	145	23.39
2. Application of incorrect rates of tax	159	8.64
3. Non-levy or short levy of interest/ penalty	132	16.65
4. Incorrect classification of goods	36	6.24
5. Turnover escaping assessment and incorrect determination of turnover	118	9.97
6. Non-levy/short levy of additional tax	101	4.80
7. Arithmetical mistakes	57	5.26
8. Other cases	148	23.00
Total ..	<u>896</u>	<u>97.95</u>

A few important cases are mentioned in the succeeding paragraphs.

#### 2.2. Failure to observe the prescribed procedures

Every dealer who sells any goods, the turnover whereof is liable to sales tax under the U. P. Sales Tax Act, 1948, is required to obtain registration certificate

under the Act. For grant of registration certificate, certain conditions and procedures have been laid down in the rules framed under the Act and the departmental manual which, *inter alia*, provide that the dealer will submit an application in the prescribed form containing requisite details to the Sales Tax Officer who, in turn, will verify the identity of the dealer, his source of livelihood before commencement of the present business, financial position of the dealer, *viz.*, capital invested in the business and its source, location of the fixed and floating assets with their value, whether the dealer has a bank account and whether the balance amount of tax will be recoverable in the event of closure of the firm, the dealer's or his partners' local and permanent addresses and whether these addresses are complete and correct. After satisfying himself by spot enquiries, the Sales Tax Officer will grant registration certificate within 30 days from the date of application. As per the U. P. Sales Tax Rules, 1948, a registered dealer who wishes to purchase any goods, liable to tax at the point of sale to the consumer, without payment of tax is required to furnish to the selling dealer a certificate in form III-A duly filled in and signed by him. These rules further provide that new forms shall not be issued to a dealer, unless he has rendered an account of all the forms previously issued to him.

(7) In Sales Tax Circle, Bareilly, a dealer was granted registration certificate effective from 1st April 1978 after obtaining security of Rs. 2,000 but without making any spot survey or enquiry about his local and permanent addresses and his financial position. During the period from 2nd May 1978 to 20th September 1978, 550 forms (Form III-A) were issued to the dealer in seven instalments without ascertaining whether the forms issued to him on earlier occasions had been properly utilised. The dealer made heavy purchases of iron and steel free of tax against these forms. As he



stopped submitting monthly returns from November 1978 onwards, a provisional assessment for the months of November and December 1978 was made in February 1979. Later on, the dealer was found to be fake. With effect from 7th April 1979, the dealer's registration certificate was cancelled, but the fact of cancellation was not notified in the Gazette or in the press to prevent continued misuse of forms III-A issued to him. On the basis of information received from other Sales Tax Sectors, final assessment for the year 1978-79 was completed *ex parte* in January 1983. Considering utilisation of 394 forms III-A, the dealer's sales turnover of iron and steel was estimated at Rs. 15 crores and tax amounting to Rs. 60 lakhs (at 4 per cent) was levied. However, tax could not be realised as the dealer was untraceable. It was not known whether any purchases had been made against the remaining 156 forms III-A. Due to non-observance of the prescribed procedure regarding grant of registration certificate and issuance of forms, Government was put to loss of at least Rs. 60 lakhs.

On this being pointed out in audit (November 1983), the department stated (February 1985) that the defaulting officers had been warned or entries made in their Character Rolls.

The case was reported to Government in November 1983; their reply is awaited (March 1987).

(ii) Similarly, in Sales Tax Circle, Muzaffarnagar, a dealer was granted registration certificate from 11th January 1977 without observing the prescribed procedures. During the period from January 1977 to 25th March 1977, the dealer was issued 295 forms III-A. During 1st April 1977 to 8th November 1977, 1,051 forms were further issued to him without ascertaining as to how the forms issued to him earlier had been utilised. The dealer went on making heavy purchases

of iron and steel without payment of tax on the basis of declaration in form III-A. As no tax was being paid by the dealer, the assessing officer inspected the declared place of business on 10th December 1977; no firm was found in existence there. Despite this, the dealer was issued 100 more forms on 27th December 1977.

The assessments for the years 1976-77 and 1977-78 were made *ex parte* on 31st March 1981 and 25th March 1982 and, on an estimated turnover of Rs. 45,00,000 and Rs. 7,00,00,000, tax (at 4 per cent) amounting to Rs. 1,80,000 and Rs. 28,00,000 respectively was levied. This amount, however, could not be recovered from the dealer as he was not traceable. As a result, Government sustained a loss of Rs. 29.80 lakhs.

The case was reported to the department and Government in October 1983. The department stated (October 1985) that a racket had been operating in other cities of the State as well and that, as such, point of taxation on iron and steel had to be changed by Government. The reply of the department was also indorsed (May 1986) by Government. The reply was, however, silent as to the action contemplated against the erring officials.

### 2.3. Irregular allowance of exemptions and concessions

✓(1) Sales of transmission towers were exempted from levy of sales tax by Government notification dated 26th September 1963. This notification was, however, rescinded by another notification issued on 28th February 1979. Thereafter, with effect from 1st March 1979, on sale of transmission towers made by manufacturers or importers, tax became leviable at the rate of 8 per cent (inclusive of additional tax at one per cent) applicable to unclassified items under the U. P. Sales Tax Act, 1948.

At Lucknow, sales of transmission towers valuing Rs. 15,21,375 and Rs. 25,95,717, made by a dealer during the years 1979-80 and 1980-81 respectively, were irregularly exempted from levy of sales tax by the department. The irregular grant of exemption resulted in tax amounting to Rs. 1,21,710 and Rs. 2,07,657 (for the years 1979-80 and 1980-81) not being realised.

The case was reported to the department and Government in November 1985; their replies are awaited (March 1987).

(ii) Government, by a notification issued in December 1976 under section 4-B of the U. P. Sales Tax Act, 1948, provided for tax-free purchase of raw materials by manufacturers for use in the manufacture of certain notified goods on fulfilment of certain conditions. However, for manufacture of goods not listed in the aforesaid notification, raw materials could be purchased at the concessional rate of 4 per cent.

✓(a) In Sales Tax Circle, Kashipur (district Naini Tal), a dealer holding recognition certificate for the manufacture of card-board and strawboard, purchased bagasse (raw material), without payment of tax, for Rs. 79,425 and Rs. 5,01,947 during the years 1981-82 and 1982-83 respectively on the strength of prescribed declarations (in form III-B). As card-board and strawboard were not goods listed in the said notification, tax-free purchase of raw material was not admissible. The irregular exemption resulted in non-levy of tax amounting to Rs. 23,255.

The case was reported to the department and Government in April 1986; their replies are awaited (March 1987).

✓(b) In Sales Tax Circle, Aligarh, a dealer holding recognition certificate for manufacture of hardware and machinery purchased iron and steel for Rs. 4.08



lakhs during the year 1982-83, without payment of tax, on the strength of declarations in form III-B and used it in manufacture of the above-mentioned goods. As the goods manufactured by the dealer were not included in Annexure I or III of the notification dated 31st December 1976, he was not entitled to tax-free purchase of raw materials. The irregular grant of exemption resulted in non-levy of tax amounting to Rs. 16,339.

The case was reported to the department and Government in December 1985; their replies are awaited (March 1987).

✓(iii) As per Government notification dated 31st January 1978, issued under the U. P. Sales Tax Act, 1948, during the period from 1st February 1978 to 6th September 1981, *babul* bark, used in the processing of hides and skins, was taxable at the rate of 7 per cent (including additional tax of one per cent) at the point of first purchase. On purchases of raw material (taxable at the point of first purchase) by a dealer holding recognition certificate, for use by him in manufacture of certain notified goods, tax was leviable at the concessional rate of 4 per cent. Further, as per departmental instructions dated 27th October 1979, any chemical used for processing raw hides into dressed hides is not a raw material for manufacture of dressed hides. Chemicals are taxable at the rate of 8 per cent (including additional tax of one per cent).

(a) In Sales Tax Circle, Kanpur, a dealer holding recognition certificate for manufacture of dressed hides and shoes purchased chemicals for Rs. 10,29,757 and *babul* bark for Rs. 2,82,555 during the year 1980-81 and paid tax at the concessional rate of 4 per cent. Since chemicals and *babul* bark are not raw materials for manufacture of dressed hides and shoes, the dealer was not entitled to purchase the same by paying tax.

at the concessional rate of 4 per cent; tax was leviable at the normal rates of 8 and 7 per cent (including additional tax of one per cent) on the turnover of chemicals and *babul* bark respectively. The mistake resulted in tax being levied short by Rs. 49,666.

The mistake was pointed out in audit in January 1986; reply of the department is awaited (March 1987).

✓(b) Similarly, in two other cases, where the dealers of Kanpur holding recognition certificates had purchased *babul* bark and chemicals for Rs. 14,61,580 and Rs. 5,42,729 respectively during the year 1978-79, tax was levied at the concessional rate of 4 per cent, instead of at 7 and 8 per cent (including additional tax of one per cent). The mistake resulted in tax being levied short by Rs. 43,847 and Rs. 21,709 on the turnover of *babul* bark and chemicals respectively.

On this being pointed out in audit (June 1983), the department stated (August 1984) that the assessments had since been revised and an additional demand for Rs. 65,556 raised against the dealers. In April 1986, the department intimated that in the case of one dealer a sum of Rs. 17,959 had been adjusted against refund due to him and that the other dealer had gone in appeal. Further progress is awaited (March 1987).

✓(c) In Sales Tax Circle, Agra, a dealer holding recognition certificate for manufacture of dressed hides purchased chemicals for Rs. 16,14,067 and Rs. 27,00,940 during the years 1980-81 and 1981-82 (upto 6th September 1981) respectively and tax was levied at the concessional rate of 4 per cent, instead of at the normal rate of 8 per cent (including additional tax of one per cent). The mistake led to short levy of tax by Rs. 64,562 and Rs. 1,08,037 for the years 1980-81 and 1981-82 respectively.



The mistake was pointed out in audit in March 1986; reply of the department is awaited (March 1987).

- ✓(d) In yet another case, a dealer of Agra holding recognition certificate for manufacture of dressed hides and skins purchased chemicals for Rs. 6,12,962, Rs. 1,62,662 and Rs. 3,59,552 during the years 1978-79, 1979-80 and 1980-81 respectively and tax was levied at the concessional rate of 4 per cent, instead of at the normal rate of 8 per cent (including additional tax of one per cent). Irregular grant of concession resulted in tax being levied short by Rs. 24,518, Rs. 6,506 and Rs. 14,382 for the years 1978-79, 1979-80 and 1980-81 respectively.

The mistake was pointed out in audit in March 1986; reply of the department is awaited (March 1987).

- ✓(e) In Sales Tax Circle, Kanpur, a dealer holding recognition certificate for manufacture of dressed hides purchased *babul* bark for Rs. 4,07,501 ~~during the year~~ 1980-81 at the concessional rate of 4 per cent. Since *babul* bark is not a raw material for manufacture of dressed hides, tax was leviable at the normal rate of 7 per cent (including additional tax of one per cent). The mistake resulted in tax being levied short by Rs. 12,135.

On this being pointed out in audit (August 1985), the department stated (January 1986) that the assessment had since been revised and additional demand for Rs. 12,135 raised against the dealer. Report on recovery is awaited (March 1987).

The above cases were reported to Government between June 1983 and March 1986; their reply is awaited (March 1987).

- ✓(iv) Under the U. P. Sales Tax Act, 1948 and the rules made thereunder, a dealer, who requires any

goods for use as raw material for the purposes of manufacture of any notified goods and such notified goods are intended to be sold by him in the State or in the course of inter-State trade or commerce or in the course of export out of India, he may be granted a recognition certificate in respect of such goods subject to such conditions as may be prescribed by the assessing authority. A dealer holding a recognition certificate can purchase raw material at a concessional rate of tax by furnishing to the selling dealer a certificate in form III-B after obtaining the form from his Sales Tax Officer.

(a) In Sales Tax Circle, Agra, a dealer was granted recognition certificate for manufacture of oil, with effect from 14th November 1975. The certificate was valid upto the end of the year 1975-76. But the dealer did not get it renewed thereafter on payment of the prescribed fee. Even though the recognition certificate ceased to be valid after 31st March 1976, the department continued to issue forms III-B to the dealer, who with the help of these forms made purchases of oilseeds for Rs. 8,42,843, Rs. 86,000, Rs. 2,84,685 and Rs. 93,179 during the years 1976-77, 1977-78, 1978-79 and 1979-80 respectively at a concessional rate of 2 per cent. In the absence of a valid recognition certificate, tax was, however, leviable at the normal rate of 4 per cent. The irregular issue of forms III-B to the dealer resulted in short recovery of tax aggregating Rs. 26,132 for the years 1976-77 to 1979-80.

The mistake was pointed out in audit in September 1985; reply of the department is awaited (March 1987).

✓ (b) In Sales Tax Circle, Ghaziabad, on the request of a manufacturer, a recognition certificate effective from 1st April 1979, for manufacture of wires and nails was granted on 1st April 1979. The dealer, on the strength of this certificate, purchased iron valued



at Rs. 5,70,446 during the year 1980-81, without payment of tax, by furnishing the prescribed declaration. However, out of this material, iron worth Rs. 3,34,390 (approximately) was used by the dealer for manufacture of nails. The issue of recognition certificate itself was incorrect, as 'nail' does not fall under the item "iron and steel" and, therefore, was not a notified commodity. The incorrect issue of recognition certificate for manufacture of nails resulted in irregular exemption of tax amounting to Rs. 0.13 lakh (being the amount of tax payable by the dealer at the rate of 4 per cent).

On the omission being pointed out in audit (March 1986), the department intimated (March 1987) that penalty of Rs. 0.13 lakh had been imposed on the dealer.

The above two cases were reported to Government in September 1985 and March 1986; their reply is awaited (March 1987).

(v) As per Government notification dated 31st December 1976, issued under the U. P. Sales Tax Act, 1948, units engaged in the manufacture of paper are not entitled to purchase raw material free of tax or at concessional rate, on the strength of declarations in form III-B. (v)

In Sales Tax Circle, Ghaziabad, a dealer was granted recognition certificate for manufacture of paper in June 1979. He purchased, without payment of tax, raw materials for Rs. 3,48,014 and Rs. 7,06,184 during the years 1979-80 and 1980-81 respectively on the strength of the prescribed declarations (form III-B). The grant of recognition certificate was irregular, as the dealer was engaged in the manufacture of paper. Irregular grant of recognition certificate resulted in tax amounting to Rs. 24,360 and Rs. 49,433 not being realised for the years 1979-80 and 1980-81 respectively.

(at the rate of 7 per cent including additional tax of one per cent).

On this being pointed out in audit (September 1985), the department revised the assessment for the year 1980-81 and raised an additional demand for Rs. 50,443 on purchases of raw materials valuing Rs. 7,19,020 (including purchases of consumable stores and packing material). Report on recovery of Rs. 50,443 and action taken to revise the assessment for the year 1979-80 is awaited (March 1987).

The case was reported to Government in February 1986; their reply is awaited (March 1987).

#### **2.4. Application of incorrect rates of tax**

(1) Under Section 8(2) (a) of the Central Sales Tax Act, 1956, on inter-State sales of declared goods not supported by prescribed declarations (form C or D) tax is leviable at twice the rate applicable to the sale or purchase of such goods inside the State. Between 7th December 1979 and 6th September 1981, the rate of tax on sale of cotton yarn (a declared commodity) was 2.5 per cent in the State of Uttar Pradesh.

(a) In Sales Tax Circle, Kanpur, two dealers made inter-State sales of cotton yarn (a declared commodity) for Rs. 28,18,463 and Rs. 89,58,975 respectively during the year 1980-81. Though these sales were not supported by the prescribed declarations (in form C or D), tax was levied at the rate of 2.5 per cent leviable under the U. P. Sales Tax Act, 1948, instead of at twice the rate of tax, i.e., 5 per cent. Application of incorrect rate resulted in short levy of tax amounting to Rs. 70,461 and Rs. 2,23,974 respectively.



The mistake was pointed out in audit in January 1986; reply of the department is awaited (March 1987).

(b) In Sales Tax Circle, Hathras (district Aligarh), a dealer sold cotton yarn for Rs. 21,10,490 in the course of inter-State trade during the year 1980-81. The sale was not supported by declarations in form C or D, but the department levied tax at the rate of 2.5 per cent, instead of at 5 per cent. The application of incorrect rate of tax resulted in tax amounting to Rs. 52,762 being levied short.

The mistake was pointed out in audit in October 1985; reply of the department is awaited (March 1987).

The above cases were reported to Government in January 1986 and October 1985 respectively; their reply is awaited (March 1987).

(ii) Under the U. P. Sales Tax Act, 1948, on sales of arms and ammunition and component parts and accessories thereof, tax was leviable at 13 per cent (including one per cent additional tax) upto 6th September 1981 and at 14 per cent from 7th September 1981 at the point of sale by a manufacturer or importer.

(a) In Dehradun, a dealer sold safety-fuse valuing Rs. 4,63,840 and Rs. 3,73,960 during the periods from 1st April 1980 to 6th September 1981 and 7th September 1981 to 31st March 1982 respectively. Tax on all these sales was levied at 8 per cent, although it was leviable at the rates of 13 and 14 per cent respectively. The mistake resulted in tax being levied short by Rs. 45,629.

On the mistake being pointed out in audit (June 1984), the department revised these assessments and raised (April 1985) additional demand for Rs. 45,629 against the dealer. Report on recovery is awaited (March 1987).

✓ (b) Similarly, on sales of gunpowder, safety-fuse and detonators, made by another dealer of Dehradun Circle for Rs. 6,79,744 and Rs. 8,07,720 during the years 1978-79 and 1979-80 respectively, tax was levied at 8 per cent, instead of at the correct rate of 13 per cent. The mistake resulted in tax being levied short by Rs. 74,373.

On the mistake being pointed out in audit (June 1984), the department revised these assessments and raised (April 1985) an additional demand for Rs.74,373 against the dealer. Report on recovery is awaited (March 1987).

Government, to whom the cases were reported in June 1984, endorsed (May 1986) the action taken by the department.

## **2.5. Short levy due to misclassification of goods**

(i) Under the U. P. Sales Tax Act, 1948, tax on sale of cotton waste was leviable at the rate of 4 per cent since April 1976. Further, as per departmental circular dated 27th September 1981 issued by the Commissioner of Sales Tax, cotton waste and cotton yarn waste are different names of the same commodity.

✓ (a) In Sales Tax Circle, Bulandshahr, on sales of cotton yarn waste amounting to Rs. 5,22,030 made by a dealer during the year 1983-84, tax was levied at 2 per cent treating it as cotton yarn, instead of at the correct rate of 4 per cent applicable to cotton waste. The mistake led to short levy of tax amounting to Rs. 10,440.

The case was reported to the department and Government in January 1986; their replies are awaited (March 1987).

✓(b) Similarly, in Sales Tax Circle, Hathras, on sales of cotton yarn waste amounting to Rs. 20,24,960 and Rs. 16,28,256 made by a dealer during the years 1979-80 and 1980-81 respectively, tax was levied at 2 per cent upto 6th December 1979 and at 2.5 per cent from 7th December 1979 to 31st March 1981 treating cotton yarn waste as cotton yarn, instead of at the correct rate of 4 per cent. This led to short levy of tax amounting to Rs. 97,953 (including additional tax at the rate of one per cent).

The case was reported to the department and Government in October 1985; their replies are awaited (March 1987).

✓(ii) As clarified by the Commissioner of Sales Tax in his letter dated 12th July 1985, corrugated paper sheets do not fall under the item "Paper" and their sale is, therefore, taxable at the rate of 8 per cent (including additional tax of one per cent up to 6th September 1981) as applicable to unclassified items.

In Sales Tax Circle, Moradabad, on sales of corrugated paper sheets amounting to Rs. 2,38,936 and Rs. 3,60,507 made by a dealer during the years 1981-82 and 1983-84 respectively, tax was levied at 6 per cent treating the corrugated paper sheets as paper, even though for the year 1982-83 tax was levied at the correct rate of 8 per cent treating the commodity as an unclassified item. The misclassification resulted in short levy of tax by Rs. 11,988 for the years 1981-82 and 1983-84.

The case was reported to the department and Government in October 1985; their replies are awaited (March 1987).

✓(iii) Under the U. P. Sales Tax Act, 1948, on sales of marble chips, tax was leviable at the point of sale to consumer at the rate of 7 per cent (including addi-



tional tax of one per cent) upto 6th September 1981 and at 6 per cent thereafter.

In Sales Tax Circle, Lucknow, on sales of marble chips valuing Rs. 5,35,283 and Rs. 4,95,336 made by a dealer during the years 1979-80 and 1980-81 respectively, tax was levied at the rate of 3 per cent (which rate was applicable to sales of minerals), instead of at the correct rate of 7 per cent. The misclassification resulted in tax being levied short by Rs. 21,411 and Rs. 19,813 respectively.

The case was reported to the department and Government in November 1985; their replies are awaited (March 1987).

## **2.6. Misuse of declaration form III-B**

Section 4-B of the U. P. Sales Tax Act, 1948 provides a scheme for special relief in tax to certain manufacturers on the purchase of raw materials required for manufacture of certain notified goods on fulfilment of certain conditions. In case of violation of any of the conditions or issue of false declaration by reason of which tax on sale or purchase ceases to be leviable, the dealer becomes liable to pay a sum equal to the amount of relief in tax secured by him on purchase of such raw materials.

(i) In Sales Tax Circle, Haldwani, a dealer holding recognition certificate for manufacture of hume pipe, spun pipe and water storage tank etc. purchased, without payment of tax, iron wires for Rs. 5,74,851 and Rs. 5,50,943 during the years 1980-81 and 1981-82 respectively on the strength of declarations in form III-B and utilised it in the manufacture of the aforementioned goods. Since the manufacturer was entitled to buy raw materials at the concessional rate of 4 per cent only and not tax-free, there was short levy of tax by Rs. 45,031 in the two years.



The mistake was pointed out in audit in April 1986; reply of the department is awaited (March 1987).

(ii) In Sales Tax Circle, Hathras, a dealer holding recognition certificate for manufacture of glassware and glass bottles purchased, without payment of tax, plastic pumps, rubber belts, pulleys and fire-bricks as raw materials for Rs. 1,37,813 and Rs. 35,108 during the years 1980-81 and 1981-82 respectively, on the strength of declarations in form III-B. As plastic pumps, rubber belts, pulleys and fire-bricks were not raw materials for manufacture of glassware and glass bottles, the dealer was not entitled to tax-free purchases of these goods on the strength of declarations in form III-B. He was, therefore, liable to pay tax of Rs. 11,024 and Rs. 2,808 (at 8 per cent) being equal to the amount of concession secured by him during the years 1980-81 and 1981-82 respectively.

The omission was pointed out in audit in September 1985; reply of the department is awaited (March 1987).

(iii) In Sales Tax Circle, Kanpur, a dealer holding recognition certificate for manufacture of chemical fertilizers purchased valve spares and pumps etc. at concessional rate of 4 per cent on the strength of declarations in form III-B for Rs. 3,87,816 and Rs. 3,76,338 during the years 1979-80 and 1980-81 respectively. As valve spares and pumps were not raw materials for manufacture of chemical fertilizers, the dealer was liable to pay tax at 8 per cent, instead of at concessional rate of 4 per cent. This resulted in short levy of tax amounting to Rs. 15,512 and Rs. 15,053 (at 4 per cent) for the years 1979-80 and 1980-81 respectively.

The mistake was pointed out in audit in January 1986; reply of the department is awaited (March 1987).

The above cases were reported to Government in April 1986, September 1985 and January 1986 respectively; their reply is awaited (March 1987).

## 2.7. Non-levy or short levy of tax, interest and penalty

### 2.7.1. *Additional tax*

(i) Under Section 3-E of the U. P. Sales Tax Act, 1948, every dealer liable to pay tax under the Act, the aggregate of whose turnover exceeds ten lakh rupees in any assessment year, shall, in addition to tax payable under any other provision of the Act, be liable to pay an additional tax calculated at the rate of 5 per cent of the tax payable by him for that assessment year. However, the additional tax was payable only for the period commencing from 1st October 1983.

In Sales Tax Circle, Lucknow, the turnover of a dealer on account of sales of toddy was determined at Rs. 14 lakhs and Rs. 16 lakhs for the years 1983-84 (October 1983 to March 1984) and 1984-85 respectively and tax of Rs. 1,12,000 and Rs. 1,28,000 respectively was levied at the rate of 8 per cent, but additional tax amounting to Rs. 12,000 for the years 1983-84 and 1984-85 was omitted to be levied by the department.

On the omission being pointed out in audit (November 1985), the department stated (June 1986) that additional demand for Rs. 12,000 for the years 1983-84 and 1984-85 had been raised in November 1985. Report on recovery is awaited (March 1987).

Government, to whom the case was reported in December 1985, endorsed (October 1986) the reply of the department.

(ii) As per Section 3-F of the U. P. Sales Tax Act, 1948, every dealer liable to pay tax under the Act, shall, in addition to the said tax, pay for that assess-



ment year an additional tax at the rate of one per cent of his turnover of sales and purchases liable to tax.

In Sales Tax Circle, Lansdowne (Pauri), the Forest Department of Uttar Pradesh sold resin for Rs. 15,28,605 and timber for Rs. 6,20,067 to a corporation (controlled by the State Government) during the years 1979-80 and 1980-81 respectively. The sales being supported by the prescribed declaration in form 3-D, tax at a concessional rate of 4 per cent was levied thereon. Additional tax at the rate of one per cent was, however, omitted to be levied. Additional tax not levied amounted to Rs. 15,286 and Rs. 6,200 in respect of the sales made in the years 1979-80 and 1980-81 respectively.

On this being pointed out in audit (April 1985), the department stated (September 1986) that additional demands for Rs. 15,286 and Rs. 6,200 for the years 1979-80 and 1980-81 respectively had since been raised in April 1985 and September 1985. Report on recovery is awaited (March 1987).

The case was reported to Government in June 1985; their reply is awaited (March 1987).

#### 2.7.2. *Purchase tax*

(1) Under the U. P. Sales Tax Act, 1948, Government departments/undertakings in Uttar Pradesh are entitled to purchase goods for their own requirements at a concessional rate of tax by furnishing a declaration in form 3-D provided the goods are not resold or used in the manufacture or packing of any goods. In the event of violation of these conditions, the Government departments/undertakings are liable to pay, as purchase tax, an amount equal to the difference between the normal rate of tax applicable to the sale of such goods and the rate at which tax had been paid by them.

(a) In Sales Tax Circle, Kanpur, a Government factory purchased cotton ropes for Rs. 6,35,761 during the years 1977-78 to 1979-80 and bamboo poles for Rs. 4,73,096 during the year 1979-80 at the concessional rate of 4 per cent by furnishing declarations in form 3-D and resold these goods along with the tents sold by them. The factory was liable to pay purchase tax of Rs. 19,072 on cotton ropes at the rate of 3 per cent (8 per cent minus 5 per cent) and Rs. 37,847 on bamboo poles at the rate of 8 per cent (13 per cent minus 5 per cent), being the difference between the normal rate of tax applicable and the concessional rate of tax paid.

The case was reported to the department and Government in November 1985; their replies are awaited (March 1987).

(b) In Sales Tax Circle, Hapur, a dealer sold rubber beltings to two units of the U. P. State Electricity Board located at Kanpur and Aligarh for Rs. 9,57,782 and Rs. 10,62,526 at the concessional rate of 5 per cent (including additional tax at one per cent) during the years 1978-79 and 1979-80 respectively on production of the prescribed declaration forms. As the rubber beltings were used by the Board in connection with generation of electricity, the concession was not admissible. The misutilisation of declaration forms resulted in short levy of tax amounting to Rs. 28,733 and Rs. 31,876 for the years 1978-79 and 1979-80 respectively.

On this being pointed out in audit (March 1983), the department stated (November 1985 and February 1986) that additional demands for Rs. 26,441 and Rs. 54,031 had since been raised against the aforesaid two units of the Electricity Board. Report on recovery is awaited (March 1987).



The case was reported to Government in March 1983 ; their reply is awaited (March 1987) :

(ii) As per a Government notification dated 3rd April 1975, tax on 'bullion and specie including old ornaments meant for melting' was leviable at the rate of 2 per cent (including additional tax at one per cent upto 6th September 1981) at the point of first purchase in the State .

(a) In Sales Tax Circle, Mathura, a dealer purchased old melted silver ornaments for manufacture of brazing wire, for Rs. 5,95,326, Rs. 7,51,881 and Rs. 33,330 during the years 1979-80, 1980-81 and 1981-82 (1st April 1981 to 6th September 1981) respectively from unregistered dealers but the transactions which constituted first point purchases within the State were not assessed to tax at the time of initial assessments . The omission resulted in tax amounting to Rs. 11,906, Rs. 15,037 and Rs. 665 for the years 1979-80, 1980-81 and 1981-82 respectively not being realised .

On this being pointed out in audit (September 1983), the department stated (January 1986) that the assessments had since been revised and the necessary recoveries effected from the dealer .

(b) In another case in Mathura Circle, a dealer purchased old silver ornaments for Rs. 8,60,363 and Rs. 1,62,391 during the years 1980-81 and 1981-82 (1st April 1981 to 6th September 1981) respectively from unregistered dealers, for manufacture of brazing wire . But at the time of initial assessments, tax was omitted to be levied thereon . Tax not levied amounted to Rs. 17,260 and Rs. 3,247 for the years 1980-81 and 1981-82 respectively .

On this being pointed out in audit (September 1983), the department stated (January 1986) that the assess-

ments had since been revised and necessary recoveries effected from the dealer .

The cases at (a) and (b) above were reported to Government in September 1983 ; their reply is awaited (March 1987) .

✓(c) In Sales Tax Circle, Varanasi, tax was omitted to be levied on purchases of old silver ornaments amounting to Rs. 1,54,05,330 made by three dealers during the years 1981-82 (from 7th September 1981 to 31st March 1982) and 1982-83 . The omission resulted in non-levy of tax amounting to Rs. 1,54,053 . The dealers were also liable to pay interest at 2 per cent per month upto the date of deposit of tax due .

On the omission being pointed out in audit (June 1984), the assessing officer revised (February 1985) the assessments and raised additional demands for Rs. 1,54,053, besides interest of Rs. 1,00,865 for the period from October 1981 to February 1985 in case of one dealer and from October 1982 to February 1985 in case of the other two dealers . One dealer deposited the tax (Rs. 59,665) under protest . Report on the recovery due from the other two dealers is awaited (March 1987) .

The case was reported to Government in September 1984 ; their reply is awaited (March 1987) .

### 2.7.3. *Interest*

Every dealer, liable to pay tax under the U. P. Sales Tax Act, 1948, is required to submit returns of his turnover at prescribed intervals and to deposit the amount of tax due within the time prescribed . Tax admittedly payable by a dealer, if not paid by the due date, shall attract interest at the rate of 2 per cent per month on the unpaid amount . Tax admittedly payable means the tax which is payable under the Act on

the turnover, as disclosed in the accounts maintained by the dealer or admitted by him in any return or proceedings under the Act, whichever is greater.

✓(i) In Sales Tax Circle, Allahabad, in respect of turnover for the year 1979-80, a dealer had deposited, within the prescribed period, tax amounting to Rs. 5,61,822 against his admitted tax liability of Rs. 7,75,323. The department issued a recovery certificate on 23rd July 1984 requiring the dealer to deposit the balance amount of tax of Rs. 2,13,501 together with interest payable from 24th April 1984 (the date following the date of assessment), which the dealer paid in full on 27th July 1984 (Rs. 2,13,501 as tax and Rs. 10,423 as interest). The dealer was, however, liable to pay interest on the unpaid amount of admitted tax from 1st May 1980 (the date when the tax first became payable).

On this being pointed out in audit (December 1984), the department raised a further demand for interest amounting to Rs. 2,07,348 on 17th January 1985, which the dealer paid on 23rd January 1985.

✓(ii) In Sales Tax Circle, Aligarh, a dealer admitted his turnover for the year 1980-81 as Rs. 25,28,839, taxable at the rate of 8 per cent. Tax amounting to Rs. 2,02,307 was assessed (25th February 1983), and after adjusting the tax of Rs. 95,327 already paid by him, a net demand for Rs. 1,06,980 was raised. Since the demand was not paid, a recovery certificate for Rs. 1,06,980 plus interest chargeable at 2 per cent per month was issued on 16th April 1983. The dealer paid the amount of tax (Rs. 30,000 in May 1983 and Rs. 76,980 in July 1983) but interest due amounting to Rs. 68,464 was neither paid by the dealer nor demanded by the department.



On this being pointed out in audit (May 1984), the department issued (May 1984) another recovery certificate for payment of interest of Rs. 68,464 which the dealer paid on various dates between June 1984 and December 1984.

The cases at (i) and (ii) were reported to Government in August 1986; their reply is awaited (March 1987).

✓(iii) In Sales Tax Circle, Ghaziabad, a dealer deposited, for the year 1978-79, tax of Rs. 61,49,902 only against the admitted tax of Rs. 64,62,334 payable along with the monthly returns. The balance of Rs. 3,12,432 was deposited by him on 5th March 1983. The dealer was, therefore, liable to pay interest on the amounts paid short during various periods between 1st June 1978 and 5th March 1983.

On this being pointed out in audit (November 1983), the department stated (October 1984) that out of the interest of Rs. 3,51,630 due in this case, a sum of Rs. 1,17,210 was paid by the dealer in July 1984 and for the balance amount, the dealer had obtained a stay order from the appellate authority on 16th July 1984. The appeal was, however, rejected on 29th June 1985. Report on recovery of the balance amount (Rs.2,34,420) is awaited (March 1987).

Government, to whom the case was reported in January 1984, confirmed (April 1986) the facts.

✓(iv) In Sales Tax Circle, Gorakhpur, a dealer (Government department) had deposited tax of Rs. 44,604 (for the quarter ending March 1978) in May 1981, although it was due for payment on 30th April 1978. For the belated payment, interest amounting to Rs. 33,007 (at the rate of 2 per cent per month for the period May 1978 to May 1981) was chargeable but was not charged.



On this being pointed out in audit (April 1984), the department stated (January 1985) that the full amount of Rs. 33,007 had since been deposited by the dealer in September 1984.

The matter was reported to Government in December 1985 ; their reply is awaited (March 1987) .

#### 2.7.4. *Penalty*

(i) Section 4-B of the U. P. Sales Tax Act, 1948 provides for a scheme for special relief in tax on purchases of raw material by manufacturers (on furnishing certificate in form III-B) for use in the manufacture of certain notified goods provided the manufactured goods are sold by them in the State or in the course of inter-State trade or commerce, or in the course of export out of India . In the event of violation of any of the conditions, the dealer becomes liable to pay, as penalty, an amount which shall not be less than the amount of tax that would have been payable under the provisions of the Act on the sale of such notified goods in the State and not more than three times the amount of such tax . Similarly, where a dealer holding a recognition certificate, after purchasing goods (raw materials) at a concessional rate of tax or without payment of tax, uses such goods for a purpose other than the declared purpose or disposes them of otherwise, he shall be liable to penalty not less than the difference between the amount of tax payable at the prescribed rate and that paid at the concessional rate or amount of tax that would have been levied on sale or purchase of such goods and not exceeding three times the amount of such difference or of the tax, as the case may be .

(a) In Sales Tax Circle, Ghaziabad, a dealer had transferred on consignment basis to his branch outside the State iron and steel valuing Rs. 15,56,800 and

Rs. 59,97,102 during the period from 1st November 1978 to 31st March 1979 and 1st April 1979 to 31st March 1980 respectively. The goods transferred had been manufactured out of raw material purchased by the dealer free of tax by furnishing certificate in form III-B. For violation of the provisions of the afore-said scheme for special relief, the department imposed penalty of Rs. 57,805 and Rs. 2,26,000 on the dealer in respect of the years 1978-79 and 1979-80 respectively. However, the minimum penalty actually leviable worked out to Rs. 62,272 and Rs. 2,39,884 respectively, being the amounts of tax which would have been leviable on the sale value of iron and steel within the State. The penalty imposed short amounted to Rs. 4,467 and Rs. 13,884 for the years 1978-79 and 1979-80 respectively.

On this being pointed out in audit (August 1984), the department stated (February 1986) that a further penalty of Rs. 12,151 and Rs. 13,884 had since been imposed for the years 1978-79 and 1979-80 respectively. Report on recovery is awaited (March 1987).

✓(b) In another case in Ghaziabad Circle, a dealer transferred outside the State on consignment basis (otherwise than by way of sale) rice, milled out of paddy purchased tax-free, for Rs. 7,52,388 during the year 1981-82. For violation of the conditions of the scheme for special relief, the dealer was liable to pay a minimum penalty of Rs. 30,095, representing the amount of tax which would have been payable on sale of rice in the State. The minimum penalty was, however, omitted to be levied.

On the omission being pointed out in audit (May 1985), the department stated (February 1986) that penalty of Rs. 19,152 (equal to the amount of tax on the value of paddy used) had been imposed under Sec-

- tion 4-B (6) of the U. P. Sales Tax Act. The department was again apprised (April 1986) of the position that minimum penalty leviable under Section 4-B (6) of the U. P. Sales Tax Act, 1948 was Rs. 30,095 (i. e. equal to the amount of tax leviable on the sale of notified goods) and not Rs. 19,152, equal to the amount of tax on the value of raw materials (paddy) used. Report on further action taken is awaited from the department (March 1987).

✓(c) In Sales Tax Circle, Agra, a dealer holding a recognition certificate for manufacture of C. I. castings purchased free of tax during the year 1981-82, raw material (iron and steel) for Rs. 8,05,599 by furnishing a certificate in form III-B. Out of this, raw material worth Rs. 4,00,000 (approximately) was used for manufacture of weights and measures. Since the dealer had not used the goods for the declared purpose, he was liable to pay a minimum penalty of Rs. 16,000. However, no penalty was imposed by the department.

The case was pointed out in audit in September 1985; reply of the department is awaited (March 1987).

The cases at (a), (b) and (c) were reported to Government in August 1984, May 1985 and September 1985 respectively; their reply is awaited (March 1987).

✓(d) In Sales Tax Circle, Lucknow, a dealer (holding a recognition certificate for manufacture of oil) purchased oilseeds for Rs. 85.18 lakhs at the concessional rate of 2 per cent during the year 1977-78. Out of the manufactured oil, the dealer transferred oil valuing Rs. 4.64 lakhs outside the State on consignment basis. The dealer was, thus, liable to pay a minimum penalty of Rs. 23,203, but it was not imposed.



On the omission being pointed out in audit (November 1985), the department stated (May 1986) that the penalty of Rs. 23,203 had since been imposed on the dealer. Report on recovery is awaited (March 1987).

Government, to whom the case was reported in November 1985, endorsed (June 1986) the action taken by the department.

✓(e) In Sales Tax Circle, Rishikesh, a dealer holding recognition certificate for manufacture of paints, varnishes, thinners and constituents thereof purchased resin for Rs. 10,86,470, without payment of tax, during the year 1980-81 on the strength of prescribed declarations (in form III-B). Out of the manufactured goods, the dealer transferred goods (rosin) valuing Rs. 2,35,358 outside the State on consignment basis in contravention of the aforesaid provisions, for which he was liable to pay a minimum penalty of Rs. 21,182, but it was not imposed.

On the omission being pointed out in audit (May 1986), the department intimated (February 1987) that penalty of Rs. 23,535 had been imposed on the dealer.

The case was reported to Government in May 1986; their reply is awaited (March 1987).

✓(f) In Sales Tax Circle, Hathras (district Aligarh), a dealer holding recognition certificate for manufacture of cast iron goods purchased iron and steel, without payment of tax, for Rs. 2,97,977 and Rs. 1,32,106 during the years 1980-81 and 1981-82 respectively on the strength of declarations in form III-B and utilised the same in the manufacture of machinery and parts thereof, instead of cast iron goods. The dealer was, therefore, liable to pay a minimum penalty of Rs. 17,203 for the years 1980-81 and 1981-82, but no penalty was imposed.

On the omission being pointed out in audit (October 1985), the department intimated ((February 1987) that penalty of Rs. 34,000 had been imposed on the dealer.

The case was reported to Government in October 1985; their reply is awaited (March 1987).

(ii) Under the U. P. Sales Tax Act, 1948, and the Rules made thereunder, every dealer, whose turnover in any assessment year exceeds rupees two lakhs, is required to submit to the Sales Tax Officer a monthly return of his turnover before the expiry of the next succeeding month and to deposit the tax due under the Act at the time of or before the submission of such returns. In case of failure of the dealer to furnish the return or to furnish it within the time allowed or to deposit the tax due under the Act, the assessing officer may, after proper enquiry, impose a penalty on the dealer, in addition to the tax payable by him, which shall be not less than 10 per cent but not exceeding 25 per cent of the tax due, if the tax due is upto ten thousand rupees, and 50 per cent of the tax due, if it is above ten thousand rupees.

In Sales Tax Circle, Pratapgarh, a dealer neither furnished the returns of his turnover for the months of November 1979, January 1980 and February 1980 (pertaining to the year 1979-80) and May 1980, November 1980 and January 1981 (pertaining to the year 1980-81), nor deposited the tax due under the Act for these months. As the tax payable for each of the aforesaid months was above ten thousand rupees, penalty not less than ten per cent but not exceeding fifty per cent of the tax due could be imposed by the assessing authority, but this aspect was not considered while making assessment in June 1982 and March 1983 for the years 1979-80 and 1980-81 respectively.

On this being pointed out in audit (October 1983), the assessing officer imposed penalty of Rs. 1,000 and Rs. 49,000 for the years 1979-80 and 1980-81 in April 1985 and August 1985 respectively. Report on recovery is awaited (March 1987).

The case was reported to Government in January 1984; their final reply is awaited (March 1987).

✓(iii) As per the provisions of the U. P. Sales Tax Act, 1948, if any dealer or person has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover, the assessing authority may direct that such dealer or person shall pay, by way of penalty, in addition to the tax payable by him, a sum not less than 50 per cent, but not exceeding one and a half times, of the amount of tax which would thereby have been avoided.

In Sales Tax Circle, Etah, a dealer, in his returns for the years 1981-82 and 1982-83, disclosed purchases of diesel engines from outside the State valuing Rs. 20,06,400 and Rs. 20,51,250 respectively, and the assessments were finalised accordingly. However, scrutiny of the dealer's accounts of purchases, as indicated in form XXXI, showed that diesel engines were purchased to the extent of Rs. 22,14,693 and Rs. 23,84,623 during 1981-82 and 1982-83 respectively. Thus, purchases had been suppressed to the extent of Rs. 2,08,293 and Rs. 3,33,373 respectively. After adding element of profit at  $3\frac{1}{2}$  per cent (as declared by the dealer), the amounts of suppressed sales of diesel engines, which escaped assessment, worked out to Rs. 2,15,583 and Rs. 3,45,041, involving tax liability (at 6 per cent) of Rs. 12,934 and Rs. 20,702 respectively. Besides, the dealer was also liable to



penalty up to one and a half times the amount of tax leviable for concealing the particulars of his turnover.

The case was reported to the department and Government in January 1986; their replies are awaited (March 1987).

## 2.8. Under-assessment of Central sales tax

Under the Central Sales Tax Act, 1956, on inter-State sale of goods other than declared goods, not supported by the prescribed declarations, tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods in the State, whichever is higher.

(i) As per State Government notification of 15th November 1971 read with that of 21st May 1974, the item relating to 'machinery' appearing in the Schedule thereto was amplified to include 'water pumps'. It has also been judicially held\* that water pumps and pumping sets would be taxable as machinery and not as 'agricultural implements' from the year 1971. Further, in terms of State Government notification dated 1st October 1975, inter-State sales of agricultural implements were taxable at 4 per cent.

In Sales Tax Circle, Agra, on the inter-State sales (not supported by the prescribed declarations) of pumping sets for Rs. 2,20,000 made by a dealer during the year 1977-78, tax was levied by the department at the rate of 4 per cent (as per notification dated 1st October 1975) treating them as agricultural implements. As the pumping sets are not agricultural implements, their sale was liable to tax at 10 per cent. The mistake resulted in short levy of tax by Rs. 13,200.

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\* Allahabad High Court decision 1975 U. P. T. C. 88 read with 1982 U. P. T. C. 1015.

On this being pointed out in audit (June 1982), the department stated (October 1983) that on inter-State sales of pumping sets tax was leviable at the rate of 4 per cent as applicable to agricultural implements. The reply of the department, which was endorsed by Government in April 1986, is not in conformity with the said notifications and the judicial opinion.

✓(ii) The Commissioner of Sales Tax decided in October 1977 that crushed bones and bones were one and the same thing, taxable under the item 'bones including horns and hoops'. It has also been judicially held\* that crushed bones are bones and not fertilizers.

In Sales Tax Circle, Deoria, inter-State sales of crushed hoops and bones amounting to Rs. 1,07,024 and Rs. 39,050, made by a dealer during the years 1979-80 and 1980-81 respectively, were exempted from levy of tax treating them as fertilizers. The sales not being supported by prescribed declarations in C or D form were liable to tax at 10 per cent. The mistake resulted in tax being levied short by Rs. 14,607.

The case was reported to the department and Government in February 1986; their replies are awaited (March 1987).

## 2.9. Turnover escaping assessment

✓(i) In Sales Tax Circle, Bareilly, a manufacturer of transmission towers and steel structures had, *inter alia*, disclosed inter-State sales of Rs. 46.64,000 during the year 1979-80. Of this, sales amounting to Rs. 45,42,000 were covered by declarations in form 'C' and the remaining sales of Rs. 1,22,000 were not covered by any declarations. The assessment was completed accordingly.

\* Yasin Bone Mills vs. State of Uttar Pradesh (1980 U. P. S. T. C. 450)

A scrutiny of the detailed statement of inter-State sales, filed by the dealer revealed that, in addition to the above inter-State sales, he had made sales amounting to Rs. 5,22,900 to the Delhi Electric Supply Undertaking which had neither been disclosed in the dealer's returns nor assessed to tax. This resulted in short levy of tax amounting to Rs. 52,290 at the rate of ten per cent. The assessee was also liable to pay interest for non-payment of the tax.

On this being pointed out in audit (September 1984), the assessing officer rectified the mistake in October 1984 and raised an additional demand for Rs. 52,290 and ordered to pay interest at the rate of 2 per cent per month upto the date of deposit. Report on recovery is awaited (March 1987).

The matter was reported to the department and Government in December 1984; their replies are awaited (March 1987).

(ii) At Bulandshahr, the taxable purchase turnover of 'gur' during the year 1976-77 was found to have been wrongly shown by a dealer as Rs. 7,38,957, instead of as Rs. 9,06,947. The mistake, which had remained undetected in the department, resulted in short levy of tax amounting to Rs. 11,759 at the rate of 7 per cent (inclusive of additional tax at one per cent).

On this being pointed out in audit (June 1983), the department raised (July 1984) an additional demand for Rs. 11,759. Report on recovery is awaited (March 1987).

The case was reported to Government in August 1983; their reply is awaited (March 1987).



## 2.10. Loss of revenue due to non-cancellation of recognition certificate

As per notification dated 20th May 1976 issued under the U. P. Sales Tax Act, 1948, no concession in tax is admissible for purchase of raw material to be used in the manufacture of notified goods, if the goods manufactured by the unit are not liable to tax at any stage under the Act *ibid*.

In Sales Tax Circle, Farrukhabad, a *sahakari samiti* holding recognition certificate, effective from 28th May 1974, for manufacture of soap, purchased oil and caustic soda worth Rs. 6,03,302 and Rs. 39,048 respectively during the years 1976-77 to 1979-80, without payment of tax, on the strength of declarations in form III-B. As the *sahakari samiti* was an institution certified by the U. P. Khadi and Village Industries Board, Lucknow and sales of goods manufactured by it were exempt from tax vide notifications dated 30th June 1963 (as amended) and 30th June 1979, it was not entitled to tax-free purchase of raw material. The department, however, did not initiate any action in time to cancel its recognition certificate. This resulted in loss of revenue amounting to Rs. 27,255 during the years 1976-77 to 1979-80.

On this being pointed out in audit (August 1985), the department stated (April 1986) that the recognition certificate granted to the *sahakari samiti* could neither be cancelled retrospectively nor could any penal action be taken against the *samiti* at this stage.

The case was reported to Government in August 1985; their reply is awaited (March 1987).

**2.11. Misappropriation of Government money**

Under the U. P. Sales Tax Rules, 1948, in the first week of every month the Sales Tax Officer is required to send to the officer in-charge of the treasury or sub-treasury, as the case may be, a statement in Form XIII showing the deposits of tax made during the previous month for verification by the Treasury Officer concerned.

It was noticed by audit that amounts aggregating Rs. 26,400, shown in the Sales Tax Circle, Hapur as having been deposited in the sub-treasury, Hapur on 17th May 1984 under the head "040-Sales Tax" through thirteen challans, were not traceable in the treasury records/bank scrolls. Apparently, the amount had been misappropriated. The misappropriation had been facilitated due to non-observance of the above procedure.

On this being pointed out in audit (March 1985), the Treasury Officer, Ghaziabad confirmed the misappropriation of Rs. 26,400. Report on action taken against the person concerned is awaited (March 1987).

The case was reported to Government in January 1986; their reply is awaited (March 1987).

# CHAPTER 3

## EXCISE DEPARTMENT

### STATE EXCISE

#### 3.1. Results of Audit

Test check of the account records of the State Excise Offices, conducted in audit during the year 1985-86, revealed non-levy or short levy of duties and fees amounting to Rs. 51.53 lakhs in 938 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-collection or short collection of licence fee	12	10.55
2. Non-levy or short levy of duty on wastages of spirit	10	0.59
3. Short levy of duty due to adoption of incorrect strength in issue of Indian made foreign liquor	8	18.08
4. Short levy of export duty on Indian made foreign liquor	1	0.49
5. Non-receipt of verified passes	7	14.66
6. Non-realisation of composition fee	879	0.44
7. Non-levy of interest	7	0.95
8. Other cases	14	5.77
<b>Total ..</b>	<b>938</b>	<b>51.53</b>

A few important cases are mentioned in the succeeding paragraphs.



### 3.2. Short realisation of licence fee due to adoption of lower installed capacity

Under the U. P. Excise Act, 1910 and the rules framed thereunder, a licence to work a distillery is granted to an applicant after he has (a) satisfied the Excise Commissioner that the proposed building, vessels, plant and apparatus to be used in connection with the manufacture of spirit are in conformity with the plans submitted by him, (b) deposited the required amount of security and (c) paid the licence fee in advance at the prescribed rate on the basis of yearly installed production capacity of the distillery (as certified by the Director General of Technical Development, Government of India) for the year or part thereof for which the licence is granted. No alteration or addition in or to the existing building or in or to stills and other permanent apparatus can be made without permission of the Excise Commissioner.

In the case of two distilleries at Ghaziabad and Gorakhpur, the Director General of Technical Development accepted in letters dated 31st March 1979 and 11th June 1979, the increased installed capacities of 13,636 kilolitres and 27,000 kilolitres and issued certificates to that effect. Licence fee at the enhanced rate was, however, realised from the year 1980-81, instead of from the year 1979-80 in which the installed capacities were increased. This resulted in short realisation of licence fee amounting to Rs. 23,852 and Rs. 28,860 in respect of the aforesaid two distilleries.

On this being pointed out in audit (February 1982 and May 1985), the department intimated (August 1984) that the amount of Rs. 23,852 in respect of the Ghaziabad distillery had since been realised in September 1983. Report on action taken in respect of the other distillery is still awaited (March 1987).

The cases were reported to Government in February 1982 and May 1985. Government endorsed (September 1984) the department's reply of August 1984 in respect of the Ghaziabad distillery; their reply in the other case is awaited (March 1987).

### **3.3. Non-realisation of excise duty in respect of transit losses**

Under the U. P. Excise Act, 1910, read with the Uttar Pradesh Issue of Spirit from Distilleries Rules, 1910 (as amended in 1978), an allowance upto 0.5 per cent of spirit transported or exported under bond in wooden casks or metal vessels is admissible for the actual loss in transit (by leakage, evaporation or other unavoidable causes). The Rules do not provide for any allowance for loss in transit where spirit is transported in bottles. It has also been judicially held\* that in such cases no claim for loss in transit is admissible.

On a transit loss of 1,346.5 alcoholic litres of spiced country spirit, transported in bottles (132 consignments) under bond from a distillery at Dehradun to the bonded warehouses at Barabanki, Bahraich, Bijnor and Dhampur (district Bijnor) during the period from May 1984 to May 1985, excise duty amounting to Rs. 38,470 was leviable but was not levied.

On the mistake being pointed out in audit (February 1986), the department stated (February 1987) that the short levy of duty had been made good by deducting it from the cost price of liquor payable to the distiller. The amount was deposited into treasury in January 1987.

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\* Civil Miscellaneous Case No. 2604 of 1973—Messrs. Mohan Meakin Breweries Ltd., Lucknow vs. State of U. P. and others.



Government, to whom the case was reported in February 1986, endorsed (February 1987) the reply of the department.

**3.4. Under-assessment of duty due to non-adoption of actual strength of Indian made foreign liquor**

Under the U. P. Excise Act, 1910 and the rules made thereunder, read with the U. P. Bottling of Foreign Liquor Rules, 1969, the sale strength prescribed for whisky, brandy, rum and gin are the apparent strength of spirit as indicated by the hydrometer after the addition of the colouring and flavouring materials. The strength so indicated is to be mentioned on labels to be affixed to the sealed and capsuled bottles. The minimum strength for issue of whisky, brandy and rum is 25° UP (i.e., 42.8 per cent by volume), and for gin it is 35° UP (i.e., 37.1 per cent by volume). A margin up to one degree below the prescribed strength (i.e., 0.57 per cent by volume) is, however, allowed under the rules. The duty is chargeable per litre of alcohol contained in the Indian made foreign liquor in sealed and capsuled bottles.

Fourteen distilleries in the districts of Meerut, Unnao, Saharanpur, Ghaziabad, Lucknow, Naini Tal, Gonda, Gorakhpur and Rampur manufactured and issued 1,51,75,423 alcoholic litres of Indian made foreign liquor during various periods between September 1979 and September 1985. The labels affixed to the bottles indicated the alcoholic content of whisky and rum as 42.8% v/v and that of gin as 37.1% v/v and the excise duty was levied on that basis. However, the actual apparent strength of spirit in the liquor after addition of colouring and flavouring materials, as indicated by the hydrometer, was 43.1% v/v in case of whisky and rum and 37.3% v/v in case of gin (as seen from the records of the distilleries), which exceeded the prescribed strengths (as indicated on labels) upto 0.3 per cent by volume. Levy of excise



duty on the basis of the minimum prescribed strengths (as indicated on labels), instead of on the actual apparent strengths indicated by the hydrometer, resulted in under-assessment of duty of Rs. 32.79 lakhs.

On this being pointed out in audit (between November 1984 and December 1985), the department contended (January 1987) that the permissible difference in strength was negligible and that adoption of actual strength in respect of liquor produced in Uttar Pradesh alone (leaving out liquor imported from other States) would be discriminatory due to difficulties in ascertaining the actual strength of imported liquor. The fact, however, remains that the rules do not provide for charging duty on the basis of prescribed strength, instead of actual strength.

The case was reported to Government in June 1986; their reply is awaited (March 1987).

### **3.5. Short levy of export duty on Indian made foreign liquor**

Under the U. P. Excise Act, 1910 and the rules made thereunder, Indian made foreign liquor may be exported by any person on payment of export duty at the prescribed rate. By a Government notification issued in May 1983, the rate of export duty on Indian made foreign liquor when exported in bottles was enhanced from Rs. 1.32 to Rs. 1.89 per alcoholic litre with effect from 9th May 1983.

In a distillery at Nawabganj (district Gonda), 6,94,385.4 alcoholic litres of Indian made foreign liquor (civil) were exported out of Uttar Pradesh, during the period from 9th May 1983 to 31st January 1985, on payment of export duty at the rate of Rs. 1.82 per alcoholic litre, instead of at the correct rate of Rs. 1.89. The mistake resulted in short realisation of export duty amounting to Rs. 48,607.

On this being pointed out in audit (August 1985), the department stated (January 1986) that the mistake occurred due to a typographical error and the duty short paid had since been realised from the distillery between August 1985 and November 1985.

Government, to whom the case was reported in August 1985, endorsed (February 1986) the reply of the department.

### 3.6. Non-realisation of assessed fee

As per the U. P. Excise Act, 1910 and the rules made thereunder, licence in form F. L. 2-A for wholesale vend of Indian made foreign liquor to wholesale and retail vendors is granted by the Collector with the previous sanction of the Excise Commissioner. Under this licence, Indian made foreign liquor procured from the distilleries in India may be issued to F. L. 9-A licensee (military unit canteens) for retail vend of concessional duty rum to the defence personnel. The rules prescribe that a fixed fee of Rs. 2,500 shall be payable by the F. L. 2-A licensee in addition to the fee assessed on the actual sales according to the prescribed scales, as mentioned below :

(a) Spirit, wines, liquor, cordials etc. of all kinds	Rs. 5 per reputed quart bottle on sale to licensed vendors
(b) Beer, stout and other ferment- ed liquor	60 paise per reputed quart bottle on sale to licensed vendors

However, the assessed fee, as indicated above, is not leviable on the supply of concessional duty rum to the military unit canteen licensees (FL 9-A) by a bonded warehouse.

The Canteen Stores Depot, Jhansi (holder of F. L. 2-A licence) procured 1,20,442 quarts of concessional duty-paid Rum during the years 1978-79 and 1979-80 against the permits granted by the Collector, Jhansi.



The rum so procured was sold to unit canteens holding F. L. 9-A licence. As per rules, assessed fee amounting to Rs. 4,75,910 for the year 1978-79 and Rs. 1,26,300 for the year 1979-80 was to be paid by the Canteen Stores Depot, Jhansi (Defence Department) and deposited into Government account, but it was not done. When this was pointed out by the department, the Canteen Stores Depot, Jhansi realised a sum of Rs. 5,18,210 (up to 11th December 1979) from unit canteens but the amount was not deposited into Government treasury and later on refunded to Jawans through unit canteens. On a representation made (September 1980) by the Canteen Stores Depot, the Collector, Jhansi recommended (November 1980) to Government for waiver of assessed fee on the ground that had rum been drawn from the bonded warehouse, no assessed fee would have been recoverable. The Act does not contain any provision for waiver of assessed fee, and the matter was pending decision at Government level.

On these facts being pointed out in audit (February 1982), the department apprised (February 1982) Government of the realisation of assessed fee amounting to Rs. 5,18,210 and its non-deposit into Government treasury. In April 1983, the department further apprised Government that another sum of Rs. 30,000 had been realised by the Canteen Stores Depot but the same had also not been deposited into Government treasury. Subsequently, however, it was seen in audit (March 1987) that the Canteen Stores Depot, Jhansi had deposited assessed fee of Rs. 6,02,210 at the State Bank of India, Jhansi on 9th February 1987.

The case was reported to Government in February 1982 and again in July 1985; their reply is awaited (March 1987).



### 3.7. Loss of duty due to fictitious export of Indian made foreign liquor

Under the U. P. Excise Act, 1910 and the rules made thereunder, no liquor shall be removed except under a pass issued by the concerned excise officer in-charge either on proof of payment of duty or on execution of a bond. The pass is prepared in triplicate, one copy is required to be given to the licensee to cover the transport or export, the second is forwarded to the chief revenue authority of the district of import or transport and the third is retained for record. For export of foreign liquor outside the State, the licensee is required to produce import permits issued by the Excise Department of the importing State. On receipt of the consignment at the destination, the Excise Officer in-charge of the importing State is required to send acknowledgment of the receipt of the consignment within three months.

A distillery at Lucknow exported (under bond) 13,277.8 alcoholic litres of Indian made foreign liquor during the period from November 1983 to January 1984 to a licensee of Cuttack (Orissa) against five import permits dated 15th September 1983, stated to have been issued by the Superintendent of Excise, Cuttack. The Superintendent of Excise, Cuttack, on receipt of a reference from the Assistant Commissioner (Excise), in-charge Mohan Meakin Ltd., Lucknow about the verification of passes, informed the Collector, Lucknow in January 1985 that there was no such licensee and the import permits in question were fake. The licensee (exporter) was, thus, liable for payment of duty amounting to Rs. 7.30 lakhs on the fictitious export of 13,277.8 alcoholic litres of Indian made foreign liquor (calculated at the rate of Rs. 55 per alcoholic litre).

On this being pointed out in audit (July 1986), the department intimated (February 1987) that an amount of Rs. 0.81 lakh had been adjusted from the advance accounts of the distillery and Rs. 2.50 lakhs had been deposited by the distillers in October 1986 in pursuance of the orders of the High Court pending decision on the writ petition filed by them. Further developments are awaited (March 1987).

Government, to whom the matter was reported in July 1986, confirmed (March 1987) the above position.

### **3.8. Short charge of duty on issue of country spirit**

Under the U. P. Excise Act, 1910 and the rules made thereunder, duty on country spirit, when transported from bonded warehouses situated in Uttar Pradesh to the premises of licensed vendors, is leviable at varying rates depending upon the areas in which the said premises are situated. As per notification issued (7th March 1974) by the State Government, excise duty at Rs. 7 per bulk litre is leviable on the issue of country spirit other than spiced country spirit to the licensee of a shop situated in the municipal area, town area, notified area and cantonment area of the districts of Basti, Faizabad, Pratapgarh and Etah, and at the rate of Rs. 6.90 per bulk litre on the issue of country spirit to the rest of the areas of the aforesaid districts.

At the bonded warehouses at Basti, Faizabad, Pratapgarh and Kasganj (district Etah), a total quantity of 1,50,302 bulk litres of country spirit was issued (between 1st April 1978 and 30th September 1984) to the licensed vendors of the shops located in town areas/notified areas of the aforesaid districts. The excise duty from them was, however, realised at the rate of Rs. 6.90 per bulk litre, instead of at the correct rate of



Rs. 7 per bulk litre. This resulted in short realisation of duty amounting to Rs. 15,030.

On this being pointed out in audit (between October 1983 and January 1986), the department recovered Rs. 3,737 pertaining to the bonded warehouses at Faizabad, Basti and Pratapgarh between October 1983 and February 1985. Report on recovery of the balance amount of Rs. 11,293 is awaited (March 1987).

The matter was reported to Government in April 1986; their reply is awaited (March 1987).

### **3.9. Irregularities in running the State managed shops**

Under the U. P. Excise Act, 1910 and the rules framed thereunder, right to vend country spirit in retail is auctioned and the licence is generally granted to the highest bidder (s). However, the State Government may direct for the opening of State managed shops in any district or part of a district selected for the purpose of vend of intoxicants. The sale proceeds of intoxicants at each State managed shop are to be deposited into the treasury.

The Deputy Excise Commissioner, Excise Intelligence Bureau, U. P., Kanpur Range, as per his circular dated 9th September 1980, decided to run the country liquor shops in Kanpur Range under State management from 10th to 18th September 1980 pending regular auction of the shops. The arrangement remained in vogue from 10th to 18th September 1980 without obtaining concurrence of the State Government. During the aforesaid period, plain and spiced country liquor worth Rs. 7,39,739 was supplied by a distillery at Lucknow in sealed bottles (through its bonded warehouse at Kanpur) but liquor worth Rs. 7,21,930 only was received intact and the balance liquor worth Rs. 17,809 was shown as loss due to breakage, leakage, pilferage



etc. As the liquor was supplied in sealed bottles, there should not have been any occasion for loss on account of leakage and pilferage.

It was also noticed that out of the total sale proceeds of Rs. 7,21,930, a sum of Rs. 1,44,100 was deposited in the State Bank of India, Kanpur by the District Excise Officer by opening a current account in September 1980, instead of depositing the same into the Government treasury as required under the rules. Out of this, a sum of Rs. 90,231 was released to the distillery on 27th April 1981 on account of cost price of liquor supplied by it leaving the balance of Rs. 53,869 out of Government account.

On the irregularities being pointed out in audit (September 1983), the department stated (May 1985) that certain important documents such as Bank Current Account Pass Book etc. were being obtained. In October 1986, the department again intimated that the requisite documents were still to be obtained. Further report is awaited (March 1987).

The matter was reported to Government in January 1986; their reply is awaited (March 1987).

### **3.10. Non-realisation of interest on delayed payment of instalments**

Under the U. P. Excise Act, 1910 and the rules made thereunder, as amended in March 1985, where any excise revenue has not been paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent per annum shall be payable from the due date to the date of actual payment. In respect of excise revenue which became payable before the commencement of the amended Act in March 1985, interest at the said rate shall be payable from the date of such commencement, if the excise

revenue is not paid within three months of the date of amendment (29th March 1985).

- At Azamgarh, Allahabad, Bareilly and Mirzapur, excise revenue to the tune of Rs. 10.08 lakhs which became payable by various licensees prior to 29th March 1985 was paid after delay of 4 to 11 months, reckoned from 29th March 1985. Interest amounting to Rs. 0.93 lakh was leviable on these belated payments of excise revenue, which was not levied and recovered.

The matter was reported to the department and Government between March 1986 and June 1986; their replies are awaited (March 1987).

## CHAPTER 4

### TAXES ON VEHICLES, GOODS AND PASSENGERS

#### 4.1. Results of Audit

Test check of records of the Transport Department, conducted in audit during the year 1985-86, revealed short levy of taxes amounting to Rs. 53.62 lakhs in 193 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Short levy of passenger tax including additional passenger tax	82	29.95
2. Underassessment of road tax	41	9.05
3. Short levy of goods tax	7	0.42
4. Other cases	63	14.20
Total ..	193	53.62

A few important cases are mentioned in the succeeding paragraphs .

#### 4.2. Irregular grant of exemption from payment of passenger tax

Under the U. P. Motor Vehicles Rules, 1940, a 'private stage carriage' means a vehicle constructed or adapted to carry more than 9 persons (excluding the driver) and used by or on behalf of the owner exclusively in connection with his trade or business or private purposes but not for hire or reward. The Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam,



1962 does not contemplate levy of passenger tax on a private stage carriage.

The State Government vide their notification dated 30th September 1962 also exempted from payment of passenger tax stage carriages owned by recognised educational institutions and used solely for the conveyance of pupils to and from the institution.

(i) In Dehradun region, a vehicle, registered in the name of the General Manager, Ordnance Factory, Dehradun since July 1974 as a school bus, was used to carry children of the staff from the factory campus to school and back. The bus, though not owned by a recognised educational institution, was irregularly exempted from payment of passenger tax. This resulted in loss of revenue by way of passenger tax amounting to Rs. 2,03,708 for the period from July 1974 to October 1985. In addition, permit fee of Rs. 1,188 was also recoverable from the owner of the vehicle.

(ii) Similarly, in Kanpur region, a vehicle, registered in the name of the General Manager, Ordnance Factory, Kanpur since January 1976 as a school bus, was used to carry children of the staff from the factory campus to school and back. Bus fare at the rate of Rs. 18 per month was realised from each child for the whole year. As the bus was not owned by any recognised educational institution and was plied on hire, it was liable to payment of passenger tax, but no passenger tax was levied. The exemption from payment of passenger tax was irregular and resulted in tax amounting to Rs. 1,34,814 for the period from January 1976 to December 1983 not being realised. In addition, permit fee of Rs. 836 was also recoverable from the owner of the vehicle.

(iii) In Dehra Dun region, two stage carriages owned by the Director, Indian Institute of Petroleum, Dehra Dun were granted (20th June 1969 and 6th March 1979) private stage carriage permits to carry children of the employees from the Institute campus to their schools and also to carry the staff to and from the place of work. The Institute charged Rs. 152 per day for transportation of the children of the staff. Since the Institute used the vehicles for hire, these fell in the category of stage carriages, liable to payment of passenger tax at the rates prescribed under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali, 1962 and also road tax under Article IV of the First Schedule to the U. P. Motor Vehicles Taxation Act, 1935. However, the department assessed and realised passenger tax only from January 1983 in respect of one vehicle and from January 1984 onwards in respect of the other. Passenger tax for the period from March 1979 to December 1982 in the case of the first vehicle and from July 1969 to December 1983 in respect of the second vehicle was not levied and realised. Road tax in respect of one vehicle was also realised at lower rates. The non-levy/short levy of passenger tax and road tax amounted to Rs. 1,38,353 and Rs. 50,398 respectively.

The above cases were reported to the department and Government between March 1984 and December 1985; their replies are awaited (March 1987).

#### **4.3. Short realisation of passenger tax in respect of contract carriages**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali, 1962, assessment of passenger tax under a lump sum agreement in respect of a contract carriage (excluding motor cabs), *inter alia*, depends on the fare payable and distance expected to be travelled during a



month . In respect of a contract carriage covered by a temporary permit, the fare to be taken into account for levy of passenger tax shall not be less than 75 per cent of the maximum rate prescribed under the Motor Vehicles Act, 1939 and the distance expected to be travelled in a month shall not be less than 4,000 kilometres .

In Lucknow region, eight vehicles of an operator were on contract with a company with effect from October 1981 for carrying staff members from different places of the city to the company's factory and vice versa. As per terms of the contract, the eight vehicles taken together were to ply for 1,553 kilometres (901 kilometres laden, i. e., with passengers and 652 kilometres unladen, i. e., without passengers) per day and the operator was to be paid at the rate of Rs. 2.14 per kilometre . Since, however, the vehicles were plying on temporary permits, passenger tax was payable as for a distance of at least 4,000 kilometres per month . On this basis, passenger tax worked out to Rs. 1,764 per vehicle per month . With the increase in fare from 5th February 1983, this would increase to Rs. 2,116.80 per vehicle per month . However, passenger tax at different lower rates ranging between Rs. 1.054 and Rs. 1.505 per vehicle per month was realised from the operator from October 1982 . Passenger tax realised short during the period October 1982 to August 1985 amounted to Rs. 2,32,668 after adjusting the tax paid in excess for the period October 1981 to September 1982 .

On this being pointed out in audit (February 1984 and October 1985), the assessing officer accepted the audit objection and issued a demand notice for Rs. 1,18,060 and also agreed to issue a further demand notice for the balance amount of Rs. 1,14,608 . Report on recovery is awaited (March 1987) .



The case was reported to Government in April 1984 and November 1985 ; their reply is awaited (March 1987).

#### **4.4. Short realisation of passenger tax in respect of stage carriages**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, agreement to pay a lump sum in lieu of passenger tax payable in respect of a stage carriage on a particular route depends, *inter alia*, on the number of single trips allowed or expected to be made by the stage carriage on the route during the specified period. Any change in the trips, fare etc., which has the effect of increasing the receipts of the operator, shall render the agreement void with effect from the date of such change and thereafter a fresh lump sum agreement in respect of the unexpired period is required to be executed.

(i) While authorising the operators to operate on a particular route, the department specifies the number of trips to be undertaken during a particular period (day, month or quarter as the case may be) by each vehicle. All the operators on a particular route are required to submit a time table (jointly) which is approved by the department and the passenger tax on each vehicle is calculated accordingly. Sometimes it becomes necessary to bring about a change in the schedule of each vehicle on account of some of the vehicles going off road due to different reasons. In such cases, remaining vehicles are expected to make additional trips to maintain the time table and the tax due from the remaining vehicles is to be recalculated based on the fresh lump sum agreements to be executed by the operators.

(a) In five regions/sub-regions of the State (Kanpur Lucknow, Moradabad, Faizabad and Sitapur), passenger tax in respect of 124 vehicles (which remained in operation after withdrawal of certain vehicles) was not revised for various periods between 23rd March 1979 and 30th April 1985 although these vehicles were expected to make additional trips to maintain the time table. This resulted in loss of revenue amounting to Rs. 1,52,365, as indicated below :

Region/sub-region Route	Number of vehicles		Number of additional single trips expected to be made per vehicle per month	Period to which under- assessment relates	Under- assessment involved (Rs.)
	Originally plying	With- drawn			
(1)	(2)	(3)	(4)	(5)	
	(a)	(b)			
1. <i>Kanpur</i>					
(a) Farrukhabad— Dhaighat via Jalalabad	10	3	13	13th January 1983 to 22nd July 1983	14,074
(b) Kishni-Phaphund	13	3	1	May 1979 to December 1980	29,089
2. <i>Lucknow</i>					
Unnao-Hardoi- Kanpur	66	1	1	18th Novem- ber 1983 to 30th April 1985	19,565
3. <i>Faizabad</i>					
(a) Bahraich- Huzoorpur	10	1 to 3	3 to 13	3rd September 1979 to 12th January 1981	18,886
(b) Kurebhar- Belwai	6	1 to 3	8 to 20	12th January 1981 to 14th October 1981	41,965
4. <i>Moradabad</i>					
Thakurdwara- Sheohara	15	1	2	23rd March 1979 to 13th April 1980	10,062
5. <i>Sitapur</i>					
Sitapur-Lahar- pur-Tambaur	18	4	3 to 14	27th July 1982 to 31st Decem- ber 1982	18,724
Total ..	138	14 to 18			1,52,365

On the above cases being pointed out in audit (between February 1981 and October 1985), the department recovered a sum of Rs. 74,277 (Kanpur : Rs. 28,135 ; Moradabad : Rs. 10,062 ; Faizabad : Rs. 31,266 and Sitapur : Rs. 4,814). Report on recovery of the balance amount of Rs. 78,088 is awaited (March 1987).

Government, to whom the cases were reported between February 1981 and November 1985, confirmed the recoveries (between October 1985 and April 1986) in respect of Faizabad, Kanpur and Moradabad.

(b) In Jhansi region, the lump sum passenger tax in respect of 5 vehicles plying in rotation on the Orai-Redhar route was computed on the basis of 8 single trips per day and the vehicles were, accordingly, paying passenger tax at the rate of Rs. 22.78 per seat per quarter. Consequent upon the grant of some more permits on the route from 12th April 1983, 7 vehicles actually started performing 12 single trips per day. However, the lump sum agreement in respect of 7 vehicles was found to have been executed on the basis of 8 single trips only instead of 12 single trips. The non-computation of lump sum passenger tax on the basis of increased number of trips resulted in short levy of passenger tax amounting to Rs. 14,183 for the period from 12th April 1983 to 27th July 1983.

On this being pointed out in audit (January 1985), the Regional Transport Officer, Jhansi accepted the mistake and issued demand notices for recovery. Report on recovery of Rs. 14,183 is awaited (March 1987).

The case was reported to Government in March 1985 ; their reply is awaited (March 1987).



(ii) In Faizabad region, lump sum amount for payment of passenger tax in respect of 20 vehicles plying on the Bahraich-Yamunaha route was computed taking the net fare as Rs. 2.75. The net fare (Rs. 2.75) of the route shown in the fare list submitted by the operators was incorrect as it actually worked out to Rs. 2.90 after deducting the elements of bridge tax, insurance and passenger tax including additional passenger tax from the total fare charged from the passengers. The calculation of lump sum amount of passenger tax (based on incorrect fare) resulted in short assessment amounting to Rs. 13,009 for the period from May 1982 to June 1983.

Government, to whom the matter was reported in September 1983, stated (October 1985) that a sum of Rs. 4,779 had since been recovered and efforts were being made to recover the balance amount. Report on recovery of the balance amount is awaited (March 1987).

(iii) In Kanpur region, 5 stage carriages plying on the Thatia-Khairnagar route were paying passenger tax on lump sum basis, on the fare of Rs. 2.15 from 20th September 1983. The route was surveyed on 18th November 1984 and the fare of the route was found to be Rs. 3.30. The tax officer ordered that, in view of the incorrect fare having been taken into account earlier, the amount of passenger tax payable on lump sum basis should be revised. However, no revision was made and passenger tax continued to be realised on the basis of the old fare. This resulted in short realisation of passenger tax amounting to Rs. 58,130 for the period from 20th September 1983 to 1st May 1985.

On the omission being pointed out in audit (November 1985), the Regional Transport Officer, Kanpur

issued demand notices for recovery. Report on recovery is awaited (March 1987).

The matter was reported to Government in December 1985; their reply is awaited (March 1987).

(iv) In Agra region, passenger tax under lump sum agreement in respect of 11 stage carriages plying on the Bah-Bhind inter-State route was being realised since January 1981 on the basis of fare of Rs. 3.22 for the portion of the route lying in Uttar Pradesh. In July 1981, the fare for computing the lump sum amount was, however, reduced to Rs. 2.90, treating the portion of the route lying in Uttar Pradesh as 40 kilometres, instead of 43 kilometres. In accordance with the Government notifications of October 1981 and September 1983, the fare of Rs. 2.90 was revised to Rs. 3.35 and Rs. 4.25 respectively for a distance of 40 kilometres. The State Transport Authority intimated (June 1982) the Passenger Tax Officer, Agra that the total distance of the Bah-Bhind route was 64 kilometres, out of which 43 kilometres lay in Uttar Pradesh. The actual fare on the basis of distance of 43 kilometres worked out to Rs. 3.10, Rs. 3.55 and Rs. 4.45 from July 1981, October 1981 and September 1983 respectively as against Rs. 2.90, Rs. 3.35 and Rs. 4.25 worked out by the department on the basis of distance of 40 kilometres. This resulted in short levy of passenger tax amounting to Rs. 19,212 for various periods between July 1981 and October 1984.

The matter was reported to the department and Government in January 1985; their replies are awaited (March 1987).

(v) In Lucknow region, three routes, viz., (i) Lucknow-Mal-Bharawan, (ii) Lucknow-Mal-Basheri-ghat and (iii) Lucknow-Mal-Umraval, classified as special class routes and having the distance of 57, 47



and 45 kilometres respectively, were in operation. The portion from Lucknow to Mal, covering a distance of 38 kilometres, was common in all the three routes. Seventeen vehicles, plying on the first two routes in rotation, were paying passenger tax on the basis of lump sum computed on a fare of Rs. 2.50; whereas for the third route (length 45 kilometres), on which four vehicles were operating on temporary permits from 15th March 1984, the lump sum payment was being computed based on a fare of Rs. 3.30. There was apparently no justification for charging lesser fare by vehicles operating on the first two routes, where the distance involved was actually more, i.e., 57 and 47 kilometres. If the lump sum payments in respect of the first two routes had also been based at least on the fare of Rs. 3.30 per passenger, passenger tax amounting to Rs. 52,412 more would have been realised for the period from 15th March 1984 to 14th December 1984.

The matter was reported to the department and Government in January 1985; their replies are awaited (March 1987).

(vi) In Varanasi region, short levy of passenger tax amounting to Rs. 43,495 due to non-revision of lump sum agreements for various reasons in respect of 18 vehicles plying on six routes was noticed.

On the mistakes being pointed out in audit (March-April 1985), the Regional Transport Officer, Varanasi accepted (March-April 1986) the audit objections, recovered Rs. 12,999 and issued demand notices for recovery of the balance amount of Rs. 30,496. Report on recovery is awaited (March 1987).

The cases were reported to Government in April 1985; their reply is awaited (March 1987).



#### 4.5. Short realisation of passenger tax due to departmental lapses

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules made thereunder, when an operator of a stage carriage enters into a lump sum agreement for the payment of passenger tax, the agreement is valid for a period of three months or for the unexpired period of the currency of the permit whichever is less. The assessment of passenger tax under lump sum agreement in respect of a stage carriage on a particular route depends, *inter alia*, on the number of one-way trips, the stage carriage is authorised to make on the route during the period for which the agreement is executed, fare normally payable for the entire route and the rate of tax.

(i) In paragraph 4.3 of the Audit Report for the year 1978-79, mention was made about short levy of passenger tax in a case, in the Regional Transport Office, Lucknow where the number of trips for determining the lump sum amount recoverable from operators was computed on the basis of 75 days, instead of the full agreement period of 90 days. In paragraph 167 of their Report for the year 1981-82, the Public Accounts Committee did not agree with the procedure adopted by the department and recommended that in future passenger tax should be calculated on the basis of 30 days in a month in the whole of the State.

In the Sub-Regional Transport Office, Azamgarh, the tax officer accepted the payment of passenger tax by operators, based on 25 days in a month, giving allowance for non-operation of five vehicles (plying on the Ghosi-Mohammadabad-Kamheria route) on Sundays/holidays, which was contrary to the recommendations of the Public Accounts Committee and was also not permissible under the rules. Non-charging of pas-

senger tax for all the 30 days in a month resulted in tax being realised short by Rs. 79,557 during the period from November 1981 to July 1985.

The matter was reported to the department and Government in August 1984; their replies are awaited (March 1987).

(ii) In Kanpur region, temporary permits for four months were granted to five vehicles for plying on the Talgram-Terajaket route and to two vehicles for plying on the Ramaipur-Ghatampur route under lump sum agreements between November 1983 and October 1985. Although road tax was realised from the vehicles for the period of their operation, passenger tax was either not realised or was realised short due to incorrect calculation. Non-realisation/short realisation of passenger tax amounted to Rs. 19,390.

On the mistakes being pointed out in audit (November 1985), the Regional Transport Officer, Kanpur realised a sum of Rs. 962 in respect of one vehicle and issued demand notices for recovery of the balance amount of Rs. 18,428 (November 1985). Report on recovery is awaited (March 1987).

The matter was reported to the department and Government in December 1985; their replies are awaited (March 1987).

(iii) In Banda sub-region, eight vehicles (including one vehicle belonging to the U. P. State Road Transport Corporation) were plying on the Banda-Ajaigarh route and were authorised to make 68 trips per vehicle in 90 days. The operators of the two vehicles informed the transport authorities on 29th July 1980 and 4th November 1980 that their vehicles were under repairs and were not operating on the route. However, the Assistant Regional Transport Officer (Enforce-

ment), Banda reported on 31st December 1980 that during checking on 22nd November 1980 one of these vehicles was found plying on the above route. Subsequently, on 20th January 1981 and 19th February 1981 the two operators requested that since their vehicles had plied on way-bill basis during the period from 15th May 1980 to 25th January 1981 and February 1980 to October 1980 respectively, the passenger tax for the said period might be realised accordingly. Although the operators did not submit any weekly and monthly returns, as provided in Rules 6 (2) and 7 of the U. P. Motor Gadi (Yatri-kar) Niyamawali, 1962, and there was also nothing on record to prove that the vehicles had actually plied on way-bill basis during the above-mentioned periods, the transport officer, without any verification, accepted whatever amount was deposited by the operators. In fact the checking authority had earlier reported on 31st December 1980 that these vehicles were neither carrying any way-bill nor had executed lump sum agreements for payment of passenger tax. Acceptance of the passenger tax on way-bill basis resulted in loss of passenger tax amounting to Rs. 16,936 during the period from February 1980 to April 1981.

On this being pointed out in audit (October 1981), Government stated (November 1985) that the entire amount of Rs. 16,936 had since been recovered from the operators.

(iv) The Agra-Jalesar route in Agra region was extended upto Dauji and the extension was endorsed on 23rd November 1984 in the permits of 60 stage carriages plying on the route. The passenger tax for the extended portion of the route was, however, assessed and realised in respect of 29 stage carriages only; in respect of the remaining 31 stage carriages passenger



tax for the extended portion of the route escaped assessment. This resulted in non-realisation of passenger tax amounting to Rs. 14,881 for the period from 23rd November 1984 to 22nd June 1985.

On this being pointed out in audit (August 1985), the department accepted the mistake and issued demand notices for recovery. Report on recovery is awaited (March 1987).

The case was reported to Government in September 1985; their reply is awaited (March 1987).

(v) In Dehra Dun region, six stage carriages plying on Vikasnagar-Majra route were permitted by the Regional Transport Authority to ply upto Dehra Dun from 1st December 1984, but passenger tax was assessed and realised on the fare chargeable for the Vikasnagar-Majra route only. Non-assessment of passenger tax for the extended portion of the route resulted in short recovery of passenger tax amounting to Rs. 11,975 for the period from December 1984 to October 1985.

On this being pointed out in audit (November 1985), the department accepted the mistake and agreed to recover the amount due. Report on recovery is awaited (March 1987).

The case was reported to Government in December 1985; their reply is awaited (March 1987).

#### **4.6. Loss of passenger tax due to non-adoption of the prescribed minimum fare**

Under the Motor Vehicles Act, 1939, a State Government may, from time to time, by notification in the official gazette, issue directions to the State Transport Authority regarding fixation of fares and freights (including the maximum and minimum in respect thereof).

for stage carriages, contract carriages and public carriers. Accordingly, by a notification dated 20th September 1983, the State Government directed the State Transport Authority to fix the minimum rates of fare, for ordinary stage carriages having second class seats, at the rate of 62.89 paise per passenger (to be rounded off to the nearest multiple of five paise). Under the U. P. Motor Gadi (Yatri-Kar) Niyamawali, 1962, the lump sum payment in lieu of passenger tax is required to be calculated on the basis of a formula which, *inter alia*, includes the total fare normally payable in respect of the entire route. When a passenger is carried by a stage carriage at a concessional rate or without being charged any fare, the fare normally payable for the journey shall be deemed to be the fare payable by such passenger.

In Gorakhpur region, the lump sum payment in lieu of passenger tax in respect of 34 vehicles plying on three routes (13 vehicles on the Ramkola-Tamkuhi route, 12 vehicles on the Ramkola-Singaha route and 9 vehicles on the Tamkuhi-Pipraghat route) was calculated on the basis of fare at the rate of 50 paise per passenger instead of 65 paise per passenger, i. e., the prescribed minimum fare after rounding off, and in respect of 22 vehicles plying on the Amari-Mahuadih route, the lump sum payment was calculated on the basis of fare at the rate of 60 paise per passenger, instead of 65 paise per passenger. This resulted in short levy of passenger tax amounting to Rs. 20,798 during the period from 20th September 1983 to 21st November 1985.

The matter was reported to the department and Government in December 1985; their replies are awaited (March 1987).

#### 4.7. Loss of passenger tax due to non-inclusion of toll in fare

By a notification issued on 12th January 1981, the State Government authorised the owners of stage carriages to charge an additional fare from passengers at the rate of five paise per rupee or part thereof on the total amount paid as toll by such carriages to any local authority at any barrier (on the roads other than hilly roads) through which the stage carriage shall pass. In case of hilly roads, the rate is 6 paise per rupee or part thereof. The additional fare so collected formed part of the fare for the purpose of assessment of passenger tax.

(i) In Faizabad region, the lump sum passenger tax in respect of 32 vehicles plying on the Faizabad-Mayabazar route was determined on the basis of 15 trips per month, fare as Rs. 3.50 and load factor as 78 per cent. While determining the net fare for the calculation of lump sum passenger tax, additional fare of 25 paise paid on account of toll was not included by the department. The mistake resulted in short assessment of passenger tax amounting to Rs. 26,279 during the period from 25th May 1982 to 20th November 1984.

On this being pointed out in audit (May 1985), the Regional Transport Officer, Faizabad accepted the mistake and promised to recover the amount. Report on recovery is awaited (March 1987).

(ii) In Bareilly region, the additional fare of 5/10 paise collected (on account of toll) from the passengers of 23 stage carriages plying on the Pilibhit-Bisalpur-Diuria route and shown in the fare list submitted by the Motor Operators' Union, Pilibhit was not included in the net fare worked out for the purpose of calculating the passenger tax on lump sum basis. This



resulted in short assessment of passenger tax amounting to Rs. 20,376 during the period from December 1981 to December 1983.

On this being pointed out in audit (May 1985), the Regional Transport Officer, Bareilly accepted the mistake and promised to recover the amount. Report on recovery is awaited (March 1987).

The above cases were reported to Government in July 1985; their reply is awaited (March 1987).

#### **4.8. Short assessment of passenger tax due to lack of co-ordination**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, the amount of passenger tax under lump sum agreement in respect of a stage carriage is determined with reference to a formula which, *inter alia*, provides for levy of passenger tax on the full seating capacity and fifty per cent of the authorised standing capacity, if any, allowed. For the purpose of levy of road tax also, fifty per cent of the sanctioned standing capacity, if any, is reckoned as additional seating capacity.

In three regions of Allahabad, Meerut and Moradabad, road tax in respect of seven stage carriages plying on six routes (Allahabad-Purkhas and Raniganj-Jamtali in Allahabad region, Meerut-Sardhana-Binauli and city service in Meerut region and Chandausi-Rajghat and Moradabad-Ramnagar in Moradabad region) was realised on the basis of full seating capacity and fifty per cent of the authorised standing capacity. However, passenger tax in respect of those vehicles was either not assessed or was assessed on lesser number of seats due to lack of co-ordination amongst the different sections of the Regional Transport Office. This resulted in short levy of passenger tax amounting to

Rs. 38,014 during the period from April 1978 to June 1985.

On the mistake being pointed out in audit (between January 1985 and June 1985), the concerned Regional Transport Officers, Allahabad, Meerut and Moradabad accepted the audit objection. Report on recovery is awaited (March 1987).

The cases were reported to Government in March 1985 and July 1985; their reply is awaited (March 1987).

#### **4.9. Non-levy of penalty for realisation of passenger tax from passengers in excess of the prescribed rate**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962, there shall be levied and paid to the State Government a tax on every passenger carried by a stage carriage at a rate equivalent to sixteen per cent (fifteen per cent upto 30th April 1979) of fare payable by such passenger to the operator of the stage carriage in respect of his journey in the State. In the case of a stage carriage plying exclusively within the limits of a city or municipality, the amount of tax shall be rounded off to the nearest paise. In case of contravention of the provisions of the Act *ibid*, the defaulter shall on conviction be liable to a fine which may extend to five hundred rupees and, when the offence is a continuing one, to a further fine but not exceeding twenty-five rupees for each day during which the offence continues after the first conviction.

In Ghaziabad sub-region, 14 vehicles operating on the part route "Ghaziabad (Ghantaghar)-U. P. Border" of the route "Rajnagar-Ghaziabad (Ghantaghar)-U.P. Border" were performing 36 return trips per month



and were charging an amount of Re. 0.90 per passenger from 20th September 1983. The amount comprised a net fare of 75 paise and passenger tax of 15 paise, as per fare table furnished by the operators. However, passenger tax was deposited by the operators (in lump sum) at the rate of 12 paise per passenger only (16 per cent of the fare of 75 paise). The operators, thus, realised passenger tax in excess (of the prescribed rate of sixteen per cent) at the rate of three paise per ticket during the period from 20th September 1983 to 30th April 1984. The excess passenger tax realised amounted to Rs. 28,520, which was in contravention of the provisions of the Act and the operators were liable for penal action. The department, however, failed to detect the irregularity and, even after being pointed out (May 1984) in audit, no penal action was initiated against the operators.

In November 1986, the Assistant Regional Transport Officer, Ghaziabad intimated that the fare of the route had been revised and an amount of Re. 1 (comprising a net fare of 85 paise and passenger tax of 15 paise) was being charged by the operators from 1st April 1985. The passenger tax at the rate of 16 per cent on the net fare of 85 paise worked out to 14 paise only, against which 15 paise per ticket was being realised. Thus, during the subsequent period as well, excess passenger tax amounting to Rs. 67,405 was realised by the operators on the said route from 1st May 1984 to 31st October 1986. Due to inaction on the part of the department, the operators continued to violate the provisions of the Act and have so far (October 1986) derived undue benefit to the tune of Rs. 95,925 by way of collecting excess passenger tax from passengers.

The matter was reported to Government in July 1984; their reply is awaited (March 1987).



#### 4.10. Short levy of road tax

(i) Under the U. P. Motor Vehicles Taxation Act, 1935, the assessment of road tax on a motor vehicle plying for hire for conveying passengers depends, *inter alia*, on the class of route on which it plies. For the purpose of levy of road tax, routes are classified into four categories, *viz.*, Special, 'A', 'B' and 'C', and the rate of tax is the highest for special class route and is comparatively lower for 'A', 'B' and 'C' class routes. If a vehicle plies on more than one class of routes, the road tax applicable to the highest class is required to be charged for the entire route. A vehicle plying without permit attracts road tax applicable to the highest class of route, i.e., special class.

(a) In Kanpur region, a 74 kilometres long route from Sikandara to Bilhaur (*via* Sandalpur-Mangalpur-Jhijnjhak-Rasoolabad Tisti and Kakwan) was opened in 1975. It overlapped the existing 'C' class route from Mangalpur to Bilhaur (67 kms.) which was upgraded to 'B' class in August 1979. In June 1982, the Sikandara-Bilhaur route was classified as 'A' class route by the State Transport Authority. The department, however, continued to assess and realise the road tax from 11 stage carriages plying on part of the route from Bilhaur to Mangalpur *via* Rasoolabad and Jhijnjhak (covering a distance of 67 kms.) at the rate applicable to 'B' class route, instead of at the rate applicable to 'A' class route. This resulted in short levy of road tax amounting to Rs. 72,600 during the period from June 1982 to September 1985.

On the mistake being pointed out in audit (November 1985), the Regional Transport Officer, Kanpur stated (November 1985) that the matter would be placed before the Regional Transport Authority. Further developments are awaited (March 1987).

The matter was reported to Government in December 1985; their reply is awaited (March 1987).

(b) In Aligarh sub-region, 26 vehicles of Etah-Jalesar route and 16 vehicles of Atrauli-Amapur route were allowed to ply, under the directions of the Hon'ble Supreme Court, on certain notified portions of the Etah-Agra and Kasganj-Aligarh routes respectively, on which vehicles of the U. P. State Road Transport Corporation were also plying and paying road tax applicable to special class route.

However, in respect of the above-mentioned 42 vehicles plying on the notified portions of the routes, road tax was realised at rates applicable to "A" class route, instead of at rates applicable to special class route. This resulted in short realisation of road tax amounting to Rs. 11,415 for various periods between December 1982 and February 1983.

(c) In Lucknow region, 14 vehicles were plying on different routes without any valid permits and 2 vehicles of the U. P. State Road Transport Corporation were plying on notified routes. In all these cases, road tax at rates applicable to the highest class of route, i.e., special class, was leviable, but road tax at rates applicable to lower classes of routes was realised. The mistake resulted in short levy of road tax amounting to Rs. 22,590 during the period from July 1981 to December 1985. For plying of vehicles without valid permits, the operators were also liable to penal action under Section 123 of the Motor Vehicles Act, 1939, but no penal action was taken by the department.

The above cases were reported to the department and Government in October 1985 and December 1985; their replies are awaited (March 1987).



(ii) The U. P. Motor Vehicles Taxation Rules, 1935 provide that while classifying a route, the controlling authority shall be guided by three considerations, *viz.*, (i) potential income which will accrue from employment of a public service vehicle on that route, (ii) maintenance cost of the road or roads or the portion or portions of any road or roads comprised within the said route and (iii) necessity for development of the proposed route in public interest.

In Agra region, 13 routes were reclassified and upgraded to higher classes on 30th November 1983 by the State Transport Authority on the recommendation of the Regional Transport Authority, Agra. Out of these, the operators of 5 routes (Shikohabad-Hathmouth-Kanwara, Shikohabad-Bateshwar-Kanjra, Shikohabad-Etah, Etah-Jalesar Road-Etah-Nidhauli Kalan and Etah-Kaimganj-Sidhpur-Daryaganj) filed writ petitions (three separate writs) in the High Court of Judicature, Lucknow Bench, challenging the re-classification of the aforementioned routes. The High Court quashed the reclassification order on 12th January 1984, 15th May 1984 and 14th December 1984 on the ground that the re-classification took into account only one factor, *viz.*, potential income from employment of public service vehicle on that route. The High Court, however, observed that if, after consideration of all the three factors mentioned above, the authorities felt that there was justification for upgrading the classification of these routes, they could do so. The department, however, did not take any action to re-examine the issue in the light of the aforesaid observations of the High Court. The delay in reviewing the classification (taking into consideration all the three factors) of the aforementioned five routes has been entailing recurring loss of revenue (by way of road tax) amounting to Rs. 1,18,476 per annum from



December 1983 onwards (calculated on the basis of reclassification done on 30th November 1983). •

The matter was reported to the department and Government in September 1985; their replies are awaited (March 1987).

(iii) According to the U. P. Motor Vehicles Taxation Act, 1935, road tax in respect of vehicles (other than transport vehicles) is leviable at the rates specified in the First Schedule to the Act plus 50 per cent thereof, except in the case of vehicles owned by individuals and certain specified institutions and bodies.

In Jhansi and Kanpur regions, road tax in respect of 721 vehicles belonging to commercial firms and companies (not falling in the category of specified institutions and bodies referred to above) was not increased by 50 per cent over the rates specified in the First Schedule to the Act. The omission resulted in road tax being levied short by Rs. 27,020 for various periods between January 1983 and February 1985.

On the mistake being pointed out in audit (January 1984 and January 1985), the Regional Transport Officer, Jhansi stated (February 1986) that a sum of Rs. 8,630 had since been recovered. Report on recovery of the balance amount is awaited (March 1987).

The cases were reported to Government in May 1984 and February 1985; their reply is awaited (March 1987).

#### **4.11. Non-assessment of taxes on vehicles owned by Government companies**

Under the U. P. Motor Vehicles Taxation Rules, 1935 and the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964, motor vehicles owned and exclu-

sively used by or on behalf of Government department are exempt from payment of road tax and goods tax. The exemption is, however, not admissible to vehicles owned by Government companies/corporations.

In Bareilly region, in respect of one vehicle of the State Electricity Board and three vehicles of the *Nal-koop Nigam*, road tax amounting to Rs. 16,515 and goods tax amounting to Rs. 42,450 were leviable for the period from January 1981 to December 1984 (these being not Government departments), but were not levied.

On the omission being pointed out in audit (November 1984), the Regional Transport Officer, Bareilly recovered goods tax amounting to Rs. 31,936 in respect of three vehicles and road tax amounting to Rs. 15,740 in respect of one vehicle of the *Nal-koop Nigam* for the period from 15th June 1982 to 2nd February 1985. Notice was also stated to have been issued to the State Electricity Board for assessment of taxes in respect of one vehicle (April 1985). Report on recovery of the balance amount from the *Nal-koop Nigam* and result of notice issued to the State Electricity Board is awaited (March 1987).

The case was reported to Government in January 1985; their reply is awaited (March 1987).

#### **4.12. Non-assessment or short assessment of goods tax**

Under the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964 and the rules made thereunder, read with the U. P. Motor Vehicles Taxation Act, 1935, an operator of a goods vehicle is required to pay goods tax and road tax at the prescribed rates. The Goods Tax Officer is, however, empowered to accept a lump sum payment at prescribed rates (based on the authorised carrying capacity of the vehicle) in lieu of goods

tax: In the event of his failure to make payment of goods tax within the prescribed period, the vehicle owner is liable to pay, in addition to tax, a penalty not exceeding 25 per cent of the amount of tax payable by him.

(i) In Jhansi region, permits of 18 public carriers were countersigned by the State Transport Authority for the period from June 1983 to September 1985, but goods tax in respect of these vehicles was not assessed and realised for various periods between June 1983 and September 1985. Tax not realised (at lump sum rates) amounted to Rs. 86,822.

On this being pointed out in audit (September 1985), the Regional Transport Officer, Jhansi accepted the mistake and issued demand notices for Rs. 59,540 in 9 cases and also agreed to issue demand notices in the remaining 9 cases. Report on recovery is awaited (March 1987).

The matter was reported to Government in November 1985; their reply is awaited (March 1987).

(ii) In Bareilly region and Azamgarh sub-region, although the operators of 3 private goods vehicles and 10 public goods vehicles had paid road tax at the prescribed rates, goods tax in respect of them was either not assessed or was assessed short. This resulted in non-realisation/short realisation of goods tax amounting to Rs. 27,304 at the lump sum rates (Bareilly : Rs. 13,590; Azamgarh : Rs. 13,714) during various periods between December 1979 and March 1986. Besides, penalty not exceeding 25 per cent of the amount of tax payable was recoverable from the operators.

On this being pointed out in audit (June 1985 and July 1985), the Regional Transport Officer, Bareilly



and the Sub-Regional Transport Officer, Azamgarh accepted the mistake and agreed to recover the amounts by issuing demand notices. Report on recovery is awaited (March 1987).

The cases were reported to Government in July 1985 and September 1985; their reply is awaited (March 1987).

#### **4.13. Non-realisation of licence fee and security from the forwarding agencies**

Under the Motor Vehicles Act, 1939, as amended in 1969, no person shall engage himself as an agent in the business of collecting, forwarding or distributing goods carried by public carriers, unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government. For this purpose, the State Government framed the "U. P. Licensing of Agents engaged in the Business of Collecting, Forwarding and Distributing Goods Carried by Public Carriers Rules, 1975", which came into force with effect from 31st January 1976. These Rules were revised with effect from 25th July 1978. As per these Rules, a licence shall be valid for five years and the amount of licence fee shall be (a) Rs. 250, if the licence is for one region but not including hill routes; and (b) Rs. 500, if the licence is for one region including hill routes or more than one region.

A licensee shall also be required to deposit a security of Rs. 2,000 either in cash or in any Government security, approved by the licensing authority. The licence may be renewed on an application made to the licensing authority not less than 30 days before

its expiry and the fee for renewal shall be the same as for the initial grant of licence.

Mention was made in paragraph 4.7 of the Audit Report for the year 1978-79 regarding non-enforcement of the Rules of 1975 relating to licensing of agents. During discussion of the paragraph by the Public Accounts Committee (on 7th December 1981), the department stated that the onus for obtaining a licence rested with the person engaged in the business of collecting, forwarding or distributing goods carried by public carriers and that the department would enforce the provisions of the rules by survey and penal action as contemplated in the rules. The Transport Commissioner, accordingly, issued (January 1982) instructions to the Regional Transport Officers for challaning the agents operating without valid licence.

In Faizabad region, the records of the Regional Transport Officer revealed that 47 agencies had been operating since January 1978, out of which only 5 agencies had obtained licences for the period from January 1978 to December 1982. On the expiry of this period, even these 5 agencies did not get the licences renewed. The remaining 42 agencies had been operating without any valid licences since January 1978. Till March 1982, these 42 agencies operating without licences were challaned in 83 cases, which were still pending in the court of law. No survey was, however, conducted after March 1982, which indicates that no effective steps were taken by the department to enforce the rules and ensure compliance of instructions issued by the Transport Commissioner. The loss of revenue to Government (in the shape of licence and renewal fees) in respect of the said 47 agencies alone worked out to Rs. 22,250. In addition, security deposits amounting to Rs. 0.84 lakh remained uncollected from the agents.

The matter was reported to the department and Government in July 1985; their replies are awaited (March 1987).

#### 4.14. Short levy of path-kar

As per Government notification issued on 16th April 1985, in terms of Section 3(1) of the Uttar Pradesh Motor Transport Vehicles (Toll) Act, 1979, in respect of every transport vehicle plying under a permit granted under the Motor Vehicles Act, 1939 by an authority having jurisdiction outside Uttar Pradesh and entering the limits of Uttar Pradesh, the rate of toll (*path-kar*) leviable was increased from Rs. 40 to Rs. 60.

At five transport check posts at Kotban, Fatehpur Sikri, Saiyan, Tamkuhi Raj and Udi, in respect of 5,183 transport vehicles which had entered the State during the period from 16th April 1985 to 29th April 1985, *path-kar* was charged at the old rate of Rs. 40, instead of at Rs. 60 per vehicle. The mistake resulted in *path-kar* amounting to Rs. 1,03,660 being recovered short.

On this being pointed out in audit (between May 1985 and September 1985), the department stated that the short levy of *path-kar* was due to late receipt of the Government notification.

The cases were reported to Government between May 1985 and October 1985; their reply is awaited (March 1987).

#### 4.15. Non-levy of penalty for belated payment of tax

The composite permit holders, who have been issued national/zonal permits under the national and zonal permit schemes by States other than Uttar Pradesh, may be authorised to ply their vehicles in Uttar Pradesh, if they choose so, on payment of prescribed com-



posite tax for this State. The tax is payable in advance either in full for the whole year or in two equal instalments, payable on or before 15th March and 15th September. In the event of non-payment of the tax within the prescribed period, the operators are liable to pay, in addition to the composite tax, penalty at the rate of Rs. 100 per month or part thereof for the period of default. The transport authorities of the home States (i.e., the States in which the vehicles are registered) are required to collect the tax/penalty from the operators and remit it to the transport authorities of Uttar Pradesh.

In the office of the Transport Commissioner, Uttar Pradesh, Lucknow, it was noticed that in 121 cases vehicle operators had paid the composite tax after the prescribed dates during December 1983 to March 1985. On the belated payments, penalty amounting to Rs. 30,400 was chargeable but was not charged by the home States and remitted to the transport authorities of Uttar Pradesh.

On this being pointed out in audit (May 1985), the department accepted the audit objection and stated that recovery would be made from the operators through the concerned States. Report on recovery is awaited (March 1987).

The case was reported to Government in July 1985 and again in January 1986; their reply is awaited (March 1987).

#### **4.16. Short realisation or non-realisation of compounding fees**

As per Government notification issued on 21st December 1982, under Section 127-B of the Motor Vehicles Act, 1939, offences punishable under the Act *ibid* can be compounded by the authorised officers

after realising compounding fees at the rates prescribed by Government. In subsequent notifications issued on 23rd January 1985 and 17th April 1985, the rates of compounding fees were revised. It was also clarified that compounding fees were recoverable from owners as well as drivers in cases where both were found to be offenders under the provisions of the Act *ibid*.

(i) In the offices of the Transport Commissioner, Lucknow, eight Regional Transport Officers (Varanasi, Faizabad, Bareilly, Moradabad, Agra, Lucknow, Kanpur and Gorakhpur) and six Sub-Regional Transport Officers (Ghaziabad, Sitapur, Bulandshahr, Etawah, Mathura and Rae Bareli), it was noticed that offences in respect of 256 vehicles were compounded during the period from April 1985 to December 1985, but compounding fees realised were less than those due at the rates prescribed by Government. Compounding fees realised short amounted to Rs. 2,88,740.

On this being pointed out in audit, the Sub-Regional Transport Officer, Etawah recovered (December 1985) a sum of Rs. 4,950. Report on recovery of the balance amount of Rs. 2,83,790 is awaited (March 1987).

(ii) In Azamgarh sub-region, six vehicles were challaned in May 1985 and June 1985 for plying without permits and for carrying more passengers than the authorised number and the offences were compounded under Section 123 of the Motor Vehicles Act, 1939. Compounding fees in these cases were realised at the old rates, instead of at the revised rates effective from 23rd January 1985 and 17th April 1985. This resulted in short realisation of compounding fees by Rs. 17,000.

(iii) At 5 transport check posts, *viz.*, Sahibabad, Mohannagar (district Ghaziabad), Bharauli (district Ballia), Salempur and Tamkuhi Raj (district Gorakhpur).

pur), 171 vehicles of other States were detected plying without permits during the period from April 1985 to August 1985. Although the taxes due to Uttar Pradesh State were realised from vehicles at check posts, these were not challaned for the offence of plying without permits. This resulted in non-realisation of compounding fees amounting to Rs. 2,22,150.

The above cases were reported to the department and Government between April 1985 and December 1985; their replies are awaited (March 1987).



## CHAPTER 5

### FINANCE DEPARTMENT

#### STAMP DUTIES AND REGISTRATION FEES

##### 5.1. Results of Audit

Test check of the accounts and relevant records of District Registrars and Sub-Registrars, conducted in audit during the year 1985-86, revealed short levy of stamp duty and registration fee amounting to Rs. 50.66 lakhs in 208 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Short levy of stamp duty and registration fee due to undervaluation of properties	134	27.81
2. Short levy due to misclassification of documents	38	17.69
3. Other cases	36	5.16
Total ..	<u>208</u>	<u>50.66</u>

A few important cases are mentioned in the succeeding paragraphs .

##### 5.2. Short levy of stamp duty due to undervaluation of non-agricultural lands

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh) and the rules framed thereunder, stamp duty in respect of a deed of conveyance relating to transfer of non-agricultural land,

situated within the municipal limits of any town area, *nagarpalika* or *nagar mahapalika*, is leviable on the basis of average price per square metre prevailing in the locality on the date of execution of the instrument. Accordingly, the Collector of each district forwards biennially to the District Registrar a statement of such average prices for the guidance of registering officers. If the market value of any property, which is the subject of any instrument of conveyance etc., as set forth in such an instrument, is less than even the minimum value determined in accordance with the U. P. Stamp Rules, 1942, the concerned registering officer shall refer the same to the Collector for determination of market value of such property and the proper duty payable thereon. Fee for registration is levied with reference to the value adopted for levy of stamp duty.

(i) In Meerut, on an instrument of conveyance (registered on 7th February 1985) in respect of land admeasuring 1,000 square yards situated on Hapur road side, stamp duty was levied, based on the value of Rs. 95,000 shown in the instrument. The Collector had, however, prescribed (February 1984) a rate of Rs. 300 per square yard for land situated on the road side. At this rate, the value of the land worked out to Rs. 3 lakhs, on which stamp duty amounting to Rs. 31,500 (inclusive of Rs. 6,000 as additional duty) was payable. The omission to evaluate the land at the prevailing market rate fixed by the Collector resulted in duty being levied short by Rs. 21,525.

On this being pointed out in audit (August 1985), the department stated (October 1986) that stamp duty of Rs. 21,525 had been levied (December 1985) and a penalty of Rs. 43,050 also imposed. Report on recovery is awaited (March 1987).

(ii) At Pilibhit, two adjacent plots measuring 0.60 acre and 0.85 acre situated in 'Sungarhi' area (Muria-

bani) were sold for Rs. 40,000 and Rs. 50,000 respectively as per instruments registered in September 1983. The Collector, Pilibhit had, however, fixed in May 1983 the market value of land at Rs. 75 per square metre in this area. Reckoned at this rate, the fair market value of the above two plots of land came to Rs. 4,40,437. Based on this market value, the two plots were undervalued by Rs. 3,50,437, resulting in short levy of stamp duty (including additional stamp duty) of Rs. 36,801.

On this being pointed out in audit (December 1984), the department stated (October 1986) that according to the information received (April 1986) from the District Stamp Officer, Pilibhit, the executants of the deeds had obtained stay orders from the Hon'ble High Court. Decision of the Court is awaited (March 1987).

(iii) As per statement of rates circulated by the Collector, Aligarh in June 1981, the average price for non-agricultural land in 'Sahibabad Pala' area, situated within the municipal limits of Aligarh, was fixed at Rs. 70 per square metre. A piece of non-agricultural land admeasuring 4,543 square metres in Sahibabad Pala area was sold for Rs. 85,000. The document was registered on 18th April 1983 and stamp duty of Rs. 8,950 was levied taking the value of the plot as Rs. 85,000, as shown in the instrument. Calculated at the average price fixed by the Collector, the value of the land worked out to Rs. 3.18 lakhs. The omission to adopt correct valuation of land led to short levy of stamp duty amounting to Rs. 24,465.

On this being pointed out in audit (March 1984), the document was sent to the Collector in July 1984 for determination of its correct value. Further progress is awaited (March 1987).



(iv) At Saharanpur, through a deed of conveyance registered on 24th December 1983, a piece of land admeasuring 6,160 square yards was sold for Rs. 91,750. As per the rate notified by the Collector in October 1982, the value of the piece of land worked out to Rs. 3.08 lakhs (at Rs. 50 per square yard). The undervaluation of the property by Rs. 2.16 lakhs resulted in short levy of stamp duty to the extent of Rs. 0.23 lakh.

On this being pointed out in audit (September 1984), the department stated (November 1985) that additional duty and penalty amounting to Rs. 0.12 lakh had been levied by the Collector. The department added (February 1987) that stamp duty amounting to Rs. 8,715 had since been recovered and that recovery of penalty of Rs. 3,225 had been stayed (October 1985) by the Board of Revenue. Further progress is awaited (March 1987).

The above cases were reported to Government between March 1984 and August 1985; their reply is awaited (March 1987).

### 5.3. Short levy of stamp duty due to undervaluation of buildings

(i) Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), if the registering officer has reason to believe that the market value of the property, which is the subject of conveyance, exchange, gift etc., has not been truly set forth in the instrument, he shall refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. Further, the Collector may, *suo motu* or on reference from any court or authority prescribed in that behalf, within four years from the date of registration of any instrument of conveyance, exchange, gift, settlement, award or trust, not already referred to him, call for and examine the instrument for the purpose of satisfying himself as

to the correctness of the market value of the property which is the subject matter of conveyance, exchange, gift, settlement etc., and of the duty payable thereon.

At Farrukhabad, a cold storage along with appurtenant land (admeasuring 6.71 acres) was sold by a firm to another firm for Rs. 9.25 lakhs (cost of land : Rs. 3.75 lakhs and cost of building : Rs. 5.50 lakhs) through an instrument of conveyance (executed on 5th November 1984 and registered on 20th November 1984) and stamp duty of Rs. 0.97 lakh was levied.

The same cold storage had earlier been transferred through a document No. 700 of 1971 (registered on 19.2.1971). On a reference from the Collector, the Public Works Department assessed (September 1984) the cost of the building alone (excluding the appurtenant land) at Rs. 75.81 lakhs. The cost of the land (6.71 acres) appurtenant to the building, as per the rate (Rs. 50 per square metre) fixed by the Collector, which was in force at the time of the execution of the instrument, worked out to Rs. 13.58 lakhs. Accordingly, stamp duty (including additional stamp duty) was leviable on a total consideration of Rs. 89.39 lakhs, instead of Rs. 9.25 lakhs. The duty leviable worked out to Rs. 9.39 lakhs. There was, thus, short levy of stamp duty (including additional stamp duty) of Rs. 8.42 lakhs.

On this being pointed out (September 1985) in audit, the Sub-Registrar, Farrukhabad worked out the value of the property at Rs. 19.08 lakhs (cost of building : Rs. 5.50 lakhs and cost of appurtenant land : Rs. 13.58 lakhs) and referred (October 1985) the document to the Collector for final assessment. The value determined by the Sub-Registrar did not take into account the value of the building (Rs. 75.81 lakhs) as deter-



mined (September 1984) by the Public Works Department. Further report is awaited (March 1987).

The matter was reported to Government in October 1985; their reply is awaited (March 1987).

(ii) Under the U. P. Stamp Rules, 1912, as amended from time to time, the market value of the building forming the subject matter of an instrument of conveyance, exchange, gift, settlement, award or trust shall be deemed to be not less than that determined at 25 times of the actual or assessed annual rental value, whichever is higher. In case where the market value has been stated in accordance with the multiples laid down but the registering officer has reason to believe that the correct valuation of the property cannot be arrived at without having recourse to local enquiry or extraneous evidence, he may refer the instrument in question, after registration, to the Collector for determination of the actual market value of the property.

At Dehra Dun, through a sale deed registered on 16th December 1984, a property consisting of a building (built on 627 square metres of land) and land appurtenant thereto admeasuring 2,753 square metres was conveyed for a total consideration of Rs. 2.00 lakhs. In accordance with the norms laid down, the value of the building worked out to Rs. 1.80 lakhs (on the basis of annual rent of Rs. 7,200 fixed for the building by the Nagar Palika) and the cost of the land at the prevailing market rate of Rs. 80 per square metre fixed by the Collector for the area worked out to Rs. 2.20 lakhs. The value of property was, thus, determined short by Rs. 2 lakhs, resulting in short levy of stamp duty (including additional duty) of Rs. 0.21 lakh.

The mistake was pointed out to the department in May 1985 and to Government in August 1985. The



department stated (October 1986) that the document had been referred (June 1985) to the Collector, Dehra Dun for determination of correct value of property. Government's reply is awaited (March 1987).

#### 5.4. Short levy of stamp duty and registration fee due to misclassification of documents

(i) Under the Indian Stamp Act, 1899, a mortgage deed includes every instrument whereby, for the purpose of securing money advanced or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates to, or in favour of another, a right over or in respect of a specified property. Security bonds are executed to secure execution of acts other than repayment of loans. Stamp duty chargeable on "mortgage deed" is higher than that chargeable on "security bond".

At Gyanpur (district Varanasi), a company mortgaged (September 1983) properties consisting of land (measuring 7 *bigha*, 3 *biswa* and 16 *dhur*) along with the building thereon to the Allahabad Bank for securing payment of a loan of Rs. 215 lakhs and paid stamp duty of Rs. 42.50, treating the instrument as a security bond. As the document created a right over the said properties in favour of the Bank, it was correctly classifiable as a mortgage deed. The incorrect classification of the document resulted in stamp duty being levied short by Rs. 9.14 lakhs.

On this being pointed out in audit (September 1984), the department levied (August 1985) stamp duty of Rs. 9.14 lakhs together with penalty amounting to Rs. 0.86 lakh. Report on recovery is awaited (March 1987).

The matter was reported to Government in September 1984: their reply is awaited (March 1987).

(ii) Stamp duty on a deed of mortgage with possession is leviable on the amount of consideration equal to the amount secured by such deed, while in the case of an instrument of sale it is leviable on the market value of the property or the consideration set forth in the instrument, whichever is higher. According to Section 164 of the U. P. Zamindari Abolition and Land Reforms Act, 1950, any transfer of a holding or part thereof made by a *bhumidhar*, by which possession is transferred to the transferee for the purpose of securing any payment of money advanced or to be advanced by way of loan or an existing or future debt or the performance of an engagement, which may give rise to a pecuniary liability, shall, notwithstanding anything contained in the document of transfer or any law for the time being in force, be deemed, at all times and for all purposes, to be a sale to the transferee. Thus, stamp duty and registration fee on an instrument of mortgage with possession in respect of *bhumidhari* land is to be levied as on an instrument of sale.

At Ramnagar (district Varanasi), 6.25 acres of *bhumidhari* land situated in village Damri (pargana Ralhpur) was mortgaged by 'A' and exclusive possession was given in favour of 'B' after receiving a sum of Rs. 12,000 as loan. Further, the mortgagor gave his consent for mutation in the revenue records in favour of the mortgagee. Ignoring all these facts, the document was registered on 6th April 1984 treating it as mortgage with possession for a consideration equal to the amount secured by such deed and stamp duty of Rs. 1,260 only was realised, instead of treating it as an instrument of sale liable to stamp duty as for conveyance on the value of the land, *viz.*, Rs. 2.50 lakhs (calculated at the maximum rate of Rs. 40,000 per acre fixed by the then Collector). The stamp duty levied short amounted to Rs. 24,990.

On this being pointed out in audit (August 1984), stamp duty amounting to Rs. 26,302 (together with penalty of Rs. 197 and registration fee of Rs. 84) was levied by the Collector in October 1985. Report on recovery is awaited (March 1987).

The case was reported to Government in September 1984; their reply is awaited (March 1987).



## CHAPTER 6

### TAX ON PURCHASE OF SUGARCANE

#### 6.1. Results of Audit

Test check of the records of sugar factories and *khandsari* units, conducted in audit during the year 1985-86, revealed non-levy/short levy of purchase tax on sugarcane amounting to Rs. 37.74 lakhs in 65 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Clearance of sugar without payment of purchase tax	15	17.07
2. Irregular deferment of tax	1	10.93
3. Irregularity in fixation of rate of tax	10	7.32
4. Short assessment due to non-observance of rules	11	1.26
5. Other cases	28	1.16
Total ..	65	37.74

A few important cases are mentioned in the succeeding paragraphs.

#### 6.2. Clearance of sugar without payment of tax

Under the U. P. Sugarcane (Purchase Tax) Act, 1961 and the Rules framed thereunder, no owner of a sugar factory shall remove or cause to be removed any sugar produced in the factory, either for consumption or for sale or for manufacture of any other commodity in or outside the factory, until he has paid the tax leviable on the purchase of sugarcane so consumed in the

manufacture of sugar. Any contravention of these provisions renders the owner liable to pay, in addition to the tax payable, a further sum not exceeding one hundred per cent of the sum so payable, by way of penalty.

(i) In Deoria district, two sugar factories cleared till September 1983 and August 1985, 54,229 bags and 25,255 bags of sugar of 1981-82 and 1983-84 seasons respectively without payment of tax amounting to Rs. 5,66,100 and Rs. 3,24,150. Further, in Rae Bareilly district, one sugar factory cleared the entire stock (1,06,640 bags) of 1983-84 season by June 1985 and 52,969 bags of sugar of 1984-85 season by October 1985 without paying taxes of Rs. 5,87,508 and Rs. 3,10,995 respectively. In their monthly returns submitted to the Assessing Officers, all these factories had been showing clearance of sugar without payment of tax or on short payment of tax, but no action was taken by the department for recovery of tax and levy of penalty.

On the irregularities being pointed out in audit (January 1984, December 1985 and January 1986), the department initiated (April 1985—March 1986) action for adjudication of default and recovery of tax in two cases (Deoria : one case; Rae Bareilly : one case) and recovered (April 1985) tax amounting to Rs. 6,48,103 and penalty amounting to Rs. 18,470. Report on recovery of the balance amount of tax and on action taken in third case is awaited (March 1987).

(ii) In Meerut district, a sugar factory cleared sugar, without payment of tax from 13th March 1985 onwards on the basis of an executive order dated 19th January 1984 issued by Government (Industries Department) deferring payment of tax during the period of repayment of loan taken by the factory from financial insti-

tutions for execution of its expansion projects. In the absence of any provision in the Act or the Rules, the order for deferment of payment of tax was irregular and resulted in accumulation of arrears. The tax not paid by the factory upto 30th June 1985 amounted to Rs. 10,93,244. The said order is also silent about the manner and mode of payment of the deferred tax after expiry of the period of repayment of loan assistance.

The matter was reported to the department in September 1985; their reply is awaited (March 1987).

The above cases were reported to Government in July 1986; their reply is awaited (March 1987).

### **6.3. Faulty/delayed fixation of final rate of tax**

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, tax on the purchase of sugarcane consumed in manufacture of sugar is levied at the time of removal of sugar from the factory. For this purpose, provisional rate of tax per bag of sugar, based on the data of previous season, is fixed by the Assessing Authority in the beginning of the crushing season; the final rate of tax is fixed at the end of the crushing season by taking into account the remaining stock of sugar of the season and the amount of tax paid at the provisional rate for that season.

In Dehra Dun, Farrukhabad, Meerut, Basti and Pilibhit districts, five sugar factories had cleared (during March 1985 to October 1985) the entire marketable sugar of 1981-82 to 1983-84 seasons (excluding brown sugar which was to be removed only for reprocessing within the factory). The purchase tax liability of those seasons was, however, not fully liquidated either due to removal of sugar by the factories without depositing the tax due thereon or due to faulty/



delayed fixation of the final rate of tax per bag payable at the time of clearance of marketable sugar. The unpaid balance of tax for the above seasons amounted to Rs. 6,36,351. Besides, interest at the rate of 12 per cent per annum and penalty up to 100 per cent of the tax and interest were recoverable from the owners.

On this being pointed out in audit (between July 1985 and April 1986), the department recovered tax amounting to Rs. 1,84,583 in two cases and imposed penalty amounting to Rs. 1,62,651 in one case (Basti). Report on recovery of the balance amount of tax and interest together with penalty is awaited (March 1987).

The matter was reported to Government in July 1986; their reply is awaited (March 1987).

#### **6.4. Short levy of tax due to non- observance of Rules**

Under Section 3 of the U. P. Sugarcane (Purchase Tax) Act, 1961 read with Rule 13-A of the U. P. Sugarcane (Purchase Tax) Rules, 1961, as amended with effect from 1st April 1982, the owner of a *khandsari* unit is required to pay tax either on the quantity of sugarcane actually purchased by him or, at his option, on the quantity of sugarcane assumed to have been purchased, based on the crushing capacity of the unit and other relevant factors. If the owner exercises the option to pay tax on the basis of the assumed quantity, he is required to send a declaration in the prescribed form (Form No. XIII), specifying the date of start of the unit, to the Sugar Commissioner, Assistant Sugar Commissioner and the Assessing Officer so as to reach them fifteen days before the start of the unit. Intimation for change in the specified date of start shall also be given under registered cover to the same authorities at least one week before the specified or proposed date of start. Failure to comply with this requirement renders the unit liable to be treated

as non-option unit for the purpose of assessment of tax.

(i) Declarations in Form XIII, opting for payment of tax on the assumed quantity of sugarcane during 1984-85 season, sent under registered cover by the owners of three *khandsari* units in two Inspectorates in Muzaffarnagar district were not received by the Assessing Officer fifteen days before the date of start of the units specified therein. The units were, however, assessed to tax as option units on the total assumed quantity of 1,21,566 quintals of sugarcane, instead of on the actual purchases of 2,32,210 quintals, treating them as non-option units. This resulted in tax being levied short by Rs. 1,10,614.

On the failure being pointed out in audit (January 1986), the department stated (January/February 1987) that additional tax of Rs. 1,06,020 had been assessed. Report on recovery is awaited (March 1987).

(ii) In Shahjahanpur, Moradabad and Kanpur districts, three *khandsari* units, which had opted to pay tax on the basis of assumed purchases of sugarcane during the assessment years 1982-83, 1983-84 and 1984-85, had started working from dates subsequent to those specified in their declarations in form XIII, but the intimations to that effect were not given at least one week before the dates of start already specified. They were assessed to tax from the subsequent dates of start of the units, instead of from the dates initially specified, as required under the rules. This resulted in short assessment of tax by Rs. 16,767.

On this being pointed out in audit (between February 1984 and February 1986), the department raised additional demands aggregating Rs. 16,767, out of which, in one case, orders were issued for realisation



of Rs. 8,400 as arrears of land revenue. In the second case, the assessee is reported to have obtained stay order from the Hon'ble High Court. Details of recovery in two cases not covered by stay order are awaited (March 1987).

The above cases were reported to Government in July 1986; their reply is awaited (March 1987).

#### **6.5. Outstanding dues of tax on purchase of sugarcane**

6.5.1. Under Sections 3 and 3-A of the U. P. Sugarcane (Purchase Tax) Act, 1961 and the Rules framed thereunder, tax on the purchase of sugarcane is payable by the owner of a sugar factory at the rate of Rs. 1.25 per quintal and by the owner of a *khandsari* unit at the rate of Re. 1.00 per quintal of sugarcane purchased.

6.5.2. The tax payable by the factories is realised at the time of clearance of sugar at the rate fixed by the Assessing Officer provisionally during the working of the season and finally thereafter, on the basis of total sugarcane purchased during the season and sugar produced therefrom. The tax payable by the *khandsari* units is paid in advance every month if the unit opts to pay tax on the basis of the assumed monthly crushing capacity as specified in the schedule; if the units do not exercise the option, the tax is to be paid after assessment on the basis of the actual purchase of sugarcane for the month concerned.

6.5.3. Sugar factories making clearance of sugar without payment of tax are liable for penalty up to 100 per cent of the tax defaulted and *khandsari* units not paying tax by due dates are liable for payment of interest at 12 per cent per annum besides penalty. The new sugar mills in public sector or co-operative sector were, however, allowed deferment of tax during



first five crushing seasons which was recoverable in five equal instalments beginning from the ninth season.

6.5.4. The total amount of tax pending realisation as on 31st March 1986 was Rs. 1082.81 lakhs, of which tax of Rs. 946.76 lakhs was due from 34 sugar factories and Rs. 136.05 lakhs from 2,176 *khandsari* units. Further, Rs. 1130.76 lakhs were due from 19 sugar factories in the public/co-operative sectors in whose cases payment of tax had been deferred by Government.

6.5.5. The amount of Rs. 946.76 lakhs due from 34 sugar factories broadly falls under the following categories :

Particulars of arrears	Amount (In lakhs of rupees)
(a) Tax due from 4 factories in the private sector in respect of sugarcane purchased from the State of Bihar	21.71
(b) Tax due from 3 factories managed by custodians appointed by Government of India	13.02
(c) (i) Tax due from 12 factories taken over by Government in 1971 and being managed by the U. P. State Sugar Corporation Ltd.	557.84
(ii) Tax due from 4 factories taken over by Government in October 1984 and being managed by the U. P. State Sugar Corporation Ltd.	173.20
(iii) Tax due from 3 factories established by the U. P. State Sugar Corporation Ltd. between 1974 and 1979	93.85
(iv) Tax due from 3 factories run in co-operative sector	58.07
(d) Tax due from the Pipraich Sugar Mills purchased, in public auction, by the U. P. State Sugar Corporation Ltd. in 1975	22.23
(e) Tax due from 4 other factories	6.84
Total ..	<u>946.76</u>

6.5.6. A scrutiny of the records relating to these outstanding dues in the Cane Commissioner's Office and other State Government offices revealed the following :

- (i) *Rs. 13.02 lakhs due from three factories managed by custodians appointed by Government of India*

Purchase tax on sugarcane amounting to Rs. 13.02 lakhs for the period prior to 1971-72 was outstanding against three factories when their management was initially taken over (management of two factories in Deoria district taken over on 27th December 1978 and of one in Gonda district taken over on 13th March 1979) by the Government of India for three years under the Sugar Undertaking (Take Over of Management) Act, 1978 and placed under custodians. The Act provides that the disputes/cases pending before any Court/Tribunal/Officer for recovery of dues from the previous management shall remain stayed so long as the management of the establishment remains vested in Government of India. The tenure of custodians in respect of these factories was, however, extended for seven years in each case; and thereafter these factories were denotified but their previous owners were not willing to take over and run the mills. Later on as per orders of the Hon'ble High Court, the mill in Gonda district was returned to its previous owners. In respect of the other two mills, receivers were appointed by the Collector, Deoria on 5th October 1986. Report on recovery is, however, awaited (March 1987).

- (ii) *Rs. 731.04 lakhs due from 16 factories managed by the U. P. State Sugar Corporation Ltd.*

Government acquired, under the U. P. Sugar Undertaking (Acquisition) Act, 1971, 12 sugar mills (Sakotitanda, Mohiuddinpur, Barabanki, Khadda, Burhwal,



Bhatni, Amroha, Ramkola, Jarwal Road, Bijnor, Rampur and Laxmiganj) in 1971 and another 12 sugar mills in October 1984, which included 4 mills at Siswabazar, Bulandshahr, Bareilly and Chitauri. Tax dues amounting to Rs. 371.90 lakhs and Rs. 159.21 lakhs were outstanding against the former 12 mills and the latter 4 mills respectively at the time of their takeover. Under Section 3 of the Act, these undertakings were to be acquired and their management vested in the U. P. State Sugar Corporation Ltd. created for the purpose, free from any debt, mortgage, charge or other encumbrance etc. attaching to these undertakings. The claim for the tax due from these mills was to be lodged with the Prescribed Authority for payment out of the compensation payable to their owners. The Prescribed Authority in respect of the 12 mills, acquired in 1971, had been appointed by 11th October 1979. According to sub-section (10) of Section 7 of the Act, the amount of compensation and adjustments of claims and dues etc. was to be finalised within six months of the takeover of the undertakings. The acquisition of these 12 mills was completed after the High Court's judgement of May 1979, but the compensation has not been finalised by the Prescribed Authority so far (July 1986) resulting in non-realisation of tax dues. The appointment of the Prescribed Authority in respect of the 12 sugar mills, acquired in October 1984, was announced in June 1985, but their acquisition by the Corporation is sub-judice.

Subsequent to their acquisition by Government, the said 16 mills further defaulted in payment of tax to the extent of Rs. 199.93 lakhs, against which recovery certificates were issued in respect of 4 mills for Rs. 98.48 lakhs during December 1980 to November 1985 for realisation as arrears of land revenue. No recovery has been reported so far (July 1986). Proceedings



for issue of recovery certificates against two mills for an amount of Rs. 14.09 lakhs were stated to be in progress.

(iii) *Rs. 151.92 lakhs due from 3 factories newly established by the Corporation and 3 factories in co-operative sector*

Three new sugar factories established (between 1974 and 1979) by the U. P. State Sugar Corporation Ltd. and three factories established (between 1975 and 1978) in co-operative sector had defaulted in payment of tax of Rs. 151.92 lakhs since 1982-83 season. Out of this amount, recovery certificates for Rs. 9.49 lakhs were issued in November 1985 for realisation of tax as arrears of land revenue, but no recovery has been reported so far (July 1986).

(iv) *Rs. 22.23 lakhs due from Pipraich Sugar Mills purchased by the U. P. State Sugar Corporation Ltd.*

Pipraich Sugar Mills, which had outstanding tax dues of Rs. 22.23 lakhs, was purchased in 1975 by the U. P. State Sugar Corporation Ltd., in public auction, for Rs. 55 lakhs. The auction money, which was payable to its owners, was utilised in payment of the bank dues, *taqavi*, cane price etc., leaving nothing to liquidate the tax arrears. The liability for this tax lies with the previous owners but is still being shown against the mill, now owned by the U. P. State Sugar Corporation Ltd. and no action has been taken to recover the dues from the previous owners.

The above points were brought to the notice of Government in August 1986; their reply is awaited (March 1987).

## CHAPTER 7

### OTHER TAX RECEIPTS

#### A—LAND REVENUE

#### 7.1. Results of Audit

Test check of records of the offices of Revenue Department, conducted in audit during the period from April 1985 to March 1986, revealed under-assessments and short collections of land revenue amounting to Rs. 50.29 lakhs in 161 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of land revenue	108	31.48
2. Short recovery of collection charges	37	3.96
3. Other cases	16	14.85
Total ..	<u>161</u>	<u>50.29</u>

A few important cases are mentioned in the succeeding paragraphs.

#### 7.2. Non-assessment or short assessment of land rent

Under the U. P. Imposition of Ceiling on Land Holdings Rules, 1961, lessees of surplus lands are required to pay annually to the State Government, in respect of the land so settled in their favour, rent calculated at double the amount of the sanctioned hereditary rate applicable to such land.

In three *tahsils*, two of Hardoi and one of Jaunpur districts, land rent recoverable from lessees of surplus

lands for different spells of the *fasli* years between 1388 and 1392 (between July 1980 and June 1985) was either not assessed or assessed short. The land rent not realised amounted to Rs. 32,660.

On this being pointed out in audit (between January and November 1985), the concerned Tahsildars stated that necessary demands would be raised after verification. Further progress is awaited (March 1987).

The matter was reported to Government between March 1985 and January 1986; their reply is awaited (March 1987).

### **7.3. Non-realisation of collection charges**

In terms of the Revenue Recovery (Uttar Pradesh Amendment) Act, 1965, revenue authorities are required to recover dues on behalf of other Governments, semi-Government organisations and local bodies, as arrears of land revenue, on receipt of recovery certificates from the concerned authorities. Collection charges at the rate of 10 per cent of the dues collected are realisable by the revenue authorities as service charges. Certain acts and rules under which dues are recovered as arrears of land revenue, such as the U. P. Government Electrical Undertaking (dues recovery) Act, 1958 and the U. P. Agricultural Credit Act, 1973, provide that collection charges be recovered from the defaulters, whereas some others do not have any specific provision in this regard. In view of this, the Board of Revenue, in their circular dated 30th June 1975, directed that recovery certificates should clearly indicate whether collection charges were to be borne by the defaulter or by the department or body issuing those certificates. In the absence of any such indication in the recovery certificates, it was directed by the Board that only the net amount, after



deducting the collection charges, should be passed on by the revenue authority to the departments or bodies concerned.

In two Tahsil Offices in the districts of Azamgarh and Jaunpur, dues pertaining to certain organisations were recovered as arrears of land revenue during the period from 1983-84 to 1985-86, but collection charges were either not recovered or were recovered short. Against the collection charges of Rs. 55,763 due, only Rs. 9,133 were recovered. Thus, collection charges amounting to Rs. 46,630 remained unrealised.

On this being pointed out in audit (September 1985 and November 1985), the department stated that necessary steps would be taken for realisation of the collection charges due from the concerned organisations. Further progress is awaited (March 1987).

The matter was reported to Government in November 1985 and January 1986; their reply is awaited (March 1987).

#### **7.4. Non-realisation of amount of lease money**

In terms of paragraph 62 of the U. P. Gaon Sabha and Bhumi Prabandhak Samiti Manual, leases for fishing rights are awarded for a period not exceeding one year, on the basis of auction, to the highest bidders on the condition that one-fourth amount of the lease money would be paid immediately on the acceptance of the bid and the remaining three-fourth in three equal quarterly instalments. In case of default in payment of the instalments, the lease is liable to be cancelled and reauctioned.

In two *tahsils* (Hydergarh and Fatehpur) of Barabanki district, during the years 1976-77 to 1984-85, 91 leases (excluding those for 1984-85 of *tahsil* Fatehpur) for fishing rights were given to highest bidders

for a total amount of Rs. 17.20 lakhs. The lessees paid the first instalment to secure the leases, but generally defaulted in making payments of the remaining three instalments. Though the lessees contravened the terms and conditions of the leases, the department allowed them to enjoy the fishing rights for the whole year. No action was also taken to recover the remaining amount of lease money till December 1984 in respect of leases pertaining to Hydergarh *tahsil* and till April 1985 in respect of leases pertaining to Fatehpur *tahsil*. As a result, a sum of Rs. 11,50,578 pertaining to the years 1976-77 to 1984-85 was outstanding against the lessees as on 31st March 1985.

It was seen in audit that while demand notices for Rs. 45,000 (due for 1979-80 and 1983-84) in 11 cases of Hydergarh *tahsil* were issued in January 1985, in two cases involving Rs. 71,250 (Rs. 11,250 pertaining to the year 1977-78 and Rs. 60,000 pertaining to the year 1983-84), the Gram Pradhans had reported (January 1985) that the lessees were not traceable. In 6 other cases for 1976-77 and 1978-79 involving Rs. 23,970, even notices had not been issued till the date of audit (25th April 1985). Further developments in these cases and details of action taken in respect of cases relating to Fatehpur *tahsil* are awaited (March 1987).

The matter was reported to the department and Government in July 1985; their replies are awaited (March 1987).

#### **7.5. Non-execution and/or registration of leases for fishing rights**

In terms of Section 17 of the Indian Registration Act, 1908, leases are compulsorily registerable and fee at the prescribed rates is payable therefor. In accordance with the provisions of Article 35(b) of Schedule •

1-B of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on leases is to be levied, treating the lease amount as 'premium'.

In two *tahsils* (Fatehpur and Hydergarh) of Barabanki district, in 86 cases, where fishing rights had been granted for amounts aggregating Rs. 13,37,403 during the period between 1976-77 and 1984-85, leases were either not executed and/or these were not registered. Besides, in case of *tahsil* Fatehpur, lease agreements for amounts aggregating Rs. 3,82,553 were executed and registered during the years 1980-81 and 1984-85, but stamp duty levied was short. These irregularities resulted in non-levy/short levy of stamp duty amounting to Rs. 1,20,784, besides non-realisation of registration fee of Rs. 15,096.

The matter was reported to the department and Government in July 1985; their replies are awaited (March 1987).

## B—ELECTRICITY DUTY

### 7.6. Results of Audit

Test check of the accounts of Assistant Electrical Inspectors/Appointed Authorities, conducted in audit during the year 1985-86, revealed non-levy or short levy of electricity duty and inspection fees amounting to Rs. 23.75 lakhs in 35 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Loss of revenue due to non-payment of electricity duty	15	18.21
2. Short levy of electricity duty due to application of incorrect rates	6	5.19
3. Non-realisation or short realisation of inspection fees pertaining to electrical installations	14	0.35
<b>Total</b>	<b>35</b>	<b>23.75</b>



A few important cases are mentioned in the succeeding paragraphs.

### **7.7. Non-levy of electricity duty**

Under the U. P. Electricity (Duty) Act, 1952, electricity duty is leviable on energy sold to a consumer at rates notified by the State Government from time to time. The Act further provides that for the purpose of calculation of electricity duty, energy, supplied free of charge or at concessional rate to certain categories of consumers by a licensee or the Board, shall be deemed to be energy sold at the rates applicable to other consumers of same category. In September 1984, Government clarified that in respect of energy supplied at concessional rate to the Military Officers by the appointed authorities (Defence department) as well, the rate charged for energy consumed would be deemed to be the full rate applicable to other consumers of the same category even though the difference between the ordinary rate and the concessional rate was being borne by the Defence department.

At Meerut, two appointed authorities were supplying energy free of charge to certain categories of defence personnel at the prescribed scale for domestic use. No electricity duty was, however, levied on such consumption of energy. The rate of electricity duty applicable to supplies made for domestic purposes was 4 paise per unit (effective from 1st October 1984). The approximate annual consumption of energy supplied free of charge to defence personnel at Meerut during 1985 worked out to 27.34 lakh units and electricity duty not levied for one year alone amounted to Rs. 1.10 lakhs.

On the omission being pointed out (January 1986) in audit, the Chief Electrical Inspector, Uttar Pradesh issued (August 1986) a circular to all the 'appointed

authorities' of the Defence department to realise electricity duty in respect of energy supplied free of charge, at the rate applicable to ordinary consumers. The amount of electricity duty to be levied and collected for the period prior to 1985 was yet (January 1987) to be assessed by the department. Further report is awaited (March 1987).

The matter was reported to Government in August 1986; their reply is awaited (March 1987).

**7.8. Short levy of electricity duty on energy consumed for industrial purposes or motive power**

Under the U. P. Electricity (Duty) Act, 1952 and the Rules made thereunder, read with the State Government notification dated 1st August 1985, electricity duty is payable at the rate of 6 paise per unit on the energy consumed for industrial or motive power purposes where the contracted load in the premises of a consumer is more than 75 KW or 100 BHP and 4 paise per unit where the contracted load is equal to or below these limits.

At Gorakhpur, the contracted load in the premises of a consumer was more than 75 KW and he consumed 548.12 lakh units for industrial purposes during the months of August 1985 and September 1985. But duty was realised at the rate of 4 paise per unit only, instead of at 6 paise per unit, resulting in duty being levied short by Rs. 10.96 lakhs.

On this being pointed out in audit (December 1985), the department stated (August 1986) that the entire amount of Rs. 10.96 lakhs had been realised in June 1986.

The matter was reported to Government in December 1985; their reply is awaited (March 1987).

### 7.9. Short levy of electricity duty on energy consumed for purposes other than industrial or motive power

Under the U. P. Electricity (Duty) Act, 1952 and the Rules made thereunder, electricity duty is levied and paid to the State Government on sale of energy to a consumer by a licensee or appointed authority, based on the rate charged for the energy supplied. With effect from 1st October 1984, the rates of duty (for purposes other than industrial or motive power) were revised as under :

Rate charged for energy supplied	Rate of electricity duty
More than 24 paise per unit but not exceeding 38 paise per unit	8 paise per unit
Above 38 paise per unit	4 paise per unit

At Meerut, two appointed authorities charged and paid electricity duty at the rates of 6 paise and 2 paise per unit, instead of at the rates of 8 paise and 4 paise per unit on energy supplied at 32 paise and 50 paise per unit respectively during the period from October 1984 to August 1985. Similarly at Gorakhpur, the appointed authority levied and paid duty at 2 paise per unit, instead of 4 paise per unit, on the energy supplied at 60 paise per unit during the period from October 1984 to October 1985. Thus, due to non-application of the revised rates, there was short charge of electricity duty amounting to Rs. 65,453 for various periods falling between October 1984 and October 1985.

The matter was reported to the department and Government between October 1985 and June 1986; their replies are awaited (March 1987).



## CHAPTER 8

### FOREST DEPARTMENT

### FOREST RECEIPTS

#### 8.1. General

As on 31st March 1985, about 17.40 per cent (0.51 lakh square kilometres) of the total area of the State (2.94 lakh square kilometres) of Uttar Pradesh was under forests. The break-up of forest area under various authorities was as follows:—

	Forest area (Square kms.)	Percentage of total geo- graphical area
1. Area under the control of forest department	40,689.53	13.81
2. Area not under the control of the forest department		
(i) Area under the civil soyam forests	8,013.63	2.72
(ii) Area under Panchayat forests	2,368.00	0.81
(iii) Area under Private forests	158.88	0.05
(iv) Area under Municipal, Cantonment and other forests	38.84	0.01
Total ..	51,268.88	17.40

(Source : Information furnished by the department)

NOTE—Figures for the year 1985-86 were not available with the department.

#### 8.2. Trend of forest receipts

The forest revenue is derived mainly from sale of major and minor forest produce. The major forest produce includes timber and fuel, while minor forest

produce includes resin, *tendu* leaves, *Katha*, grass, bamboo, boulder, *bajri*, stones, etc.

Figures of outturn and value of major forest produce (timber) are given below :—

Year	Outturn (In lakh cubic metre)	Value (In lakhs of rupees)
1983-84	4.48	40,35.68
1984-85	4.45	43,00.00
1985-86	N. A.	N. A.

NOTE—The figures for 1984-85 were stated to be provisional by the department and the figures for 1985-86 are not available.

### 8.3. Results of Audit

Test check of the divisional records, conducted in audit during 1985-86, revealed irregularities involving revenue of Rs. 12,19.35 lakhs in 159 cases, which broadly fall under the following categories:—

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/short levy of penalties	12	51.49
2. Irregularities in extraction of resin	11	67.39
3. Irregularities in collection and disposal of <i>tendu</i> leaves	3	85.04
4. Incorrect fixation of royalty	19	3,24.26
5. Loss of revenue due to non-registration of saw mills	19	14.83
6. Loss of revenue due to non-levy of stamp duty	15	24.09
7. Miscellaneous	80	6,52.25
Total ..	159	12,19.35

A few interesting cases are mentioned in the succeeding paragraphs.

*(Review)*

#### 8.4. Exploitation of bamboo

##### 8.4.1. *Introduction*

Bamboo, a fast growing specie, available in Uttar Pradesh as natural and planted forests, abounds in Shivalik (Dehradun and Bijnor) and Vindhyam (Mirzapur) hill plateaus and covered 11 per cent (4.47 lakh hectares) of total forest area (40.69 lakh hectares) of the State.

##### 8.4.2. *Plantation*

The plantation of bamboo was first taken up in this State in the third five year plan (1961-66) mainly in Southern Circle, as a centrally sponsored scheme, and thereafter under State plan schemes till 1978 for plantation of 'Fast growing species' to meet the increasing demand of raw materials for paper and rayon industries. No major plantation programme was taken up after 1978-79. As regards natural bamboo areas, these were of inferior quality and fast dwindling on account of failure to enforce control over bamboo extraction and excessive biotic pressure.

A test check (May and June 1986) of records of all the five divisions of Southern Circle and information supplied (September and October 1986) by Jhansi, Banda and Lansdowne divisions of the department, which account for 86 per cent of the total production of bamboo in the State, revealed the following :—

##### 8.4.3. *Targets and achievements*

- Targets vis-a-vis achievements, during the period of five years from 1980-81 to 1984-85, were as under :



Year	Area marked for felling		Area actually exploited	Percentage of short-fall		Yield of bamboo	Revenue
	As per working plan	Area actually marked		in marking the area for felling	in actual exploitation		
(In hectares)						(In lakh numbers)	(In lakhs of rupees)
1	2	3	4	5	6	7	8
1980-81	42,085	31,141	23,918	26	23	80.02	28.38
1981-82	62,219	38,258	24,901	38	36	91.81	41.41
Total ..	1,04,304	69,399	48,819	33	29	171.83	69.79
1982-83	59,754	36,876	21,889	38	40	59.84	20.84
1983-84	56,653	40,932	25,863	26	36	82.94	23.80
1984-85	65,086	47,880	36,203	35	24	67.57	19.04
Grand total ..	2,85,797	1,95,087	1,32,774	33	33	382.18	133.47

(i) Thus, an area of 90,710 hectares (46,137 hectares in Southern Circle and 44,573 hectares in three other divisions) was not marked for felling in the years in which it was due, showing a shortfall of 33 per cent in the target area. While 'Deviation statements' for not following the working plan in respect of 16,812 hectares (Obra and Renukoot) were also not submitted for approval to the Conservator, the approval for 29,325 hectares (East, West Mirzapur and Varanasi), for which deviation statements had been submitted, was awaited (March 1987). Shortfall in natural bamboo areas was attributed to poor availability of commercially exploitable bamboos and that in respect of planted bamboo to failure of plantation and excessive grazing. The Conservator, Southern Circle, Allahabad, attributed (November 1984) the massive failure of plantation to poor quality of bamboo seeds. The shortfall in the above five years was most striking in Renukoot and

West Mirzapur Divisions where unmarked areas totalled 13,751 and 20,248 hectares, which was 86 per cent and 45 per cent of the total target area .

(ii) The total shortfall in Southern Circle, of area actually worked to area marked for felling during the five years upto 1984-85 was 51 per cent ; the shortfall during 1980-81 and 1981-82 being 27 per cent and in 1982-83 to 1984-85, 64 per cent. Shortfall in exploitation for the period 1980 to 82 was mainly due to the following reasons :—

(1) In West Mirzapur, 19 bamboo lots (3,451 hectares) remained unworked due to

(a) Non-approval of auction of 9 lots (value Rs. 1.04 lakhs) by Conservator of Forests within the prescribed period of 40 days and consequently the contractors backed out .

(b) 5 lots (value Rs. 0.69 lakh) kept out of auction for allotment to a Society which did not ultimately take up the work .

(c) No bids were received for 5 lots .

(2) Similarly, 3,950 hectares in East Mirzapur and Varanasi remained unworked due to non-receipt of bids .

(iii) From the year 1982-83 onwards, the felling work of bamboo lots was entrusted to U. P. Forest Corporation, and out of total shortfall (64 per cent in Southern Circle) during the period from 1982-83 to 1984-85, most affected divisions were West Mirzapur (77 per cent), Renukoot (100 per cent in 1982-83, 1983-84 and 1984-85) and Varanasi (94 per cent in 1982-83 and 100 per cent in 1983-84 and 1984-85). Because of gradual decline in the exploitation in Southern Circle, the Joint Royalty Fixation Committee

repeatedly impressed upon U. P. Forest Corporation to exploit all the bamboo lots and do culture work on them to save them from congestion.

(iv) It was also seen that since U. P. Forest Corporation took over the felling work from the year 1982-83, the outturn of bamboo in Southern Circle fell from 66.60 lakh numbers in 1981-82 to 26.88 lakh numbers in 1984-85 (the shortfall being 60 per cent).

#### 8.4.4. *Silviculture operations*

The working plan of all the divisions laid special stress on regular culture operation and management practices on scientific lines with a view (i) to remove older culms\* in time before they become congested and dried up and (ii) to ensure availability of sufficient mature culms for regular exploitation. This is carried out immediately after exploitation and consists of earth piling and removal of congestion.

Area of felling vis-a-vis culture operations done by U. P. Forest Corporation in Southern Circle during 1982-83 to 1984-85 indicated a shortfall of 57 per cent in culture operation as under :—

Year	Felling done (In hectares)	Culture done
1982-83	7761	3905
1983-84	4868	1659
1984-85	6780	2810
	<u>19409</u>	<u>8374</u>

Shortfall in culture operations directly affects the future production of bamboo and consequently shortfall in revenue.

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\* Bamboos produce culms each year from rhizomes of the previous years. The culms form into a clump. A clump is the smallest unit of management.



Upto 1981-82, this work was done by the department itself. From 1982-83, the felling operation was entrusted to the U. P. Forest Corporation, who were also to carry out culture operation in bamboo clumps and the cost was to be readjusted from the royalty payable (Minutes of Royalty Fixation Committee dated 23-2-1983, 6-10-1983 and 20-11-1984), but in case of default, no punitive measures were provided.

#### 8.4.5. *Non-raising of demands*

According to sale rules of the department, the demand for minor forest produce should be raised and realised from the contractor to whom lots are allotted for exploitation irrespective of the fact whether these are worked or not. The position of demands in respect of lots allotted (in Southern Circle) to the U. P. Forest Corporation since 1982-83 was as under :—

Year	Total demand to be raised		Demands actually raised		Demand not raised	
	No. of lots	Sale value (Rs. in lakhs)	No. of lots	Sale value (Rs. in lakhs)	No. of lots	Sale value (Rs. in lakhs)
1982-83	121	43.81	27	14.41	94	29.40
1983-84	105	19.75	29	13.00	76	6.75
1984-85	83	14.50	28	5.50	55	9.00
	309	78.06	84	32.91	225	45.15

The demand raised was based on the lots actually worked and not on the total lots allotted to the Corporation. No efforts were made by the department to get the remaining lots worked through other agencies.

8.4.6. *Other points of interest*(i) *Illicit felling and unauthorised export of bamboo*

(a) In the course of test check of forest divisions, Obra (in June 1985 and May 1986), Varanasi (in May 1986), East Mirzapur (in June 1986) and Lansdowne (in October 1985), it was noticed that U. P. Forest Corporation had illicitly felled bamboos valuing Rs. 13.44 lakhs during the period 1982-83 to 1985-86. The demands for recovery of the amount were raised between April 1983 and May 1985, but no recovery had been made from the Corporation so far (March 1987).

In respect of Lansdowne Forest Division, the Chief Conservator of Forests (Hills) had held (February 1985) the Corporation fully responsible for illicit felling of bamboos (valuing Rs. 9.55 lakhs) during the period from October 1984 to May 1985. The matter was stated (July 1986) to be still under correspondence and no action was taken at Government level.

(b) In Obra Forest Division, four bamboo lots of 1983-84 were allotted to U. P. Forest Corporation for exploitation between February 1983 and July 1984. Illicit felling took place but it was not reported by the Range Officer concerned. On a verbal complaint, an enquiry was instituted (July 1984). As per report (12th October 1984), 9.19 lakh bamboos were exported by the Corporation but as per *Rawannas*\*, only 6.98 lakh bamboos had been shown as exported by the Corporation. Thus, 2.21 lakh bamboos valuing Rs. 0.92 lakh were unauthorisedly exported by the Corporation. The Range Officer and other officials concerned were placed (October 1984) under suspension but no action against the U. P. Forest Corporation was taken. Thus, the very purpose of stopping

\* *Rawanna* is a document which must accompany forest produce in transit.

irregularities in exploitation of bamboo by entrusting the work to the Corporation from 1982-83 onwards has been defeated. Further development is awaited (March 1987).

(ii) *Unilateral reduction of royalty by U. P. Forest Corporation*

It was decided (February 1983) by Royalty Fixation Committee that for the year 1982-83 royalty at Rs. 12.10 per score should be realised from the U. P. Forest Corporation in respect of bamboo lots of Kalagarh Forest Division. Accordingly, demand for Rs. 41.92 lakhs was raised (March 1983), but the Corporation unilaterally reduced it to Rs. 14 lakhs and deposited the same between March 1983 and September 1983.

The Divisional Forest Officer stated (June 1984) that the circumstances under which the demand was reduced by the Corporation were not known and the matter was under dispute.

(iii) *Incorrect fixation of royalty*

For bamboo lots in Bundelkhand Circle, it was decided by Royalty Fixation Committee (6th October 1983) that for the year 1982-83, royalty should be fixed on the basis of average royalty per hectare received during the last three years.

In Banda Forest Division of Bundelkhand Circle, 15 lots (area 11,341 hectares) and 21 lots (area 15,606 hectares) were marked for felling in 1979-80 and 1981-82 respectively (no area was marked during 1980-81 due to drought). It was noticed in audit (January 1986) that 5 lots (area 4,039 hectares) and 17 lots (area 1,287 hectares) were sold for Rs. 3.25 lakhs and Rs. 10.45 lakhs respectively in these years. While calculating the royalty for 1982-83, the total marked



areas in 1979-80 and 1981-82 were taken into account, in contravention of the above decision and royalty realisable in 1982-83 was worked out to Rs. 3.74 lakhs, whereas as per decision taken (6th October 1983) the realisable royalty actually worked out to Rs. 6.26 lakhs. Thus, due to non-observance of instructions, Rs. 2.52 lakhs were realised short. The Divisional Forest Officer stated (January 1986) that the matter was being scrutinised. Further development is awaited (March 1987).

The foregoing points were brought to the notice of Government in July 1986; their reply is awaited (March 1987).

#### **8.5. Loss of revenue due to incorrect estimation of outturn**

Estimates are prepared on the basis of outturn factors prescribed (June 1978) by the Additional Chief Conservator of Forests (Management) and royalty realisable from U. P. Forest Corporation is fixed on these estimates.

(a) In Dudhawa National Park (DNP), 6 Khair lots, at a royalty of Rs. 1,211 per cubic metre, were allotted to the Corporation for exploitation in 1982-83. The division had estimated the outturn in these lots as 125.030 cubic metres of wood and royalty of Rs. 1.51 lakhs was fixed on that basis. However, according to prescribed outturn factors, the estimated outturn worked out to 271.314 cubic metres for which royalty of Rs. 3.28 lakhs was realisable. Incorrect estimation of the outturn resulted in loss of revenue amounting to Rs. 1.77 lakhs.

On the omission being pointed out in audit (August 1985), the Director, Dudhawa National Park promised (August 1985) to raise a fresh demand. Report on

raising of demand and its recovery is awaited (March 1987).

(b) Similarly, in North Kheri Division, Khair lots were allotted to the Corporation for exploitation at the rate of Rs. 1,053 per cubic metre in 1981-82 and Rs. 1,337 per cubic metre in 1982-83 and 1983-84. The total outturn was estimated at 514 cubic metres on the basis of which royalty amounting to Rs. 6.40 lakhs was fixed. However, according to the prescribed outturn factors, the estimated outturn worked out to 1,215 cubic metres. Thus, lower estimation of outturn resulted in loss of revenue amounting to Rs. 8.37 lakhs.

On this being pointed out in audit (August 1985), the Divisional Forest Officer stated (August 1985) that the amount would be realised from the Corporation after completion of records. Report on recovery is awaited (March 1987).

The cases were reported to Government in February 1986. Government stated (February 1987) that the recovery would be effected from the Corporation.

#### **8.6. Short realization of royalty**

The rates of royalty for stone (boulders), sand and lime stone were revised from Rs. 2, Rs. 2.50 and Rs. 6.30 to Rs. 4, Rs. 3.50 and Rs. 8.10 per cubic metre respectively by the State Government with effect from 19th October 1984.

Kumaon Vikas Nigam and Gola Sahkari Sram Sam-vida, Haldwani, to whom leases for lots of stone boulders, sand and lime stone were given in July 1980 for five years, exported 8,46,926 cubic metres of minerals (stone boulders: 2,12,640 cubic metres, sand: 6,32,307 cubic metres and lime stone: 1,979 cubic metres) from the

forest area of East Tarai Forest Division between 19th October 1984 and 30th June 1985. The allotment orders stipulated that the royalty rate fixed by the Government from time to time would be applicable to the lessees. However, it was noticed (November 1985) that royalty amounting to Rs. 20.18 lakhs was recovered at pre-revised rates, against Rs. 30.79 lakhs recoverable at revised rates applicable during the said period. The difference in royalty (Rs. 10.61 lakhs) was not demanded till date of audit (November 1985).

Government, to whom the matter was reported in April 1986, stated (February 1987) that due to late receipt of orders by the departmental officers, recovery of royalty at enhanced rates could not be made from the effective date. Further development is awaited (March 1987).

#### 8.7. Loss of revenue due to non-collection of sal seeds

Contracts for the collection of *sal* seeds in 7 forest divisions for 1981, 1982 and 1983 crop years were awarded at an annual royalty of Rs. 18.03 lakhs to the highest tenderers on the basis of tenders invited in March 1981. According to the conditions of agreement, 50 per cent of the annual royalty was payable on 15th April or before start of the work and the remaining 50 per cent by 30th June or date of export, whichever was earlier.

Upto the crop year 1982, the contractors collected *sal* seeds in 7 divisions after paying the annual royalty. For the crop year 1983, an Apex Committee headed by the Secretary, Forest Department decided (June 1982) to allot the collection of *sal* seeds to the U. P. Forest Corporation (UPFC) notwithstanding the fact that the existing agreement covered 1983 crop season also.



The existing contractors • of 4 divisions deposited Rs. 8.04 lakhs before 15th April 1983 towards first instalment of 1983 crop. The contractors of the remaining 3 divisions did not deposit the first instalment. Work order was not issued to any of the contractors in view of the Government's decision of June 1982.

The U. P. Forest Corporation was also not asked to take up the work. On a number of references made in April and May 1983 by the Conservator of Forests, Utilisation Circle, the State Government clarified (12th May 1983) that the contractors, who had not defaulted in payment of royalty, might be allowed to collect *sal* seeds of 1983 crop. Accordingly, the contractors in 4 divisions were asked (17th May 1983) to deposit the balance dues for 1983 crop year and start the work. But none of them turned up to obtain the work order. No alternative arrangement for collection of *sal* seeds was also made. Thus, because of the decision of the Apex Committee, and unduly long time taken in revising it, a net revenue of Rs. 5.68 lakhs (royalty: Rs. 4.92 lakhs, late fee: Rs. 0.12 lakh and sales tax: Rs. 0.64 lakh) was lost after adjusting the first instalment of Rs. 8.04 lakhs and security deposit of Rs. 5.07 lakhs deposited by the previous contractor. Recovery certificates for Rs. 5.27 lakhs were issued between August 1983 and December 1983 to realise the amount from contractors but no recovery has been effected so far (December 1986).

On this being pointed out in audit (between August 1983 and August 1984), the Chief Conservator of Forests (Planning) intimated (May 1985) that the reason for non-collection of *sal* seeds of 1983 crop was the delay in taking decision at Government level.

Government, to whom the case was reported in May 1986, stated (February 1987) that the *sal* seeds which were not collected would serve as a food to the wild life and also help in regeneration of forests.

#### 8.8. Loss of revenue due to non-observance of standing orders

As per standing orders (January 1978) of the Chief Conservator of Forests, sale of lots of minor forest produce should not be postponed even if the price offered is less than the estimated value.

(i) The recommendation for acceptance of the highest tender (Rs. 0.24 lakh), although less than the confidential estimate (Rs. 0.37 lakh), of a *tendu patta* unit was not accepted by the Conservator of Forests, Southern Circle, and retendering was done between 17th April 1982 and 5th May 1982 as per his orders. The highest offer received on retendering was Rs. 0.15 lakh, which was also not accepted. The unit, thus, remained unsold and the Conservator of Forests decided (13th May 1982) for departmental collection of *tendu* leaves. Accordingly, 516.905 standard bags of *tendu* leaves were collected at an expenditure of Rs. 0.42 lakh and stored in a departmental godown.

The collected leaves were put to auction several times between 23rd August 1982 and 11th November 1983 and the bids received ranged between Rs. 0.15 lakh and Rs. 0.30 lakh, which were rejected. Despite a report (June 1982) of the Range Officer that the leaves were deteriorating being exposed to rains and bad weather, sale was effected only in January 1984 when it fetched a sum of Rs. 0.08 lakh. Thus, due to non-observance of standing orders of Chief Conservator of Forests and inordinate delay in disposal of departmentally collected leaves, Government suffered a net revenue loss of Rs. 0.58 lakh.

Government, to whom the case was reported in June 1986, stated (February 1987) that the bids were rejected with a view to getting higher bids in future.

(ii) Seven lots of grass and fish in North Gorakhpur Division for 1984-85 season (estimated price: Rs. 1.38 lakhs) were put to auction between August 1984 and October 1984. The highest bids for these lots aggregated Rs. 0.53 lakh, which were not approved by the Conservator of Forests, Eastern Circle on the ground that the amount was much below the estimated price of the lots. However, these lots were not put to re-auction and remained unsold till the end of the working season. Non-acceptance of the highest bids for these lots, which was in contravention of the standing orders of Chief Conservator of Forests, resulted in loss of revenue of Rs. 0.53 lakh.

Government, to whom the case was reported in May 1986, stated (February 1987) that responsibility in the matter was being fixed. Further report is awaited (March 1987).

### **8.9. Illicit felling of trees**

The felling of unmarked trees in reserved and protected forests is a "forest offence" and is punishable under the Indian Forest Act. According to Article 273(C) of the U.P. Forest Manual, the forest guards and other subordinates are required to send the "forest offence" report to the Range Officer within 24 hours of its occurrence, who, in turn, is to transmit within three days, along with report of action taken thereon, to the Divisional Forest Officer.

On the basis of verbal complaint of a villager (May 1983), the Sub-Divisional Officer, Tarai Central Forest Division, Haldwani conducted (May 1983 to July 1983) combing operation in Belkhera and Khana



beats of Rampur Range. As per combing report, 5,087 trees (value Rs. 2.48 lakhs) of different diameter and species were found to have been illicitly felled between July 1982 and May 1983. But cases of illicit felling of 857 trees only had been entered in the forest offence register and in the remaining 4,230 cases (value: Rs. 1.59 lakhs), no reports had been lodged by the forest guards nor was anything reported by the Range Officer on his own to the higher authorities. As a result, no action could be initiated against the offenders in these cases, which led to loss of revenue of Rs. 1.59 lakhs.

On this being pointed out in audit (December 1983), the Divisional Forest Officer stated that two forest guards and forester had been placed under suspension. Further report is awaited (March 1987).

Government, to whom the matter was reported in June 1986, stated (February 1987) that on the basis of departmental enquiry the suspended employees had been reinstated, but their increments had been stopped.

#### 8.10. Short recovery from a contractor

According to the Uttar Pradesh Tendu Patta (Vyapar Viniyaman Chaturth Sansodhan) Niyamavali, 1979 and as per standard terms of agreement, contractors availing godown facility are required to pay 30 per cent of purchase price of *tendu* leaves at the time of their export from the forest area to godowns and the balance in two equal instalments on 15th June and 15th October or earlier at the time of removal of *tendu* leaves from the godown. In case of default, the left out quantity in the godowns will be seized and resold and loss, if any, is to be made good by the contractor. Sales tax at the prescribed rate is also recoverable.

In Obra Forest Division, work orders for collection of *tendu* leaves in 1982 season were issued to a contractor in May 1982 at a cost of Rs. 4.28 lakhs for which a bond was executed by him. The contractor deposited Rs. 1.29 lakhs towards security and Rs. 1.28 lakhs towards 30 per cent of purchase price for godown facility, but he did not deposit the sales tax of Rs. 0.43 lakh, which was payable along with the purchase price. The contractor further paid Rs. 0.50 lakh in September 1982 and he was allowed to remove 1,500 bags up to September 1982, out of 4,100 bags stored in the godowns, without realising the full amount of first instalment (Rs. 1.50 lakhs) which fell due on 15th June. As the contractor failed to remove the remaining 2,600 bags by December 1982, these were put to auction in January, February and May 1983, but there were no bidders. In the meantime, 100 bags became unfit for use and were eventually written off from the stock. Instead of putting the balance quantity (2,500 bags) to auction again, and contrary to the provisions of the agreement, the Divisional Forest Officer issued (June 1983) recovery certificate for Rs. 1.86 lakhs (sale price: Rs. 1.20 lakhs, sale tax: Rs. 0.43 lakh and late fee: Rs. 0.23 lakh), after adjusting the security deposit of Rs. 1.29 lakhs, to the District Magistrate. The district authorities auctioned (December 1983) the leaves for Rs. 0.71 lakh. Thus, Rs. 1.15 lakhs (Rs. 1.86 lakhs—Rs. 0.71 lakh) remained unrealised, which were recoverable from the contractor.

On this being pointed out in audit (July 1984), the Divisional Forest Officer intimated (May 1986) that recovery of the balance amount had not been made so far. Further report is awaited (March 1987).

Government, to whom the case was reported in February 1985, stated (February 1987) that the district

authorities had been requested to effect the recovery expeditiously and explanation of the Divisional Forest Officer and Range Officer had been called for .

#### **8.11. Non-observance of rules for removal of forest produce**

As per the Manual of Forest Department and the standard agreement, the contractors can take timber or other forest produce out of the forest, only if the sale price thereof has been deposited in advance . The Divisional Forest Officer can stop export of forest produce at any time if its value exceeds the amount deposited by the contractor .

In Tarai West Forest Division, Ramnagar, four forest lots were sold to contractors in 1981-82 for Rs. 4.69 lakhs . The contractors were allowed to remove the entire material against payment of Rs. 3.74 lakhs . Thus, a sum of Rs. 0.95 lakh was not got deposited in advance nor was the same realised afterwards .

On this being pointed out in audit (October 1985), the Divisional Forest Officer stated (October 1985) that the action was initiated to recover the outstanding amount as arrears of land revenue and explanation of the concerned officials had been called for . Further report is awaited (March 1987) .

Government, to whom the case was reported in May 1986, stated (February 1987) that action was being taken to fix responsibility but the amount had not yet been recovered despite issue of recovery certificate .



## CHAPTER 9

### OTHER DEPARTMENTAL RECEIPTS

#### A—IRRIGATION DEPARTMENT

##### 9.1. Results of Audit

Test check of the accounts and records of the Irrigation Department, conducted in audit during the year 1985-86, revealed irregularities involving Rs. 25.69 lakhs in 41 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of stamp duty	18	2.02
2. Unauthorised use of canal water	3	6.72
3. Non-claiming of hydel rebate	4	4.50
4. Misutilisation of departmental receipts	2	1.76
5. Non-recovery of rent from employees	1	0.44
6. Other cases	13	10.25
Total	41	25.69

A few important cases are mentioned in the succeeding paragraphs.

##### 9.2. Non-realisation of stamp duty on contracts

In terms of Government notification issued on 14th January 1982 (effective from 20th January 1982) under the Indian Stamp Act, 1899, contracts, providing for deposit of security with Government for due perfor-

mance thereof, became chargeable with stamp duty at the rate of Rs. 85 or Rs. 42.50 per thousand rupees according as the security deposit was in the form of cash or fixed deposit.

In seventeen Irrigation Divisions (which were not aware of the said notification), stamp duty was not levied in respect of 3,171 contracts (executed between April 1982 and January 1986) providing for deposit of security in the form of cash (Rs. 59.34 lakhs) and fixed deposit receipts (Rs. 19.93 lakhs). The omission resulted in stamp duty amounting to Rs. 5.96 lakhs not being realised.

The matter was reported to the department and Government between August 1984 and March 1986 ; their replies are awaited (March 1987).

### **9.3. Non-revision of rates/non-realisation of water charges**

The Irrigation Department entered into an agreement (in 1963) with the Municipal Board, Mahoba for bulk supply of water for non-irrigation purposes from the Madan Sagar Tank. As per the agreement, the Board was allowed to pump 15 million cubic feet of water in a year from this tank and the cost of water supplied to it was recoverable at the rate of Rs. 3.75 per 5,000 cft. of water, subject to revision of the rate by Government either on receipt of the recommendations of the Irrigation Rates Committee or otherwise. The Board lifted water upto 31st March 1972 and paid water charges at the agreed rate. From 1st April 1972, the work was taken over by the Jal Nigam, Jhansi on the same terms and conditions as applicable to the Municipal Board, Mahoba but without entering into a fresh agreement with the Irrigation Department.

(a) It was noticed (October 1983) that the water charges had not been revised even though 20 years had elapsed since the execution of the agreement in 1963. As against the rate of Rs. 3.75 per 5,000 cft. of water charged from the Jal Nigam, Jhansi, that charged from the Northern Railway for bulk supply of water since October 1972 was Rs. 10 per 5,000 cft. of water. Had the rate charged from Northern Railway been adopted in the case of Jal Nigam, Jhansi, the Irrigation Department would have realised an additional revenue of Rs. 1.29 lakhs for the supply of 119.25 million cft. of water during the period 1977-78 to June 1983 alone. The non-revision of rates has resulted in recurring loss of revenue to Government.

(b) The Irrigation Department has been making bulk supply of water from 1st April 1979 to the Jal Nigam, U. P., for non-irrigation purposes from the Bela Sagar Tank without entering into any agreement with them. A draft agreement containing terms and conditions similar to those of the Madan Sagar Tank was prepared but could not be signed by the parties, and the Jal Nigam was allowed to pump 15 million cft. of water in a year from this tank. The Nigam continued to pump water from this tank without payment of water charges. Water supplies from the tank had neither been metered nor had the demand for the payment of water charges for such supplies been raised by the Irrigation Department since April 1979. This resulted in loss of revenue amounting to Rs. 13.70 lakhs, computed on the basis of the proposed annual supply of 15 million cft. of water during the period April 1979 to September 1983, at the rate of Rs. 10 per 5,000 cft. of water (i.e., the rate being charged from the Northern Railway).

The above cases were reported to the department and Government between December 1983 and July 1986; their replies are still awaited (March 1987).



#### 9.4. Loss due to non-raising of demands for construction of guls

As per Government orders of July 1968, expenditure incurred on construction of *guls*\* is recoverable from the beneficiaries. For this purpose, a *jamabandi* (statement of demand) in respect of the works completed in the preceding year is required to be prepared and sent by the Divisional Officer to the Tahsildar concerned for effecting recoveries of the principal amount (i.e. capital expenditure incurred on construction of *guls*) together with interest due thereon.

*Guls* were constructed by the Chandra Prabha Division, Varanasi between 1963-64 and 1978-79 at a total cost of Rs. 15.26 lakhs. As against this amount, *jamabandis* for Rs. 5.33 lakhs only (principal Rs. 3.23 lakhs plus interest Rs. 2.10 lakhs) were prepared and sent to the Collectors, Varanasi, Mirzapur and Ghazipur as late as in 1981 and out of this, recovery of Rs. 8,184 only was reported (October 1984) by the Collectors, Ghazipur and Mirzapur. No *jamabandi* for the balance amount of Rs. 12.03 lakhs had been prepared even after a lapse of more than six years of the completion of the works.

On this being pointed out in audit (between January 1982 and February 1985), the department stated (January 1987) that *jamabandis* for a further amount of Rs. 1.25 lakhs (along with interest of Rs. 4.25 lakhs) in respect of Varanasi district had been prepared during 1985 and 1986 and that the work of preparation of *jamabandis* for the balance amount of

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\* *Guls* are water courses constructed for providing water from the canal to the fields of cultivators.

Rs. 10.78 lakhs would be possible only after issue of gazette notification regarding closure of *chakbandi* operation.

The case was reported to Government in February 1985; their reply is awaited (March 1987).

### 9.5. Working of State tubewells

#### (1) *Delay in removal of mechanical defects in State tubewells*

According to the departmental orders, mechanical defects in State tubewells are to be set right within a period of 48 hours to 7 days. The orders also provide for imposition of penalties on staff for failure in removing the defects.

Delay in repair of tubewells in 6 tubewell and one lift irrigation divisions during 1978-79 to 1981-82, resulting in loss of revenue of Rs. 2.07 lakhs, was mentioned in paragraph 9.2 of the Audit Report (Revenue Receipts)—Government of Uttar Pradesh for 1982-83.

It was further noticed that in 16 to 20 tubewell divisions (including 2 of the divisions mentioned above), 2,984 to 3,518 tubewells remained closed beyond the maximum prescribed period of 7 days because of delay in removal of mechanical defects. The details are given in the table below :

Year	Number of tubewell divisions	Number of tubewells remained closed beyond 7 days
1982-83	16	2,984
1983-84	20	3,518
1984-85	20	3,229
		<hr/>
	Total	9,731
		<hr/>

Out of the above, while 6,514 tubewells were repaired between 8 and 21 days, 3,217 tubewells were repaired between 22 and 334 days of their closure.

The delay in repairs of tubewells was attributed by the divisions to lack of transport, defects in a number of tubewells at one and the same time, shortage of funds and spare parts. As to the shortage of funds, it was noticed that the divisions spent more than the funds allotted, as shown in the table below :—

Year	Number of tubewell divisions	Amount allotted on maintenance and repairs	Expenditure incurred	Excess expenditure
(In lakhs of rupees)				
1982-83	15	181.56	235.56	54.00
1983-84	19	295.26	340.32	45.06
1984-85	19	464.20	472.60	8.40

(ii) *Rebate not claimed for interruption in supply of electrical power*

In paragraph 9.2 of the Audit Report (Revenue Receipts) 1983-84, non-claiming of rebate of Rs. 5.90 lakhs by 10 tubewell divisions for interruption of electrical power for 30 days or more consecutively during the years 1974-75 to 1982-83 was mentioned.

It was further noticed that in 14 tubewell divisions (including one of the divisions mentioned above), rebate of Rs. 16.03 lakhs for interruption of electrical power for 30 days or more consecutively during 1982-83 to 1984-85 was not adjusted or recovered by the divisions from the State Electricity Board.

In another tubewell division (Lakhimpur Kheri), a sum of Rs. 1.67 lakhs had also not been adjusted or recovered for the period October 1983 to April 1985.



on account of interruptions for 30 days or more consecutively.

The divisions stated (between July 1985 and March 1986) that action for recovery or adjustment of rebate was being taken.

(iii) *Incorrect recording of water supplied by State tubewells*

Loss of revenue of Rs. 1.17 lakhs during 1975-76 to 1981-82 in 14 tubewell divisions due to incorrect recording of discharge of water was mentioned in paragraph 9.2 (iii) of the Audit Report (Revenue Receipts)—Government of Uttar Pradesh for 1984-85.

It was further noticed that in 5 tubewell divisions water supplied from 140 State tubewells was recorded short by 1437.71 lakh gallons during 1982-83 to 1984-85, resulting in short assessment and short raising of demand amounting to Rs. 0.31 lakh.

The divisions stated (between July 1985 and March 1986) that action would be taken after investigation of the matter.

(iv) *Demand and collection of revenue for water supplied from State tubewells*

Against the supply of water for irrigation, a demand statement (*Jamabandi*) for each *fasli* is sent by each division to the Collector for realisation of revenue from the cultivators. The Collector is required to acknowledge the demand statement sent and intimate position of recovery and balance through the *tauzi* statement each month. The amount realised and deposited by the revenue authorities is to be verified with the treasury records.

The records of 28 divisions did not indicate whether the revenue realised and deposited by revenue authorities during the period from April 1983 to March 1986 had been verified with the treasury records. It was also seen that there was lack of co-ordination between the tubewell divisions and the revenue authorities regarding acknowledgement of demand statements and reporting of recovery, as will be seen from the cases given below :

(1) Sixteen tubewell divisions sent demands totalling Rs. 876.93 lakhs during 1981-82 to 1984-85 for which *tauzi* statements had not been received from the revenue authorities up to March 1986. The divisions were not aware about the progress of their recovery.

(2) In 8 tubewell divisions, against the demands of Rs. 331.91 lakhs sent during 1977-78 to 1985-86, the demands shown in *tauzi* statements were for Rs. 92.12 lakhs only. The details or reasons for less/short acknowledgement of demands for Rs. 239.79 lakhs were not available.

(3) In 4 tubewell divisions, the *tauzi* statements sent by the revenue authorities during 1981-82 to 1985-86 showed a difference of Rs. 122.25 lakhs in the opening and closing balances, the reasons for which were not available.

In the absence of *tauzi* statements and reasons for differences in demands sent by the divisions and acknowledged by the Collectors, position of revenue raised, recovered and balance was not known. The divisions stated (March 1986) that the revenue authorities had not sent the requisite information despite reminders.

(v) *Shortfall in 'partial'*

*Partial* (verification of site) of the area irrigated by State tubewells is made to ascertain correctness of revenue records and revenue assessed on cultivators. The area of *partial* for each level of officer/ official is fixed each year. In 12 tubewell divisions, it was noticed that *partial* of the area fixed during 1981-82 to 1984-85 was not carried out fully by Zile-dars and Junior Engineers. As will be seen from the table below, shortfall in *partial* in respect of Zile-dars ranged from 0.13 lakh acres to 0.31 lakh acres during 1981-82 to 1984-85, while in the case of Junior Engineers it was 0.02 lakh acres to 0.08 lakh acres during the same period.

Year	Number of divisions	<i>Partial</i> to be done by Zile-dars	<i>Partial</i> actually done	Short-fall	<i>Partial</i> to be done by Junior Engineers	<i>Partial</i> actually done	Short-fall
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(In acres)							
1981-82	12	32,000	19,141	12,859	6,100	3,709	2,391
1982-83	12	48,787	29,351	19,436	7,350	3,850	3,500
1983-84	12	1,25,000	75,134	49,866	12,875	7,926	4,949
1984-85	12	82,118	50,688	31,430	17,300	8,949	8,351

Five tubewell divisions stated (between July 1985 and March 1986) that shortfall in *partial* was due to frequent transfer of officials; the remaining divisions gave no reason for shortfall in *partial*. The divisions did not state as to how, in the absence of required *partial*, correctness of records and revenue realised/realisable was ascertained.

The above cases were reported to the department and Government between April 1985 and June 1986; their replies are awaited (March 1987).



## B—PUBLIC WORKS DEPARTMENT

## 9.6. Results of Audit

Test check of the accounts and records of the Public Works Divisions, conducted in audit during the year 1985-86, revealed irregularities involving Rs. 19.36 lakhs in 44 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of stamp duty on agreements/work orders	19	14.14
2. Sale of tender forms at pre-revised rates	10	1.15
3. Non-realisation of rent of field hostel	1	0.65
4. Non-realisation of toll	1	0.10
5. Other cases	13	3.32
	<hr/>	<hr/>
Total ..	44	19.36
	<hr/>	<hr/>

A few important cases are mentioned in the succeeding paragraphs.

## 9.7. Outstanding demands of rent

Rent of Government residential buildings allotted to employees of different departments is realised through pay bills on the basis of demands received from the divisions maintaining the buildings. After effecting recovery, the drawing and disbursing officer sends a statement to the maintenance division which records the particulars of recovery in a ledger.

It was seen from the records of the Maintenance Division I, P.W.D., Lucknow that at the end of February 1985, rent amounting to Rs. 25.83 lakhs (authorised occupants : Rs. 17.97 lakhs and unauthorised occupants : Rs. 7.86 lakhs) had remained.

unrealised from the occupants of Government residential buildings. The earliest year to which the arrears pertained was 1967-68.

On this being pointed out in audit (February 1986), the Division stated (February 1986) that the lists of outstandings in respect of persons whose whereabouts were known to the Division had been sent to the departments concerned for realisation. In the case of those occupants whose addresses were not available with the Division, the lists of the arrears were reported to have been forwarded to Government for legal action etc.

The matter was reported to the department and Government in January 1984 and January 1985 respectively; their replies are awaited (March 1987).

#### **9.8. Non-acceptance of the highest bid for toll collection**

As per orders of the State Government issued in January 1980 and April 1980, the contracts for toll collections at the barriers of *pucca* bridges are to be awarded by public auction for a period ranging from one to five years.

Two newly constructed bridges, *viz.*, Lapri and Karma, under the charge of Temporary Division I, P.W.D., Allahabad, were opened to traffic in May 1982 (one on 2nd May 1982 and the other on 5th May 1982). The Division did not take advance action for auction of toll collections on these bridges with the result that initially the toll collections had to be made departmentally in violation of the Government orders *ibid* which contemplated collection by public auction. The auctions for toll collections were held on 15th May 1982; the highest bids of Rs. 48,000 (Lapri bridge) and Rs. 1,11,000 (Karma bridge) were received

for five years but were not accepted by the department as these were considered low. In the second auction held on 10th October 1982, the highest bids of Rs. 80,000 and Rs. 4,01,000 respectively were received for five years but again these were not accepted on the ground that the bids were not competitive. The Commissioner ordered on 16th February 1983 for a fresh auction for a period of one year which was held on 25th April 1983, but this time no bidder participated. The Division continued to collect the toll departmentally till 17th October 1984 and 31st August 1984 on Lapri and Karma bridges respectively. The work of toll collection on the two bridges was ultimately handed over to the contractors from 18th October 1984 and 1st September 1984 for a period of one year on payment of Rs. 4,000 and Rs. 75,300 respectively on the basis of auction organised by the department. Comparing the bid amounts of Rs. 96,200 per annum for the two bridges offered in the second auction held on 10th October 1982 with the average annual collection (Rs. 38,939) by the department for the two bridges in two years (1st October 1982 to 1st September 1984), Government suffered a loss of revenue, in toll collection, amounting to Rs. 1.15 lakhs. The bids accepted for one year from September/October 1984 also fell short (by Rs. 16,900) of the bids received in October 1982.

The matter was reported to the department and Government in June 1984 and again in April 1985; their replies are awaited (March 1987).

#### 9.9. Non-realisation of toll

As per condition in the lease agreement, a lessee, for the collection of toll on bridges, is required to



deposit, in advance, first instalment of annual toll before taking charge of the bridge and subsequent instalments are payable on first of each month.

In Provincial Division, P. W. D., Kheri, leases for collection of toll in respect of three barriers were given to three contractors on 22nd December 1980, 15th February 1981 and 15th March 1981 respectively. Though the contractors started depositing the monthly instalments with effect from 1st January 1981, 1st March 1981 and 1st April 1981 respectively, first instalments of bridge toll amounting to Rs. 40,808 for the period 22nd December 1980 to 31st December 1980, 15th February to 28th February 1981 and 15th March 1981 to 31st March 1981 respectively were not realised from them.

On the omission being pointed out in audit (January 1983), the Division stated (April 1985) that recovery of Rs. 23,808 had been made from two contractors from their security deposits. Recovery of the balance amount of Rs. 17,000 is, however, awaited (March 1987).

The case was reported to the department in February 1983 and to Government in June 1986; their replies are awaited (March 1987).

## C—FOOD AND CIVIL SUPPLIES DEPARTMENT

### 9.10. Results of Audit

Test check of the accounts and records of the District Supply Offices, conducted in audit during the year 1985-86, revealed irregularities involving

Rs. 12.45 lakhs in 32 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of fees from co-operative societies for grant or renewal of sugar licences	8	3.79
2. Non-realisation of increased cost of levy sugar	4	0.37
3. Non-realisation of cost of ration cards	8	2.49
4. Default by cloth dealers in renewal of licences	2	0.76
5. Non-realisation of stamp duty on securities	5	0.39
6. Other cases	5	4.65
	<hr/>	<hr/>
Total ..	32	12.45
	<hr/>	<hr/>

A few important cases are mentioned in the succeeding paragraphs.

#### **9.11. Non-realisation of sugar licence fee from co-operative societies**

Under the Uttar Pradesh Sugar and Gur Dealers' Licensing Order, 1962, as amended in May 1981, the sugar dealers carrying on business of sugar exceeding ten quintals at any one time are required to obtain a licence from the District Magistrate of the district concerned. According to a Government order issued in May 1976, the licence shall be valid for a period ending 31st December of the year in which it is issued and may be renewed for a period of one to three years at a time. Fee for initial issue of licence is Rs. 100 and for the renewal Rs. 40 for a period of one year.

In ten District Supply Offices, 4,407 co-operative societies were allowed to function as dealers for distribution of sugar during the years 1981 to 1985. But neither any licences were issued nor was any fee recovered from them. The non-issue of licences resulted in loss of revenue in the shape of licence fee amounting to Rs. 4.41 lakhs.

The cases were reported to the department and Government during the years 1984-85 and 1985-86; their replies are awaited (March 1987).

### **9.12. Non-renewal of licences**

Under the Uttar Pradesh Controlled Cotton Cloth and Yarn Dealers' Licensing Order, 1957, every dealer is required to obtain a licence from the District Supply Officer before undertaking a wholesale or retail business in controlled cotton cloth in Uttar Pradesh. The yearly licence fee for wholesale business is Rs. 30 and for retail business it is Rs. 8. The licence is valid for a period of twelve months from the date of issue. On closure of the business, the licensee has to surrender his licence to the licensing officer for its cancellation within three months of the closure. The yearly renewal of a licence is required to be done one month before the expiry of the licence period on payment of the prescribed fee. In cases where renewals are applied late, late fee at the prescribed rates is also chargeable.

In four District Supply Offices (at Lakhimpur Kheri, Varanasi, Bareilly and Budaun), 2,075 cloth dealers (wholesale and retail) were carrying on business in controlled cotton cloth without getting their licences renewed for various periods falling between 1971-72 and 1983-84. The department had also not taken any penal action under the Control Order against the defaulters. The renewal fee and



late fee chargeable in these cases worked out to Rs. 1.58 lakhs.

The matter was reported to the department and Government between March 1984 and April 1985 ; their replies are awaited (March 1987).

### 9.13. Non-recovery of increased price of levy sugar

Government raised rates of levy sugar ranging from 10 to 40 paise per kg. during the period from October 1982 to December 1985 for retail sale through fair price shops.

The closing stock of sugar with all fair price shops on the eve of announcement of revised issue rate was to be ascertained by the department and difference in value in respect thereof was to be deposited by the dealers into the Government treasuries.

In three District Supply Offices (Farrukhabad, Mainpuri and Banda), it was noticed (February 1986 and March 1986) that a sum of Rs. 1.20 lakhs representing difference in price of sugar, due from the dealers (Farrukhabad : Rs. 0.08 lakh, Mainpuri : Rs. 0.33 lakh and Banda : Rs. 0.79 lakh) pertaining to the period October 1982 to December 1985, had neither been deposited by the dealers in the treasuries nor the department took any action to recover the same.

The matter was reported to the department in March, April and May 1986 and to Government in September 1986 ; their replies are awaited (March 1987).

## D—AGRICULTURE DEPARTMENT.

### 9.14. Results of Audit

Test check of the accounts and records of the Agriculture Department, conducted in audit during.

1985-86, revealed irregularities involving Rs. 11.32 lakhs in 35 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of licence fee/ renewal fee from fertilizer dealers	8	3.95
2. Shortfall in production of farm produce	3	3.54
3. Sale of fertilizers at pre-revised rates	7	0.64
4. Non-realisation of sales tax on uncertified seeds	1	0.15
5. Other cases	16	3.04
	<hr/>	<hr/>
Total ..	35	11.32
	<hr/>	<hr/>

A few important cases are mentioned in the succeeding paragraphs.

#### 9.15. Loss of revenue due to sale of fertilizer at pre-revised rates

With effect from 20th September 1984, the sale price of Zink sulphate was revised by the Director of Agriculture from Rs. 3,476 per metric ton to Rs. 6,300 per metric ton.

In four District Agriculture Offices (Basti, Saharanpur, Bijnor and Etawah), sales of zink sulphate (22 metric tonnes) were made between September 1984 and September 1985 at the old price of Rs. 3,476 per metric ton, instead of at the revised sale price of Rs. 6,300 per metric ton. The sale proceeds realised short amounted to Rs. 58,733 .

On the mistake being pointed out in audit (during 1984-85 and 1985-86), the District Agriculture Officers attributed, the sales of fertilizers (zinc sulphate) at the old price, to late receipt of the orders revising the sale price.

The cases were reported to the department and Government between May 1985 and April 1986 ; their replies are awaited (March 1987).

#### **9.16. Shortfall in farm produce**

According to the instructions issued (March 1977) by the Director of Agriculture, before harvesting the crops in Government farms, an estimate of production is required to be prepared on the basis of actual crop cuttings in selected areas by a committee to be constituted by the Regional Deputy Director of Agriculture. As per norms fixed by the Director of Agriculture, variation between the estimated and actual farm produce should not be more than ten per cent, and any loss in excess thereof is recoverable from the Farm Superintendent.

In two District Agriculture Offices, Orai and Bahraich, in *rabi* crops of 1982-83 and 1983-84, the variation between estimated and actual produce in six State owned farms was in excess of the permissible limit of ten per cent, which resulted in shortfall in revenue to the extent of Rs. 1.08 lakhs. There was nothing on record to show that any action was taken against the Farm Superintendents to recover the loss.

The case was reported to the department and Government in October 1985 and April 1986 ; their replies are awaited (March 1987).



## E—PANCHAYATI RAJ DEPARTMENT

**9.17. Loss of revenue**

Under the Zila Parishad Rules, 1978 and Government orders of July 1979, the loanees receiving loans from Zila Parishads are required to execute agreement deed on stamp paper and pay the prescribed stamp duty and registration fee. The assets acquired out of such loans are also required to be hypothecated to Zila Parishads.

A test check of the loan accounts of the Zila Parishad, Basti for the years 1979-80 and 1980-81 showed that in 49 cases, where loans amounting to Rs. 15.32 lakhs had been granted, neither agreement deeds had been got executed nor had the assets acquired by the loanees been got hypothecated in favour of the Zila Parishad. Non-execution of the agreement deeds resulted in loss of revenue amounting to Rs. 1.07 lakhs by way of stamp duty and registration fee. Besides, due to non-hypothecation of assets in favour of the Zila Parishad, the loans remained unsecured.

On this being pointed out in audit (January 1986), the Zila Parishad stated (January 1986) that reasons for the lapses would be enquired into. Further report is awaited (March 1987).

The matter was reported to Government in July 1986; their reply is awaited (March 1987).

## F—CO-OPERATION DEPARTMENT

**9.18. Result of Audit**

Test check of the accounts and records of the Co-operation Department, conducted in audit during the year 1985-86, revealed irregularities involving

revenue of Rs. 4.71 lakhs in 27 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of arbitration fee	5	1.33
2. Non-realisation of execution fee	3	0.56
3. Non-deposit of collection charges into treasury	16	2.31
4. Other cases	3	0.51
Total ..	27	4.71

A few important cases are mentioned in the succeeding paragraphs.

#### **9.19. Loss of revenue due to non-realisation of arbitration fee**

As per Rule 358 of the Uttar Pradesh Co-operative Societies Rules, 1968, an application for arbitration of a dispute relating to property or monetary claim is required to be accompanied by a fee (at the rate of one per cent of the value of the property or the amount of the claim involved), if the value of the property or the monetary claim exceeds Rs. 5,000. This monetary limit was reduced to Rs. 2,500 by Government with effect from 17th November 1981.

In four offices of the Assistant Registrars, Co-operative Societies (Allahabad, Budaun, Orai and Kheri), in 2,088 cases of disputes relating to property/monetary claims filed between 1981-82 (after 16th November 1981) and 1985-86, arbitration fee was not levied though the amount of property/claim involved in each case exceeded Rs. 2,500. This resulted in loss of revenue amounting to Rs. 78,031.

The cases were reported to the department and Government during 1984-85 and 1985-86 ; their replies are awaited (March 1987).

**9.20. Non-realisation of execution fee**

Under the Uttar Pradesh Co-operative Societies Act, 1965 read with the Uttar Pradesh Co-operative Societies Rules, 1968, the Registrar, Co-operative Societies may, on an application made by a society and on receipt of fee prescribed for the execution proceedings, issue a certificate for recovery of the amount due to the society.

In three offices of the Assistant Registrars, Co-operative Societies (Orai, Saharanpur and Etah), 30,944 certificates for recovery of dues amounting to Rs. 625.86 lakhs were issued between 1983-84 and 1985-86 on receipt of applications from societies without realising the prescribed fee for execution proceedings. The execution fee not realised amounted to Rs. 0.87 lakh.

The matter was reported to the department and Government in October 1985 and April 1986; their replies are awaited (March 1987).

Lucknow

The

17 NOV 1987

(U. N. ANANTHAN)

Accountant General (Audit)-II,  
Uttar Pradesh

Countersigned

NEW DELHI

The

23 NOV 1987

(T. N. CHATURVEDI)

Comptroller and Auditor General of India





