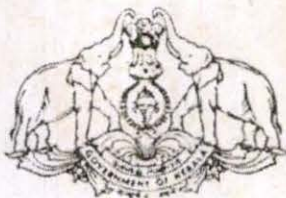


Presented to
the Legislature
on 17/3/08.....



**REPORT OF
THE COMPTROLLER AND AUDITOR GENERAL
OF INDIA**

FOR THE YEAR ENDED 31 MARCH 2007

**(REVENUE RECEIPTS)
GOVERNMENT OF KERALA**

1871
No. 100
100

BEFORE
THE COURT IN AND FOR THE COUNTY OF
MICHIGAN

FOR THE YEAR ENDING 1871

(REVISED EDITION)
GOVERNMENT OF THE STATE

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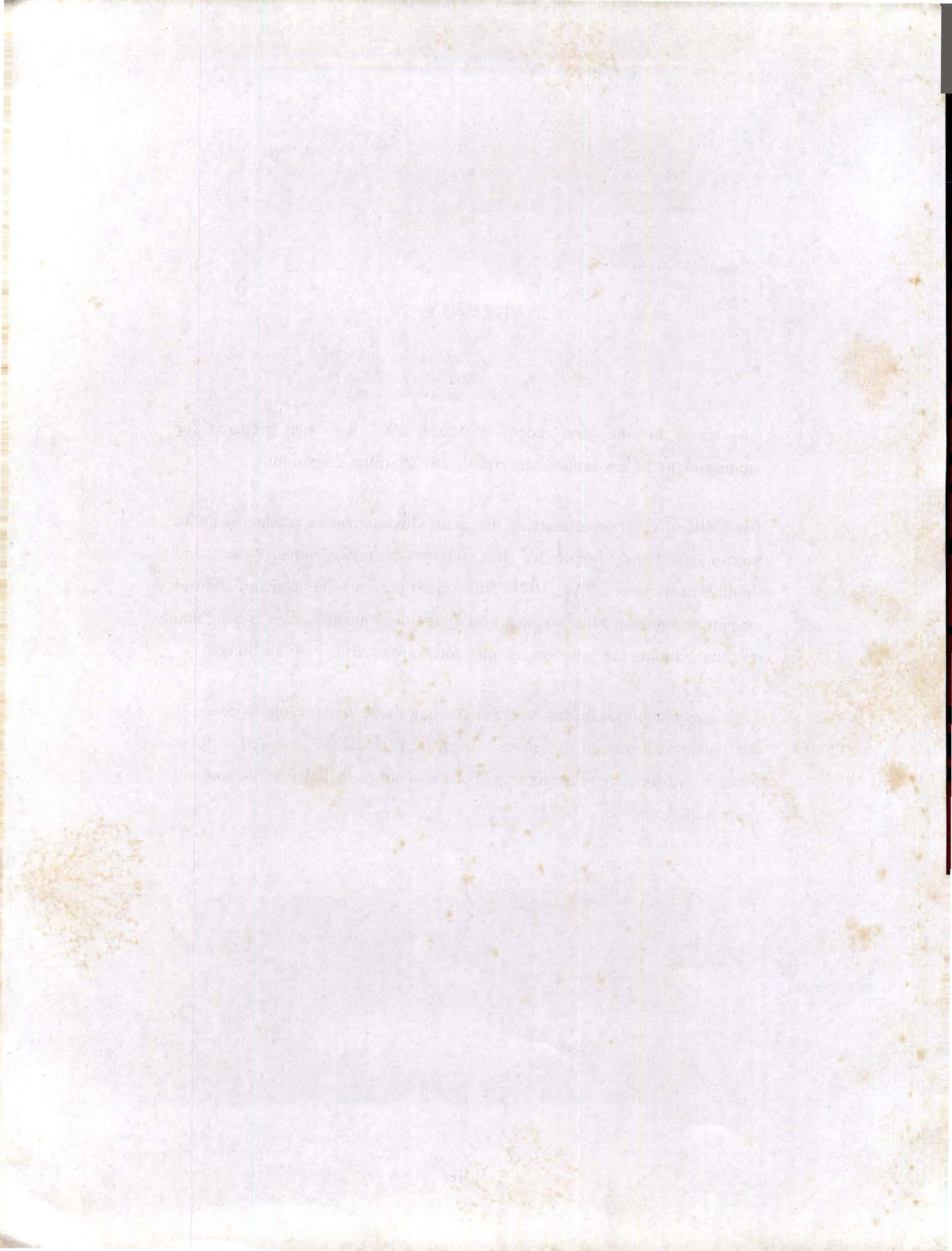
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PREFACE

This report for the year ended 31 March 2007 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, taxes on agricultural income, state excise, land revenue, building tax, taxes on vehicles and non-tax receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2006-07 as well as those which came to notice in earlier years but could not be included in the previous years' reports.



Overview

Overton

OVERVIEW

This Report contains 26 paragraphs including two reviews relating to non/short levy/loss of tax involving Rs. 279.90 crore. Some of the major findings are mentioned below.

I. General

- Total revenue receipts of the State Government for the year 2006-07 amounted to Rs. 18,186.62 crore against Rs. 15,294.53 crore for the previous year. Seventy one *per cent* of this was raised by the State through tax revenue (Rs. 11,941.82 crore) and non-tax revenue (Rs. 937.57 crore). The balance 29 *per cent* was received from the Government of India as State's share of divisible Union taxes (Rs. 3,212.04 crore) and grants-in-aid (Rs. 2,095.19 crore).

(Paragraph 1.1)

- Test check of the records of the departments of commercial taxes, State excise, land revenue, motor vehicles, registration, forest, police, finance etc., conducted during 2006-07, revealed underassessments/short levy of revenue aggregating Rs. 593.46 crore in 1,448 cases. During the course of the year 2006-07, the departments concerned accepted underassessments and other deficiencies of Rs.10.75 crore involved in 458 cases of which 104 cases involving Rs. 2.15 crore were pointed out in audit during 2006-07 and the rest in earlier years.

(Paragraph 1.7)

- Out of inspection reports issued upto the end of December 2006 there were 1,723 outstanding reports containing 9,978 audit observations involving Rs. 1,044.60 crore as at the end of June 2007 for want of final replies from the departments.

(Paragraph 1.8)

II. Sales tax

- Incorrect grant of exemption in 10 cases resulted in short levy of tax of Rs. 5.90 crore.

(Paragraph 2.2)

- Interest of Rs.1.87 crore accrued as a result of delay/non-payment of tax was short/not demanded in 16 cases.

(Paragraph 2.3)

- Incorrect computation of tax/taxable turnover resulted in short demand of tax/interest of Rs.1.95 crore in seven cases.

(Paragraph 2.4)

- Underassessment of turnover in eight cases resulted in short levy of tax of Rs. 60.43 lakh.

(Paragraph 2.5)

- Incorrect computation of compounded tax in five cases resulted in short demand of tax/interest of Rs. 74.07 lakh.

(Paragraph 2.6)

- Application of incorrect rate of tax resulted in short levy of tax of Rs. 65.51 lakh in 11 cases.

(Paragraph 2.7)

III. Taxes on agricultural income

- Incorrect carry forward of loss resulted in short levy of Rs. 50.74 lakh in one case

(Paragraph 3.2)

IV. Land revenue and building tax

- Luxury tax of Rs. 14.56 lakh on 399 residential buildings was not demanded in 10 taluk offices.

(Paragraph 4.2)

V. State excise

- Import fee of Rs. 124.82 crore was not levied on 2,496.36 lakh proof litres of spirit by 15 institutions.

(Paragraph 5.2)

VI. Other tax receipts

Taxes on vehicles

- Fee of Rs. 18.43 lakh due on permit and certificate of fitness was short levied in respect of 1,449 omnibuses.

(Paragraph 6.2)

VII. B. Other non-tax receipts

A review of “**Receipts from guarantee commission**” revealed the following:

- Failure of the administrative departments to enforce the internal control systems to ensure prompt levy and collection of guarantee commission resulted in non/short assessment and non-raising of demand of Rs. 233.40 crore.

(Paragraph 7.3.8)

- Interest of Rs.35.68 crore for the defaulted payments of guarantee commission was not paid by 24 institutions.

(Paragraph 7.3.11)

- Rebate for prompt payment of guarantee commission amounting to Rs. 3.66 crore was incorrectly granted to an institution during 2004-05.

(Paragraph 7.3.12)

A review of “**Receipts of police department**” revealed the following:

- Lack of a prescribed system for monitoring the receipts of bills of cost from the DPOs and CPCs and its accuracy resulted in non/short raising of demand of Rs. 6.61 crore.

(Paragraph 7.4.7)

- Absence of provision to realise interest for belated payment of bills of cost resulted in loss of revenue of Rs.3.76 crore.

(Paragraph 7.4.9)

- The department did not take any action to realise Rs. 4.62 crore being share of Government Railway Police (GRP) expenses adjusted/disallowed by railways.

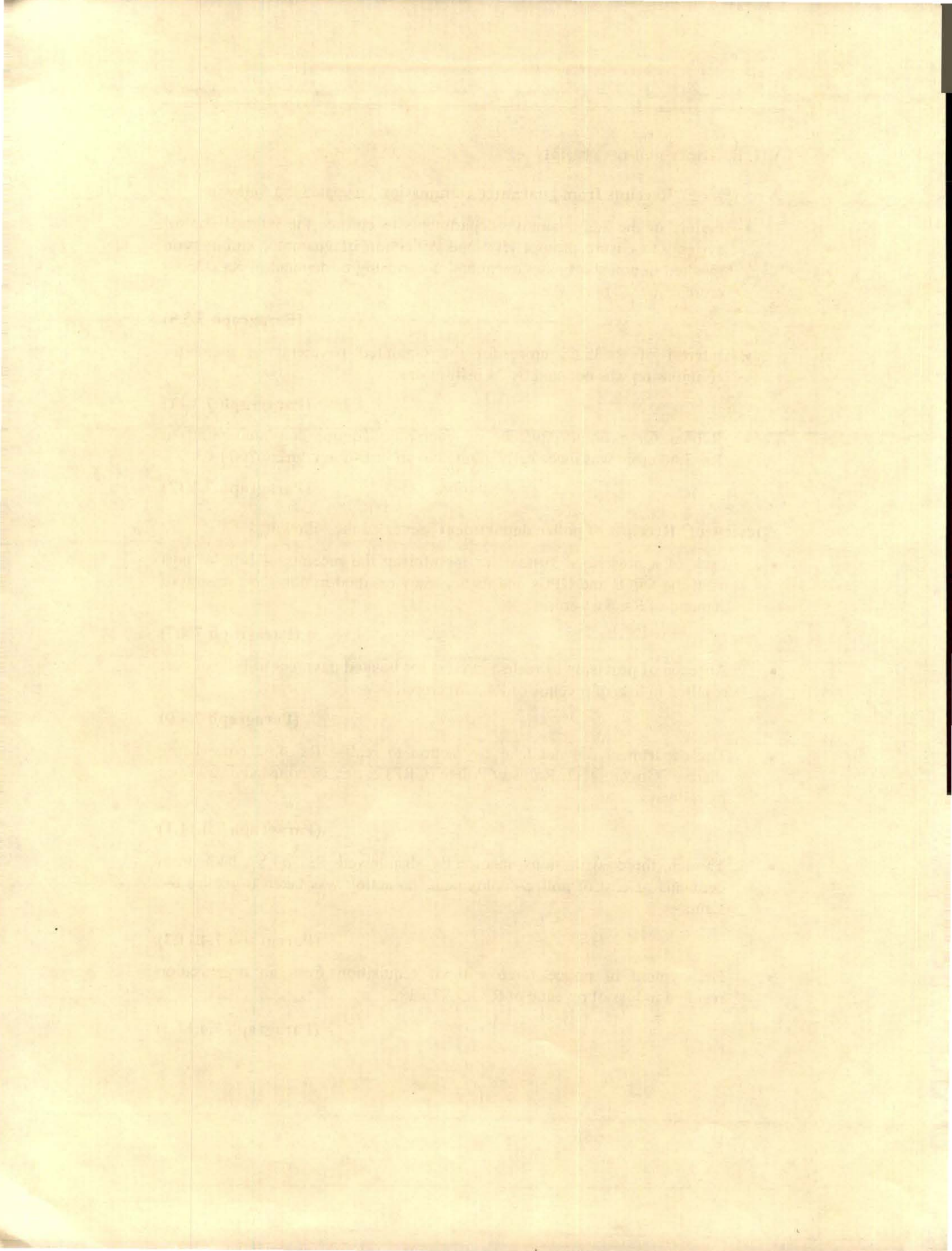
(Paragraph 7.4.11.1)

- Though three institutions incorrectly disallowed Rs. 54.87 lakh from demands of cost of police deployment, no action was taken to realise the same.

(Paragraph 7.4.11.2)

- Deployment of police force without requisition from an organisation resulted in loss of revenue of Rs. 19.77 lakh.

(Paragraph 7.4.11.3)



Chapter I
General

Chapter

General

CHAPTER I GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Kerala during the year 2006-07, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2002-03	2003-04	2004-05	2005-06	2006-07
1.	Revenue raised by the State Government					
	• Tax revenue	7,302.54	8,088.77	8,963.65	9,778.62	11,941.82
	• Non tax revenue ¹	677.76 (618.05)	806.98 (752.02)	819.09 (760.43)	936.78 (863.79)	937.57 (844.51)
	Total	7,980.30 (7,920.59)	8,895.75 (8,840.79)	9,782.74 (9,724.08)	10,715.40 (10,642.41)	12,879.39 (12,786.33)
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	1,715.22	2,012.01	2,404.95	2,518.20	3,212.04
	• Grants-in-aid	938.37	907.61	1,312.80	2,060.93	2,095.19
	Total	2,653.59	2,919.62	3,717.75	4,579.13	5,307.23
3.	Total revenue receipts of the State Government (1 and 2)	10,633.89² (10,574.18)	11,815.37² (11,760.41)	13,500.49² (13,441.83)	15,294.53² (15,221.54)	18,186.62² (18,093.56)
4.	Percentage of 1 to 3	75	75	72	70	71

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 71 per cent of the total revenue receipts (Rs. 12,879.39 crore) against 70 per cent in the preceding year. The balance 29 per cent of receipts during 2006-07 was from the Government of India.

¹ The figures shown in brackets represent the figures net of expenditure on prize winning tickets of lotteries conducted by the Government.

² For details please see Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of Kerala for the year 2006-07. Figures under the major heads 0020 – corporation tax, 0021 – Taxes on income other than corporation tax, 0028 – Other taxes on income and expenditure, 0032 – Taxes on wealth, 0037 – customs, 0038 – Union excise duties, 0044 – service tax and 0045 – Other taxes and duties on commodities and services – Share of net proceeds assigned to states booked in the Finance Accounts under A – Tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+)/ decrease (-) in 2006-07 over 2005-06
1.	Sales tax	5,343.15	5,991.43	6,701.05	7,037.97	8,563.31	(+) 21.67
2.	State excise	663.07	655.91	746.45	841.00	953.07	(+) 13.33
3.	Stamp duty and registration fees						
	• Stamps - judicial	39.84	43.32	47.37	53.39	49.20	(-) 7.85
	• Stamps - Non judicial	314.14	334.02	489.99	852.51	1,213.36	(+) 42.33
	• Registration fees	132.55	172.47	237.99	195.51	257.37	(+) 31.64
4.	Taxes and duties on electricity	192.63	189.97	9.62	31.52	31.78	(+) 0.82
5.	Taxes on vehicles	513.20	585.78	610.48	628.51	707.74	(+) 12.61
6.	Taxes on agricultural income	6.40	8.74	4.93	6.15	9.63	(+) 56.59
7.	Land revenue	38.40	40.59	43.85	43.88	47.00	(+) 7.11
8.	Others	59.16	66.54	71.92	88.18	109.36	(+) 24.02
	Total	7,302.54	8,088.77	8,963.65	9,778.62	11,941.82	(+) 22.12

The following reasons for variations were reported by the concerned departments:

Sales tax: The increase in collection was due to rise in price of commodities as well as effective steps taken for maximising the collection.

State excise: The increase was due to revision of excise duty imposed on sale of foreign liquor and increase in rental/license fee of liquor shops and other licenses issued by the department.

Stamp duty and registration fees: The appreciation in land value and the increase in transaction of landed properties contributed to the increase in revenue collection.

Taxes on vehicles: The collection of vehicle tax at revised rates from July 2003 and subsequent withdrawal of the revised rates in April 2005 led to adjustment of the revised tax collected against the future tax dues till 2005-06. Therefore the tax collection in 2006-07 without refunds or adjustments registered an increase compared to previous year. Increased vehicle population also enhanced the tax collection.

Taxes on agricultural income: The increase in collection was due to rise in price of agricultural commodities as well as effective steps taken for maximising the collection.

Land revenue: The increase was due to collection of arrears, increase in construction of building, flats etc.

Taxes and duties on electricity: The increase was due to excess consumption of energy by the licensees.

The other departments did not inform (December 2007) the reasons for variation, despite being requested (April 2007).

1.1.3 The following table presents the details of the non-tax revenue raised during the period 2002-03 to 2006-07 :

(Rupees in crore)							
Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+)/ decrease (-) in 2006-07 over 2005-06
1.	State lotteries	68.38	78.72	92.72	156.58	142.93 ³	(-) 8.72
2.	Forestry and wild life	149.58	187.18	199.69	189.63	174.56	(-) 7.95
3.	Interest receipts	35.86	32.40	40.51	46.36	44.63	(-) 3.73
4.	Education, sports, art and culture	63.41	81.86	85.76	82.09	99.91	(+) 21.71
5.	Medical and public health	28.16	27.61	27.52	29.80	32.99	(+) 10.70
6.	Crop husbandry	12.76	22.71	11.51	13.74	12.33	(-) 10.26
7.	Animal husbandry	6.94	6.31	5.68	5.68	6.43	(+) 13.20
8.	Public works	2.15	2.90	2.70	2.68	2.56	(-) 4.48
9.	Others	250.81	312.33	294.34	337.23	328.17	(-) 2.69
Total		618.05	752.02	760.43	863.79	844.51	(-) 2.23

The following reasons for variations were reported by the concerned departments:

State lotteries: The decrease was due to stoppage of purchase of ticket by a major agent as per the direction of the Kerala High Court.

Forestry and wildlife: The revenue collection was affected due to non-availability of timber for sale owing to labour problem till February 2007.

Interest receipts: The decrease was mainly due to reduction in outstanding balance of loans advanced to the State Government employees as no fresh loans were sanctioned during the year.

Education, sports, art and culture: The increase in revenue collection was due to increase in issue of duplicate certificate as well as increase in tuition fee.

³ From gross receipts of Rs. 235.99 crore expenditure of Rs. 93.06 crore on prize winning tickets has been deducted, but expenditure of Rs. 91.34 crore on commission to agents and establishment expenses of Rs. 9.80 crore have not been deducted.

Medical and public health: The increase in collection of fees consequent to the increase on services provided in Hospitals.

Public works: The decrease in revenue collection was due to decrease in sale of tender forms on account of delay in approval of administrative sanction of plan schemes.

The other departments did not inform (December 2007) the reasons for variations, despite being requested (April 2007).

1.2 Variation between the budget estimates and the actuals

The variation between the budget estimates and the actuals of revenue receipts for the year 2006-07 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation
1.	Sales tax	7,930.38	8,563.31	(+) 633.93	(+) 7.98
2.	State excise	944.73	953.07	(+) 8.34	(+) 0.88
3.	Stamp duty and registration fees				
	• Stamps - Non-judicial	642.30	1,213.36	(+) 571.06	(+) 88.91
	• Registration fees	282.33	257.37	(-) 24.96	(-) 8.84
4.	Taxes on vehicles	730.00	707.74	(-) 22.26	(-) 3.05
5.	Forestry and wild life	250.32	174.56	(-) 75.76	(-) 30.27
6.	Taxes and duties on electricity	265.69	31.78	(-) 233.91	(-) 88.04
7.	Taxes on agricultural income	6.24	9.63	(+) 3.39	(+) 54.33
8.	Land revenue	55.72	47.00	(-) 8.72	(-) 15.65

The following reasons for variations were reported by the concerned departments:

Sales tax: The variation was due to rise in price of commodities as well as effective steps taken for maximising the collection.

State excise: The increase was due to revision of license fee for toddy shops by ten *per cent* of existing rate.

Stamp duty and registration fees: The appreciation in land value and the increase in transaction of landed properties contributed to the increase in revenue collection.

Forestry and wildlife: The variation was due to non-availability of timber for sale, consequent to labour problems.

Taxes on agricultural income: The variation was due to rise in price of agricultural commodities as well as effective steps taken for maximising the collection.

Taxes and duties on electricity: The decrease was due to non-remittance of duty by the Kerala State Electricity Board during the year.

Land revenue: The decrease was due to over estimation of budget figures.

The other departments did not inform (December 2007) the reasons for variation, despite being requested (April 2007).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of expenditure to gross collection during the years 2004-05, 2005-06 and 2006-07 along with the relevant all India average percentage of expenditure on collection to gross collection for 2005-06 are shown below:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage (2005-06)
1.	Sales tax	2004-05	6,701.05	52.10	0.78	0.91
		2005-06	7,037.97	60.96	0.87	
		2006-07	8,563.31	78.21	0.91	
2.	Stamps (non-judicial) and registration fees	2004-05	727.98	42.35	5.82	2.87
		2005-06	1,048.03	46.81	4.47	
		2006-07	1,470.73	59.06	4.02	
3.	State excise	2004-05	746.45	43.72	5.86	3.40
		2005-06	841.00	48.78	5.80	
		2006-07	953.07	58.07	6.09	
4.	Taxes on vehicles	2004-05	610.48	16.52	2.71	2.67
		2005-06	628.51	17.73	2.82	
		2006-07	707.74	21.61	3.05	

Thus, the percentage cost of collection in respect of 'state excise', 'stamp duty and registration fees' and 'taxes on vehicles' was higher than the all India average and the Government needs to look into this aspect.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2007 in respect of some departments amounted to Rs 2,868.96 crore, of which Rs. 1,566.41 crore (Rs. 1,325.51 crore relating to electrical inspectorate, Rs. 225.06 crore relating to motor vehicles, Rs. 120.85 crore relating to land revenue, Rs. 15.66 crore relating to local fund audit and Rs. 18 lakh relating to mining and geology) was outstanding for more than four years as mentioned below:

(Rupees in crore)

Sl. No.	Department	Amount of arrears as on 31 March 2007	Arrears outstanding for more than 4 years	Remarks
1.	Electrical inspectorate	2,192.18	1,325.51	Non-remittance of dues by the Kerala State Electricity Board.
2.	Motor vehicles	604.32	225.06	Non-remittance of tax by registered owners.
3.	Land revenue	157.28	120.85	The arrears were due to stay by Courts.
4.	Local fund audit	71.94	15.66	Non-remittance of fees by auditee institutions.
5.	Mining and Geology	0.52	0.18	Arrears were due to dispute regarding claims, court stays, etc.
Total		2,868.96	1,566.41	

Arrears of revenue outstanding as on 31 March 2007 and its breakup in respect of sales tax, agricultural income tax, state excise and forestry and wildlife departments were not available with these departments.

1.5 Write off and waiver of revenue

The table below indicates details of revenue exceeding Rs. 10,000 (for each department) written off or waived by two departments during the year 2006-07:

(Rupees in lakh)

Sl. No.	Revenue head	Written off		Waived	
		No. of cases	Amount	No. of cases	Amount
1.	State excise	6	3.08	1	70.03
2.	Motor vehicles	-	-	1	1.64

In Excise Department *abkari* arrears of Rs 3.08 lakh in six cases were written off as they were irrecoverable and excise duty of Rs 70.03 lakh was waived in one case on loss of rectified spirit during interstate transit.

In the Motor Vehicles Department, vehicle tax of Rs. 1.64 lakh was waived on the basis of a judgment of the High Court in a writ petition.

1.6 Refunds

Information relating to the number of refund cases pending at the beginning of the year 2006-07, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2006-07, was not made available by the Commercial Taxes Department and State Excise Department as of December 2007.

1.7 Results of audit

Test check of the records of commercial tax, State excise, motor vehicles, forest and other departmental offices conducted during the year 2006-07 revealed underassessments/short levy/loss of revenue aggregating Rs. 593.46 crore in 1,448 cases. During the course of the year, the departments concerned accepted underassessments and other deficiencies of Rs. 10.75 crore involved in 458 cases of which 104 cases involving Rs. 2.15 crore were pointed out in audit during 2006-07 and the rest in the earlier years. The departments collected Rs. 95.90 lakh in 213 cases during 2006-07.

This report contains 26 paragraphs including two reviews relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of Rs. 279.90 crore. The departments/Government have accepted audit observations involving Rs. 18.21 crore out of which Rs. 1.16 crore has been recovered. The replies in the remaining cases have not been received (December 2007).

1.8 Outstanding inspection reports and audit observations

Principal Accountant General (Audit) (AG) conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). Important irregularities and defects in assessments, demand and collection of State receipts, noticed during local audit but not settled on the spot, are communicated to the heads of the offices and to the next higher departmental authorities through IRs.

According to the instructions issued by the Government in November 1965, first reply to IRs are required to be sent within four weeks from the date of their receipt. In order to apprise the Government of the position of pending audit observations from time to time, statements of outstanding audit observations are forwarded to the Government and their replies watched in audit.

As at the end of June 2007, there were 1,723 outstanding IRs containing 9,978 audit observations involving Rs. 1,044.60 crore issued upto December 2006. The details of reports outstanding at the end of June for the years 2005 to 2007 are mentioned below:

Period	Number of outstanding IRs	Number of outstanding audit observations	(Rupees in crore)
			Amount involved
At the end of June 2005	1,638	9,659	382.14
At the end of June 2006	1,813	7,652	454.24
At the end of June 2007	1,723	9,978	1,044.60

Out of 1,723 pending IRs, even first replies have not been received (June 2007) for 293 IRs. Pendency of these reports was reported to the Government (July

2007).

Revenue head wise details of the outstanding IRs and audit observations as on 30 June 2007 are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Number of IRs	Number of audit observations	Amount
1.	Sales tax	838	7,537	185.68
2.	Taxes on agricultural income	24	152	3.98
3.	State excise	106	230	165.38
4.	Taxes on vehicles	44	303	1.03
5.	Land revenue	77	166	68.99
6.	State lotteries	13	29	32.00
7.	Forestry and wild life	254	724	584.00
8.	Stamp duty and registration fees	362	823	1.27
9.	Taxes and duties on electricity	5	14	2.27
Total		1,723	9,978	1,044.60

1.9 Departmental audit committee meetings

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs relating to departments of Commercial Taxes, Motor Vehicles, Registration, etc. The details of the audit committee meetings held during the year 2006-07 and the paragraphs settled are mentioned below:

(Rupees in crore)

Head of revenue	No. of meetings held	Number of paragraphs settled		Amount
Sales tax	4	Up to 2002-03	432	19.85
		2003-04	17	
		2004-05	42	
		2005-06	14	
		Total	505	
Taxes on vehicles	2	Upto 2002-03	54	0.39
		2003-04	94	
		2004-05	105	
		2005-06	69	
		Total	322	
Stamp duty and registration fees	4	Up to 2002-03	32	16.20
		2003-04	8	

Head of revenue	No. of meetings held	Number of paragraphs settled		Amount
		2004-05	51	
		2005-06	55	
		2006-07	26	
		Total	172	
State excise	1	Up to 2002-03	1	NIL
		2004-05	8	
		2005-06	2	
		Total	11	
Land revenue	3	Up to 2002-03	9	0.32
		2003-04	18	
		2004-05	28	
		2005-06	18	
		2006-07	5	
		Total	78	
Total	14		1,088	36.76

The department concerned had not convened audit committee meeting to discuss the IRs on revenue receipts relating to forestry and wildlife and taxes on agricultural income.

The Government did not constitute audit committee for the revenue head 'Taxes and duties on electricity'.

1.10 Response of the departments to draft audit paragraphs

Draft paragraphs/reviews proposed for inclusion in the Audit Report are forwarded by the AG to the Secretaries of the concerned departments through demi-official letters. According to the instructions issued in 1965 by the Government, all departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Eighty seven draft paragraphs clubbed into 26 paragraphs (including two reviews) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2007 were forwarded to the concerned Secretaries to the Government and copies endorsed to the concerned heads of the departments. However, the replies/response to 21 draft paragraphs (out of 87 paragraphs) have not been received (December 2007). In ten cases recoveries totalling Rs. 73.41 lakh have been made in full.

1.11 Follow-up on Audit Reports

Instructions issued by the Government from time to time for timely follow-up action on the Audit Reports and matters pertaining to the Committee on Public Accounts stipulate that it is imperative to submit action taken notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within three months from the date of presentation of the Audit Report to the legislature without waiting for any notice or call from the Committee on Public Accounts.

A review of the outstanding ATNs on paragraphs included in 11 Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1995 to 31 March 2005 disclosed that the departments had not submitted remedial ATNs on 35 paragraphs on which ATNs were due as on 31 December 2007.

Out of 465 audit paragraphs included in the above 11 Audit Reports, the departments submitted remedial ATNs on 428 paragraphs and none of these ATNs was furnished within the prescribed period of three months.

The Audit Report for the year ended 31 March 2006 was laid on the table of the legislature in March 2007. The departments had not submitted ATNs on 5 paragraphs included in the above Audit Report (December 2007) although the prescribed time period was over in June 2007. This indicates that the executive failed to take prompt action on the important issues highlighted in the Audit Reports that involved large sums of unrealised revenue.

1.12 Compliance with the earlier Audit Reports

In the Audit Reports 2001-02 to 2005-06, 546 cases of underassessments, non/short levy of taxes, loss of revenue, failure to raise demands, etc. were included involving Rs. 1,138.33 crore. Of these, as of December 2007, the departments concerned have accepted 282 cases involving Rs. 108.72 crore and recovered Rs. 6.91 crore in 59 cases. Audit Report wise details of cases accepted and recovered are as mentioned below:

(Rupees in crore)

Sl. No.	Year	No. of cases	Money value of Audit Reports	No. of cases	Money value of accepted cases	No. of cases	Amount recovered
1.	2001-02	167	454.15	64	17.52	9	1.03
2.	2002-03	150	468.78	61	20.69	8	1.48
3.	2003-04	101	130.68	63	39.11	9	1.03
4.	2004-05	64	55.49	64	27.08	7	0.64
5.	2005-06	64	29.23	30	4.32	26	2.73
Total		546	1,138.33	282	108.72	59	6.91

Chapter II
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CHAPTER II SALES TAX

2.1 Results of Audit

Test check of the sales tax assessments, refund cases and connected documents of the commercial tax offices conducted during the year 2006-07 revealed underassessment of turnover, non-levy of interest, grant of incorrect exemption, application of incorrect rate of tax etc., amounting to Rs. 309.17 crore in 1,004 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Grant of incorrect exemption	121	15.14
2.	Non/short levy of interest	234	5.26
3.	Turnover escaped assessment	156	4.66
4.	Application of incorrect rate of tax	170	2.29
5.	Incorrect grant of concessional rate of tax	38	1.96
6.	Grant of excess credit	9	0.82
7.	Other lapses	276	279.04
Total		1,004	309.17

During 2006-07, the department accepted underassessments and other deficiencies of Rs. 5.21 crore involved in 179 cases. Of these, 54 cases involving Rs. 1.14 crore were pointed out during 2006-07 and the rest in the earlier years. The department recovered Rs. 53 lakh involved in 108 cases during the year of which 23 cases involving Rs. 7 lakh pertained to 2006-07.

After the issue of draft paragraphs, the department recovered Rs. 61.36 lakh in full in eight cases out of which four cases involving Rs. 46.13 lakh were pointed out during 2006-07 and the rest in 2005-06.

A few illustrative cases involving Rs.12.54 crore are mentioned in the succeeding paragraphs.

2.2 Incorrect grant of exemption

Under the Kerala General Sales Tax Act, 1963 (KGST Act), in respect of manufactured goods other than tea which are sold under a trade mark or brand name, the sale by the brand name holder or the trade mark holder within the State shall be the first sale for the purpose of the Act. The tax payable shall be increased by an additional sales tax (AST) at the rate of 15 *per cent* of the tax payable from 23 July 2001.

2.2.1 Test check of the records of the commercial tax office (CTO), special circle, Kottayam revealed that a dealer (a medium and large scale industrial unit) was granted exemption from sales tax of Rs. 40.23 crore for nine years from 14 October 1995 for the manufacture and sale of portland pozzolana cement (PPC). The dealer had acquired the right to sell cement under the brand name "Sidhee Cement" through an agreement dated 12 June 2002 with a dealer of Gujarat and sold cement for Rs. 32.07 crore during 2004-05 under this brand name. Being the first sale in the State, the dealer was liable to pay tax for the sale of "Sidhee Cement", under the provisions of the Act. The assessing authority (AA) while finalising the assessment in February 2006 levied tax of Rs. 5.53 crore correctly but allowed incorrect adjustment of a part of tax of Rs. 2.67 crore towards the exemption available to the assessee for manufacture and sale of PPC.

After the case was pointed out to the department in July 2006 and reported to the Government in February 2007, the Government stated in December 2007 that the notification in SRO No.1729/93 granting the exemption did not contain any prohibition on beneficiary units using brand name of large and medium scale units. The reply is not tenable as the dealer had sold cement under a brand name, the liability to pay tax was on the brand name holder in accordance with the provisions of the Act and hence the adjustment of tax against the exemption available to the assessee was irregular.

2.2.2 Test check of the records of the CTO, fourth Circle, Thrissur revealed that an SSI¹ unit was granted exemption from sales tax of Rs. 1.16 crore for seven years from 10 December 2001 to 9 December 2008 for the manufacture and sale of plastic moulded furniture and injection moulded goods. The assessee was manufacturing and selling plastic moulded furniture under the brand name 'Cello' from 6 November 2001. The AA while finalising the assessment of the dealer for 2001-02 to 2003-04 between May and June 2005, levied tax and AST of Rs. 1.04 crore on a turnover of Rs. 11.72 crore and adjusted it against the exemption available to the assessee. Since the assessee was manufacturing and selling goods under the brand name, the exemption allowed was not in accordance with the provisions of the Act. This resulted in non-raising of demand of tax of Rs. 1.04 crore.

¹ Small scale industry

The matter was pointed out to the department in January 2007 and reported to the Government in June 2007; their reply has not been received (December 2007).

2.2.3 Test check of the records of the CTO, I Circle, Thalassery revealed that an assessee purchased paper and carbon in reels and converted it into computer forms by punching holes on both edges, inserting carbon paper and folding the same along with paper reels using machinery to make it suitable for use in the dot matrix printers as computer continuous stationery. He sold it in packets under the brand name 'sinex'. Hence, the turnover was assessable as first sale by brand name holder in the State. The AA, while finalising the assessment for the years 2003-04 and 2004-05 in December 2005, however, incorrectly exempted the turnover of Rs. 200.51 lakh treating it as second sale of paper. This resulted in short levy of tax of Rs.18.45 lakh including AST.

After the case was pointed out in June 2006, the department stated in September 2006 that as there was no manufacturing process, the exemption allowed was in order. The reply is not tenable as the item purchased and sold by the dealer was commercially a different commodity having a different use and it was sold under a brand name for exclusive use as computer stationery.

The matter was reported to the Government in November 2006; their reply has not been received (December 2007).

2.2.4 By a notification issued in December 1999, the Government exempted the purchase turnover of rubber effected by SSI units for use in the manufacture of rubber products within the State. As per the norms fixed by the Government of India (Ministry of Industry) an industrial unit would continue to enjoy the SSI status so long as the investment in plant and machinery does not exceed Rs. 3 crore. The Government clarified in March 2000 that if the AA finds the order of the DIC² as illegal, he can take up the matter with the latter for revision of the eligibility certificate (EC).

It was noticed that in CTO, special circle, Kottayam, an industrial unit engaged in the manufacture and sale of hawai chappals was registered as an SSI unit under the DIC. The AA, while finalising the assessments for the years 2002-03 and 2003-04 in December 2005, exempted the purchase turnover of rubber for Rs. 9.85 crore treating the unit as an SSI unit though the investment in plant and machinery exceeded the prescribed limit of Rs. 3 crore, during these years. Instead of referring back the matter to the DIC, the AA granted exemption which resulted in non-levy of tax of Rs. 67 lakh.

After the case was pointed out to the department in June 2006, the AA stated (July 2006) that at the time of assessment, the assessee was an SSI unit and till the unit was not declared as a medium and large scale unit by the competent authority, he could follow the directions in the order with him. The reply is not tenable, as the assessee crossed the limit on investment in plant

² District Industries Centre

and machinery during the relevant years and hence ceased to be eligible for the benefit of sales tax exemptions/concessions available to SSI units.

The matter was reported to the Government in February 2007; their reply has not been received (December 2007).

2.2.5 By the notifications issued in November 1993 and December 1999 under the KGST Act, turnover of sale of products of village industries and turnover of purchase of goods which are taxable at the last purchase point for use in the manufacture of products of village industries within the State by the recognised³ units are exempted from levy of tax. By this notification, the sale of goods manufactured within the State by any charitable institution is also exempted from levy of tax subject to the condition that its annual turnover does not exceed Rs. 10 lakh.

Further, by another notification issued under the KGST Act in November 1993, SSI units are exempted from the payment of sales tax on the turnover of sale of goods manufactured by them within the State. As per the notification, conversion of rubber latex into centrifuged latex shall not be deemed to be 'manufacture'. It has judicially been held⁴ that field latex and centrifuged latex are one and the same commodity for the purpose of taxation.

2.2.5.1 In CTO, Ponkunnam, while finalising the assessments for the years 1996-97 to 1999-2000 between March and April 2004 of an assessee, the AA exempted purchase/sales turnover of products manufactured by units either registered under SSI but not having the requisite EC or the products on which the exemption was granted were other than those recognised by the KVIB. Irregular grant of exemption resulted in short levy of tax of Rs. 51.68 lakh.

After the case was pointed out to the department in December 2005, the department stated (December 2005) that the assessee was a registered unit under SSI and KVIB and hence eligible for exemption from payment of tax for the sale of its products. The reply is not tenable as either the unit did not have EC though it was registered under SSI, or the products on which exemption was granted were other than those included in the recognition certificate issued by the KVIB.

The matter was reported to the Government in June 2007; their reply has not been received (December 2007).

2.2.5.2 It was noticed that in CTO, special circle, Kottayam, two SSI units engaged in the conversion of field latex into centrifuged latex were granted eligibility certificate by the DIC for exemption from payment of sales tax. The AA while finalising assessments for the years 2002-03 to 2004-05 between

³ The units recognised by the Kerala State Khadi and Village Industries Board (KVIB) and/or Khadi and Village Industries Commission are exempted from levy of tax subject to the condition that the exemption shall be for the period during which the industry remains a village industry as per the specification of the Board.

⁴ M/s. Kurian Abraham Pvt. Ltd. Vs. State of Kerala and others 12KTR 235(Ker)

July 2005 and March 2006, allowed exemption from payment of tax on the basis of the aforesaid EC instead of referring the matter back to the DIC. This resulted in non-demand of tax of Rs. 46.96 lakh.

After the case was pointed out to the department in May / June 2006, the AA stated (between May 2006 and June 2006) that the exemption was allowed by the Industries Department and he was bound to follow the direction of higher authorities in granting exemption. The reply is not tenable as the assesseees were not entitled to the exemption as per the conditions of the notification. The AA therefore should have referred the case to the DIC for revision of the EC.

The matter was reported to the Government in January /February 2007; their reply has not been received (December 2007).

2.2.5.3 In CTO, special circle, Thrissur, while finalising the assessment for the year 2004-05 in July 2005, the AA incorrectly computed the total tax deferred from 1995-96 to 2004-05 as Rs. 1.41 crore instead of Rs. 1.70 crore. This resulted in the short demand Rs. 28.73 lakh.

The case was pointed out to the department in September 2006 and reported to the Government in March 2007; their reply has not been received (December 2007).

2.2.6 Under entry 106 (ii), of the first schedule to the KGST Act, read with a notification, issued in March 2001, the sales turnover of note book is taxable at the rate of four *per cent* with effect from 1 January 2000. As per the explanation below the above mentioned entry, tax, if any, paid on the purchase of paper out of which such note book is manufactured shall be deducted. The CCT⁵ clarified in May 2005 that the question of set off as per the explanation to the said entry does not arise. The clarification of the CCT was not in conformity with the provisions of the Act.

In CTO, Kunnankulam, while finalising the assessments of four assesseees engaged in the business of paper, note book, stationery etc., for the years 2000-01 and 2001-02 between July 2005 and December 2005, the entire sales turnover of note book for Rs. 5.15 crore with tax effect of Rs. 21.03 lakh was incorrectly exempted from levy of tax though tax due on the purchase turnover of paper (Rs.4.19 crore) out of which note books were manufactured was Rs. 17.09 lakh only. This resulted in short levy of tax of Rs. 3.94 lakh.

After the case was pointed out in January 2007, and reported to the Government in June 2007, the Government stated in October 2007 that exemption was allowed keeping in view the judicial pronouncement⁶ and clarification of May 2005 issued by the CCT. The reply is not tenable in view

⁵ Commissioner of Commercial Taxes

⁶ Kunnankulam Book Co. Vs. State of Kerala 9 KTR 400

of the specific entry in the KGST Act, and the fact that the explanation was inserted with effect from 1 January 2000 and the judicial pronouncement related to assessments for the years 1985-86 to 1988-89.

2.2.7 Under entry 92 of the first schedule to the KGST Act, milk products are assessable to tax at the rate of 12 *per cent* at the point of first sale in the State. It has been judicially held⁷ that Amul Tazza milk is not merely pasteurized or toned milk but after pasteurization it is subjected to ultra high temperature for increasing shelf life besides adding vitamins and hence it is taxable as milk product.

In CTO, special circle I, Ernakulam, it was noticed that while finalising the assessment of a dealer for the year 2000-01 in March 2005, turnover of Rs. 17.30 lakh relating to the sale of Nestle milk sold in tetra pack container having a shelf life of 120 days was exempted from levy of tax, instead of being assessed as milk product. This resulted in non-levy of tax of Rs. 2.08 lakh.

After the case was pointed out in December 2005, the department stated in May 2006 that notice has been issued to the assessee in February 2006. Further reply has not been received (December 2007).

The matter was reported to the Government in August 2006; their reply has not been received (December 2007).

2.3 Non/short levy of interest

2.3.1 Under the KGST Act, where any dealer has failed to include any turnover in any return filed by him or any turnover has escaped assessment, interest shall accrue on the tax due on such turnover with effect from such date on which the tax would have fallen due for payment had the dealer included it in the return relating to the period to which such turnover related. The interest payable shall be at the rate of one *per cent* per month for the first three months and at the rate of two *per cent* per month for the subsequent months of delay upto 31 March 2005 and at the rate of one *per cent* per month thereafter. It has judicially⁸ been held by the apex court that where the dealer has not filed the prescribed return of his turnover, the case is clearly one of "escaped assessment".

2.3.1.1 In seven CTOs⁹ while finalising the assessments of nine dealers for the years 1998-99 to 2003-04 between October 2004 and February 2006, though the AAs levied tax on the suppressed turnover, they failed to levy interest on the tax due on these turnover. This resulted in non-levy of interest of Rs. 91.86 lakh.

⁷ M/s. Gujarat Co-operative Milk Marketing Federation Vs. the State of Kerala 13 KTR 184

⁸ Malwa Vanaspati and Chemical Co. Ltd. Vs. Regional AC of Sales Tax, Indore 21 STC 431 (Supreme Court)

⁹ CTO Special Circles Alappuzha, Kollam and Tirur, CTOs Angamaly, Cherthala, Perumbavur and IV Circle Thrissur

After the cases were pointed out to the department between May 2005 and February 2007 and reported to the Government between November 2006 and May 2007, the department stated (between May 2005 and February 2007) that the dealers at fourth circle Thrissur and Angamaly were liable to pay interest from the date of demand notice only. In respect of the remaining cases, the Government stated between July 2007 and December 2007 that interest of Rs.75.90 lakh has been demanded in six cases and in the case of a dealer at Cherthala, interest was not leviable as he had not admitted the suppressed turnover. The replies, relating to the cases in which interest was not demanded are not tenable as the suppressions were detected either by the intelligence wing or by the AAs and proved. Hence, the assesseees were liable to levy of interest in view of the specific provision of Section 23(3A) of the KGST Act.

2.3.1.2 In two CTOs¹⁰ while finalising the assessments of four dealers who had not filed returns for the years 1998-99 to 2001-02, between December 2005 and March 2006, though the AAs levied tax on the suppressed turnover, failed to levy interest of Rs. 65.56 lakh on the tax due on these turnover.

After the cases were pointed out to the department between December 2005 and July 2006 and reported to the Government between November 2006 and April 2007; the Government stated in September 2007 that interest was demanded in two cases. The department stated in the other cases that as the assesseees did not file returns, the element of interest does not arise. The reply is not tenable in view of the specific provision of the Act and the judicial pronouncement.

2.3.2 Under the KGST Act, if tax or any amount assessed or due under the Act is not paid by any dealer within the time prescribed in the Act or any rules made thereunder or within the time specified in the notice of demand, the dealer shall pay by way of interest a sum equal to one *per cent* of such amount for each month for the first three months of delay and two *per cent* for each month up to 31 March 2005 and at the rate of one *per cent* per month thereafter.

2.3.2.1 In CTO, special circle, Kottayam, while finalising the provisional assessment of a dealer for the year 2002-03, the AA did not consider the purchase tax on old gold payable during 2001-02. Thus, the compounded tax payable by the dealer was incorrectly worked out as Rs.1.43 crore against the tax payable of Rs.1.79 crore. This resulted in loss of interest of Rs.20.83 lakh due on the differential tax of Rs.36.55 lakh.

After the case was pointed out to the department in July 2006, the AA stated in October 2006 that the assessee had filed returns by self assessment and paid tax accordingly. The reply is not tenable as the AA has incorrectly fixed the tax payable in the provisional assessment resulting in short remittance of tax.

The matter was reported to the Government in April 2007; their reply has not been received (December 2007)

¹⁰ CTOs II Circle Kalamassery and (WC & LT), Kottayam.

2.3.2.2 In the CTO, special circle, Thiruvananthapuram and CTO Kothamangalam, two dealers either failed to remit the admitted tax in full or did not pay the tax due in time. The AAs while finalising the assessments for the years 1999-2000 and 2002-03 between March 2004 and April 2005 failed to levy interest for the above omissions. This resulted in the non-levy of interest of Rs.9.19 lakh.

After the cases were pointed out to the department between May and December 2006 and reported to the Government between April and June 2007, the Government stated in August 2007 that interest of Rs.6.61 lakh was demanded in June/July 2007 in the case of a dealer at special circle, Thiruvananthapuram. Reply has not been received in the other case (December 2007).

2.4 Incorrect computation of tax

The KGST Rules, 1963 and the instructions issued in February 1992 by the erstwhile Board of Revenue (Taxes) lay down departmental procedures for verifying and checking of all calculations and credits given in an assessment order.

2.4.1 Under entry 9 of schedule II to the KGST Act, rice is taxable at one *per cent* at the point of first sale in the State. It has judicially¹¹ been held that SSI units are not entitled to exemption on purchase tax under the KGST Act. It has also been judicially¹² held that rice and paddy are two distinct commodities.

During the course of audit it was noticed that in six cases mistakes in computation of tax resulted in non/short levy of tax of Rs. 86.93 lakh and interest of Rs. 62.94 lakh. A few illustrative cases are given below:

(Rupees in lakh)					
Sl. No.	Name of the Office No. of cases	Assessment year/ Month of assessment	Nature of irregularity	Amount of non/short levy	Remarks
1.	CTO, special circle I, Kozhikode 1	2000-01 December 2005	While finalising the assessment of a dealer, engaged in the business of sandal wood oil, the AA incorrectly computed tax at 20 <i>per cent</i> on Rs. 3.33 crore as Rs. 6.65 lakh instead of Rs. 66.54 lakh. Interest was also due on the differential tax.	59.89 (tax) 60.55 (interest)	After the cases were pointed out to the department between October 2005 and November 2006 and reported to the Government between March and April 2007, the Government stated between August and September 2007 that

¹¹ State of Kerala Vs. M/s Vattukalam Chemical Industries 10 KTR 69(SC)

¹² Raja provision Stores Vs. Appellate Tribunal (Sales Tax) Thiruvananthapuram 105 STC 325(SC)

(Rupees in lakh)					
Sl. No.	Name of the Office No. of cases	Assessment year/ Month of assessment	Nature of irregularity	Amount of non/short levy	Remarks
2.	CTO, Neyyattinkara 1	2000-01 November 2005	While finalising the assessment of a dealer in rice, the balance tax was incorrectly computed as Rs. 1.45 lakh instead of Rs. 14.52 lakh.	13.07 (tax)	mistakes were rectified in two cases by revising the assessments. Reply has not been received from the Government in one case in which the AA rectified the mistake and issued fresh demand notice for balance tax with interest. Further report has not been received (December 2007).
3.	CTO, special circle III, Ernakulam 1	2001-02 February 2006	While finalising the assessment of a dealer, tax and AST due on Rs. 1.91 crore was incorrectly computed as Rs. 13.90 lakh against Rs. 17.06 lakh.	3.16 (tax) 2.39 (interest)	

2.4.2 In CTO, special circle, Kottayam, while finalising the CST assessment of a dealer for the year 2000-01 in January 2006, credit of Rs. 45 lakh was afforded for the remittance made vide challan dated 2 September 2001, based on entries made in collection register, though the same amount was credited in the GST assessment of the assessee for the year 2000-01 based on the triplicate copy of the challan. This resulted in affording double credit to the assessee and short demand of Rs. 45 lakh.

After the case was pointed out to the department in June 2006 and reported to the Government in January 2007; the Government stated in September 2007 that the AA rectified the mistake in February 2007. A report on recovery has not been received (December 2007).

2.5 Underassessment of turnover

2.5.1 Under the KGST Act, taxable turnover means the turnover on which a dealer shall be liable to pay tax, after making the prescribed deductions from the gross turnover. Further, the AA shall assess the dealer to the best of his judgment, after making such enquiry as it may consider necessary and after taking into account all the relevant materials gathered by him. The Act also provides that every dealer, who purchases without payment of tax, any taxable goods and consumes such goods in the manufacture of other goods for sale, shall pay tax on the turnover relating to such purchase.

In five offices¹³ it was noticed that the AAs while finalising the assessments for the period from 2001-02 to 2003-04 between August 2003 and January 2006 failed to consider taxable turnover of Rs.7.94 crore resulting in short levy of tax of Rs. 56.26 lakh including AST, in seven cases. A few illustrative cases are mentioned below:

¹³ CTO Special Circles Kannur and Kollam, CTOs Angamaly, Pathanamthitta and Agriculture Income Tax (AIT) & CTO Alappuzha.

Audit Report (Revenue Receipts) for the year ended 31 March 2007.

(Rupees in lakh)						
Sl No	Name of Office No. of cases	Assessment year Month/year of assessment	Nature of irregularity	Turnover assessable assessed short assessment	Tax short levied (including AST)	Remarks
1.	Office of the Inspecting Assistant Commissioner, Pathanamthitta 1	2002-03 September 2005	The AA failed to consider and include the differential turnover of spirit of Rs. 1.39 crore as per the annual accounts/reports and returns submitted by the dealer.	219 80 139	32.06	After the case was pointed out to the department in August 2006 and reported to the Government in April 2007; the Government stated in August 2007 that the assessment was revised creating an additional demand. Further report on recovery has not been received (December 2007).
2.	CTO Special circle Kannur 1	2001-02 May 2005	The AA failed to consider and include taxable turnover of Rs. 84.33 lakh returned by the dealer in the monthly return but not included in the annual return.	183.87 99.54 84.33	9.67	After the matter was pointed out to the department in August 2006 and reported to the Government in June 2007, the Government stated in September 2007 that the assessment was revised in October 2006 and the amount with interest was recommended for revenue recovery in January 2007. A report on recovery has not been received (December 2007).
3.	CTO Angamaly 2	2002-03 and 2003-04 (between February and May 2005)	While finalising/modifying the assessments of two SSI units, the AAs failed to consider and include the purchase turnover of paddy effected from the co-operative societies without paying tax and used for production of rice.	2,801.97 2,297.32 504.65	5.69	After the matter was pointed out to the department between January 2006 and February 2007 and reported to the Government between January and May 2007, the Government stated in July/August 2007 that assessments were revised between August 2006 and March 2007 and demand of Rs. 5.69 lakh was raised. A report on recovery has not been received (December 2007).

2.5.2 Under Section 59(4) of the KGST Act, goods which were liable to tax at the point of last purchase in the State and are held as closing stock on the date preceding the date of coming into force of the Kerala Value Added Tax (KVAT) Act, 2003, shall be deemed to have acquired the quality of last purchase in the State on such date and tax is to be levied at the rate of four *per cent*.

In CTO, special circle, Kottayam, an assessee engaged in the business of conversion of field latex into centrifuged latex, had a closing stock of latex of Rs. 1.04 crore on 31 March 2005. The AA while finalising the assessment for 2004-05 in March 2006, failed to assess the turnover of closing stock, which resulted in short levy of tax of Rs. 4.17 lakh.

After the matter was pointed out to the department in June 2006 and reported to the Government in January 2007, the Government stated in August 2007 that the assessment was reopened and tax demanded in March 2007. A report on recovery has not been received (December 2007).

2.6 Incorrect computation of compounded tax and interest

Under the provisions of the KGST Act, any dealer in gold or silver ornaments or wares may at his option, pay tax for 2001-02 at 120 *per cent*, for 2002-03 and 2003-04 at 200 *per cent* of the tax payable by him as conceded in the return or accounts for the immediate preceding year or the tax paid for immediate preceding year whichever is higher. The rate applicable for 2004-05 is 130 *per cent* as conceded in the return or accounts or the tax paid for the previous three consecutive years whichever is higher. As per the explanation below the provision, tax payable for the preceding year shall mean tax payable on the sales turnover under Section 5(1) and tax payable on the purchase turnover assessable under Section 5A of the Act. It has judicially¹⁴ been held that an assessee is not entitled to exemption in respect of tax payable at the compounded rate on the purchase tax component of the compounded tax paid for the previous year. The CCT clarified in October 1998 that while computing tax payable by any dealer who has opted for payment of compounded tax, purchase turnover of the preceding year under Section 5A is exempted. The clarification of the CCT was, however, not in conformity with provisions of the KGST Act.

2.6.1 In three CTOs¹⁵, while finalising, between January 2004 and October 2005, the assessments of three dealers of gold who had opted for compounded system for the years between 2000-01 and 2003-04, the AAs incorrectly computed the tax payable without considering the purchase turnover of old gold assessable under Section 5A of the Act, for the immediate preceding year. This resulted in short levy of tax of Rs. 54.83 lakh besides interest of Rs. 17.20 lakh.

After the cases were pointed out to the department between June and November 2006 and reported to the Government in March and April 2007, the Government stated between July and December 2007 in the cases of dealers of Ernakulam and Nedumangad that as per the circular of CCT of October 1998 tax payable would not include tax under Section 5A. The reply is not tenable

¹⁴ Prakash Jewellery and another Vs. State of Kerala 12KTR 543(Ker)

¹⁵ CTO Special Circle I Ernakulam, Special Circle Kottayam and CTO Nedumangad

in view of the fact that the circular of 1998 was not in conformity with the provisions of the Act. In the case of the dealer of Kottayam, the department stated in October 2006 that the revision of final assessment was in progress. Further report has not been received (December 2007).

2.6.2 In CTO, Koothuparamba, while finalising the assessments of two dealers for 2004-05 in March 2006, the AA failed to consider the highest amount of tax assessed for the previous three years for computing the tax at the compounded rate. This resulted in short levy of tax of Rs. 2.04 lakh.

After the matter was pointed out to the department in July 2006 and reported to the Government in December 2006, the Government stated in June 2007 that as the words used in the section are 'tax payable' and 'tax paid' there was no illegality or impropriety in the assessment. The reply is not tenable as tax assessed in previous year would have been paid had effective steps taken for realisation. Further report has not been received (December 2007).

2.7 Application of incorrect rate of tax

Under the KGST Act, rate of tax depends on the nature of sale, point of sale and also on the kind of commodity. As per explanation to entry 64 of first schedule to the KGST Act, even slotted angles when assembled to form furniture or rack shall be deemed to be furniture for the purpose of the entry. Moreover, as per Webster's Encyclopedia even cabinet would also form part of furniture.

In seven offices¹⁶, it was noticed that while finalising the assessments between January 2002 and December 2005, the AAs short levied tax and additional sales tax of Rs. 65.51 lakh in 11 cases due to application of incorrect rate of tax. A few illustrative cases are mentioned below:

(Rupees in lakh)							
Sl. No.	Name of Office/ No. of cases	Commodity	Assessment year/ Month of assessment	Rate applicable applied	Turn-over	Tax short levied including AST	Remarks
1.	CTO, Angamaly I	Veneer	1999-2000 March 2004	12/12.5 10	666.00	11.42	After the matter was pointed out to the department in February 2005 and reported to the Government in May 2007, the Government stated in August 2007 that tax was demanded and RR action initiated. Further report has not been received (December 2007).

¹⁶ CTO Special circles I Kozhikode, II Ernakulam, CTOs Angamaly, II Circle Trivandrum, II Circle Palakkad, WC & LT Kottayam & Malappuram.

(Rupees in lakh)

Sl. No.	Name of Office/ No. of cases	Commodity	Assessment year/ Month of assessment	Rate applicable applied	Turn-over	Tax short levied including AST	Remarks
2.	CTO, Special Circle II, <u>Ernakulam</u> 2	Diamond Jewellery	<u>2003-04</u> December 2004	$\frac{8}{4}$	252.00	11.22 ¹⁷	After the matter was pointed out to the department in December 2005 and reported to the Government in August 2006; their reply has not been received (December 2007).
		Water Filters	<u>2000-01</u> November 2004	$\frac{12}{8}$	275.00	11.00	After the matter was pointed out to the department in December 2005 and reported to the Government in August 2006, the Government stated in August 2007 that water filter was taxable as electrical goods in view of the direction of Sales Tax Appellate Tribunal in respect of an assessment for the year 1993-94. The reply is not tenable in view of the specific entry for water filter at serial number 116 of the first Schedule.
3.	CTO, Special Circle I <u>Kozhikode</u> 1	Safe and allied products	<u>2001-02</u> November 2005	$\frac{12}{8}$	192.00	8.41 ¹⁸	After the matter was pointed out to the department in November 2005 and reported to the Government in March 2007; the Government stated in September 2007 that the goods sold by the dealer were security products to suit the specification of RBI for use in banks and were never used as furniture. The reply is not tenable in view of the explanation under the entry 'furniture' in the schedule as well as in Webster's encyclopedia.
4.	CTO, Second Circle, <u>Palakkad</u> 1	Stainless steel household utensils	2003-04 and <u>2004-05</u> Between April and November 2005	$\frac{12}{8}$	99.30	4.50 ¹⁹	After the matter was pointed out to the department in January 2007 and reported to the Government in April 2007, the Government stated in June 2007 that the assessments were revised in March 2007 creating additional demand of Rs. 4.50 lakh. Further report has not been received (December 2007).

¹⁷ Tax Rs.10,08,100 plus AST Rs.1,13,411 at the rate of 15 per cent from 1 July 2003 to 31 March 2004

¹⁸ Tax Rs.7,67,086 plus AST Rs.73,455 at the rate of 15 per cent from 23 July 2001 to 31 March 2002.

¹⁹ Tax Rs.3,97,209 plus AST Rs.52,386 at the rate of 15 per cent from 1 July 2003 to 31 March 2004/2005.

2.8 Loss due to non-issue of modified order and RRC

Under the provisions of KGST Act, any tax assessed or any other amount due under the Act from a dealer or other person may be recovered as if it were an arrear of land revenue.

In CTO, special circle I, Ernakulam a penalty of Rs. 76.20 lakh was imposed in March 2001 for misuse of 'F' forms and 'C' forms by a dealer during 1996-97 and the amount was advised for revenue recovery in June 2001. In a revision petition filed by the assessee, the revisional authority stayed the collection of penalty, in July 2001, till the disposal of the petition on condition of remittance of Rs. 38 lakh in cash and furnishing of security for the balance within three weeks. The assessee paid the amount of Rs. 38 lakh in August 2001 but security for the balance amount was not furnished. Without obtaining the security, the revenue recovery certificate (RRC) was withdrawn by the AA. While disposing the revision petition in November 2001 the revisional authority reduced the penalty to Rs. 66.20 lakh. Incorrect action of withdrawing the RRC without obtaining security resulted in non-realisation of penalty of Rs. 28.20 lakh and interest of Rs. 31.57 lakh.

After the case was pointed out in October 2006, the department stated in May 2007 that modified order giving effect to the direction of the revisional authority had been issued in February 2007. Further report has not been received (December 2007).

The matter was reported to the Government in January 2007; their reply has not been received (December 2007).

2.9 Incorrect grant of concessional rate of tax

Under the KGST Act, tax payable on sale of industrial raw material which are liable to tax at a rate higher than three *per cent* when sold to industrial units for use in the production of finished goods inside the State for sale shall be at the rate of three *per cent* provided the purchasing dealer issues valid declaration in form 18. Timber is taxable at the rate of 12 *per cent* under entry 8 of the fifth schedule to the KGST Act.

Scrutiny of the records of CTO, Thirurangadi revealed that a dealer had sold timber for Rs. 23.46 lakh against declaration in form 18 to a dealer under CTO, Perumbavur. The RC²⁰ of the dealer at Perumbavur was cancelled with effect from 31.12.2002 and the information was available in the file of the dealer at Thirurangadi. While finalising the assessment for 2003-04 in February 2005 of the dealer at Thirurangadi, the AA instead of declaring the said form 18 declaration as invalid, incorrectly accepted it and allowed

²⁰ Registration certificate

concessional rate of three *per cent*. This resulted in short levy of tax of Rs. 2.43 lakh.

After the matter was pointed out to the department in October 2005 and reported to the Government in March 2007; the Government stated in June 2007 that the assessment was revised and the assessee has filed an appeal against the revised assessment before Deputy Commissioner (Appeals), Ernakulam in June 2007. Further report has not been received (December 2007).

2.10 Non-levy of penalty

Under the KGST Act, the AA shall finalise the assessment of certain specified category of dealers without detailed scrutiny. On reopening such assessment, if the tax paid by the dealer is less than the amount of tax he is liable to pay, the AA shall impose penalty at thrice the amount of such difference.

In CTO, Thaliparamba, while reopening the assessment of a dealer for 2002-03 in December 2005, penalty at thrice the amount of difference between the original and revised amount of tax was not levied. This resulted in non-levy of penalty of Rs. 4.75 lakh.

After the matter was pointed out to the department in April 2006 and reported to the Government in May 2007; the Government stated in July 2007 that penalty had been imposed and the whole amount had been advised for revenue recovery. A report on recovery has not been received (December 2007).

2.11 Incorrect compounding

Under entry 84(i) of the first schedule to the KGST Act, diesel generating sets are taxable at the rate of 12 *per cent* at the point of first sale in the State. It has judicially been held²¹ that in the case of divisible contract, the price payable for supply of material is distinct from the consideration payable for installation, commissioning and maintenance.

In CTO, special circle II, Ernakulam while finalising the assessment of a contractor and dealer in generator and pump sets for the year 2001-02 in February 2006, the entire contract amount of Rs. 97.17 lakh for supply and erection of diesel generating sets in respect of six contracts was assessed at the compounded rate of five *per cent* applicable to works contract. Though each of these contracts was clearly divisible into two, one for supply of generating set and another for its erection, failure on the part of the AA to assess the turnover of Rs. 86.53 lakh relating to supply portion of the contract

²¹ State of Tamil Nadu Vs. Titanium Equipments and Anode Manufacturing Corporation Ltd.-
110 STC 43 (Madras)

at the rate of 12 *per cent*, treating as sale, resulted in short levy of tax and AST of Rs. 6.77²² lakh.

After the matter was pointed out to the department in December 2006 and reported to the Government in May 2007, the Government stated in September 2007 that the contracts were composite in nature involving transfer of goods and transfer of service which could not be separated. The reply is not tenable as it was noticed from the agreements that the contracts were for supply and delivery of generators with accessories and components at the agreed price and for mechanical erection of generators at a separate agreed erection price. Hence these contracts were divisible into supply and erection contracts. Further report has not been received (December 2007).

2.12 Omission to include interest in RRC

In CTO, Chengannur, while finalising the assessment of a dealer for the year 2001-02 in December 2004, though interest of Rs. 5.61 lakh due upto the date of assessment was worked out and demanded, the AA failed to include the amount of interest in the RRC issued in July 2005. This resulted in short demand of interest of Rs. 5.61 lakh in the RRC.

After the case was pointed out to the department in July 2006 and reported to the Government in April 2007; the Government stated in June 2007 that the original RRC issued in July 2005 was returned by the District Collector with the remarks that the dealer had left India. Further report has not been received (December 2007).

2.13 Short levy of surcharge

Under section 3(1) of the Kerala Surcharge on Taxes Act, 1957, the tax payable under the KGST Act, shall be increased by a surcharge at the rate of 10 *per cent* of the tax payable for the period upto 31 December 1999.

In CTO, special circle, Kottayam, while finalising the assessment of a dealer in coffee for the year 1999-2000, surcharge of Rs.32,000 was levied against the correct amount of Rs. 2.38 lakh. This resulted in short levy of surcharge of Rs. 2.06 lakh.

After the case was pointed out to the department in June 2006 and reported to the Government in January 2007, the Government stated in November 2007 that the mistake was rectified by re-opening the assessment. A report on recovery has not been received (December 2007).

²² Tax Rs. 6,05,717 plus AST Rs.71,543 at the rate of 15 *per cent* from 23 July 2001 on Rs. 4,76,956

Chapter III
Taxes on Agricultural
Income

Chapter III
Taxes on Agricultural
Income

CHAPTER III TAXES ON AGRICULTURAL INCOME

3.1 Results of audit

Test check of the records of the agricultural income tax offices conducted during 2006-07 revealed underassessment of tax amounting to Rs. 4.61 crore in 50 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Inadmissible expenses allowed	14	1.56
2.	Incorrect computation of income	3	0.74
3.	Other lapses	33	2.31
Total		50	4.61

During 2006-07, the department accepted underassessment and other deficiencies of Rs. 97.67 lakh involved in 26 cases of which 16 cases involving Rs. 83.25 lakh were pointed out during 2006-07 and the rest in the earlier years. The department recovered Rs. 1.10 lakh in seven cases pertaining to the earlier years.

After the issue of draft paragraphs, the department recovered Rs. 12.05 lakh in two cases pointed out during 2004-05.

A few illustrative cases involving Rs. 74.68 lakh are mentioned in the succeeding paragraphs.

3.2 Short levy of tax due to incorrect carry forward of loss

Under the Kerala Agricultural Income Tax Act, 1991 (KAIT Act), where any person sustains a loss as a result of computation of agricultural income in any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year. If the loss cannot be wholly set off, the amount of loss not so set off shall be carried forward to the following year and so on, but no loss shall be carried forward to more than eight years.

In commercial tax office, special circle, Kollam while finalising the assessment of a domestic company, for the year 2003-04 in December 2005, the loss to be carried forward for the previous year 2002-03, was incorrectly taken as Rs. 1.51 crore instead of Rs. 66.33 lakh. The excess adjustment of loss resulted in understatement of income of Rs. 84.57 lakh and consequent short levy of tax of Rs. 50.74 lakh.

After the case was pointed out in July 2006, the assessing authority revised the assessment in July 2006, creating an additional demand of Rs. 50.74 lakh. A report on recovery has not been received (December 2007).

The matter was reported to the Government in January 2007; their reply has not been received (December 2007).

3.3 Short levy due to grant of inadmissible deduction

3.3.1 Under the KAIT Act, in computing agricultural income, any interest paid in the previous year or any amount borrowed and actually spent on any capital expenditure incurred for the benefit of land from which agricultural income is derived is an allowable deduction. It has judicially been held¹ that when the unpaid interest is capitalised, it would not amount to payment of interest and hence is not eligible for exemption.

In the office of the Inspecting Assistant Commissioner (Special), Ernakulam, while computing the agricultural income of a domestic company for the year 2000-01 in December 2002, which was revised in February 2004, the assessing authority allowed deduction of Rs. 21.98 lakh towards interest accrued and due on term loan which was capitalised under "secured loans". Unpaid interest capitalised was not an admissible deduction under the Act. The grant of inadmissible deduction resulted in short levy of tax of Rs. 13.19 lakh.

After the case was pointed out to the department in August 2004 and reported to the Government in February 2005, the Government stated in April 2007 that the assessment was revised in January 2007 and tax on capitalised amount of unpaid interest of Rs. 21.98 lakh was levied. A report on recovery has not been received (December 2007).

3.3.2 Under the KAIT Act, the agricultural income of a person shall be computed after making deductions specified therein. Payment of production incentive is not an allowable deduction.

¹ Sulaiman Rawther Vs. State of Kerala -KLJ (Tax Cases)8

In the office of the Assistant Commissioner (Assessment), special circle, Kottayam, while finalising the assessment of a domestic company for 2003-04 in December 2005, payment of production incentive amounting to Rs. 10.92 lakh was also deducted from the total income to determine the taxable income. The inadmissible deduction resulted in short levy of tax of Rs. 6.55 lakh.

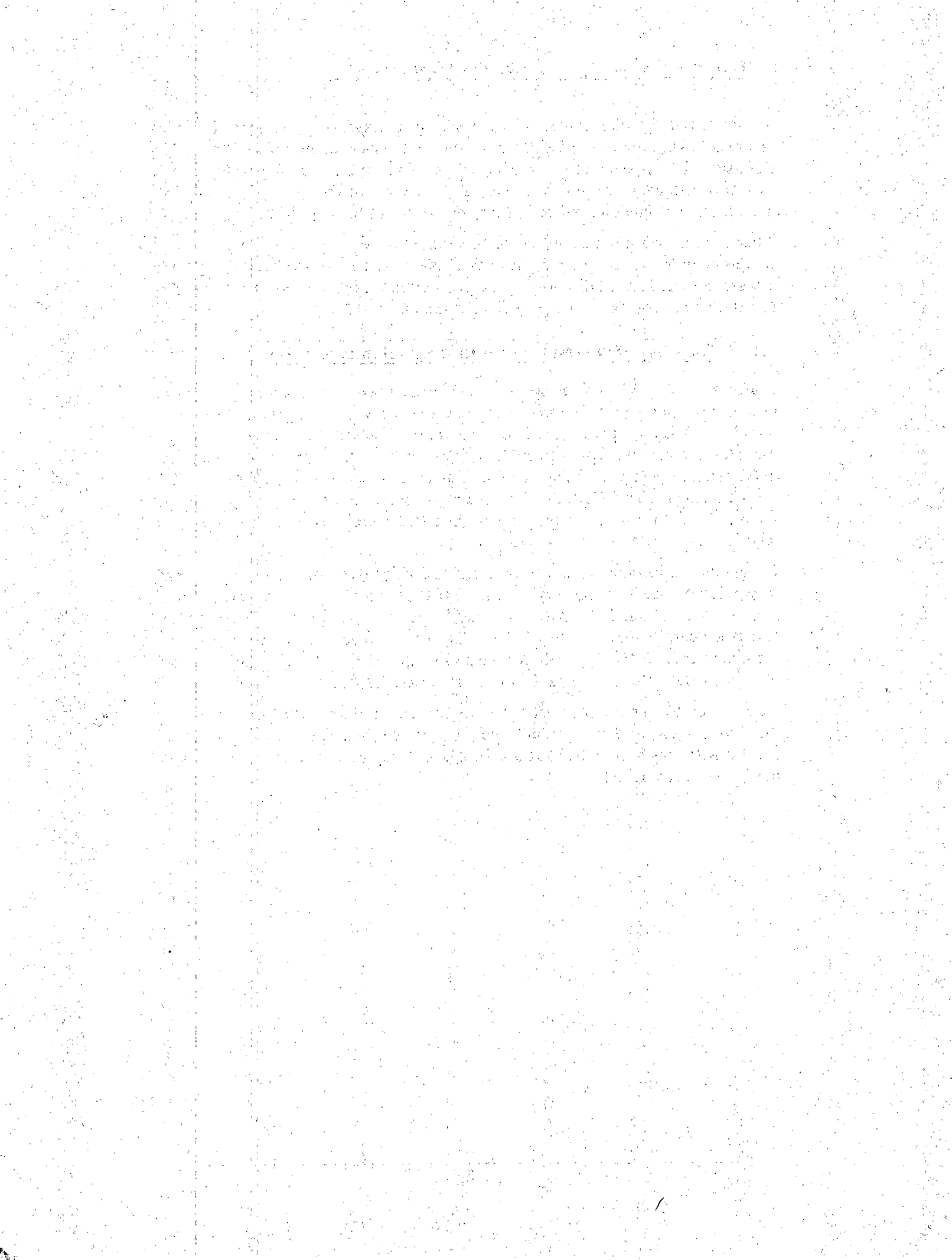
After the case was pointed out to the department in July 2006 and reported to the Government in January 2007, the Government stated in April 2007 that the assessment was revised disallowing the production incentive of Rs. 10.92 lakh. A report on recovery has not been received (December 2007).

3.4 Non- levy of interest in requisition for revenue recovery

Under the KAIT Act, any person who fails to pay tax in pursuance of a demand notice, shall pay simple interest at the rate of 15 *per cent* per annum for every month of delay or part thereof, on the unpaid balance tax. The Act further provides that the assessing officer may forward to the Collector a certificate under his signature, specifying the arrears due from an assessee who has not remitted the tax demanded. The Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as if it were arrears of land revenue.

In agricultural income tax and commercial tax office Nedumkandam, the AA had forwarded the revenue recovery certificate (RRC) to the Collector for recovery of arrears of tax of Rs. 2.49 lakh relating to the period from 1980-81 to 1990-91 of two assesseees, in June and July 2003. The AA, however, failed to compute and include interest of Rs. 4.20 lakh for the period up to June 2003 due on the unpaid tax. This resulted in non-demand of interest of Rs. 4.20 lakh.

After the cases were pointed out to the department in March 2006 and reported to the Government in January 2007, the Government stated in August 2007 that revised RRC has been issued in both the cases. A report on recovery has not been received (December 2007).



Chapter IV
Land Revenue and
Building Tax

Chapter IV
Land Revenue and
Building Tax

CHAPTER IV

LAND REVENUE AND BUILDING TAX

4.1 Results of audit

Test check of the records of the offices of the Land Revenue Department conducted during 2006-07 revealed underassessment of tax and loss of revenue amounting to Rs. 3.23 crore in 91 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Underassessment and loss under other items	22	2.08
2.	Underassessment and loss under building tax	69	1.15
Total		91	3.23

During 2006-07, the department accepted underassessment of Rs. 38.78 lakh involved in 28 cases pointed out in the earlier years. The department recovered Rs. 25.20 lakh in 28 cases pointed out in the earlier years.

A few illustrative cases involving Rs. 19.51 lakh are mentioned in the succeeding paragraphs.

4.2 Non-levy of luxury tax on residential buildings

Under the Kerala Building Tax Act, 1975 (KBT Act), luxury tax at the rate of Rs. 2,000 per annum is leviable on all residential buildings having plinth area of 278.7 sq. m. or more and completed on or after 1 April 1999. The tax shall be paid in advance on or before 31 March every year. *Taluk tahsildars* are the assessing authority for luxury tax.

In 10 *taluk offices*¹, luxury tax was not demanded on 399 residential buildings with plinth area exceeding 278.7 sq. m. and completed after June 1999. This resulted in non-demand/recovery of luxury tax of Rs. 14.56 lakh pertaining to the period between April 2001 and March 2007.

After the cases were pointed out between January and October 2006, the department stated between June 2006 and July 2007 that tax totalling Rs. 10.71 lakh had been realised in 312 cases and appeals/revision are pending in 35 cases. Reply in remaining cases has not been received (December 2007).

The matter was reported to the Government in May 2007; their reply has not been received (December 2007).

4.3 Underassessment of building tax

Under the KBT Act, building tax based on the plinth area, at the rate specified in the schedule to the Act, is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeded 100 sq. m. in the case of residential buildings and 50 sq. m. in the case of other buildings. The Act provides for tax exemption to buildings used principally for religious, charitable or educational purposes or as factory or workshop, but does not provide for exemption to a portion of the building. Separate rates have been specified for buildings situated in *panchayats*, special grade *panchayats*/municipalities and corporations.

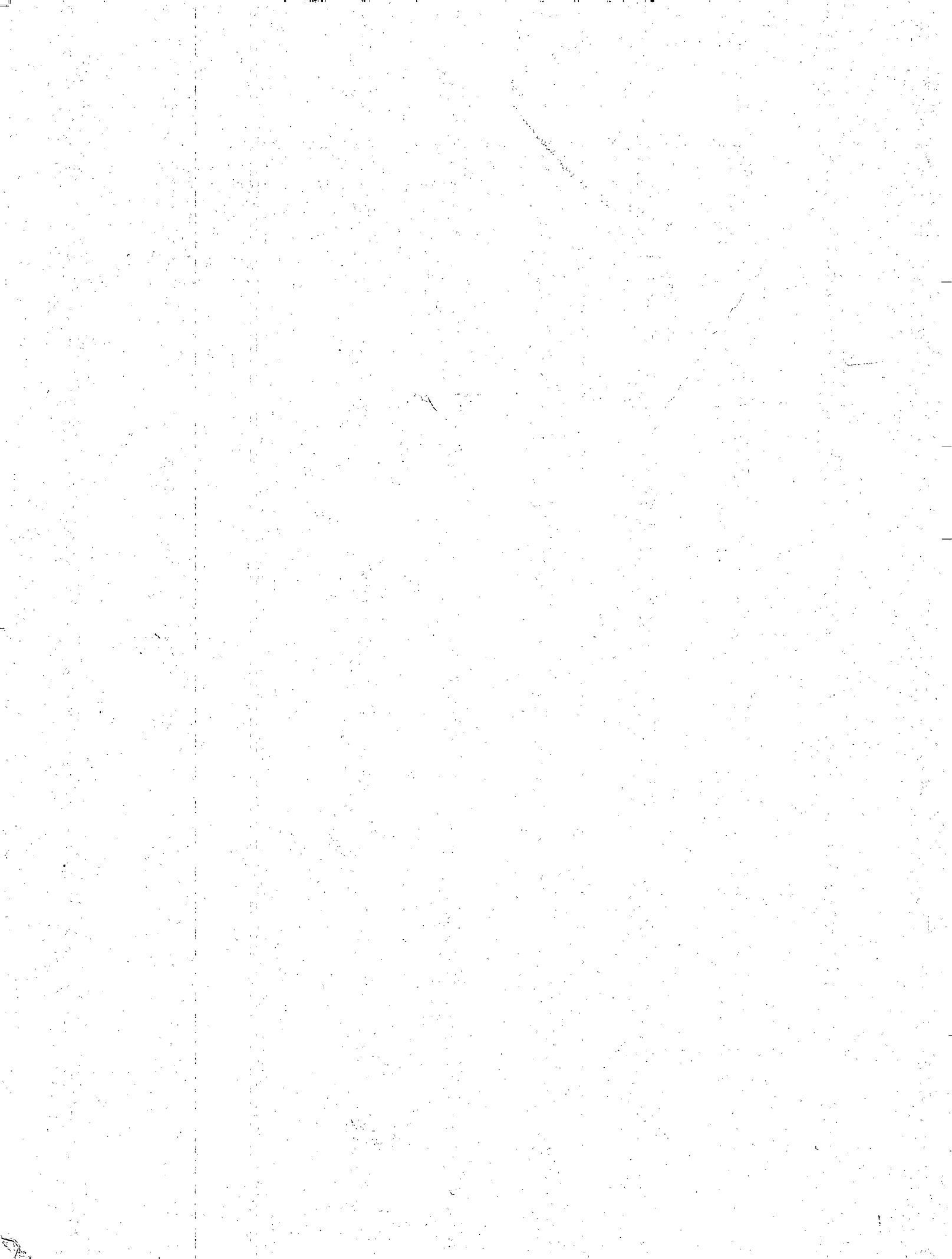
4.3.1 In *taluk* office Thrissur, a commercial building with plinth area of 3,529.14 sq. m. was assessed to tax in September 2005 for an area of 2,242.14 sq. m. and the balance 1,287 sq. m. was exempted on the ground that the portion was used as a workshop. The building is used principally for commercial purpose as a major portion of it is under commercial use. Incorrect grant of exemption to a portion of the building resulted in short levy of building tax of Rs. 2.88 lakh.

After the case was pointed out to the department in August 2006 and reported to the Government in May 2007, the Government stated in June 2007 that notice has been issued for reassessment of the building. Further reply has not been received (December 2007).

¹ Aluva, Chavakkad, Chenganoor, Hosdurg, Kollam, Kothamangalam, Kozhencherry, Mannarkad, Thiruvalla and Vythiri.

4.3.2 In taluk office Nedumangad, 18 buildings situated in a special grade *panchayat* were assessed between April 2004 and March 2006 to tax at the rate applicable to those situated in ordinary *panchayat*. Application of incorrect rate resulted in underassessment of building tax of Rs. 2.07 lakh.

After the case was pointed out to the department in November 2006 and reported to the Government in May 2007, the Government stated in June 2007 that reassessment orders had been issued in all cases. Further reply has not been received (December 2007).



Chapter V
State Excise

Chapter 1
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CHAPTER V STATE EXCISE

5.1 Results of audit

Test check of the records of the offices of the State Excise Department conducted during the year 2006-07 revealed non/short realisation of revenue due to low yield of spirit from molasses, non/short demand of differential cost of establishment, etc., amounting to Rs. 126.57 crore in 31 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Excise receipts from distilleries, breweries and KSBC ¹	2	125.09
2.	Low yield of spirit from molasses	1	1.03
3.	Non/short demand of differential cost of establishment	14	0.06
4.	Other lapses	14	0.39
Total		31	126.57

During 2006-07, the department accepted underassessments and other deficiencies of Rs. 7.59 lakh involved in 23 cases of which six cases involving Rs. 1.28 lakh were pointed out during 2006-07 and the rest in the earlier years. The department recovered Rs. 7.48 lakh in 23 cases pointed out in the earlier years.

A few illustrative cases involving Rs. 124.91 crore are mentioned in the succeeding paragraphs.

¹ Kerala State Beverages Corporation

5.2 Loss due to non-levy of import fee

Under the Kerala Abkari Act (Abkari Act) and the Foreign Liquor Rules, 1953 (FL Rules), plain rectified spirit including absolute alcohol, intended to be used for the manufacture of liquor meant for human consumption, manufactured in India and or outside and imported into the State is 'foreign liquor'. As such extra neutral alcohol (ENA), grape spirit, malt spirit, etc., imported into the State from other States for the manufacture of potable liquor, come under the classification of Indian made foreign liquor (IMFL). As per a notification issued in March 1996, import of IMFL other than beer attracts import fee of Rs. 5 per proof litre².

Nine distilleries and six FLCBB³ units imported 2,496.36 lakh proof litres of spirit (ENA, grape spirit, malt spirit, etc.) from other States for manufacture of liquor meant for human consumption during the period from 2001-02 to 2005-06. However, the department failed to collect the import fee while issuing import permits though export fee prescribed in the same notification on export of spirit meant for manufacture of potable liquor was levied by it. Import/export permits of other States available at the institutions test checked revealed that other States are levying import fee on spirit imported into their States from Kerala and export fee for export of spirit/ENA to Kerala. Loss due to non-levy of import fee on 2,496.36 lakh proof litres of spirit imported amounted to Rs. 124.82 crore as mentioned in Annexure I.

The case was pointed out to the department between July 2006 and May 2007 and reported to the Government in June 2007. The Government stated in August 2007 that though IMFL included rectified spirit, import fee could not be levied in view of the Supreme Court decision in the case of Synthetic and Chemicals Vs. State of UP and others of October 1989 holding that rectified spirit was not an alcohol fit for human consumption but an industrial alcohol which was outside the purview of State legislation. The reply is not tenable as in a subsequent decision (Bihar distillery and ANR Vs. Union of India and others) of January 1997, the Supreme Court held that so far as the rectified spirit supplied or utilised for potable purpose was concerned, levy of excise duty and all other control shall be that of States.

The Government further stated that the matter would be referred to the Law Department and the rate of fee for import/export of plain rectified spirit/ENA would also be notified if required. The reply regarding notification of separate rate for rectified spirit, ENA is not tenable as import fee of Rs. 5 per proof litre is already specified for the same. Further report has not been received (December 2007).

² Spirit having same alcohol content as one litre of 'proof spirit', i.e., a mixture of alcohol and water with alcohol content 57.06 per cent by volume at 60° F.

³ Foreign Liquor Compounding Blending and Bottling

5.3 Incorrect allowance of wastage in transit and storage of molasses

The Abkari Act and Rules made thereunder do not provide for any allowance of wastage of molasses in transit or storage. However, the erstwhile Board of Revenue directed in October 1978 that wastage of one *per cent* each can be allowed in transit and storage of molasses used in the manufacture of spirit.

A total quantity of 464.097 MT of molasses was unauthorisedly allowed as wastage in McDowell distillery and Travancore Sugars and Chemicals Ltd. between April 2001 and March 2006. As per the norms fixed by the Central Board of Molasses, 1.73 lakh proof litres of spirit involving excise duty of Rs. 26.87 lakh could have been produced from the above quantity.

After the case was pointed out to the department in August 2006 and April 2007 and reported to the Government in June 2007, the Government stated in August, 2007 that one *per cent* wastage allowed in transit and storage of molasses would be withdrawn. Further report has not been received (December 2007).

5.4 Irregular exemption from payment of tax

Under the Tree Tax Rules, 1954, a licence is to be obtained for tapping or drawing toddy from toddy producing trees such as coconut, palmyrah and choondapana palms. Persons applying for this licence should remit tree tax in respect of the trees which they desire to tap. Tree tax per coconut tree is Rs. 30 per half year. The Government in September 2002 and April 2003 exempted committees with representatives of employees of toddy shops/trade unions, constituted to run toddy shops, from the payment of tree tax for the years 2002-03 and 2003-04.

In excise circle offices Irinjalakuda and Kochi, committees/samitis of representatives of toddy workers running toddy shops during 2004-05 were exempted from the payment of tree tax on 10,469 coconut trees, even though exemption was not in force during that year. Incorrect exemption resulted in non-levy of tree tax of Rs. 6.28 lakh.

After the case was pointed out in January and February 2006, circle inspectors of excise stated that the exemption has been extended to 2004-05 also. However, order sanctioning such exemption is not available with either the department or the Government.

The matter was reported to the Government in January 2007; their reply has not been received (December 2007).

5.5 Non-demand of differential cost of establishment

As per the proceedings (June 1999) of the Excise Commissioner, rates of average cost of pay and allowances, leave salary and pension contribution (LS&PC), etc., recoverable on excise supervisory staff deputed for the

supervision of distilleries, KSBC warehouses, etc., were revised with effect from 1 March 1997. The combined rate of LS&PC specified therein was 25 *per cent* of the average cost of pay. As it was not in conformity with the provisions of the Kerala Service Rules, the Commissioner ordered in May 2005 that LS&PC should be recovered at 25 *per cent* of the maximum of the scale of pay from 1 March 1997 onwards.

In three institutions⁴, in respect of excise officers posted on deputation, recovery of LS&PC at 25 *per cent* of the maximum of the scale of pay was effected only during the period between August 2005 and February 2006. However, no action was taken to demand arrears for the prior period. This resulted in short recovery of LS&PC amounting to Rs. 3.22 lakh.

After the case was pointed out to the department between January and November 2006 and reported to the Government in February 2007, the Government stated in March 2007 that Rs. 1.87 lakh was collected in July 2006 from warehouse at Kannur and distillery at Pudukkad. Reply in the remaining case has not been received (December 2007).

⁴ Kaycee Distillery, Pudukkad and KSBC warehouses at Kannur and Nedumangad.

Chapter VI
Other Tax Receipts

Chapter 11
Other Tax Receipts

CHAPTER VI
OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records of the offices of the motor vehicles and registration departments conducted during the year 2006-07 revealed non/short realisation of revenue amounting to Rs. 3.58 crore in 255 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
Taxes on vehicles			
1.	Non /short levy of tax	87	1.89
2.	Other lapses	21	0.58
3.	Incorrect classification	44	0.29
4.	Irregular exemption	7	0.23
Stamp duty and registration fee			
5.	Undervaluation of documents	65	0.58
6.	Other lapses	31	0.01
Total		255	3.58

During 2006-07, the departments accepted underassessments and other deficiencies of Rs. 4.05 crore involved in 198 cases of which 27 cases involving Rs.13.22 lakh were pointed out during 2006-07 and the rest in the earlier years. The departments recovered Rs. 8.69 lakh in 44 cases of which 26 cases involving Rs. 5.18 lakh were pointed out in 2006-07 and the rest in the earlier years.

A few illustrative cases involving Rs. 22.67 lakh are mentioned in the succeeding paragraphs.

TAXES ON VEHICLES

6.2 Non-levy of fee for permit and certificate of fitness

Under the Motor Vehicles Act, 1989, omnibus means any motor vehicle constructed or adapted to carry more than six persons excluding the driver. The Central Government as per the powers conferred under the Act, revised on 5 November 2004 the list of vehicles under transport and non-transport categories. 'Omnibus for private use' which was earlier listed as a non-transport vehicle was excluded from that category and a new entry 'omnibus' was included in the list of transport vehicles. The transport vehicles require a permit and certificate of fitness. The minimum fee specified for a regular permit under Kerala Motor Vehicles Rules, 1989 is Rs. 500 and fee for grant and renewal of certificate of fitness of medium motor vehicles is Rs. 300.

Scrutiny of the records of 30 transport offices¹ revealed that 1,449 omnibuses registered between 5 November 2004 and 31 March 2006 continued to be categorised as non-transport vehicles. In addition, no action had been taken to alter 855 omnibuses registered prior to 5 November 2004 as transport vehicle. This resulted in short levy of fee due on permit and certificate of fitness amounting to Rs. 18.43 lakh.

The cases were pointed out to the department between April and October 2006 and reported to the Government in January 2007. The Government stated in June 2007 that a category of omnibus, i.e., private service vehicle registered in the name of individual and used by him solely for personal use is still a non-transport vehicle and the cases would be verified with reference to the actual use and wrong classification would be corrected. The reply is not tenable as omnibuses classified as private service vehicle in the registration records were not included in the audit observation.

LUXURY TAX

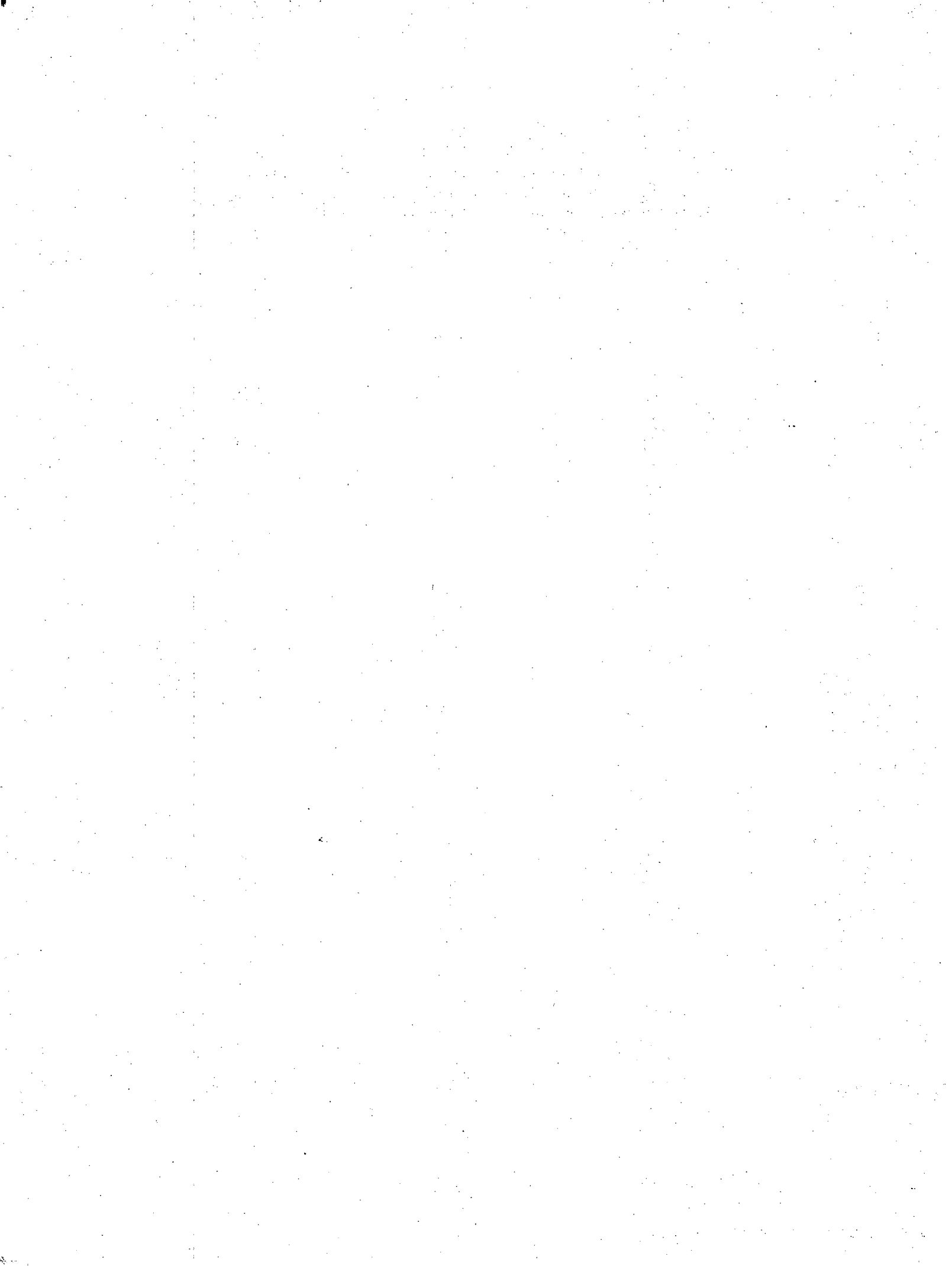
6.3 Short levy due to non-considering of turnover

Under the Kerala Tax on Luxuries Act, 1976, where the charge for accommodation for residence in rooms and for other amenities and services exclusive of charges for food, drink and telephone calls is more than Rs. 500 per day per room, the tax payable shall be 15 *per cent* of such rate.

In the commercial tax office (WC<), Kottayam, while finalising the luxury tax assessment of a resort hotel for 2003-04 in June 2004, the assessing authority failed to include an income of Rs. 28.24 lakh received for services and amenities provided by the assessee. This resulted in short levy of luxury tax of Rs. 4.24 lakh.

¹ Regional Transport Offices (RTOs): Alappuzha, Idukki, Kollam, Kottayam, Palakkad and Pathanamthitta and Regional Rural Transport Office, Muvattupuzha.
Sub RTOs: Adoor, Alathur, Chengannur, Cherthala, Kanjirapally, Kayamkulam, Karunagappally, Koduvally, Kothamangalam, Kottarakkara, Mallappally, Mannarkad, Mavelikkara, Pala, Pattambi, Ponnani, Punalur, Ottappalam, Thiruvalla, Thodupuzha, Tirur, Tripunithura and Vandiperiyar.

After the case was pointed out to the department in September 2005 and reported to the Government in April 2007, the Government stated in July 2007 that the assessing authority had revised the assessment in February 2006 and the short levy with interest was recommended for revenue recovery in August 2006. Further report has not been received (December 2007).



Chapter VII
Non-Tax Receipts

Chapter VII
Non-Tax Receipts

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CHAPTER VII NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records of 10 administrative departments of the receipts from guarantee commission as well as of the forest and police departments conducted during 2006-07 revealed short/non-levy of revenue and other deficiencies amounting to Rs. 146.30 crore in 17 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
A Forest receipts			
1.	Short levy/loss in auction/reauction	3	0.62
2.	Short levy/loss in supply of raw material	4	0.36
3.	Other lapses	8	4.86
B Other non-tax receipts			
4.	Receipts from guarantee commission (A review)	1	128.47
5.	Receipts of Police Department (A review)	1	11.99
Total		17	146.30

During 2006-07, the department accepted short demand/loss of Rs. 3.80 lakh involved in four cases of which one case involving Rs. 3.37 lakh was pointed out during 2006-07 and the rest in the earlier years. During the year the department recovered Rs. 43,000 in three cases pointed out in the earlier years.

An illustrative case involving Rs. 8.58 lakh and results of two reviews of **Receipts from guarantee commission** and **Receipts of Police Department** involving Rs. 140.46 crore are mentioned in the succeeding paragraphs.

A. FOREST RECEIPTS

7.2 Short levy of entry fee

The Government in November 2005 revised the fee for the entry of tourists and vehicles and allowing cameras inside project tiger area, national parks and wildlife sanctuaries. Fee is different for Indian and foreign tourists, heavy, light and other vehicles and ordinary and video/movie cameras. Fee specified for project tiger areas and national park is higher than that for wildlife sanctuaries.

In four forest range offices¹, fee for entry of tourists and vehicles and allowing cameras inside project tiger areas and wildlife sanctuary were levied, between 11 November and 14 December 2005, at the rate in force prior to 11 November 2005. This resulted in short levy of entry fee of Rs. 8.58 lakh.

After the cases were pointed out to the department between June and November 2006, the officers incharge of the divisions stated that short levy occurred due to delay in receipt of the Government order. Further reply has not been received (December 2007).

The matter was reported to the Government in January 2007; their reply has not been received (December 2007).

¹ Thekkady and Vallakadavu Ranges under Periyar East Division (Project Tiger), Thekkady Sungam Range under Wild Life Division, Parambikulam and Tolpetty Range under Wayanad Wild Life Division, Sulthanbathery

B. OTHER NON-TAX RECEIPTS

7.3 Receipts from guarantee commission

Highlights

- Failure of the administrative departments to enforce the internal control systems to ensure prompt levy and collection of guarantee commission resulted in non/short assessment and non-raising of demand of Rs. 233.40 crore.

(Paragraph 7.3.8)

- Interest of Rs. 35.68 crore for the defaulted payments of guarantee commission was not paid by 24 institutions.

(Paragraph 7.3.11)

- Rebate for prompt payment of guarantee commission amounting to Rs. 3.66 crore was incorrectly granted to an institution during 2004-05.

(Paragraph 7.3.12)

7.3.1 Introduction

Article 293 of the Constitution of India empowers the State Governments to give guarantee on the security of consolidated fund of the State within such limits as may be fixed by the State legislature. Under the Kerala Ceiling on Government Guarantees Act, 2003 (KCGG Act), the total outstanding Government guarantees as on 1 April of each year shall not exceed Rs. 14,000 crore. The Government gives guarantee on funds raised by public sector undertakings, local authorities, statutory boards, corporations, etc., from financial institutions and open market. The guarantee is liable to be invoked if the principal debtor fails to repay loans, bonds, etc., so guaranteed. Beneficiaries of the Government guarantees are required to pay guarantee commission each year on the outstanding principal as well as interest under guarantee.

Prior to coming into force of the KCGG Act from 5 December 2003, recovery of guarantee commission was governed by the Government orders and circulars issued from time to time. Under these orders, the rate of guarantee commission was 0.75 *per cent* per annum and a rebate of 0.25 *per cent* was admissible as refund on prompt payment of the commission. Lower rate/waiver of commission can also be allowed on some guarantees. Under the KCGG Act, the Government shall charge a minimum of 0.75 *per cent* per annum as guarantee commission which shall not be waived under any circumstance and the Government is empowered to enhance the rate depending on the default risk of any project. The Government issued revised guidelines in October 2004 in conformity with the Act.

With a view to ascertain the efficacy of the system and procedure relating to the computation, collection and accounting of guarantee commission, a review was conducted in the Finance Department, 10 administrative departments, establishments of two heads of departments and 33 beneficiary institutions. As the administrative departments were not

maintaining the relevant records, the data for the review was collected from the beneficiary institutions. The review revealed a number of system and compliance deficiencies which are mentioned in the following paragraphs.

7.3.2 Organisational set-up

The Finance Department issues guidelines for the computation, collection and accounting of guarantee commission and the various checks to be exercised by the administrative departments and heads of the departments. The administrative departments concerned issue the Government orders providing guarantee to the various beneficiary institutions under the control of each department. These departments are required to maintain a register for recording all transactions relating to guarantee commission and should ensure its payment by the beneficiary institution on the due dates itself. From 1 April 2004 onwards the beneficiary institutions are also required to send half yearly statement of guarantee commission to the Finance Department with copies to the concerned administrative departments and heads of departments with statement of calculation of guarantee commission in formats separately prescribed by the Finance Department.

7.3.3 Scope and methodology of audit

Records relating to grant of guarantee and collection of guarantee commission, maintained in 10 administrative departments², offices of the Director of Industries and Commerce and Registrar of Co-operative Societies and 33 beneficiary institutions as detailed in Annexure II, covering the period from 2001-02 to 2005-06, were test checked between October 2006 and February 2007. The beneficiaries were selected based on the quantum of outstanding guaranteed loan.

7.3.4 Audit objectives

The review was conducted with a view to ascertain whether:

- provisions of the Act and the Government orders relating to assessment and demand of guarantee commission were complied with;
- provisions regarding grant of rebate on guarantee commission were adhered to;
- penal clauses envisaged to discourage default of guarantee commission were enforced;
- interest on delayed payments of guarantee commission introduced from April 2004 were collected; and
- internal control mechanism was effective.

² Co-operation, Finance, Food and Civil Supplies, Forest, Housing, Industries, Local self Government (LSC), Power, Taxes and Water Resource.

7.3.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Finance Department and other concerned administrative departments in providing the necessary information and records for audit. The draft review report was forwarded to the Government and departments in May 2007 and was discussed in the Audit Review Committee meeting held in August 2007. Secretary (Expenditure) to the Government represented the Government while Additional Secretary (Finance) represented the Finance Department. Views of the Government/departments have been incorporated in the relevant paragraphs.

7.3.6 Guarantees given by the Government

As per the Finance Accounts, guarantees given by the Government for repayment of loans, debentures, bonds, etc., raised by statutory corporations, Government companies, local bodies, etc., as on 31 March 2006 are as mentioned below:

(Rupees in crore)

Sl. No.	Class of institutions	Guaranteed amount outstanding as on 31 March 2006	
		Principal	Interest
1	Statutory corporations and boards	3,064.02	385.03
2	Government companies	3,438.11	552.02
3	Co-operative banks & societies	1,900.12	539.33
4	Other joint stock companies	60.93	46.86
5	<i>Panchayats</i> , municipalities, corporations and other local bodies	792.61	13.53
6	Other institutions	870.86	271.27
Total		10,126.65³	1,808.04

Year-wise position of amount guaranteed and amount of guarantees outstanding at the end of each year from 2001-02 to 2005-06 are mentioned below:

³ Besides the above, the Government have also guaranteed payment of minimum dividend of 3.5 per cent on the share capital upto Rs. 10 crore and 7.5 per cent on the share capital beyond Rs. 10 crore in respect of Kerala Financial Corporation (KFC). Out of Rs. 2.52 crore paid by the Government towards subvention to the KFC, Rs. 20,000 only has been realised till March 2006.

(Rupees in crore)

Year	Outstanding amount of guarantees as on 31 March		
	Principal	Interest	Total
2001-02	9,745.86	2,071.67	11,817.53
2002-03	10,077.97	2,545.41	12,623.38
2003-04	11,511.08	2,498.11	14,009.19
2004-05	10,775.38	1,540.58	12,315.96
2005-06	10,126.65	1,808.04	11,934.69

7.3.7 Trend of revenue

Under the Kerala Budget Manual, the heads of departments have to forward the proposals for the budget estimates (BEs) of receipts directly to the Finance Department with a copy to the concerned administrative departments in the Government which in turn have to forward these to the Finance Department with their remarks. The Finance Department finally frames the BEs. The BEs of revenue are to be based on the existing rates and no increase or decrease in the rates can be proposed unless approved by the Government. Officers who submit the BEs have to ensure that the BEs are neither inflated nor under pitched but are as accurate as practicable.

A mention was made in paragraph 10.1.4 of the report of the Comptroller and Auditor General of India for the year ended 31 March 1999 regarding very large variations between BEs and actuals during the years 1992-93 to 1997-98. Public Accounts Committee (PAC) 2001-04 in their 36th report presented to the legislature in January 2003 observed that there was no justification for the large variation and urged the Finance Department to adopt a systematic procedure by which estimates could be worked out keeping in view the actuals and desired that the details of corrective steps in this regard be furnished to the committee within two months. The corrective steps undertaken by the department, if any, have not been furnished to the PAC.

As per the Finance Accounts, BEs of guarantee commission for the years from 2001-02 to 2005-06 as against the actuals are as mentioned below:

(Rupees in crore)

Year	BEs	Actuals	Variation	Percentage of variation
2001-02	26.32	29.21	2.89	10.98
2002-03	32.34	39.77	7.43	22.97
2003-04	31.14	56.54	25.40	81.57
2004-05	84.88	17.86	(-) 67.02	(-) 78.96
2005-06	80.96	64.55	(-) 16.41	(-) 20.27

The BEs during these years were either inflated or under pitched as is evident from the fact that variations between BEs and actuals ranged from (-) 78.96 to 81.57 per cent during the years 2001-02 to 2005-06.

Thus, the department had not followed the procedure prescribed under the Manual or considered the recommendations of the PAC while framing the BEs.

The Finance Department stated in October 2007 that the reason for variation was that the actuals for the current year were not available while arriving at the estimates for the ensuing year. It also stated that action to verify the genuineness of the actuals for 2004-05 was being taken, as misclassification might have occurred in the treasury accounts.

Audit findings

System deficiencies

7.3.8 Assessment and demand of guarantee commission

As per the guidelines issued by the Government in December 1999 and October 2004, administrative departments which provide the Government guarantees should maintain a register (Appendix 1), for recording all the transactions relating to the guarantee commission. The guarantee commission due in a year is required to be paid in two equal instalments on 1 April and 1 October every financial year. A grace period of 15 days is allowed for making these payments. The beneficiaries are required to send half yearly reports to the Finance Department with copies to the concerned administrative department and head of the department indicating the details of the guarantee amounts outstanding, guarantee commission payable, etc. The administrative departments which provide the Government guarantee should make timely demand of the commission and ensure its payment before the due date.

The register for recording transactions relating to guarantee commission was not maintained by the Registrar of Co-operative societies and any of the 10 administrative departments test checked. Registers maintained by the Director of Industries and Commerce and the Finance Department were not upto date. **Though half yearly reports on guarantee commission were not sent by any of the beneficiary institutions test checked, no action was taken by the Finance Department and administrative departments to obtain the reports. Consequently, the administrative departments and the heads of departments were not in a position to monitor the realisation of guarantee commission on guarantees provided by them. Failure of the administrative departments to enforce internal control systems to ensure prompt levy and collection of guarantee commission resulted in the following lapses:**

7.3.8.1 Non-raising of demand of guarantee commission

As the administrative departments were not maintaining the prescribed register, they could not assess the dues, raise the demand and realise it from the beneficiaries. Details collected from the beneficiary institutions revealed that guarantee commission pending realisation as on 31 March 2006 from 22⁴

⁴ ACSM, Autokast, Coirfed, GCDA, Keltron, Khadi Board, KIRFB, Kollam DA, KSCARD Bank, KSCDC, KSCSC, KSDP, KSEB, KSRTC, KWA, Malabar Cements, Market Fed, Rubco, Sitaram mills, SILK, Traco and United Electricals.

out of 33 institutions test checked amounted to Rs. 145.27 crore in respect of seven⁵ administrative departments. KSCARD Bank (Rs.42.36 crore), KSEB (Rs.39.76 crore), KWA (Rs.21.53 crore) and KIRF (Rs.10.08 crore) were the major defaulters.

Failure of the administrative departments to maintain the prescribed registers and monitor them resulted in non-raising of demand of guarantee commission of Rs. 145.27 crore.

The Government may, therefore, take appropriate steps to ensure that the administrative departments maintain the prescribed register properly to ensure timely demand of guarantee commission and interest thereon.

7.3.8.2 Short assessment of guarantee commission

Under the KCGG Act and the Government orders in force prior to and after its enactment, guarantee commission was required to be calculated at 0.75 per cent per annum on the principal outstanding at the end of the preceding financial year and guaranteed interest. The Government, however, did not prescribe any periodical return to watch the correctness of recoveries of guarantee commission. In the absence of such a return, the concerned administrative department was not in a position to ascertain the correctness of guarantee commission deposited by the beneficiary institutions.

Scrutiny of the records of eight beneficiary institutions revealed that there were mistakes in computing the guarantee commission which resulted in short deposit of guarantee commission of Rs. 47.31 crore during the years 2001-02 to 2005-06 as mentioned below:

(Rupees in lakh)

Sl. No.	Department	Name of Institution	Guarantee commission due	Guarantee commission assessed by the beneficiaries	Amount short deposited
1.	Power	KSEB	7,517.00	4,452.00	3,065.00
		KPFC	1,675.79	1,281.66	394.13
2.	Co-operation	KSCARD Bank	5,428.00	4,236.00	1,192.00
		Market Fed	11.28	0.25	11.03
3.	LSG	GCDA	259.29	224.26	35.03
		Kollam DA	19.68	15.63	4.05
4.	Industries	KMML	21.76	3.60	18.16
		KSCDC	80.67	68.66	12.01
Total			15,013.47	10,282.06	4,731.41

Since the administrative departments were not maintaining the prescribed records/registers, these short deposits could not be detected.

⁵ Co-operation, Food and Civil Supplies, Industries, LSG, Power, Transport and Water resources

The Government may consider prescribing a periodical return for monitoring the correctness of guarantee commission deposited.

7.3.8.3 Short assessment due to non-reckoning of the guaranteed interest component

As per the Government orders issued in December 1999 and October 2004, guarantee commission is leviable on interest and other incidental expenses included in the guarantee. In the absence of any records, the principal amount of the loan outstanding and interest due from the beneficiaries on 31 March of the preceding year could not be ascertained from the administrative departments to work out the guarantee commission in the beginning of each financial year.

Scrutiny of the records of the beneficiary institutions revealed that nine institutions failed to reckon the guaranteed interest while computing the guarantee commission for the years 2001-02 to 2005-06. Thus, eight administrative departments failed to detect the short deposit of guarantee commission of Rs. 26.73 crore as mentioned below:

(Rupees in lakh)			
Sl. No.	Administrative Department	Name of the institution	Short assessment
1.	Power	KSEB	1,307.12
		KPFC	62.68
2.	Taxes	KSFE	560.69
3.	Water resource	KWA	268.74
4.	Housing	KSHB	234.00
5.	Industries	KELTRON	121.51
6.	Finance	KFC	86.88
7.	LSG	GCDA	28.89
8.	Co-operation	ACSM	2.59
Total			2,673.10

The Government may, therefore, introduce automated systems to ensure that the guaranteed interest is also reckoned by the administrative departments while computing the guarantee commission payable by the beneficiary institutions.

7.3.8.4 Non-demand of guarantee commission on loans exempted prior to the KCGG Act

As per the Government guidelines issued in October 2004 in conformity with the Act, guarantee commission payable in respect of all loans outstanding on or after 1 April 2004 shall be 0.75 per cent whether or not any lower rate or complete exemption was agreed to earlier.

Scrutiny of the records of District *panchayat*, Thiruvananthapuram and KSHB, revealed that these institutions *suo motu* availed the exemption from payment of guarantee commission of Rs. 14.09 crore for the years 2004-05

and 2005-06 on the outstanding loan. The administrative departments (LSG and Housing), however, could not take any action as the basic records required for monitoring the recovery of guarantee commission were not maintained by them.

The Finance Department stated in October 2007 that half yearly reports on guarantee commission were obtained from the concerned institutions.

The Government may, therefore, consider strengthening the prescribed system for ensuring that the administrative departments invariably assess and collect the guarantee commission due to the Government correctly.

7.3.9 Incorrect availing of rebate

As per the Government orders, institutions which paid the guarantee commission promptly should not avail rebate by themselves, but should forward the claim to the Government during the next financial year and concerned administrative department would sanction the refund after ascertaining the promptness of payment. **Audit noticed that the Government did not prescribe any mechanism for regular and effective monitoring of the case of prompt payment of guarantee commission and sanction of rebate for the same.**

Scrutiny of the records revealed that, KSCARD Bank availed *suo motu*, rebate of Rs. 1 crore during 2002-03 for prompt payment of guarantee commission. In the absence of maintenance of proper records for watching the payment of guarantee commission, the Co-operation Department failed to detect the rebate availed by the KSCARD Bank and to take action to realise the guarantee commission.

The Government may consider prescribing a mechanism for regular and effective monitoring for realisation of guarantee commission without availing /sanctioning rebate.

7.3.10 Renewal/extension of guarantee and enhancing guarantee limit

As per the Government order issued in December 1999 and under the provisions of the KCGG Act, all administrative departments concerned with the Government guarantees should ensure realisation of arrears of guarantee commission in full before issuing the Government orders renewing/extending guarantee/enhancing guarantee limits. **Penal provisions and accountability of the authorities in exercising controls over renewal/extension of guarantee have, however, not been laid down.**

The administrative departments were not maintaining the prescribed registers to ascertain the correctness of renewal/extension/enhancement of guarantee. Scrutiny of the records of six beneficiary institutions under three administrative departments revealed that these institutions were allowed/sanctioned renewal/extension of guarantee/enhancement without realisation of arrears of guarantee commission as mentioned below:

(Rupees in lakh)

Sl.No.	Name of the Department	Name of the institution	Guarantee commission due on renewal/extension	Remarks
1.	Industries	Traco	667.00	The term of guarantee was extended in March 2004 for Rs. 146.50 crore from SBT led consortium of banks.
		Keltron	106.49	The guarantee was extended in June 2004 for a loan of Rs. 127.18 crore.
		KSCDC	68.66	Renewal of packing credit of Rs. 80 crore and letter of credit of Rs. 40 crore were sanctioned in June 2003.
		United Electricals	36.48	Guarantee was extended in April 2002 for a loan of Rs. 51 crore.
2.	Food and Civil Supplies	KSCSC	257.01	The Government sanctioned in January 2003 fresh guarantee on credit limit of Rs. 15 crore availed from consortium of banks.
3.	Taxes	KSFE	0.64	Enhancement of guarantee limit from Rs. 1,000 crore to Rs. 1,500 crore was sanctioned in August 2002.

The Government may, therefore, take appropriate administrative action against those responsible for non-realisation of guarantee commission in full before issuing the Government orders sanctioning extension/renewal of guarantee/enhancement of guarantee limits.

Compliance deficiencies

7.3.11 Failure to assess and demand interest

Penal clauses to discourage default envisaged in the KCGG Act and the Government orders include provision for levy of interest on delayed payment of guarantee commission, non-renewal/non-extension of guarantee to defaulters, etc.

Under the revised guidelines issued by the Government in October 2004, guarantee commission for each year is required to be paid in two equal instalments. Default in payments of guarantee commission attracts simple interest at 12 *per cent* from 1 April 2004 onwards.

As per information collected from the beneficiaries, 24 institutions⁶ defaulted in payment of the guarantee commission during 2004-05 and 2005-06. Interest from 1 April 2004 to 31 March 2006 on guarantee commission due amounted

⁶ Autokast, Coirfed, DPT, GCDA, Kollam DA, Keltron, KEAEC, Khadi Board, KIIFB, KIRFB, KSCARD Bank, KSCDC, KSCSC, KSDP, KSEB, KSFE, Market Fed, KSHB, KSRTC, KWA, Rubco, SILK, Traco and United Electricals.

to Rs. 35.68 crore. The concerned administrative departments, however, failed to assess and demand it. A few illustrative cases are mentioned below:

(Rupees in crore)

Sl. No.	Department	Institution	Interest not demanded
1.	Power	KSEB	10.64
2.	Co-operation	KSCARD Bank	7.69
3.	Water resource	KWA	4.87
4.	Housing	KSHB	2.61
5.	Industries	KIRFB	2.22
		Keltron	1.79

7.3.12 Incorrect grant of rebate

As per the Government orders in force prior to the enactment of the KCGG Act, institutions which are prompt in the payment of guarantee commission are eligible for a rebate of 0.25 per cent. Under the KCGG Act, the Government shall charge a minimum of 0.75 per cent per annum as guarantee commission which shall not be waived under any circumstances.

Test check of the records of Taxes Department revealed that a rebate of Rs. 3.66 crore was sanctioned in July 2004 on the advance payment of guarantee commission of Rs. 11 crore in March 2004 to the KSFE. Though the KCGG Act did not provide for grant of rebate, the Government incorrectly sanctioned rebate of Rs. 3.66 crore to the KSFE. Non-observance of the provisions of the Act has, thus, resulted in extending unintended benefit of Rs. 3.66 crore.

7.3.13 Non-constitution of the guarantee redemption fund

Under the KCGG Act, the Government is required to constitute a fund called the guarantee redemption fund of which the guarantee commission charged shall form the corpus and shall be remitted in the Public Accounts of the State.

The fund has not been constituted so far. Hence guarantee commission amounting to Rs. 82.41 crore realised during 2004-05 and 2005-06 could not be remitted in the Public Accounts of the State.

The Government stated in October 2007 that notification constituting guarantee redemption fund would be issued only after framing the relevant rules which were being finalised in consultation with the Law Department.

7.3.14 Reconciliation of remittance of guarantee commission

Under the Kerala Financial Code Volume I, the departmental officers should reconcile the departmental figures with the treasury figures and obtain the signature of the treasury officer on the statement prepared by them in token of the agreement of their figures with those of the treasury. Kerala Treasury Code Volume I also stipulates such reconciliation.

Reconciliation of remittances under the head "0075-108-99-guarantee fees" was neither conducted by the concerned administrative departments nor by the Finance Department. Cross verification by audit revealed that actual receipts

under the head was Rs. 17.86 crore as per the Finance Accounts for 2004-05 whereas aggregate remittance during that year by nine institutions⁷ amounted to Rs. 26.41 crore. The Finance Department or the administrative departments were not aware of the short accounting of Rs. 8.55 crore in the absence of reconciliation of remittances.

7.3.15 Conclusion

Audit noticed that the concerned administrative departments which provide guarantees to the various beneficiary institutions were not maintaining the relevant records relating to the accounting of guarantee commission. Failure of the administrative departments to enforce the internal control systems to ensure prompt levy and collection of guarantee commission resulted in non/short raising of demands. The Government did not prescribe any mechanism for regular and effective monitoring of the cases of non-demand of interest on the arrears of guarantee commission. Provisions in the KCGG Act regarding constitution of guarantee redemption fund and renewal of guarantee/enhancement of guarantee limits were also not complied with.

7.3.16 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- appropriate steps to ensure that the administrative departments maintain the prescribed register properly to ensure timely demand of guarantee commission and interest thereon;
- prescribing a periodical return for monitoring correctness of guarantee commission deposited;
- introduce automated systems to ensure that the guaranteed interest is also reckoned by the administrative departments while computing the guarantee commission payable by the beneficiary institutions;
- strengthening the prescribed system for ensuring that the administrative departments invariably assess and collect the guarantee commission due to the Government correctly;
- prescribing a mechanism for regular and effective monitoring of the cases of non-demand of interest on arrears of guarantee commission; and
- appropriate administrative action against those responsible for non-realisation of guarantee commission in full before issuing the Government orders sanctioning extension/renewal of guarantee/enhancement of guarantee limits.

⁷ Co-operative Spinning Mill, Alappuzha, KFC, KSFE, KSCMF, KIIFB, KPFB, KSFDC, Sitaram Textiles, Thrissur and TELK, Angamali.

7.4 Receipts of Police Department

Highlights

- ⊙ Lack of a prescribed system for monitoring the receipts of bills of cost from the DPOs and CPCs and its accuracy resulted in non/short raising of demand of Rs. 6.61 crore.
(Paragraph 7.4.7)
- ⊙ Absence of provision to realise interest for belated payment of bills of cost resulted in loss of revenue of Rs. 3.76 crore.
(Paragraph 7.4.9)
- ⊙ The department did not take any action to realise Rs. 4.62 crore being share of Government Railway Police (GRP) expenses adjusted/disallowed by railways.
(Paragraph 7.4.11.1)
- ⊙ Though three institutions incorrectly disallowed Rs. 54.87 lakh from demands of cost of police deployment, no action was taken to realise the same.
(Paragraph 7.4.11.2)
- ⊙ Deployment of police force without requisition from an organisation resulted in loss of revenue of Rs. 19.77 lakh.
(Paragraph 7.4.11.3)

7.4.1 Introduction

The Police Department provides police guards to institutions of the Central/other State Governments, quasi-Government institutions and private parties on requisition. Recovery of the cost of police guards deployed constitutes a major source of receipts of the Police Department. The procedure for recovery of the cost of police from the beneficiaries is prescribed by the Government and Director General of Police (DGP) from time to time. The demand (bill of cost) is prepared by the concerned Commissionerate/District Police Office (DPO) and forwarded to the DGP who in turn realises the cost from the concerned organisation and credits it to Government account under the head of account "0055 Police".

A review of the receipts of the Police Department was conducted by audit. It revealed a number of system and compliance deficiencies which are discussed in the following paragraphs.

7.4.2 Organisational set-up

The Police Department is headed by the DGP who is assisted by eight additional DGPs. There are two zones (North and South) headed by an Inspector General of Police (IGP) and four ranges headed by Deputy IGPs. The Superintendent of Police (SP) is in charge of each DPO and is assisted by Deputy SP at sub divisions (49 in number) and Circle Inspector of Police (CI) in circles (190 in number). There are 433 police stations under these circles

controlled by Sub Inspectors (SIs). There are three City Police Commissioners (CPCs) at Thiruvananthapuram, Ernakulam and Kozhikode and one SP (Railways) at Thiruvananthapuram.

7.4.3 Scope and methodology of audit

With a view to evaluate the efficiency and effectiveness of the system and procedure relating to the assessment and collection of receipts of the Police Department, the records relating to the period from 2001-02 to 2005-06 kept in the office of the DGP and 10 out of 14 DPOs, office of SP (Railways) and all the three CPCs were test checked between December 2006 and March 2007. While conducting the review, special emphasis was on realisation of the cost of police. As DPOs/CPCs are responsible for its assessment, the review was mainly confined to such offices.

7.4.4 Audit Objectives

The review was conducted to ascertain whether:

- the rules and regulations governing realisation of police receipts, especially the cost of police deployment were complied with;
- the demands were raised in time;
- adequate action was taken to realise the arrears;
- there was a penal provision for delayed/non-payment of dues; and
- the internal control mechanism in the department was effective.

7.4.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Police Department in providing the necessary information and records for audit. The draft review report was forwarded to the Government and department in June 2007 and was discussed in the Audit Review Committee meeting held in August 2007. The Additional Secretary (Home) to the Government represented the Government while the Inspector General (Administration) represented the Police Department. Views of the Government/department have been incorporated in the relevant paragraphs.

7.4.6 Trend of revenue

Under the Kerala Budget Manual, the heads of departments have to forward the proposals for budget estimates (BEs) of receipts directly to the Finance Department with a copy to the concerned administrative departments in the Government which in turn have to forward these to the Finance Department with their remarks. The Finance Department finally frames the BEs based on these proposals. The BEs shall be based on the existing rates and no increase or decrease in the rates shall be proposed unless approved by the Government.

The variations as mentioned below were noticed between the BEs and actual receipts during 2001-02 to 2005-06:

(Rupees in crore)				
Year	BEs	Actuals	Variations	Percentage of variation
2001-02	11.98	4.89	(-) 7.09	(-) 59
2002-03	11.97	8.68	(-) 3.29	(-) 27
2003-04	7.57	12.87	5.30	70
2004-05	10.98	21.40	10.42	95
2005-06	14.06	28.62	14.56	104

Thus, the variations ranged between (-) 59 per cent and 104 per cent during the years 2001-02 to 2005-06. This indicates unrealistic estimation of budgetary figures.

The Government stated that as the department could not achieve the budget targets during 2001-02 and 2002-03, it had taken drastic measures in the remaining years to collect the arrears and that actuals over BEs during these years were due to hard work of the officers of the department.

Audit findings

System deficiencies

7.4.7 Levy and demand of cost of police deployed

As per the directions of the IGP (now DGP) of September 1970, cost of police guard deployed should be paid in advance. Further, under the direction of DGP in July 2004 the DPOs and CPCs were required to prepare a bill of cost on quarterly/half yearly/annual basis which should reach the police headquarters on or before 10th of the succeeding month. Police headquarters is required to raise the demand after ascertaining the correctness of the claim and enter the details in a register of bill of cost.

7.4.7.1 Short demand of cost of police deployed

Under the provisions of the Kerala Service Rules (KSR), Volume I and Kerala Police Manual 1970, Volume II, when additional establishment is sanctioned on the condition that its cost shall be recovered from the beneficiary, the amount to be recovered shall be based on the gross sanctioned strength (SS) of the service. **Audit noticed that no system was prescribed for cross verification of the cost of police deployed as computed by the DPOs and CPCs with the SS.**

Police guards were provided to nine institutions sanctioning additional establishment. Their bills of cost were prepared between December 2004 and August 2006, reckoning the actual expenditure as per acquittance rolls for three airports and as per actual working strength for others, instead of computing it on the gross SS. This resulted in short demand of Rs. 6.17 crore as mentioned below:

(Rupees in lakh)

Sl.No.	Name of the organisation	Period of claim	Cost due on SS	Amount assessed	Short assessment
1.	Airport Authority of India (AAI) - Trivandrum International Airport	12/99 to 7/02	542.21	317.82	224.39
2.	AAI - Cochin International Air Port	7/99. to 11/2000	271.23	134.76	136.47
3.	KSEB ⁸ - Idamalayar Project, Idukki	4/01 to 2/06	282.64	150.98	131.66
4.	AAI - Calicut Air Port	12/98 to 2/02	203.16	136.84	66.32
5.	All India Radio, (AIR) Alapuzha	4/01 to 3/06	84.69	43.42	41.27
6.	Canara Bank, Kozhikode	4/01 to 3/06	59.43	51.49	7.94
7.	Post Office, Thycaud (Thiruvananthapuram)	1/02 to 9/05	8.15	4.07	4.08
8.	Punjab National Bank, Kozhikode	2/03 to 12/05	28.49	26.01	2.48
9.	Federal Bank, Kozhikode	3/05 to 3/06	10.19	7.79	2.40
Total					617.01

Absence of a system in police headquarters for cross verification of cost of police deployment computed by DPOs and CPCs vis-à-vis SS resulted in short assessment of Government dues of Rs. 6.17 crore.

The Government may consider prescribing a system for linking of information at the level of CPCs to check short demand of the cost of police deployed.

7.4.7.2 Non-demand of the cost of police deployed

Under the direction of DGP of July 2004, the DPOs and CPCs were required to prepare the bill of cost for Central Government establishments and agencies like AIR, Doordarshan, post offices, etc., on quarterly basis; for banks, air cargo complex and Cochin Refineries Ltd., on half yearly basis; and for deployment on long term basis to other States on annual basis. Also the bill of cost were required to reach the police headquarters on or before the 10 of the succeeding month. The entries of the bills of cost despatched to the headquarters is to be made in a Register of bill of cost. Audit noticed that no system has been prescribed for monitoring the receipts of bills of cost from the DPOs and CPCs.

Verification of the Register of bill of cost revealed that four out of 10 DPOs and two out of three CPCs did not prepare and submit bills of cost for the period up to March 2006, till January 2007. Consequently police headquarters could not raise the demand for Rs. 44.36 lakh towards cost of police as mentioned below:

(Rupees in lakh)

From whom due	Related office	Period for which cost is due	Due date for forwarding the bill to the DGP	Amount
Canara Bank, Kollam	DPO, Kollam	10/04 to 3/06	10.4.2005 to 10.4.2006	11.37
Indian Bank, Kollam	DPO, Kollam	10/04 to 3/06	10.4.2005 to 10.4.2006	11.35
KSEB on Hydro Electric Projects, Idamalayar and Pallivasal	DPO, Idukki	3/06	10.4.2006	7.71

⁸ Kerala State Electricity Board

Government of Tamil Nadu ⁹	DPOs, Idukki and Palakkad	1/06 to 3/06	10.04.2006	7.41
Head Post Office, Kannur	DPO, Kannur	1/05 to 3/06	10.4.2005 to 10.4.2006	2.85
Punjab National Bank, Kozhikode	CPC, Kozhikode	1/06 to 3/06	10.4.2006	2.53
Post office, Thycaud (Thiruvananthapuram).	CPC, Thiruvananthapuram	10/05 to 3/06	10.1.2006 to 10.4.2006	1.14
Total				44.36

As system to watch prompt receipt of bills of cost from DPOs and CPCs was not prescribed in police headquarters, they could not obtain the bills of cost within the prescribed period. This resulted in non-realisation of cost of police amounting to Rs. 44.36 lakh.

After these cases were pointed out, the Government stated (September 2007) that Rs. 27.23 lakh had since been demanded from Canara Bank, Punjab National Bank and Indian Bank, of which the first two institutions had remitted Rs. 22.10 lakh. As regards cost of police due from Tamil Nadu, bill of cost had been raised. Bill of cost of KSEB has been adjusted against electricity charges due to them from Police Department.

The Government may consider prescribing a system to monitor the receipts of bills so that the cost of police deployed is realised in full promptly.

7.4.8 Arrears of revenue

Under the Kerala Finance Code Volume I, the Government servant entrusted with collection of revenue should maintain proper records in respect of all the items of revenue showing the assessments and demands made, progress of recovery and outstanding amounts due to the Government. On default, revenue due to the Government can be recovered under Section 68 of the Kerala Revenue Recovery Act, 1968 (KRR Act).

7.4.8.1 Arrears of cost of police deployment

The Register of demand, collection and balance (DCB register) was not maintained in the Police headquarters. Recovery registers maintained to watch the recovery of bills of cost do not serve the purpose of DCB register as dues of an institution on a particular month are not readily available therein. Such details, if required, have to be worked out from various registers relating to different periods.

Consolidated position of arrears and their year wise break-up were not available at the police headquarters. At the instance of audit, the department prepared an arrear statement of demand and collection for the period from 2001-02 to 2005-06. As per the statement the amount due during this period from 67 organisations amounted to Rs. 9.44 crore. However, the opening balance as on 1 April 2001 was not available. Based on the records available

⁹ For police force deputed for security of dams at Mullaperiyar, Parambikulam, Peruvapallam and Thunakkadavu and at regulating gate, Thekkady.

at the police headquarters, audit computed the arrears of cost of police from 1976 to March 2006 at Rs. 33.33 crore. The following dues besides dues outstanding from Government of India, Ministry of External Affairs did not appear in those records.

- Rupees 11.38 crore due from Southern Railway for the period from 1984-85 to 2004-05.
- Rupees 68 lakh due from Tamil Nadu for providing police security to Peruvuripallam, Thunakkadavu and Parambikulam dams between January 1997 to December 2001.

No steps including action under KRR Act were taken by the department to realise the outstanding dues of Rs. 45.39 crore.

The Government stated (September 2007) that the DCB register would be opened and maintained correctly.

7.4.8.2 Arrears of passport verification charges

The Government of India, Ministry of External Affairs allowed reimbursement of passport verification charges at the prescribed rates.

Test check of the records of the office of DGP revealed that out of Rs. 9.42 crore claimed towards reimbursement of police verification charges from April 2002 to December 2004, Ministry of External Affairs (Government of India) reimbursed Rs. 4.70 crore only between January 2004 and March 2005. The balance of Rs. 4.72 crore is still due from the Ministry. No action other than reporting (January 2007) the matter after a delay of two years to the Government of Kerala, was taken by the department to realise the balance amount. Moreover, this amount has not been included in the arrears worked out by the department at the instance of audit.

Thus, a system to monitor demand and collection of cost of police is non-existent in the department. Consequently arrears amounting to Rs. 50.11 crore remain unrealised. Effective action to realise the arrears was also not taken.

The Government may consider ensuring that the DCB register is maintained for monitoring and realisation of arrears.

7.4.9 Absence of provision to realise interest for belated payment

The Kerala Police Manual does not prescribe any time limit for the demand and payment of the cost of police guards and for levy of interest in case of delay in payment whereas Abkari laws provide for advance realisation of the cost of establishment and levy of interest at 18 per cent per annum on default. The IGP directed in September 1970 that cost of police guard deployed should be paid in advance. However, the directions of the DGP issued in July 2004 stipulate that DPOs should prepare and forward bills of cost to the police headquarters within 10 days after the end of the prescribed period.

Mention was made in Para 9.2.9 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1998 (Revenue Receipts) on the absence of provision to charge interest and penal interest for the delays in payment of the cost of police. The Government in their action taken note stated that this aspect was under consultation with the DGP. No action has

been taken so far to include a penal clause for delayed payment. Public Accounts Committee 2004-2006 examined the above paragraph in January 2006, their recommendations are awaited (December 2007).

Recovery registers kept in the police headquarters revealed that there was delay upto 50 months in preparing 39 bills of cost involving Rs. 10.86 crore relating to 13 institutions.

As of February 2007, delay upto 57 months had occurred in remittance of police cost demanded in 43 cases involving Rs. 11.12 crore. The absence of a provision to realise interest for belated payment of the amounts demanded resulted not only in large amounts remaining blocked for varying periods but also loss of interest on such amounts. Calculated at the rate of 12 per cent prescribed in the Kerala Revenue Recovery Act, 1968 such interest upto 28 February 2007 worked out to Rs. 3.76 crore (Rs. 2.76 crore for delay in raising the demand and Rs. 1 crore for delayed remittance).

The Government stated (September 2007) that interest and penal interest were not being charged in the absence of provision for levy of interest as most of the institutions were owned by State/Central Government. The reply of the Government indicates a need for amending the Kerala Police Manual to include a provision for levy of interest for belated payment. This will not only help in ensuring prompt payment of the dues but will also reduce the burden of taking additional loans/liabilities to augment Government resources to the extent of the unrealised revenue.

Specific time limit should be prescribed for payment of cost of police guard and provision made for levy of interest in case of belated payment, so that blocking of revenue and loss of interest can be avoided.

7.4.10 Internal audit

Internal audit is intended to assure an organisation that the internal control systems instituted by it for its efficient and cost effective functioning, are adequate and effective. The internal audit wing attached to the police headquarters is headed by one senior superintendent and is assisted by three upper division clerks.

Audit noticed the following deficiencies:

- Lack of a code/manuals to conduct internal audit. The audit staff were also not trained.
- between 2001-02 and 2005-06, the internal audit wing could complete only eight to 16 inspections each year out of 56 annual inspections due. The shortfall ranged between 71 and 86 per cent as mentioned below:

Year	Number of inspections			
	Target	Achievement	Shortfall	Percentage of shortfall
2001-02	56	8	48	86
2002-03	56	12	44	79
2003-04	56	16	40	71
2004-05	56	15	41	73
2005-06	56	13	43	77

The analysis of settlement of the observations of the internal audit as incorporated in inspection reports revealed that though the clearance increased from 1,200 paragraphs in 2001-02 to 2,296 paragraphs in 2002-03, it declined to 812 paragraphs and 792 paragraphs during 2003-04 and 2004-05 respectively. The number of pending paragraphs at the end of 2004-05 was 2,736 against 1,240 in 2001-02 as mentioned below:

Period	Opening balance		Addition during the year		Clearance during the year		Closing balance		Percentage of clearance	
	No. of IRs	No. of Paragraphs	No. of IRs	No. of Paragraphs	No. of IRs	No. of Paragraphs	No. of IRs	No. of Paragraphs	No. of IRs	No. of Paragraphs
2001-02	24	1,320	8	1,120	8	1,200	24	1,240	25	49
2002-03	24	1,240	12	1,944	9	1,485	27	1,699	25	47
2003-04	27	1,699	16	1,760	14	2,296	29	1,163	33	66
2004-05	29	1,163	15	1,695	4	812	40	2,046	9	28
2005-06	40	2,046	13	1,482	6	792	47	2,736	11	22

This indicates absence of proper supportive environment for internal audit in the Police Department.

The Government stated (September 2007) that internal audit wing attached to the headquarters would be strengthened.

For effective internal control, proper training should be imparted to internal audit staff and prescribed time schedule be adhered to in conducting internal audit.

Compliance deficiencies

7.4.11 Realisation of demand

7.4.11.1 Failure to realise GRP expenses disallowed/adjusted by Railways

Under the Indian Railway Financial Code Volume I, pay and allowances, office expenses and contingencies, cost of pensionary charges, cost of rent of buildings, medical reimbursement and medical allowance of GRP will be shared at 50:50 basis between the State and Railways from 1 April 1979.

Out of the total demand of Rs. 12.10 crore towards share of GRP for the period 2001-02 to 2004-05, railways admitted Rs. 12.01 crore and disallowed the share of medical expenses and terminal surrender leave salary of Rs. 9.25 lakh. From Rs. 12.01 crore so admitted, it had also adjusted Rs. 4.53 crore¹¹ against amounts due to railways from various *panchayats*, municipalities/ Kerala Water Authority/KSEB/State Government departments, etc. and

¹¹ level crossing maintenance charges Rs. 4.02 crore, land license Rs. 28.48 lakh, reimbursable share of rent, water charges etc. Rs. 6.33 lakh and items not specified Rs. 15.03 lakh.

reimbursable share of rent, water charges, etc. The department did not take any action to realise the share of medical expenses and terminal surrender leave salary of Rs. 9.25 lakh of GRP from the railways and balance due of Rs. 4.53 crore from the concerned local bodies/board and other departments of the State.

After the matter was reported to the Government, it stated (September 2007) that a meeting was convened by the Home Secretary on this issue and railway authorities were advised not to make such adjustment in future.

7.4.11.2 Failure to realise admissible cost of police deployed that was disallowed

Under the Kerala Police Manual Volume II and directions of the IGP of September 1970, when police guards are provided sanctioning additional establishment, the whole charges including pay and allowances, clothing charge, leave salary and pension contribution (LS&PC), travelling allowance (TA) and rent shall be charged and credited to the Government.

Test check of the records of two DPOs (Idukki and Malappuram) and CPC, Thiruvananthapuram revealed that police guard was provided to three institutions namely, the Union Bank of India, Calicut Airport and Trivandrum International Airport without recovering the cost of police deployed. Though these institutions had deferred/disallowed certain portion of the cost of police deployed aggregating Rs. 54.87 lakh from the bill of cost, no further action was taken to realise these amounts from the beneficiaries as mentioned below.

(Rupees in lakh)

Name of the institution	Period of demand	Amount demanded Date of demand	Amount disallowed	Remarks
AAI-Trivandrum International Airport	12/99 to 7/02	317.82 04.03.05	25.03	Deferred the payment of TA, festival allowance and uniform allowance on the ground that specific guidelines for their reimbursement were awaited from the AAI.
Union Bank of India (UBI), Vandanmedu, Iddukki	1/02 to 10/05	31.16 22.12.04 to 31.12.05	3.90	Deferred the reimbursement of LS&PC without any specific reason.
AAI-Calicut Airport	12/98 to 2/02	136.84 03.08.05	25.94	Disallowed the pension contribution, clothing and supervision charges on the ground that these were not reimbursable under BCAS ¹² guidelines.
Total			54.87	

After the matter was reported, the Government stated (September 2007) that the case of Trivandrum International Airport was pending with the AAI and in the case of Calicut Airport, the amount was disallowed under BCAS

¹² Bureau of Civil Aviation Security

guidelines. In the case of UBI, it was stated that the reply was pending from the DGP. Further report has not been received (December 2007)

7.4.11.3 Failure to realise cost of police deployed without sanction/requisition

The Police Department provides police security to central/other state/quasi-Government institutions and private parties on requisition. For providing security on a regular and long term basis, the cost is required to be recovered from the beneficiary as per the provisions of the KSR, i.e., on the basis of gross SS.

The SP, Ernakulam (Rural), provided police security to aviation fuelling station of the Bharat Petroleum Corporation Limited (BPCL) at Nedumbassery Airport from 29 June 1999 to 2 April 2004 on the verbal orders of the DPO, Ernakulam. BPCL declined to pay Rs. 19.77 lakh demanded for the above period in August 2003 and April 2004, on the ground that they had their own security and had not requested for security inside their premises. The DGP, instead of ordering for an enquiry for deployment of police force without requisition and non-reporting of deployed officers at the designated place, requested (November 2004) the Government to withdraw the demand. This serious lapse resulted in loss of revenue of Rs. 19.77 lakh.

After this was pointed out in December 2006, the Government stated (September 2007) that withdrawal of the bill of cost was under its consideration.

7.4.12 Non-reconciliation of remittances into treasury

Under the Kerala Financial Code, Volume I, the departmental sub-controlling officers should reconcile the departmental figures with the treasury figures and obtain the signature of the treasury officer on the statement prepared by them in token of the agreement of their figures with those of the treasury. Kerala Treasury Code, Volume I also stipulates such reconciliation. Police headquarters realises the cost of deployment of police guards by way of demand drafts and credit it to Government account along with other receipts. Motor vehicle fines and penalties and other receipts received by the district offices are remitted by the concerned office in the treasury of their locality.

Police headquarters, Commissionerate of Police, Kozhikode and five DPOs¹³ had not conducted reconciliation of remittances. At DPO Kollam, reconciliation was conducted upto April 2005. At DPO Malappuram reconciliation for the period between April 2004 and March 2006 only was conducted. Reconciliation details were wanting at five offices¹⁴.

Audit conducted an independent reconciliation of remittances of DGP office for the years 2004-05 and 2005-06 and found that the following remittances in cash did not figure at the sub treasury, Vellayambalam. Chalans in support of the remittances were also not made available.

¹³ DPOs Alapuzha, Idukki, Kottayam, Palakkad and Thiruvananthapuram

¹⁴ Commissionerates of Police Kochi and Thiruvananthapuram and DPOs Ernakulam, Kannur and Pathanamthitta

Sl. No.	Date of remittance	Amount (In rupees)
1.	6 October 2004	57,000
2.	18 November 2004	2,520
3.	18 November 2004	780
4.	20 July 2005	16,389
5.	25 July 2005	20,428
6.	1 August 2005	4,383
Total		1,01,500

Such lapse is fraught with the risk of misappropriation of public funds.

The Government stated (September 2007) that instructions had already been issued to all CPCs and SPs to reconcile the figures with treasury and send the report without fail.

7.4.13 Inconsistency in the remittance of motor vehicle fines and penalty

Notification issued in March 2002 under section 200 of the Central Motor Vehicle Act, 1988, empowers officers of or above the rank of sub inspector of traffic branch and local police of the area to compound certain motor vehicles offences specified in the notification. The DGP issued a direction in January 2005 that fines and penalty collected by the Police Department should be remitted to the head of account "0055 Police".

Scrutiny of the records revealed that compounding fee of Rs. 2.78 crore remitted, between 10 January 2005 and 31 March 2006, by four offices¹⁵ was credited by the CPC, Kochi and the DPO, Alappuzha to the head of account "0041 Taxes on Vehicles".

The Government stated (September 2007) that instructions had been issued to all CPs and SPs to remit the receipt to the head of account '0055 Police'.

7.4.14 Conclusion

The review revealed that the department failed to assess cost of police deployment correctly and were not prompt in demanding it from the beneficiary institutions in the absence of a system for cross verification of the cost of police deployed as computed by the DPOs and CPCs with the SS. There was no system for monitoring the receipt of bills of cost. Failure to maintain the DCB register resulted in accumulation of arrears. Internal control mechanism in the department was not effective as is evidenced by the arrears in inspections to be conducted by the internal audit wing and the lack of a manual/code to conduct internal audit.

7.4.15 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues :

- prescribing a system for linking of information at the level of CPCs to check short demand of the cost of police deployed;

¹⁵ DPOs Alappuzha and Thiruvananthapuram and Commissionerates of Police Kochi and Thiruvananthapuram


- prescribing a system to monitor the receipts of bills so that the cost of police deployed is realised in full promptly;
- ensuring that the DCB register is maintained for monitoring and realisation of arrears;
- imparting proper training to internal audit staff and adherence to the time schedule prescribed for conducting internal audit; and
- prescribing specific time limit for payment of cost of police guard and making provision for levy of interest in case of belated payment, to avoid blocking of revenue and loss of interest.



Thiruvananthapuram,
The 12 8 FEB 2008

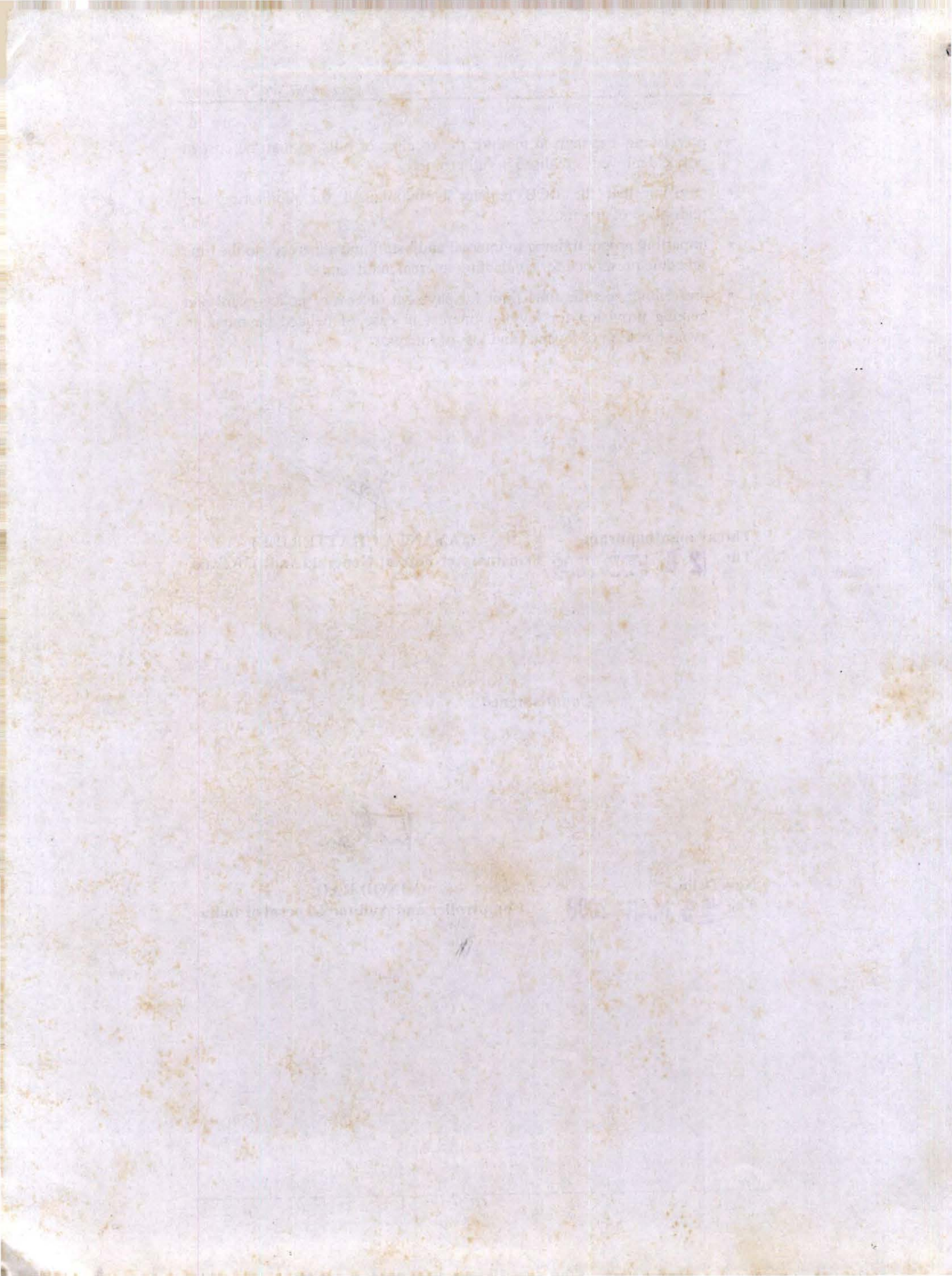
(JAYANTA CHATTERJEE)
Principal Accountant General (Audit), Kerala

Countersigned



New Delhi,
The 5 MAR 2008

(VINOD RAI)
Comptroller and Auditor General of India



Annexures

INDEXES

Annexure I
(Reference : Paragraph 5.2)

Import of spirit /ENA without remitting the required import fee

Name of importer	Quantity of spirit imported (proof litre in lakh)	Import fee due (Rupees in crore)
United distilleries, Vengalipara.	369.04	18.45
Polsons distillery, Chalakkudy.	319.84	15.99
Empee distilleries Ltd., Kanjikode.	300.93	15.05
Amrut distilleries Ltd., Pampanpallom.	273.00	13.65
S.D.F industries Ltd., Pampady, Thiruvillwamala.	251.68	12.59
Kerala distilleries & Allied Products, Kanjikode.	219.75	10.99
Kerala Alcoholic Products Ltd., Meenakshipuram.	198.77	9.94
Elite distilleries and Beverages Co., Mundur.	170.61	8.53
MC Dowel distillery, Cherthala.	96.01	4.80
South Travancore distilleries & Allied Products, Neyyattinkara.	74.69	3.74
Kaycee distilleries, Pudukkad.	65.86	3.29
Devicolam distilleries Ltd., Kakkanad.	53.68	2.68
Palakkad distilleries (P) Ltd., Govindapuram.	44.83	2.24
Travancore Sugars and Chemicals, Thiruvalla.	35.84	1.79
Indoscottish Brand (P) Ltd., distillery, Karuvelippadi.	21.83	1.09
Total	2,496.36	124.82

Annexure II

(Reference: Paragraph 7.3.3)

1. Kerala Financial Corporation, Thiruvananthapuram (KFC)
2. Kerala Infrastructure Investment Fund Board, Thiruvananthapuram (KIIFB)
3. Kerala Water Authority, Thiruvananthapuram (KWA)
4. Kerala State Electricity Board, Thiruvananthapuram (KSEB)
5. Kerala Power Finance Corporation, Thiruvananthapuram (KPFC)
6. Kerala State Civil Supplies Corporation, Ernakulam (KSCSC)
7. Market Fed, Ernakulam (Market Fed)
8. Kerala State Cashew Development Corporation, Kollam (KSCDC)
9. Transformers and Electricals Kerala Ltd., Angamaly (TELK)
10. Steel Industries Kerala Ltd., Athani, Thrissur (SILK)
11. Kerala Minerals and Metals Ltd., Chavara, Kollam (KMML)
12. Kerala Electrical and Allied Eng. Co. Ltd., Ernakulam (KEAE)
13. Traco Cable Company, Ernakulam (Traco)
14. Kerala State Drugs and Pharmaceuticals Ltd., Kalavur, Alappuzha (KSDP)
15. Autokast Ltd., Cherthala (Autokast)
16. Alleppy Co-op. Spinning Mills, Kareelakulangara (ACSM)
17. Coirfed, Alappuzha (Coirfed)
18. KIRF Board, Thiruvananthapuram (KIRF)
19. Malabar Cements, Walayar (Malabar cements)
20. Sitaram Mills, Thrissur (Sitaram Mills)
21. Greater Cochin Development Authority, Ernakulam (GCDA)
22. Kollam Development Authority, Kollam (Kollam DA)
23. District Panchayath, Thiruvananthapuram (DPT)
24. Kerala Forest Development Corporation, Kottayam (KFDC)
25. Kerala State Financial Enterprises, Thrissur (KSFE)
26. KELTRON
27. Kerala State Housing Board, Thiruvananthapuram (KSHB)
28. Kerala State Co-op. Agricultural and Rural Development Bank, Thiruvananthapuram (KSCARD Bank)
29. Kerala State Backward Classes Development Corporation, Thiruvananthapuram (KSBCDC)
30. Kerala Khadi and Village Industries Board, Thiruvananthapuram (Khadi board)
31. United Electricals Industries, Kollam (United Electricals)
32. Kerala State Road Transport Corporation, Thiruvananthapuram (KSRTC)
33. The Rubco, Kannur (Rubco)