



GOVERNMENT OF KARNATAKA

REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA

For the year 1978-79

(REVENUE RECEIPTS)

STATE OF TEXAS

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE FOR THE YEAR 1872

GENERAL STATEMENTS

Year	Acres	Value	Remarks
1870	1,234,567	\$1,234,567	Land sold for public use
1871	2,345,678	\$2,345,678	Land sold for private use
1872	3,456,789	\$3,456,789	Land sold for public use
1873	4,567,890	\$4,567,890	Land sold for private use
1874	5,678,901	\$5,678,901	Land sold for public use
1875	6,789,012	\$6,789,012	Land sold for private use
1876	7,890,123	\$7,890,123	Land sold for public use
1877	8,901,234	\$8,901,234	Land sold for private use
1878	9,012,345	\$9,012,345	Land sold for public use
1879	10,123,456	\$10,123,456	Land sold for private use
1880	11,234,567	\$11,234,567	Land sold for public use
1881	12,345,678	\$12,345,678	Land sold for private use
1882	13,456,789	\$13,456,789	Land sold for public use
1883	14,567,890	\$14,567,890	Land sold for private use
1884	15,678,901	\$15,678,901	Land sold for public use
1885	16,789,012	\$16,789,012	Land sold for private use
1886	17,890,123	\$17,890,123	Land sold for public use
1887	18,901,234	\$18,901,234	Land sold for private use
1888	19,012,345	\$19,012,345	Land sold for public use
1889	20,123,456	\$20,123,456	Land sold for private use
1890	21,234,567	\$21,234,567	Land sold for public use
1891	22,345,678	\$22,345,678	Land sold for private use
1892	23,456,789	\$23,456,789	Land sold for public use
1893	24,567,890	\$24,567,890	Land sold for private use
1894	25,678,901	\$25,678,901	Land sold for public use
1895	26,789,012	\$26,789,012	Land sold for private use
1896	27,890,123	\$27,890,123	Land sold for public use
1897	28,901,234	\$28,901,234	Land sold for private use
1898	29,012,345	\$29,012,345	Land sold for public use
1899	30,123,456	\$30,123,456	Land sold for private use
1900	31,234,567	\$31,234,567	Land sold for public use

Approved: _____

Commissioner of the Land Office

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(REVENUE RECEIPTS)

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THE HISTORY OF THE

REIGN OF CHARLES THE FIRST

BY JOHN BURNET

IN TWO VOLUMES

LONDON

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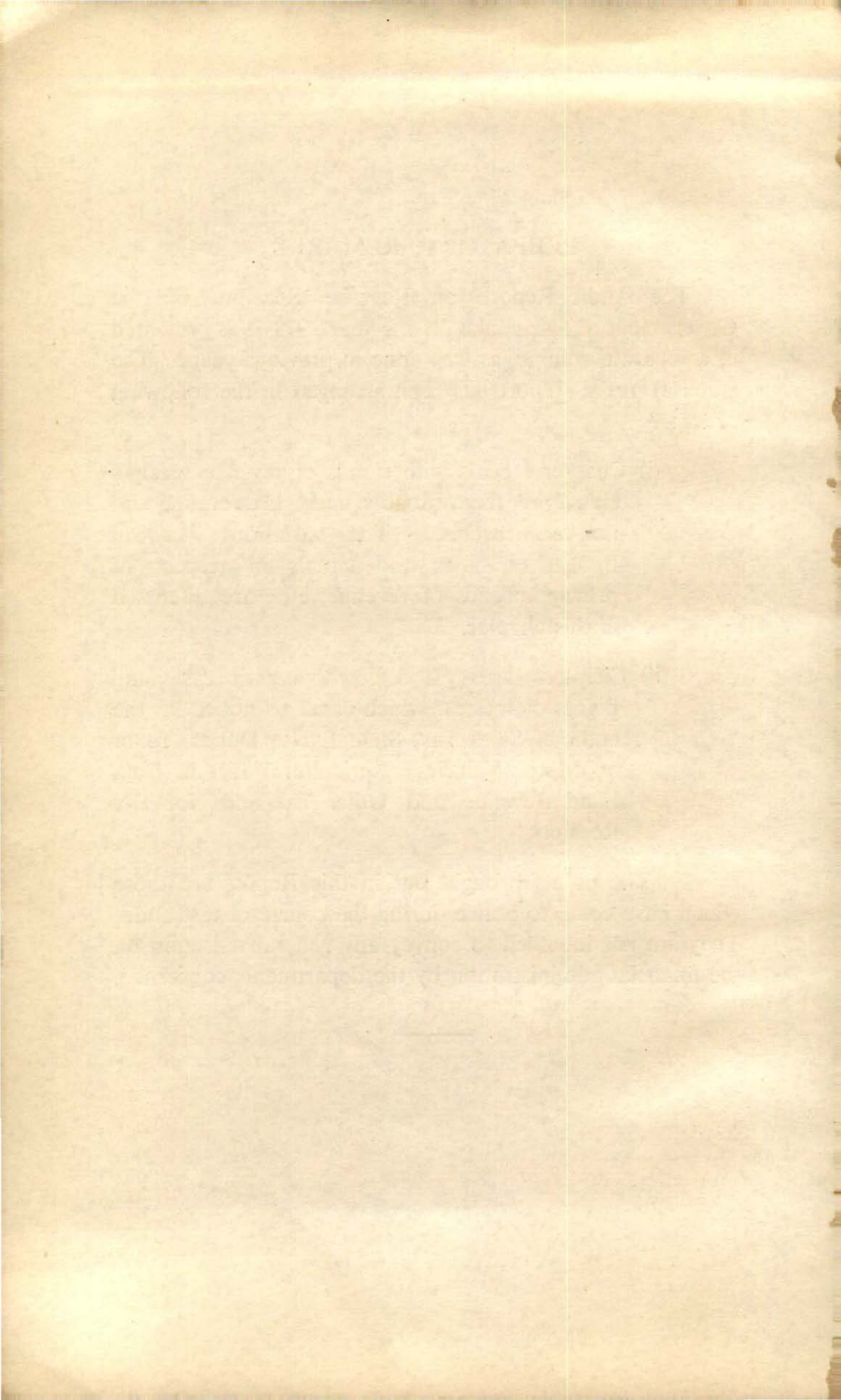
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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Karnataka for the year 1978-79 is presented in a separate volume, as was done in previous years. The material in the Report has been arranged in the following order :—

- (i) Chapter I deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Budget estimates and actuals in respect of principal heads of revenue, etc., are discussed in this chapter.
- (ii) Chapters II to VII deal with certain cases and points of interest which came to notice in the audit of Sales Tax, State Excise Duties, Taxes on Motor Vehicles, Agricultural Income Tax, Land Revenue and Other Tax and Non-Tax Receipts.

2. The points brought out in this Report are those which have come to notice during the course of test audit. They are not intended to convey any general reflection on the financial administration by the departments concerned.



CHAPTER I

GENERAL

1.01. Trend of revenue receipts

The total receipts of the Government of Karnataka for the year 1978-79 were Rs. 688.55 crores against the anticipated receipts of Rs. 675.53 crores. The total receipts realised during the year registered an increase of 15 per cent over those in 1977-78 (Rs. 598.49 crores). Out of the total receipts of Rs. 688.55 crores, Rs. 517.19 crores represented revenue raised by the State Government, of which Rs. 334.00 crores represented "Tax Revenue" and the balance "Non-Tax Revenue". The receipts from the Government of India (Rs. 171.36 crores) during the year accounted for 25 per cent of the total receipts.

1.02. Analysis of revenue receipts

(a) An analysis of the receipts during 1978-79 along with the corresponding figures for the preceding two years is given below :

	<i>Receipts during</i>		
	<i>1976-77</i>	<i>1977-78</i>	<i>1978-79</i>
	<i>(In crores of rupees)</i>		
I Revenue raised by the State Government—			
(a) Tax Revenue	269.26	297.27	334.00
(b) Non-Tax Revenue	155.06	145.35	183.19
Total I	424.32	442.62	517.19
II Receipts from the Government of India—			
(a) State's share of divisible Union Taxes	91.54	97.90	106.30*
(b) Grants-in-aid	43.25	57.97	65.06*
Total II	134.79	155.87	171.36
III Total receipts of the State (I and II)	559.11	598.49	688.55
IV Percentage of I to III	76.00	74.00	75.00

* For details please see Statement No. 11 of Finance Accounts for 1978-79—Government of Karnataka.

(b) **Tax revenue raised by the State.**—Receipts from tax revenue during 1978-79 constituted 65 per cent of the revenue raised by the State. An analysis of tax revenue for the year 1978-79 and for the preceding two years is given below :

	Receipts during			(+) Increase/ (-) decrease in 1978-79 with reference to
	1976-77	1977-78	1978-79	1977-78
	(In crores of rupees)			
(i) Taxes on Agricultural Income	4.30	7.82	14.37	+ 6.55
(ii) Other Taxes on Income and Expenditure	3.43	4.35*	4.82	+ 0.47
(iii) Land Revenue	4.25	4.94	6.95	+ 2.01
(iv) State Excise Duties	52.27	56.24	62.60	+6.36
(v) Taxes on Motor Vehicles	24.92	29.82	29.48	-0.34
(vi) Other Taxes and Duties	32.01	28.06*	33.39	+5.33
(vii) Sales Tax	137.30	151.09	164.48	+13.39
(viii) Stamps and Registration Fees	10.78	14.95	17.91	+ 2.96
Total	269.26	297.27	334.00	+36.73

The reasons for the increase in receipts during 1978-79 under some of the important heads as given by the depart-

* The difference in the figures is due to rounding off.

ments concerned are given below :

<i>Head of revenue</i>	<i>Increase (In crores of rupees)</i>	<i>Reasons for increase</i>
(i) Taxes on Agricultural Income	+6.55	Due to higher yield of coffee crop and increase in prices of coffee during 1977-78.
(ii) State Excise Duties	+6.36	Mainly due to higher receipts of rentals from shops vending country spirits (Rs.2.78 crores), more receipts from Indian made foreign liquors and spirits (Rs. 2.25 crores) and country fermented liquors (Rs. 0.67 crore).
(iii) Other Taxes and Duties	+5.33	Mostly due to increase in receipts under Entertainments Tax (Rs. 1.35 crores) and Health Cess and Education Cess (Rs. 1.31 crores). There were also increased receipts of taxes and fees under the Electricity Rules (Rs. 2 crores).
(iv) Sales Tax	+13.39	Mainly due to normal growth of trade and recovery of arrears of tax.

(c) **Non-tax revenue of the State.**—Interest, Education, Medical, Forest, Industries and Irrigation, Navigation, Drainage and Flood Control Projects were the principal sources of non-tax revenue in the State. Receipts from non-tax revenue during 1978-79 constituted 35 per cent of the revenue raised by the State. An analysis of non-tax revenue under the principal heads for the year 1978-79 and

for the preceding two years is given below :

	<i>Receipts during</i>			<i>(+) Increase/ (-) decrease in 1978-79 with reference to</i>
	<i>1976-77</i>	<i>1977-78</i>	<i>1978-79</i>	<i>1977-78</i>
	<i>(In crores of rupees)</i>			
(i) Interest	63.41	51.47	66.94	+15.47
(ii) Education	4.24	4.49*	3.74	- 0.75
(iii) Medical	3.26	3.33	3.71	+ 0.38
(iv) Forest	29.05	29.92	30.86	+ 0.94
(v) Industries	16.66	17.19*	26.72	+ 9.53
(vi) Irrigation, Navigation, Drainage and Flood Control Projects	4.05	4.11	6.75	+ 2.64
(vii) Others	34.39	34.84	44.47	+ 9.63
Total	155.06	145.35	183.19	+37.84

The reasons for increase in receipts during 1978-79 under some of the important heads as given by the departments concerned are given below :

<i>Head of revenue</i>	<i>Increase (In crores of rupees)</i>	<i>Reasons for increase</i>
(i) Interest	+15.47	Mainly due to increase in receipts from Public sector and other undertakings (Rs. 9.86 crores), Departmental Commercial undertakings (Rs. 4.49 crores) and from investment of cash balances (Rs. 0.72 crore).
(ii) Industries	+9.53	Mainly due to more receipts from Government Soap Factory, Bangalore and Government Silk Filatures and increase in licence fee.

* Differs from the figures in Revenue Receipts Audit Report 1977-78 due to rounding.

1.03. Variations between Budget estimates and actuals

(i) The variations of Rs. 12.11 crores between Budget estimates and actuals during 1978-79 were made up of a shortfall of Rs. 18.09 crores in tax revenue and an excess of Rs. 5.98 crores in non-tax revenue.

The comparative figures for three years 1976-77 to 1978-79 are given below :

	Year	Budget esti- mates	Actuals	Variations Per-	
				(+) in- crease/ (-) short- fall	centage of varia- tions
(In crores of rupees)					
A. Tax revenue	1976-77	261.85	269.26	+ 7.41	+ 2.80
	1977-78	293.52	297.27	+ 3.75	+ 1.29
	1978-79	352.09	334.00	-18.09	- 5.14
B. Non-tax revenue	1976-77	126.47	155.06	+28.59	+22.06
	1977-78	154.75	145.35	- 9.40	- 6.07
	1978-79	177.21	183.19	+ 5.98	+ 3.37

(ii) Variations between Budget estimates and actuals under the principal heads of revenue are given below :

Head of revenue	Year	Budget esti- mates	Actuals	Variations Per-	
				(+) in- crease/ (-) short- fall	centage of varia- tions
(In crores of rupees)					
(i) Taxes on Agricultural Income	1976-77	2.25	4.30	+ 2.05	+ 91
	1977-78	4.60	7.82	+ 3.22	+ 70
	1978-79	6.50	14.37	+ 7.87	+ 121
(ii) Land Revenue	1976-77	7.00	4.25	- 2.75	- 39
	1977-78	6.00	4.94	- 1.06	- 18
	1978-79	6.00	6.95	+ 0.95	+15.83
(ii) State Excise Duties	1976-77	56.00	52.27	- 3.73	- 6
	1977-78	58.00	56.24	- 1.76	- 3
	1978-79	58.00	62.60	+ 4.60	+ 7.93
(iv) Taxes on Motor Vehicles	1976-77	16.00	24.92	+ 8.92	+ 68
	1977-78	27.50	29.82	+ 2.32	+ 8
	1978-79	30.50	29.48	- 1.02	- 3.34

Head of revenue	Year	Budget estimates	Actuals	Variations	Per-
				(+) increase/ (-) Short-fall	centage of variations
(In crores of rupees)					
(v) Sales Tax	1976-77	139.00	137.30	- 1.70	- 1
	1977-78	151.50	151.09	- 0.41	..
	1978-79	162.00	164.48	+ 2.48	+ 1.53
(vi) Other Taxes and Duties	1976-77	31.10	32.01	+ 0.91	+ 2
	1977-78	40.61	28.07	-12.54	-39
	1978-79	31.65	33.39	+ 1.74	+ 5.49
(vii) Stamps and Registration Fees	1976-77	10.50	10.78	+ 0.28	- 1
	1977-78	12.50	14.95	+ 2.45	+20
	1978-79	13.00	17.91	+ 4.91	+37.77
(viii) Interest	1976-77	45.15	63.41	+18.26	+40
	1977-78	54.84	51.47	- 3.37	-62
	1978-79	67.62	66.94	- 0.68	- 1
(ix) Education	1976-77	3.86	4.24	+ 0.38	+ 9
	1977-78	4.60	4.48	- 0.12	- 3
	1978-79	2.58	3.74	+ 1.16	+45
(x) Medical	1976-77	3.15	3.26	+ 0.11	+ 3
	1977-78	3.62	3.33	- 0.29	- 8
	1978-79	3.78	3.71	- 0.07	- 1.8
(xi) Forest	1976-77	28.00	29.05	+ 1.05	+ 4
	1977-78	33.00	29.92	- 3.08	- 9
	1978-79	34.48	30.86	- 3.62	-10.5
(xii) Industries	1976-77	16.03	16.66	+ 0.63	+ 4
	1977.78	20.35	17.20	- 3.15	-15
	1978-79	23.43	26.72	+ 3.29	+14
(xiii) Irrigation, Navigation, Drainage and Flood Control Projects	1976-77	5.00	4.05	- 0.95	-19
	1977-78	8.50	4.11	- 4.39	-52
	1978-79	10.00	6.75	- 3.25	-32.50

(iii) Variations between Budget estimates and actuals for 1978-79 were more than 10 per cent under the following

heads of revenue :

<i>Head of revenue</i>	<i>Variations (+) increase/ (-) shortfall (In crores of rupees)</i>	<i>Reasons for variation as reported by the departments</i>
(i) Land Revenue	+ 0.95	Due to good collection of land revenue.
(ii) Stamps and Registration Fees	+ 4.91	Due to more vending of non-judicial stamps and also due to more registration.
(iii) Education	+ 1.16	Mainly due to anticipated number of students not claiming fee concessions and more receipts from accommodation charges from youth hostels.
(iv) Forest	- 3.62	Due to not assuming receipts to the extent of Rs. 400 lakhs in respect of assets to be transferred to Rubber Corporation and assuming receipts of Rs.22 lakhs only against Rs. 88 lakhs in respect of assets transferred to Karnataka State Cashew Development Corporation.
(v) Irrigation, Navigation, Drainage and Flood Control Projects	- 3.25	Due to shortfall in revenue under major and medium projects and minor projects.

The reasons for variation under the heads "Taxes on Agricultural Income" and "Industries" are given in paragraphs 1.02(b) and (c) at pages 3 and 4 of the Report.

1.04. Cost of collection

Expenditure incurred in collecting the receipts under the principal heads of revenue during the three years 1976-77 to 1978-79 is given in Appendix I.

1.05. Taxation proposals

Government proposed to raise an additional revenue of Rs. 2.40 crores per annum during the year 1978-79. The

measures proposed, additional revenue anticipated, actual amount realised during the year and the reasons for variation, as reported by the departments, are given below :

<i>Measures</i>	<i>Date of implemen- tation</i>	<i>Amount antici- pated</i>	<i>Amount realised</i>	<i>Reasons for variation</i>
<i>(In crores of rupees)</i>				
Sales Tax—				
Enhancement of rate of tax on a number of commodities like motor spirits, stainless steel articles, cement sheets, etc.	1st Sep- tember 1978	2.40	1.27	Against the anticipated increase of Rs 2.40 crores per annum, Rs. 1.27 crores only were realised during 1978-79 as the proposals were given effect to from 1st September 1978.

1.06. Arrears in assessments

The number of assessments finalised by the Commercial Taxes Department and the assessments pending finalisation as on 31st March 1978 and 31st March 1979 (with year wise break-up) as reported by the department, are indicated in Appendix II. Category-wise break-up of the pending assessments as on 31st March 1979, as furnished by the department, is as follows :

(a) Sales Tax

	<i>Number of cases pending</i>		<i>Percentage to the total number of cases pending</i>	
	<i>Karnataka Sales Tax Act</i>	<i>Central Sales Tax Act</i>	<i>Karnataka Sales Tax Act</i>	<i>Central Sales Tax Act</i>
(i) Turnover of Rs. 2 lakhs and above	19,563	12,060	35	41
(ii) Turnover of Rs. 1 lakh and above but below Rs. 2 lakhs	10,176	6,885	18	24
(iii) Turnover of less than Rs. 1 lakh	25,918	10,332	47	35
Total	55,657	29,277	100	100

(b) Entertainments Tax

	<i>Number of cases pending</i>	<i>Percentage to the total number of cases pending</i>
(i) Turnover of Rs. 2 lakhs and above	45	2
(ii) Turn over of Rs. 1 lakh and above but below Rs. 2 lakhs	171	7
(iii) Turnover of less than Rs. 1 lakh	2,309	91
Total	2,525	100

(c) Taxes on Agricultural Income

	<i>Number of cases pending</i>	<i>Percentage to the total number of cases pending</i>
(i) Assesseees having income over Rs. 25,000	922	0.97
(ii) Assesseees having income over Rs.15,000 but not exceeding Rs. 25,000	8,045	8.42
(iii) Assesseees having income over Rs.7,500 but not exceeding Rs. 15,000	48,194	50.45
(iv) Assesseees having income of Rs.7,500 and below	38,329	40.12
(v) Refund cases	37	0.04
Total	95,527	100.00

The pendency is heavy in Sales Tax and Agricultural Income Tax assessments, specially under the categories a(iii), c(iii) and c(iv) mentioned above. Reasons therefor are awaited from the department (April 1980).

1.07. Uncollected revenue

The total revenue collected and arrears of revenue pending collection at the end of 1977-78 and 1978-79, as

reported by the departments, are shown below :

Year	Total amount collected	Arrears pending collection as at the end of March	Percentage of arrears to total collection
	(In crores of rupees)		
1977-78	442.62	(a)	(a)
1978-79	517.19	(a)	(a)

The details of outstanding amounts as on 31st March 1979 in respect of some of the principal sources of revenue are given below :

Sl. no.	Sources of revenue	Amount pending collection	Amount of arrears more than 5 years old
		(In crores of rupees)	
1.	Land Revenue	(a)	(a)
2.	Sales Tax	37.17	8.40
3.	Taxes on Agricultural Income	1.88	0.34
4.	State Excise Duties	3.43	0.67
5.	Taxes on Motor Vehicles	11.77 (b)	(a)
6.	Electricity Duties	0.93 (c)	(a)
7.	Entertainments Tax	0.28	0.02
8.	Forest	11.45	1.11
	Total	66.91	10.54

An analysis of arrears of revenue pending collection as on 31st March 1979 in respect of certain departments is

(a) Particulars of arrears are awaited from the departments (April 1980).

(b) This figure is exclusive of the arrears relating to Mysore, Belgaum, Ballary and Tumkur Regions which are awaited from the department (April 1980).

(c) This figure has been furnished by the department on the basis of Demand, Collection and Balance statement furnished by the Karnataka Electricity Board. The department is not maintaining detailed ledgers of consumers of electricity.

given below :

(a) **Sales Tax.**—Sales Tax demands raised but not collected as on 31st March 1979 amounted to Rs. 37.17 crores as against Rs. 31.70 crores outstanding as on 31st March 1978. Yearwise analysis of the outstanding amount is given below :

	<i>Arrears as on</i>			
	<i>31st March 1978</i>		<i>31st March 1979</i>	
	<i>Karnataka Sales Tax</i>	<i>Central Sales Tax</i>	<i>Karnataka Sales Tax</i>	<i>Central Sales Tax</i>
	<i>(In crores of rupees)</i>			
Up to 1973-74	5.16	4.77	4.50	3.90
1974-75	2.57	0.46	1.99	0.23
1975-76	3.03	0.58	3.00	0.56
1976-77	6.14	0.41	6.21	0.28
1977-78	7.84	0.74	6.91	0.39
1978-79	..	..	8.20	1.00
Total	24.74	6.96	30.81	6.36

(b) **State Excise Duties.**—The demands raised on account of State Excise Duties but not collected as on 31st March 1979 amounted to Rs. 3.43 crores as against Rs. 2.59 crores outstanding as on 31st March 1978. Yearwise analysis of the outstanding amount is given below :

<i>Year</i>	<i>Arrears as on</i>
	<i>31st March 1979</i>
	<i>(In lakhs of rupees)</i>
Up to 1974-75	103.71
1975-76	0.38
1976-77	7.42
1977-78	14.69
1978-79	217.24
Total	343.44

(c) **Taxes on Agricultural Income.**—The demands raised but not collected as on 31st March 1979 amounted to Rs. 1.88 crores as against Rs. 1.42 crores outstanding as on 31st March 1978. Yearwise analysis of the outstanding amount is given below:

Year	Arrears as on	
	31st March 1978	31st March 1979
	(In crores of rupees)	
Up to 1974-75	0.57	0.34
1975-76	0.10	0.13*
1976-77	0.16	0.13
1977-78	0.59	0.14
1978-79	..	1.14
Total	1.42	1.88

According to information furnished by the department (September 1979), the amount of arrears as on 31st March 1979 was in the following stages of action:

Stages of action	Amount of arrears (In lakhs of rupees)
Amount not fallen due	44.32
Amount covered by stay orders	7.02
Amount covered by instalment facility	9.60
Amount covered by show cause notices	8.71
Amount under revenue recovery proceedings	66.35
Amount for which penalty notices have been issued	16.30
Amount for which cheques received are being realised	5.52
Other reasons	30.18
Total	188.00

*Reasons for the increase in figures called for (January 1980) from the department are awaited (April 1980).

(d) **Entertainments Tax.**—Entertainments Tax demands raised but not collected as on 31st March 1979 amounted to Rs. 28.16 lakhs as against Rs. 27.39 lakhs outstanding as on 31st March 1978. Yearwise analysis of the outstandings is given below :

Year	<i>Arrears as on 31st March 1979 (In lakhs of rupees)</i>
Up to 1974-75	1.66
1975-76	0.64
1976-77	1.50
1977-78	5.16
1978-79	19.20
Total	28.16

1.08. Frauds and evasions

The number of cases detected to the end of 31st March 1979, the number of cases finalised and the number of cases pending, as reported by the departments, are given below :

	<i>Number of cases as on 31st March 1979</i>		
	<i>Detected</i>	<i>Finalised</i>	<i>Pending</i>
(a) Agricultural Income Tax	..	..	..
(b) Entertainments Tax	1,781	1,141	640
(c) Sales Tax—			
(i) Karnataka Sales Tax	3,419	1,098	2,321
(ii) Central Sales Tax	..	..	..
Total	5,200	2,239	2,961

In respect of the 2,239 cases finalised at the end of March 1979, particulars regarding the number of cases in which penalty was levied, the number of cases in which prosecution for concealment of turnover was launched, the number of cases in which composition was effected without launching prosecution, the number of cases in which convictions were obtained and the nature of punishment

awarded, called for from the department are awaited (April 1980). As a result, the total tax demanded including the penalty and the amount of composition money levied and collected is not ascertainable.

1.09. Writes-off and remissions of revenue

(a) Details of amounts written off and remissions allowed during 1978-79, as furnished by some of the departments, are given below :

Department	Writes-off of losses, irrecoverable revenue, duties, etc.		Remissions	
	Number of items	Amount (In lakhs of rupees)	Number of items	Amount (In lakhs of rupees)
Sales Tax—				
Karnataka Sales Tax	511	} 18.59	9	0.35
Central Sales Tax	25			
State Excise Duties	5	0.07	..	..

(b) The reasons for writes-off under 'Sales Tax', as furnished by the department (October 1979), are as follows :

- (a) Defaulters' whereabouts were not known.
- (b) Defaulters did not have any property.
- (c) Defaulters died leaving no property.
- (d) Defaulters became insolvent and recovery not possible.
- (e) Poor financial condition of the assessee due to loss and closure of business.

CHAPTER II

SALES TAX

2.01. Results of test audit in general

During the period 1st April 1978 to 31st March 1979, test audit of assessment/refund files disclosed under-assessment of tax of Rs. 89.26 lakhs in 453 cases. The under-assessment of tax is categorised under the following heads:

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Incorrect computation of taxable turnover	151	53.79
2. Incorrect computation of tax	183	19.06
3. Non-levy/short levy of penalty	67	4.09
4. Others	52	12.32
Total	453	89.26

Some important cases are mentioned in the following paragraphs.

2.02. Incorrect exemptions

(i) **Re-rolled iron and steel.**—Under the Karnataka Sales Tax Act, 1957, “iron and steel” coming under the category of declared goods are taxable at 3 per cent (4 per cent with effect from 15th July 1975) at the point of first sale in the State. The various items coming under “iron and steel” are enumerated under entry 2 of the Fourth Schedule to the Act. According to a judgment of the Supreme Court, each sub-item in the entry “iron and steel” is a separate taxable commodity for the purpose of sales tax and each of them is to be treated as a separate species for each series of sales, though they may all belong to the genus “iron and steel”. The State Government decided to give effect to the principle enunciated in the above judgment from 19th January 1976. Instructions were subsequently issued in October 1978 to hold in abeyance the recovery proceedings relating to tax due upto 31st March 1978 in such cases.

It was, however, noticed in audit (November-December 1978) of a Commercial Tax Office (Bangalore City) that a turnover of Rs. 1,48,88,728, relating to the sale of re-rolled iron and steel manufactured out of tax-suffered steel ingots and billets was completely exempted as second sales, although the sales took place between 19th January and December 1976. The irregular exemption resulted in short demand of tax of Rs. 5,95,549.

The matter was reported to Government in August 1979. Government stated (February 1980) that the assessee had preferred an appeal before Deputy Commissioner of Commercial Taxes (Appeals), Bangalore. Further report is awaited (April 1980).

(ii) Under the Karnataka Sales Tax Act, 1957, a dealer in any of the goods liable to tax in respect of the first sale or first purchase in the State shall be deemed to be the first seller or first purchaser, as the case may be, of such goods and shall be liable to pay tax accordingly on his turnover of sales or purchases, relating to such goods, unless he proves by necessary declarations in the prescribed form that the sale or purchase, as the case may be, of such goods had already been subjected to tax under the Act.

In three Commercial Tax Offices, the assessments were concluded *ex parte* in the case of four dealers, because the dealers had failed to produce books of accounts. In spite of the fact that the assessee had not produced proof to show that their sales related to goods which had already suffered tax under the Act, the assessing officers exempted from tax, turnovers amounting to Rs. 21,72,905, relating to medicines, liquor, battery cells, bottled and tinned foods, etc., stating that these pertained to tax-suffered goods. This resulted in non-levy of tax of Rs. 2,02,062, in the case of four dealers (Bangalore City and Bellary District), during the years 1975-76 and 1976-77.

The matter was reported to Government in July 1979; reply is awaited (April 1980).

(iii) **Prawns, shrimps, etc.**—In the case of an assessee (Dakshina Kannada District), the turnovers for the years 1973-74 and 1974-75, relating to the sales of processed frozen prawns, shrimps and frog legs were exempted as sales in the

course of export, even though the assessee sold the goods to another dealer at Bombay who in turn, sold the goods to a foreign buyer and the privity of export contract was between the dealer at Bombay and the foreign buyer and not between the assessee and the foreign buyer.

To the extent the goods moved out of the State of Karnataka in pursuance of the purchase order, the relevant turnover was to be treated as inter-State sales taxable under the Central Sales Tax Act, 1956. The incorrect exemption of the turnover resulted in loss of revenue of Rs. 1,15,114, on a turnover of Rs. 11,51,142.

The matter was reported to Government in May 1978. Government stated (September 1979) that revised orders have been passed by the Deputy Commissioner of Commercial Taxes remanding the case for fresh disposal. Further report is awaited (April 1980).

(iv) Fibre glass.—Under the Karnataka Sales Tax Act, 1957, the varieties of textiles exempted are those made of cotton, woollen, silk or artificial silk including rayon or nylon. The goods which come under these categories of textiles are detailed in the Central Excise and Salt Act, 1944. Fibre glass tapes and fibre glass cloth do not come under any of these categories of textiles according to a departmental clarification contained in the Central Excise Tariff of India. These goods cannot also be considered as declared goods because under the Central Sales Tax Act, 1956, only cotton, woollen and rayon or artificial silk fabrics as defined in the Central Excise Tariff of India are declared goods.

It was, however, noticed in audit (January 1979) that fibre glass cloth and fibre glass tapes sold by a dealer in Bangalore City, during 1976-77, were exempted from levy of tax treating them as textiles, instead of classifying them as general goods and levying tax at the general rate under the Act. This incorrect exemption resulted in loss of revenue of Rs. 30,050, on inter-State and intra-State sales of Rs. 4,84,302.

The matter was reported to Government in June 1979; reply is awaited (April 1980).

(v) Sheep and goats.—Under the Karnataka Sales Tax Act, 1957, a dealer who purchases taxable goods from

unregistered dealers and consumes them in the manufacture of other goods for sale or otherwise is liable to pay tax on the purchase price of the goods at the rates applicable to sale of such goods.

In a Commercial Tax Office (Dakshina Kannada District), turnovers relating to the purchase of sheep and goats from unregistered dealers for the purpose of conversion into mutton, and hides and skins during the years 1973-74 and 1974-75, were not taxed, citing a decision of the Kerala High Court.

On being pointed out in audit (December 1978) that the facts and circumstances of Kerala case were not completely identical to this case and the turnover was taxable, as already decided in earlier cases in Karnataka by the appellate authorities, the assessing officer revised the assessments and levied a tax of Rs. 25,200, for the years 1973-74 and 1974-75. In addition, assessments for the years 1975-76 to 1978-79 were also revised and additional tax of Rs. 22,600 was levied. Report regarding recovery is awaited (April 1980).

The matter was reported to Government in May 1979; reply is awaited (April 1980).

2.03. Incorrect determination of taxable turnover

Some cases of incorrect determination of taxable turnover noticed in the course of audit, which led to short levy of tax, are mentioned below :

(i) Packing material.—Under the Karnataka Sales Tax Act, 1957, sugarcane is taxable at the last purchase point of purchase in the State at the rate of Rs. 16 per tonne in the case of assesseees other than manufacturers of jaggery. According to the instruction issued (July 1978) by the Director of Sugar and Additional Registrar of Co-operative Societies, Bangalore, sugar factories are permitted to deduct 0.625 kilogram per quintal of sugarcane towards weight of binding materials, for the 1976-77 and 1977-78 seasons.

In the assessment of a sugar factory (Bellary District), deduction towards leaves or packing material was allowed at the rate of 10 per cent and the weight of sugarcane

assessable to tax was determined at 9,950 tonnes for the year 1976-77. Applying the prescribed rate of deduction at 0.625 kilogram per quintal, the quantity of sugarcane that should have been assessed to tax worked out to 10,986 tonnes. The excess deduction of 1,036 tonnes resulted in short levy of tax of Rs. 16,576.

The matter was reported to Government in July 1979. Government stated (December 1979) that the case had been taken up for *suo motu* revision by the department. Further report is awaited (April 1980).

(ii) Groundnut and karadi oil.—Under the Karnataka Sales Tax Act, 1957, inter-State sales turnover of groundnut and **karadi** oil are taxable at 2.5 per cent for the year 1974-75. An assessee in Raichur District returned a sales turnover of Rs. 6,90,832, but the assessing officer incorrectly computed the turnover at Rs. 69,832, resulting in incorrect determination of turnover of Rs. 6,21,000.

On this being pointed out in audit (December 1978), the department revised the assessment and collected the tax of Rs. 15,525 short levied (December 1978).

The matter was reported to Government in May 1979. Government confirmed the facts (November 1979).

(iii) Toddy.—(a) The sales turnover of toddy relating to an assessee in Dharwar District, for the year 1974-75, was determined by the assessing authority as Rs. 5,53,000 as against Rs. 5,41,344 returned by the assessee on the ground that the assessee had not kept stock account and that sales were not covered by sale bills.

It was, however, noticed in audit (August 1978) that based on the information furnished by the Excise Department to the assessing authority (August 1976) the turnover worked out to Rs. 9,30,267 on 6,20,178 litres of toddy at Re.one and paise fifty per litre. The erroneous determination of turnover resulted in short levy of tax of Rs. 15,091.

The matter was reported to Government in May 1979. Government stated (August 1979) that the Deputy Commissioner of Commercial Taxes, had since rectified the assessment. Particulars of recovery are awaited (April 1980).

(b) The normal practice adopted by the department to determine the turnover in the case of toddy dealers who have not rendered proper accounts is to compute the turnover at one and a half times the kist amount (rental). The Karnataka Appellate Tribunal have also stated that for this purpose the proper estimate to be made is one and a half times the net kist amount.

It was noticed in audit (March 1978) that a dealer in Mandya District returned a turnover of Rs. 11,59,000, relating to sales of toddy for the year 1972-73. As he failed to produce proper accounts, the assessing authority enhanced the turnover by 10 per cent and determined it at Rs. 12,74,900, without adducing sufficient reasons for such enhancement. The kist amount being Rs. 10,92,240 per annum, the turnover should have been determined at Rs. 16,38,360 instead of Rs. 12,74,900. This resulted in short levy of tax of Rs. 14,829 (including additional tax) on the difference of turnover of Rs. 3,63,460.

On this being pointed out in audit (March 1978), the department stated (June 1979) that the assessment had been rectified and an additional demand of Rs. 14,660 raised. Particulars of collection are awaited (April 1980).

The matter was reported to Government in November 1979; reply is awaited (April 1980).

(iv) **Weighing scales.**—Under the Karnataka Sales Tax Act, 1957, platform scales, counter scales and spring scales which are items of machinery are taxable at 8 per cent at the point of first sale in the State.

A dealer in Bangalore City purchased during 1975-76 weights and measures for Rs. 1,80,585 and counter balances, spring balances, platform balances, etc., for Rs. 3,94,849, from outside the State. In the assessment order, while the turnover of weights and measures assessed (at 4 per cent) was Rs. 8,43,517, the turnover of counter balances, etc., assessed (at 8 per cent) was only Rs. 1,30,053. Evidently, a considerable turnover of counter balances, etc., which are taxable at 8 per cent, was taxed at 4 per cent. Adopting the rate of gross profit at 10 per cent, the sales turnover of counter balances, etc., purchased from outside the State

worked out to Rs. 4,34,334 as against Rs. 1,30,053 determined. The loss of revenue on account of incorrect determination of turnover was Rs. 13,388.

The matter was reported to Government (May 1978). Government accepted the point raised in audit and stated (May 1979) that remedial measure to revise the assessment had been taken by the Deputy Commissioner of Commercial Taxes and that the collection of taxes is in progress. Further report is awaited (April 1980).

(v) Medicines.—Under the Karnataka Sales Tax Act, 1957, sales turnover of medicinal and pharmaceutical preparations is subjected to tax at the hands of the first or earliest of the successive dealers in the State. A dealer in Bangalore City effected inter-State purchases of medicines amounting to Rs. 4,32,530, during the year 1974-75. As seen from the assessment records, the dealer had not indicated any opening or closing stock. In the absence of closing stock, the entire purchases should have been deemed as sold. Adding ten per cent towards gross profit, the sales turnover worked out to Rs. 4,75,783, whereas the turnover determined was Rs. 2,92,257 only. The incorrect determination of turnover resulted in short levy of tax of Rs. 14,682 (approximately).

The matter was reported to Government in May 1979. Government confirmed the facts (November 1979) and also stated that action would be taken to revise the assessment. Final reply is awaited (April 1980).

2.04. Incorrect classification of goods

Under the Karnataka Sales Tax Act, 1957, various goods attracting levy of tax are classified under the Schedules to the Act and taxed at prescribed rates. The goods which are not covered by the Schedules are taxed at prescribed rates multi-point.

Some important cases of incorrect classifications of goods noticed in audit, which resulted in short levy of taxes are mentioned below :

(i) Rubberised coir products.—Mattresses and cushions which are made up of coir coated with rubber cannot be

considered as coir products falling under entry 106 of the Second Schedule to the Karnataka Sales Tax Act, 1957, and will have to be treated as unclassified goods.

In a Commercial Tax Office (Bangalore City), the turnovers relating to sales of rubberised coir products, *viz.*, mattresses and cushions were assessed to tax at two per cent under the Second Schedule to the Karnataka Sales Tax Act, 1957, treating the goods as coir products. The misclassification resulted in short levy of tax of Rs. 5,63,934 (excluding additional tax), on inter-State and intra-State sales amounting to Rs. 1,04,46,853, for the period October 1970 to March 1975.

The matter was reported to Government in July 1979. Government agreed with the views of Audit and stated (August 1979) that the assessing officer had been advised to rectify the assessments and collect the difference of tax. Further reply is awaited (April 1980).

(ii) Tractor drawn implements.— Under the Karnataka Sales Tax Act, 1957, all machinery and spare parts and accessories thereof are taxable at eight per cent with effect from 1st April 1974. It has been held by the High Court of Karnataka, that machinery is a contrivance whereby several things are put together in such a way that force may be applied at a convenient point in a most convenient way so as to get a particular work done. In the light of this judgement, the implements like toddler cultivators, spring cultivators, spring loaded cultivators, heavy duty mounted offset depth harrows, etc., which are worked by attaching them to tractors, some of which are hydraulically controlled, may be treated as machinery and taxed at six per cent up to 31st March 1974, and at eight per cent thereafter. The Commissioner of Commercial Taxes, Karnataka, has also clarified that the implements mentioned above are classifiable as machinery.

It was noticed in audit (April 1979) that in the case of a dealer in the above mentioned goods (Bangalore City), the assessing officer levied tax at the rate of three per cent up to 30th June 1972, three and a half per cent from 1st July 1972 to 31st March 1975 and at four per cent thereafter, treating them as unclassified goods. The misclassification resulted

in short levy of tax of Rs. 70,000 (approximately), for the years 1970-71 to 1974-75.

The matter was reported to Government in August 1979; reply is awaited (April 1980).

(iii) Ballpins.—According to a judgement of the Karnataka High Court, ballpin, which is used in the manufacture of porcelain disc-insulators which in turn, is used in transmission of electrical energy is to be classified as electrical goods under the Second Schedule to the Karnataka Sales Tax Act, 1957. It was noticed in audit (June 1979) that an assessee (Bangalore District) manufactured and sold ballpins to a porcelain factory manufacturing electrical insulators. The sales turnovers amounting to Rs. 47,211 and Rs. 2,21,205, during the years 1976-77 and 1977-78, respectively, were assessed to tax at four per cent as general goods instead of at ten per cent as electrical goods. This resulted in short levy of tax of Rs. 16,105.

The matter was reported to Government in November 1979; reply is awaited (April 1980).

(iv) Heavy chemicals.—Under the Karnataka Sales Tax Act, 1957, heavy chemicals were taxable at six per cent, upto 31st March 1976, at the point of first sale in the State. The Commissioner of Commercial Taxes has clarified (June 1977) that acetic acid and zinc oxide are heavy chemicals.

It was noticed in audit (February 1979) of a Commercial Tax Office in Bangalore City that a turnover of Rs. 5,43,121 relating to zinc oxide, for the period 14th November 1974 to 3rd November 1975, was taxed treating the goods as unclassified goods at three and a half per cent/four per cent, instead of as heavy chemicals at six per cent. In another office in Bangalore City, it was noticed in audit (April 1979) that a turnover of Rs. 5,93,625 relating to acetic acid for the year 1975-76 was similarly taxed as unclassified goods at four per cent instead of as heavy chemical at six per cent. The misclassifications resulted in short levy of tax of Rs. 24,360.

The cases mentioned above were reported to Government in July and August 1979; reply is awaited (April 1980).

2.05. Error in computation of tax

Under the Karnataka Sales Tax Act, 1957, groundnuts are taxable at the point of first purchase in the State at 3 per cent from 1st April 1974. In an assessment of a dealer in Tumkur District, the tax at 3 per cent on a turnover of Rs. 27,78,449, relating to purchase of groundnuts, for the year 1974-75, was erroneously calculated at Rs. 63,353 instead of Rs. 83,353, resulting in short levy of tax of Rs. 20,000.

On this being pointed out in audit (November 1978), the department initiated action for rectifying the mistake and collected the amount short levied (November 1978).

The matter was reported to Government in August 1979; reply is awaited (April 1980).

2.06. Escapement of turnover relating to sales of chillies

The particulars relating to consignments of chillies of the value of Rs. 3,21,705 and Rs. 2,13,109, for the years 1974-75 and 1975-76, respectively, despatched by the dealers of Andhra Pradesh to a commission agent in Karnataka were furnished by Audit (March 1978) to the assessing authority in Gulbarga District for verifying whether the commission agent had actually accounted for all the consignments he had received and the corresponding sales turnover had been brought to tax. On verification, the assessing authority found that as against consignments of the value of Rs. 3,70,454 and Rs. 3,37,345 received by the dealer, during the years 1974-75 and 1975-76, respectively, only a consignment of Rs. 20,908, relating to the year 1974-75, was accounted for by him. The assessing authority rectified (May 1978) the original assessment orders passed in July 1976 and May 1977, in respect of the years 1974-75 and 1975-76, and determined the sales turnovers relating to the suppressed transactions at Rs. 3,84,500 and Rs. 3,71,080, respectively. A tax of Rs. 33,239 and penalty of Rs. 3,679 were levied on these escaped turnovers and collected (March 1979).

The matter was reported to Government in May 1979. Government confirmed the facts (September 1979).

2.07. Irregular application of concessional rate of tax under the Central Sales Tax Act, 1956

(i) Under Section 8 of the Central Sales Tax Act, 1956, prior to its amendment with effect from 1st July 1975, the tax payable by any dealer on his turnover in so far as it related to the sale of goods in the course of inter-State trade or commerce other than sale to Government or to a registered dealer supported by prescribed declarations, was as follows :

(a) In the case of declared goods, at the rate applicable to the sale or purchase inside the State and

(b) In the case of goods other than declared goods, at the rate of ten per cent or at the rate applicable to the sale or purchase of goods inside the State, whichever was higher.

It was noticed in audit (December 1976) that in the case of a dealer (Bijapur District), fibre extracted from the plant 'agave' or 'sisal hemp' was treated as declared goods falling under the entry at serial number 4 of the Fourth Schedule to the Karnataka Sales Tax Act, 1957, and the inter-State sales not covered by the declarations in the prescribed form were taxed at 3 per cent.

As the plant yielding the fibre is not one of those detailed in the Fourth Schedule to Karnataka Sales Tax Act, 1957, the fibre does not fall under the category of declared goods. Consequently, the sales thereof were taxable at 10 per cent treating the goods as unclassified goods.

The irregular application of the concessional rate resulted in short levy of Rs. 3,45,319, on a turnover of Rs. 49,33,132, for the years 1973-74 and 1974-75.

The matter was reported to Government in October 1978. Government stated (August 1979) that in respect of the year 1973-74 revision proceedings could not be taken as the case was barred by limitation and in respect of 1974-75 revision proceeding had been initiated. Further report is awaited (February 1980).

(ii) In the case of another two dealers in Bangalore City, it was noticed in audit (March/April 1978) that

inter-State sales of art silk yarn, which were not covered by the prescribed declarations, were assessed to tax at 3 per cent instead of at 10 per cent, for the period 1st April 1974 to 30th June 1975. Incidentally, the rate of tax under the State Act on art silk yarn was 3 per cent.

On this being pointed out in audit (March/April 1978), the department stated (September 1979) that the assessments had been rectified and an additional demand of Rs. 21,333 raised in respect of a turnover of Rs. 3,09,003. Particulars of collection are awaited (April 1980).

The matter was reported to Government in November 1979; reply is awaited (April 1980).

2.08. Non-levy of penalty for unauthorised collection of tax by dealers

Under the Karnataka Sales Tax Act, 1957, if any person collects tax contrary to the conditions and restrictions contained in the Act or at rates exceeding those prescribed in the Act, penalty not exceeding one and a half times the unauthorised collection may be levied by the assessing authorities, after giving a reasonable opportunity of being heard to the dealer. It was noticed in audit (between January and August 1979) of assessment records of four offices (Bangalore and Mysore Districts), that in 29 cases, excess tax amounting to Rs. 1.82 lakhs was collected during the period 1972-73 to 1977-78, but the question of levy of penalty was not considered by the assessing authorities. In 50 other cases of assessments, relating to the years 1968-69 to 1976-77, concluded prior to the judgement upholding the validity of these provisions, excess collections to the extent of Rs. 0.80 lakh were also noticed in audit (between April 1978 and March 1979). All these cases were also reported to the assessing authorities for considering action under these provisions. Replies are awaited (April 1980).

The matter was reported to Government in November 1979; reply is awaited (April 1980).

2.09. Non-payment of self-assessed tax along with annual returns

Under the Karnataka Sales Tax Act, 1957, if the dealers fail to submit the annual returns within 30 days of the close of the year and pay the tax as calculated by them, the assessing authorities are required to demand the submission of the returns and payment of tax as per returns with penalty for delay in payment of tax. Two companies submitted their annual returns, relating to the years 1972-73 and 1973-74, after a delay of 1 to 2 years. The delayed returns showed the particulars of turnovers taxable at different rates, but not the actual tax liability. The short payment of tax according to the information available in the returns was Rs. 46,950 and this was paid between June and September 1976 after the conclusion of final assessments in June, July and August 1976. The penalty due for non-payment of tax was Rs. 27,338. The assessing authority did not levy penalty on the ground that the returns filed did not show the tax liability clearly. Although it was incumbent on the assessing authorities to have demanded the submission of the complete returns and in time, it was not so demanded. A compounding fee of Rs. 125 only was levied in these cases for belated filing of returns.

In two other cases relating to the same office and in a third case in another office in Bangalore City, although the dealers filed the annual returns for 1975-76 in time, taxes amounting to Rs. 1.84 lakhs, as admitted in the returns were not paid by the time the returns were filed, resulting in accrual of penalty to the extent of Rs. 0.77 lakh.

On this being pointed out in audit (March and May 1979), the assessing authorities stated (March and May 1979) that the cases would be examined. Further report is awaited (April 1980).

The matter was reported to Government in November 1979; reply is awaited (April 1980).

2.10. Delay in demanding additional tax

The provisions of the Sales Tax Act regarding payment of monthly advance tax within 25 days of the close of the month are equally applicable to the additional tax introduced from 1st April 1975. The Commissioner of Com-

mercial Taxes issued instructions (April 1975) to all the assessing officers to ensure payment of additional tax along with the monthly returns. In three offices (Bangalore City and Bijapur District), additional tax amounting to Rs. 1.32 lakhs was not demanded in 39 cases even on receipt of the annual returns, although their liability for payment of additional tax was apparent from their annual returns. The demands were raised after the conclusion of final assessments which involved delays ranging from 2 to 28 months.

The matter was reported to Government in November 1979; reply is awaited (April 1980).

Arrears in Collection of Sales Tax

2.11.1. Introductory

The Karnataka Sales Tax Act, 1957, contemplates self-assessment of tax by dealers every month and payment of such tax to Government within 25 days after the close of the month to which such tax relates. The Sales Tax Authorities are required to check the receipts of annual returns required to be rendered by the dealers within 30 days after the close of the year to which the returns relate, conclude assessments and collect the balance of tax, if any, after giving set off of the monthly payments already made. The balance of tax is required to be paid within 21 days of the service of the demand notice. If the total of the monthly payments exceeds the annual taxes assessed, the excess amounts are refunded to the dealers. A penalty of 1 per cent per month of the tax remaining unpaid for each month for the first three months of delay and 2½ per cent per month thereafter is leviable on all belated payments. Government, however, is empowered at its discretion to remit the penalty, subject to the condition that no remission shall be made in a case where the amount of tax finally determined is not paid in full. Besides, the Sales Tax Authorities are also vested with discretionary power to levy penalty if it is found at the time of final assessment that the amount of tax paid in advance by any dealer for any month, or for the whole year in the aggregate was less than the tax payable for that month or the tax for the whole year as finally assessed, as the case may be, by more than 15 per cent.

In cases where the dealers fail to pay the tax and other amounts due under the Act as per the demand notices issued by the Sales Tax Authorities, the amounts are recoverable by any of the following processes.

(i) By issue of recovery certificates to the Revenue Department to recover the amounts as if they were arrears of land revenue.

(ii) By attachment and sale or by sale without attachment of any property of the defaulting dealers by the Departmental Tax Recovery Officers.

(iii) By an application to any Magistrate to recover the amounts as if they were fines imposed by him.

(iv) By calling upon other persons who owe money to the dealers, to the extent they owe money and to the extent of the arrears due to the department.

The Act also provides for keeping in abeyance, the recovery proceedings by Appellate or Revisional Authorities, until the disposal of the appeal or revision petitions subject to the dealers furnishing adequate security for the amounts under dispute.

The Central Sales Tax Act, 1956, authorises the application of the procedures and penal regulations contained in the respective State Acts in regard to assessment and collection of Central Sales-tax and other dues under that Act.

A comparative picture of the arrears of sales tax outstanding during the last five years is given below :

<i>Year</i>	<i>Arrears under the Karnataka Sales Tax Act</i>	<i>Arrears under the Central Sales Tax Act</i>
	<i>(In lakhs of rupees)</i>	
1974-75	737.00	225.00
1975-76	908.00	295.00
1976-77	1,797.00	633.00
1977-78	2,474.00	696.00
1978-79	3,081.00	636.00

The arrears have gone up by nearly four times under the State Act and three times under the Central Act during the last five years. According to the information furnished (September 1979) by the Commissioner of Commercial Taxes, the amount outstanding as on 31st March 1979 (after excluding Rs. 77.44 lakhs which were stated to have not become due by that date and Rs. 8.15 lakhs which were stated to have been subsequently collected) was in the following stages of action :

<i>Stages of action</i>	<i>Amount of arrears</i>	
	<i>Karnataka Sales Tax</i>	<i>Central Sales Tax</i>
	<i>(In lakhs of rupees)</i>	
Cheques received but not realised	39.35	13.60
Amount covered by stay orders	846.31	274.78
Amount covered by insolvency proceedings	21.65	17.93
Amount proposed for recovery from other persons under Section 14 of Karnataka Sales Tax Act	20.51	7.05
Amount likely to be written-off	16.99	1.61
Amount covered by instalment facility	249.69	12.28
Amount allowed as interest free loans	975.57	17.15
Amount covered by show cause notices	202.62	109.66
Amount under revenue recovery proceedings	162.07	53.96
Amount under departmental recovery proceedings	221.26	73.43
Amount withheld to be adjustable on sanction of payments as refunds of sales tax on purchase of new materials under the scheme of incentives to new industries	10.84	..
Amount proposed for recovery through courts	181.20	31.98
Other reasons	58.08	12.02
Total	3,006.14	625.45

2.11.2. Recovery of arrears through Departmental Officers

Under the Karnataka Sales Tax Act, 1957, and the Rules made thereunder, as amended from 1st April 1973, when a dealer is in default in making payments of the

amounts due under the Act, the assessing authority may issue to the Tax Recovery Officer, a certificate in the prescribed form, specifying the amount of tax to be recovered from the defaulter. The proceedings for recovery through the Tax Recovery Officer can be initiated notwithstanding that other methods of recovery are also in progress. The Tax Recovery Officer immediately after the receipt of the certificates, should issue a notice to the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of notice. Further steps for recovery for attaching the movable/immovable properties should be initiated after the expiry of the said 15 days. Discretion is given to the Tax Recovery Officer to proceed with the recovery earlier for recorded reasons if the said period of 15 days is likely to be utilised by the defaulter for obstructing the recovery proceedings.

Eight Recovery Officers are at present appointed for this purpose. Information regarding the number of cases referred to three of the officers functioning in Bangalore City and the number disposed of by them during 1977-78 and 1978-79 are given below :

	1977 - 78		1978 - 79	
	Number	Amount	Number	Amount
	<i>(Amount in lakhs of rupees)</i>			
Opening Balance	2,023	168.78	2,173	245.96
Cases received during the year	1,621	295.40	835	151.13
Total	3,644	464.18	3,008	397.09
Disposals during the year	1,471	218.22	943	223.37
Closing Balance	2,173	245.96	2,065	173.72

The percentage of disposals to the total receipts during the two years varied from 29 to 58 in the three offices except in one year in one of the offices when the percentage was 86. Out of the disposals shown, Rs. 47.52 lakhs for 1977-78 and Rs. 65.51 lakhs for 1978-79 (10 per cent and 29 per cent, respectively, of the total value of the cases)

alone were by recoveries. The rest of the disposals were stated by the Tax Recovery Officers as representing cases of reduction of demands in appeals/revision and rectification of wrong demands. In one of the offices, the percentage of recoveries to the total value of the cases dealt with in that office during the two years was just 11 and 8 respectively.

2.11.3. Cases referred to Revenue Authorities

A review of the cases referred to Revenue Authorities for recovery, during the period 1976-77 to 1978-79, by thirteen Commercial Tax Officers disclosed that the progress of recovery was insignificant. Out of 250 cases involving Rs. 22.28 lakhs, referred to them, recovery of Rs. 33,768 only was effected during that period. Twelve cases involving Rs. 96,722 were returned as irrecoverable.

2.11.4. Recovery through Courts

Recoveries of arrears proposed through the Courts are processed by Departmental Officers specially appointed for that purpose. The details of cases referred to the Officer appointed for this purpose for Bangalore City, the cases disposed of and cases pending, for the years 1976-77 to 1978-79, are given below:

	1976-77		1977-78		1978-79	
	Number	Value	Number	Value	Number	Value
(Value in lakhs of rupees)						
Opening Balance	506	7.99	788	33.39	826	68.17
Cases received	1,086	42.61	1,324	89.30	981	77.88
Total	1,592	50.60	2,112	122.69	1,807	146.05
Disposal	804	17.21	1,286	54.52	1,070	72.86
Closing Balance	788	33.39	826	68.17	737	73.19

The pendency in terms of value has increased nearly nine times on 31st March 1979 as compared with that on 31st March 1976.

2.11.5. Recovery held in abeyance under Government Orders

Under the Karnataka Sales Tax Act, 1957, and the Rules made thereunder, Government may by notification exempt or reduce the tax payable under the Act and such notification has to be brought to the notice of the Legislature. There is no provision in the Sales Tax law empowering Government to waive the tax due. Government, however, by executive orders had held in abeyance the recovery of sales tax arrears following the Supreme Court decision in two cases clarifying the law and upholding the taxability of the goods. Brief particulars of the cases are given below :

(i) Construction of bus bodies on chassis supplied by a person and delivery thereof to that person was declared as a case of sale of bus body as distinct from works contract by the Supreme Court in their judgment on 19th January 1965. This decision was reiterated by them on 10th October 1974.

A sum of Rs. 2.55 lakhs on account of sales tax arrears relating to the years 1959-60 to 1965-66 due and recoverable from two body building dealers on account of supply of bus bodies constructed and fitted to the chassis supplied by the customer was stayed by the Commissioner of Commercial Taxes (November 1975 and May 1978) who also recommended to Government (July 1975) to waive 80 per cent of the arrears stating that it related to Government departments and Government owned institutions and to recover the balance. Final decision of Government is awaited (April 1980).

Government directed (September 1977) that recovery of sales tax upto 10th October 1974 from body building dealers, who had not collected tax, should be held in abeyance until further orders. An amount of Rs. 22.16 lakhs for the period 1968-69 to 1974-75 is pending recovery in 17 other similar cases also. Further developments are awaited (April 1980).

(ii) Articles such as sheets, rods, plates, etc., made out of iron and steel were being exempted from tax if the articles were made out of iron and steel that had already suffered tax. The Supreme Court decided on 19th January 1976

that iron and steel articles of a category made out of another category, as listed in Section 14 of the Central Sales Tax Act, 1956, are liable to be taxed on first sale even though the iron and steel content thereof would have suffered tax earlier before conversion.

The Commissioner issued orders in June 1976 to implement the decision of the Supreme Court from 19th January 1976. Instructions were subsequently issued by Government in October 1978 to hold the recovery proceedings relating to taxes due upto 31st March 1978 in such cases in abeyance until further orders.

In two divisions alone, the recovery of arrears of tax amounting to Rs. 58.06 lakhs relating to 26 cases was held in abeyance pursuant to Government's instructions. Final decision is awaited (April 1980).

2.11.6. Grant of instalment facility

The Sales Tax Act and the Rules made thereunder do not empower either Government or the Commissioner of Commercial Taxes to extend the due dates of payments of taxes as prescribed in the Rules, or to allow the dealer to pay such taxes in instalments. Any extension of due dates beyond the time limit of 21 days allowed in the demand notice or giving the facility to pay the tax in instalments by executive orders is, therefore, contrary to the Act and Rules. In the absence of specific provisions in the Act and Rules, the question regarding the grant of instalment facility to the assesseees for payment of tax was referred to Government by Audit in October 1972. Government stated (July 1979) that the matter was still under examination.

(i) In the meantime Government, however, ordered in March 1979 that the arrears of purchase tax outstanding as on 31st March 1979, against sugar factories not covered by the incentive scheme may be recovered in five equal instalments, the first recovery commencing by 31st March 1980.

According to the information furnished by the Commissioner of Commercial Taxes (September 1979), Rs. 11.92 crores due from 15 sugar factories are covered

by these orders. If interest at 12 per cent as is prescribed in other cases of instalment facility, is prescribed in this case, the loss arising from postponement of recovery may be compensated by an additional revenue of Rs. 4.19 crores during the five years.

(ii) Apart from the arrears relating to sugar factories, an amount of Rs. 249.68 lakhs in other cases was stated (September 1979) by the Commissioner of Commercial Taxes to be covered by instalment facility. It was noticed in audit (July-August 1979) that the instalment facility in those cases had been granted by the Commissioner of Commercial Taxes subject to the following conditions :

(a) The dealers should furnish adequate security.

(b) Failure to pay the instalments on due dates fixed and to pay the current taxes regularly will entail forfeiture of the facility.

(c) The arrears will carry interest at 12 per cent per annum.

(d) The terms and conditions are subject to approval and modification, if any, by Government.

A review of 13 cases covered by the orders of instalment facility in a Commercial Tax Office (Bangalore City) disclosed that :

(a) In seven cases involving a sum of Rs. 20.89 lakhs, the dealers had actually collected the taxes from the customers. The grant of instalment facility even in these cases lacked justification.

(b) No security was furnished by dealers except in three cases. The instalment facility was not cancelled for breach of this condition in those cases.

(c) In one case, the condition of furnishing security was withdrawn subsequent to the grant of instalment facility.

(d) In nine cases, even the stipulated interest at 12 per cent amounting to Rs. 0.64 lakh was not demanded from the dealers.

2.11.7. A few individual cases where delays in taking action at various stages have contributed to the accumulation of arrears are given below:

(i) Three firms in Bangalore City who did business to the extent of Rs. 26.63 lakhs, during the years 1975-76 to 1976-77, did not submit monthly returns disclosing their turnover. They had only filed returns for eight months when there was no turnover. In the annual returns submitted after delays ranging from 6 to 8 months, a tax liability of Rs. 36,875 was shown, against which a sum of Rs. 15,000 was paid, leaving a balance of Rs. 21,875 which has not been paid so far (April 1980). At the time of final assessment (February 1978), a penalty of Rs. 3,100 was levied for non-payment of advance tax, which has not also been paid so far (April 1980). Failure to take timely action resulted in non-recovery of even the admitted tax. Information whether the firms are still in existence is awaited (April 1980).

(ii) In two cases of charcoal and firewood dealers of Bangalore City, tax for the year 1969-70 of Rs. 39,750 was assessed in June 1973, and the demand notices were served by affixing them at their premises in October 1973. No further action in the matter of recovery has been taken so far (April 1980).

In three other cases of fuel dealers in Bangalore City, taxes of Rs. 2.08 lakhs, for the years 1966-67 to 1970-71, were assessed between January and March 1972. The demand notices were served by affixing them (January and March 1972) to the premises of the dealers. There was no progress in recovery (February 1980). It was stated by the assessing officer (August 1979) that no progress could be made because of non-availability of the persons and action would be taken to trace the dealers and effect the recoveries. Further report is awaited (April 1980).

(iii) Arrears to the extent of Rs. 1.38 lakhs relating to the period 1966 to 1974 were due from a fertiliser company, having its registered office at Mysore and the factory in Raichur District. The bulk of the arrears related to the years 1970 and 1971, for which monthly returns were not filed. Consolidated returns for the period January 1970 to March 1971 were filed after

delays ranging from 6 months to 12 months. The assessments were concluded between August 1972 and June 1975. The company was wound up in February 1977. The Official Liquidator asked the assessing authority (March 1979) to put up the departmental claim to him.

The taxes due from 1975 to 1977 have also not yet been assessed by the department (April 1980). The delay is attributed (August 1979) to the incomplete information furnished by the Official Liquidator.

(iv) Two defunct firms in Bangalore City are due to pay a tax of Rs. 41,742, for the years 1963-64 to 1970-71, besides a penalty of Rs. 99,050, for the years 1957-58 to 1962-63. The recovery proceedings were stopped by Government in May 1978, pending examination of the question of waiving the penalty. On a report from the Commissioner of Commercial Taxes (October 1978) that it could be considered after the arrears of taxes are cleared by the ex-partners, Government directed in December 1978 to proceed with the recovery. The recovery proceedings were again stopped by Government in April 1979 on a representation by the dealer that he had cleared the taxes.

It was, however, observed from the records of the concerned assessing authority that the taxes have not yet been paid by the ex-partners (April 1980).

(v) A private firm in Bangalore City (not in existence since 1970-71) which was not regular in the submission of its returns was assessed to a tax of Rs. 43,926 for the years 1968-69 to 1970-71, between November 1974 and January 1975. The Deputy Commissioner (Revenue) was addressed for effecting recovery in January 1975. The case was not pursued till March 1978, when a copy of the revenue recovery certificate was again sent to him. The Revenue Commissioner took up the matter (October 1978) with the Tahsildar, Madras, where the party was stated to be residing. The Tahsildar, Madras, informed (June 1979) that the whereabouts of the party were not known. The assessing officer stated (August 1979) that the case had to be processed for write-off.

(vi) A company in Bangalore which was irregular in the submission of its monthly returns since November 1975, closed its factory in July 1976. According to the returns for the years 1975-76 and 1976-77, filed in August 1976 and July 1978, the company collected a tax of Rs. 1.56 lakhs from its customers. The tax finally assessed (May 1979) was Rs. 2.28 lakhs. According to the information furnished (August 1979) by the assessing officer, the recovery proceedings had to be stopped in November 1978 for three months and again in May 1979 as per orders issued by Government. A reference to Government Order of May 1979 disclosed that the recovery had been stopped pending restarting of the factory by the company. Had adequate action been taken immediately after the expiry of the due dates for submission of monthly returns, recovery of at least the collected tax could have been made.

(vii) A private company of Bangalore was due to pay taxes of Rs. 1.15 lakhs for the years 1975-76 to 1977-78, as per its own returns, while the arrears assessed by the department (March 1979) were Rs. 2.90 lakhs. Notices were issued to a bank in December 1977 and February 1978 directing it to pay the arrears due from the company out of the sum held by the bank on behalf of the company. The reply of the bank was not on record. Subsequently, Government gave permission (June 1978) to the company to clear the arrears at the rate of Rs. 30,000 per month. As the company did not clear the arrears, the same bank was again addressed in March 1979 to pay the amount of Rs. 2.90 lakhs out of the balance held by it on behalf of the company. The bank informed (March 1979) that it was not having any balance of the company. The assessing officer stated (August 1979) that action would be taken to recover the amount through the court and the Departmental Tax Recovery Officer.

(viii) A toddy contractor (Shimoga District) did not pay the tax for the year 1973-74 which according to his own admission in the annual return filed in July 1976 was Rs. 17,200. Earlier in December 1974, he filed the monthly returns from January 1974 to June 1974 showing a tax liability of Rs. 8,760, but did not pay that amount also. The file was transferred to the present assessing authority from another circle on grounds of jurisdiction in April 1977

only, i.e., after a lapse of nearly 2 years and 9 months after the expiry of the assessment period. Neither the final assessment has been concluded nor the admitted tax recovered from the contractor so far (April 1980).

Another toddy contractor of the same district did not file any monthly returns for 1974-75. But he filed his annual return in February 1976, i.e., 8 months after the expiry of the assessment period, showing a tax liability of Rs. 28,600 but did not pay the tax. The assessment was concluded in June 1976, *ex parte*, fixing a tax liability of Rs. 47,859. No recovery has so far been made (April 1980) although a reference had been made to the Revenue Deputy Commissioner in September 1976 for the recovery of the tax. The contractor in a statement filed before the assessing officer in November 1977 had denied having done any business on his own during 1974-75 in toddy.

If the department had acted in liaison with the State Excise Department when the contractors were actually doing business, at least the admitted tax could have been collected.

2.11.8. Non-recovery of penalty

In 18 Offices (Bangalore, Dakshina Kannada, Dharwar, Kolar, Mysore, Belgaum and Shimoga Districts), penalty amounting to Rs. 1.54 lakhs in 227 cases of belated payments of taxes, was not demanded and recovered. On this being pointed out in audit (between April 1978 and August 1979), the assessing officers agreed (between April 1978 and August 1979) to recover the amount. Particulars of recovery are awaited (April 1980.)

The foregoing points were reported to Government in November 1979; reply is awaited (April 1980).

CHAPTER III

STATE EXCISE DUTIES

3.01. Short recovery of interest

According to Rule 15 of the Karnataka Excise (General Conditions) Rules, 1967, interest is chargeable at $6\frac{1}{4}$ per cent per annum in respect of shop rentals not paid within the tenth of the month to which they relate.

Cases of short recovery of interest on belated payments of shop rentals during the period 1973-75, were mentioned in paragraph 43 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year 1974-75.

Similar cases of short recovery of interest for belated payment of shop rentals were noticed in audit (between March 1978 and May 1979) in respect of sixteen districts, for the period 1975-76 to 1977-78, amounting to Rs. 1,33,897. On this being pointed out in audit (May 1979), the department stated (August 1979) that a sum of Rs. 28,422 had been recovered (May and September 1979). Report of recovery of the balance amount is awaited (April 1980).

The matter was reported to Government in June 1979; reply is awaited (April 1980).

3.02. Incorrect application of exemption order

By an order issued in February 1976, under Section 67(a) of the Karnataka Excise Act, 1965, Government exempted the excise duty leviable on rectified spirit sold to institutions belonging to State Government and local bodies for **bona fide** medicinal or scientific or research or educational, etc., purposes.

Cases of incorrect application of the exemption order issued by Government in February 1976, were mentioned in paragraph 3.03 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year 1976-77.

It was again seen in audit (May and November 1978) that in the District Excise Offices (Mandya and Bangalore) and a distillery (Mandya), the above exemption was incorrectly given on the issue of 3,532 bulk litres of rectified spirit to one private medical college, a public corporation and 13 other non-Government institutions, resulting in non-recovery of duty and cesses amounting to Rs. 58,078.

The matter was reported to Government in May 1979; reply is awaited (April 1980).

3.03. Non-levy of duty on excess wastages of rectified spirit in transit

The Karnataka Excise Act, 1965 and the Rules made thereunder do not provide for wastage of spirit in transit from one distillery to another. Under Rule 40(2) of the Karnataka Excise (Rectified Spirit) Rules, 1967, transit wastage of $\frac{1}{8}$ per cent is allowed only in the case of spirit brought from a distillery to a bonded laboratory.

It was noticed in audit (December 1978 and March 1979) that in two distilleries (Mysore and Bangalore Districts), there was a wastage of spirit to the extent of 24,839 proof litres, during the years 1976-77 to 1978-79, while transporting the rectified spirit from other distilleries for the manufacture of liquors. The duty value of this wastage including cesses worked out to Rs.2.27 lakhs.

The matter was reported to Government (May 1979); reply is awaited (April 1980).

3.04. Excess wastage of rectified spirit

Four arrack warehouses were established by a private firm in pursuance of Government sanction issued in June 1975. It was a package deal for five years, and the warehouses started functioning from October 1975. The terms of the sanction included supply, on Government account, of rectified spirit from distilleries and delivery of arrack (after conversion of spirit) to the specified arrack depots by the firm. The firm was allowed a total wastage of 5 per cent towards losses at several stages from the point of supply of rectified spirit to the point of sale of arrack from the feeding centres. Excess wastage of rectified spirit over the prescribed percentage attracted levy of duty.

Excess wastage to the extent of 4,228 proof litres over the prescribed percentage was noticed in audit (January 1978) in one arrack warehouse (Dakshina Kannada District) during the year 1976-77, involving duty and cesses of Rs. 41,034.

The matter was reported to Government in May 1979; reply is awaited (April 1980).

3.05. Shortage in stock of arrack/rectified spirit belonging to Government

Under the package deal sanctioned by Government in June 1975, a distillery at Bijapur was manufacturing arrack out of rectified spirit supplied on Government account and was supplying the same to the depots at Bijapur, Gulbarga and Bidar Districts. As per the terms of sanction, the firm had executed a security bond for the quantity of rectified spirit/arrack and the duty thereon.

It was noticed in audit (March 1978) that there was shortage (February 1978) of 6,666 litres of rectified spirit and 22,289 litres of arrack. As seen from the Inspector's report dated 23rd February 1978, the loss had not been reported to Government and the Accountant General as required under the provisions of the Karnataka Financial Code.

On this being reported to Government in June 1978, the department raised a demand for Rs. 2,25,551 against the firm (August 1978). Further report regarding the recovery of the loss and the action taken to prevent recurrence of such losses is awaited (April 1980).

CHAPTER IV

TAXES ON MOTOR VEHICLES

4.01. Results of test audit in general

During the period 1st April 1978 to 31st March 1979, test audit of receipt accounts in the Regional Transport and other offices of the Motor Vehicles Department disclosed under-assessment of taxes to the extent of Rs. 50.03 lakhs in 51 cases. The under-assessment of taxes may be categorised under the following heads :

<i>Category</i>	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Short levy of motor vehicles tax	13	35.19
2. Short levy of taxes on passengers and goods	3	2.90
3. Others	35	11.94
Total	51	50.03

Some important cases are mentioned in the following paragraphs.

4.02. Omission to demand arrears of motor vehicles tax

The rate of tax on vehicles covered by contract carriage permits was raised from Rs. 35/Rs. 30 per seat per quarter to Rs. 100 per seat per quarter with effect from 1st July 1972. The levy of tax on contract carriages was challenged by some operators and was struck down by the High Court but was finally upheld by the Supreme Court in November 1974. Government issued instructions in May 1975 for recovering the tax at the prescribed rates from 1st July 1972 in respect of all contract carriages.

Cases of omission to demand arrears of tax on contract carriages converted into other types of vehicles like stage carriages, omnibuses and goods vehicles were mentioned in paragraph 4.03 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year 1977-78.

Similar cases of omission were again noticed in audit (between November 1978 and March 1979) of three Regional Transport Offices (Mysore, Kolar and Bangalore Districts) in twenty-five cases of vehicles converted (between October 1972 and March 1976) into other classes of vehicles like stage carriages, goods vehicles and omnibuses or transferred to other regions, States, etc. Omission to demand the arrears of tax for the period they operated as contract carriages resulted in loss of revenue of Rs. 3,27,417.

The matter was reported to Government in July 1979; reply is awaited (April 1980).

4.03. Incorrect grant of exemption to non-Government vehicles

By a notification issued (May 1958) under the Karnataka Motor Vehicles Taxation Act, 1957, the Government of Karnataka exempted the tax payable in respect of motor vehicles owned by the Government of India and used for Government purposes.

(a) It was noticed in audit (March 1974) of a Regional Transport Office, Bangalore that exemption from the payment of tax was granted to twelve jeep-trailer combinations belonging to the Soil and Land Survey Centre, Bangalore (formerly a Central Government establishment), the administrative control of which had been transferred from the Central Government to the Indian Agricultural Research Institute, a unit of the Indian Council of Agricultural Research, with effect from 1st April 1969. The Council is a registered society. The exemption granted to the vehicles was continued though they ceased to be owned by Government of India.

On this being pointed out in audit (March 1974), a sum of Rs. 27,169 was recovered by the department (October 1978) for the period April 1969 to March 1979.

(b) Similarly, exemption from the payment of tax was granted in Mysore Region to four vehicles belonging to non-Government institutions (the Central Research Institute, Bangalore and the Central Sericultural Research

Institute, Mysore), under the notification cited above, resulting in short levy of tax amounting to Rs. 14,721, for the period August 1964 to December 1978.

On this being pointed out in audit (November 1978), the department recovered Rs. 2,237 (February 1979) in respect of one vehicle. Report regarding recovery of the balance amount of Rs. 12,484 in respect of the other three vehicles is awaited (April 1980).

The matter was reported to Government in July 1979; reply is awaited (April 1980).

4.04. Non-enforcement of minimum seating capacity in public service vehicles

Under the Karnataka Motor Vehicles Rules, 1963, as amended in October 1969, the minimum seating capacity of a public service vehicle should be directly proportionate to its wheel base. This amendment is applicable in the case of stage carriages registered prior to October 1969, if they undergo structural alterations subsequent to the enforcement of this amendment. The validity of the rule, which was challenged by some operators, was upheld by the Supreme Court in March 1973, and this decision was communicated to the departmental officers in June 1973.

In Bidar Region, though structural alterations of four public service vehicles were carried out after June 1973, the minimum seating capacity prescribed in the rule was not enforced by the registering authority, resulting in loss of revenue of Rs. 42,189 for the period 1st February 1974 to 31st March 1979.

The matter was reported to Government in July 1977. Government stated (December 1978) that the judgment of the Supreme Court was communicated to the registering authorities in October 1974 and the amended provisions of the rule become enforceable only from that date. Since the judgment was communicated by the Commissioner of Transport to the registering authorities in June 1973 only, the requirement regarding the minimum seating capacity could have been enforced in respect of these vehicles which had undergone structural alterations subsequent to June 1973.

The matter was reported to Government in January 1979; reply is awaited (April 1980).

4.05. Delay in registration of vehicles

Under the Karnataka Motor Vehicles Taxation Act, 1957, tax at the rates specified in the relevant Schedule shall be levied on all motor vehicles suitable for use on roads.

A registered company in Gulbarga Region purchased three dumpers in October 1971 and obtained from the Regional Transport Officer a temporary certificate of registration in the same month. But the vehicles were not subjected to tax till they were registered in January 1973, on the ground that the vehicles could not be deemed suitable for use on roads, until they were registered.

It was pointed out in audit (July 1977) that the Mysore Revenue Appellate Tribunal had held, in similar cases, that a motor vehicle could be assessed to tax from the date of sale of the vehicle and registration was not a pre-requisite for assessment of tax and suitability of the vehicles for use on roads had already been established by the grant of temporary registration in October 1971. The department stated (March 1979) that tax of Rs. 24,750, for the period 8th October 1971 to 31st December 1972, had been recovered (February 1979).

The matter was reported to Government in July 1979. Government confirmed the facts (August 1979).

4.06. Non-revision of seating capacity in permits on replacement of vehicles

Under the Motor Vehicles Act, 1939, as amended in 1969, the holder of a permit can, with the permission of the authority which granted the permit, replace the vehicle covered by the permit, by another vehicle of the same nature.

Instances of non-revision of seating capacity on replacement of vehicles allowed by the department in nine cases, for the period July 1971 to June 1976, were noticed in audit (February/March 1979) of the Regional Transport Office, Bangalore, resulting in loss of revenue of Rs. 38,612, by way of composition fee in lieu of passenger tax.

The matter was reported to Government in July 1979; reply is awaited (April 1980).

CHAPTER V

AGRICULTURAL INCOME TAX

5.01. Results of test audit in general

During the period 1st April 1978 to 31st March 1979, test audit of documents in Agricultural Income Tax Offices revealed under-assessment of tax of Rs. 27.96 lakhs in 167 cases.

The under-assessment of tax is categorised under the following heads :

<i>Category</i>	<i>Number of items</i>	<i>Amount (In lakhs of rupees)</i>
1. Error in computation of total income and tax	53	6.12
2. Incorrect allowance of depreciation	20	2.25
3. Income escaping assessment	19	3.01
4. Incorrect adoption of status	8	3.22
5. Miscellaneous	67	13.36
Total	167	27.96

Some important cases of under-assessment of tax are mentioned in the following paragraphs.

5.02. Non-restricting of expenditure on young and immature plants

Under the Karnataka Agricultural Income Tax Act, 1957, only 10 per cent of the expenditure on young and immature plants is an allowable deduction in the computation of agricultural income.

Cases of failure to apply the prescribed limit in allowing such expenditure incurred on young and immature plants were noticed in audit (December 1977 and May and June 1978) in 46 cases (Kodagu and Chickmagalur Districts), resulting in short levy of tax of Rs. 2,00,059, for the assessment years 1971-72 to 1977-78.

The matter was reported to the department in January and October 1978 and March 1979, and to Government in March, April and July 1979; reply is awaited (April 1980).

5.03. Excess deduction towards expenditure on immature plants

Under the Karnataka Agricultural Income Tax Act, 1957, ten per cent of the expenditure incurred on new cultivation of land for growing coffee, cardamom, areca, etc., and on immature plants thereof is allowable as deduction in computing agricultural income. Expenditure incurred on replanting of such plants in the plantation upto a prescribed percentage of the total acreage of the plantation is also deductible. With effect from the assessment year 1976-77, in the case of income from coffee crops, the assessee is allowed an option to claim such expenditure for new cultivation, replanting and maintenance of immature plants in the shape of a standard deduction reckoned at the rate of Rs. 12.50 for every 50 kg of coffee produced and delivered by him to the Coffee Board, subject to certain ceiling limits. The option to claim the standard form of deduction once exercised by the assessee shall be final.

In twelve cases (Hassan District), the assessee's claim for deduction of expenditure on immature coffee plants based on production of coffee was allowed by the assessing officer. In addition, the deduction normally admissible on the basis of actual expenditure was also allowed in computing the agricultural income of the assessee, although only one of the two deductions was allowable. As a result, there was a short computation of agricultural income aggregating Rs. 55,976, leading to under charge of tax of Rs. 19,302, for the assessment years 1976-77 and 1977-78.

On this being pointed out in audit (April 1979), the department accepted the objection and rectified the mistakes in eleven cases (September 1979). Further report is awaited (April 1980).

The matter was reported to Government in July 1979. Government confirmed the facts (December 1979).

5.04. Excess allowance of expenditure

With effect from the assessment year 1976-77, non-commercial crops were also brought within the ambit of the Karnataka Agricultural Income Tax Act, 1957.

In an assessment ward (Hassan District), the income derived from paddy lands by assesseees who had both coffee

and paddy income was computed by the assessing officer on the basis of the acreage of land under cultivation on the ground that the assessee had not maintained any account in respect of paddy income. The assessing officer also held in the course of assessment proceedings, for the assessment year 1977-78, that the income from paddy so estimated being the net income did not admit of further deduction claimed by the assessee for cultivation expenses of paddy. The deduction claimed by the assessee towards cultivation expenses of both paddy and coffee crops was, therefore, restricted to the proportionate share attributable to coffee crops and the balance was disallowed. The disallowance was also upheld on appeals preferred by the assessee.

It was noticed in audit (March 1979) that the net income from paddy was determined by resorting to the similar method adopted, for the year 1977-78, in the case of the same and a few other assesseees for the assessment year 1976-77 also. But the proportionate expenditure attributable to paddy cultivation expenses was not excluded from the combined deduction claimed by the assesseees towards cultivation expenses of paddy and coffee. Action had not also been taken to revise those assessments even after the assessments for 1977-78 were concluded. This resulted in short computation of income of Rs. 4,37,909, in 73 cases and short levy of tax of Rs. 1,28,788.

On this being pointed out in audit (March 1979), the department initiated (April 1979) action to rectify the assessment. Further report is awaited (April 1980).

The matter was reported to Government in August 1979; reply is awaited (April 1980).

5.05. Incorrect deduction of interest on loan

Under the Karnataka Agricultural Income Tax Act, 1957, any interest on debt incurred by an assessee for agricultural operations is allowable as deduction upto a maximum of $7\frac{1}{2}$ per cent per annum in the case of secured loans and 12 per cent per annum in the case of unsecured loans. With effect from the assessment year 1976-77, these limits have been enhanced to 12 and 15 per cent per annum, respectively.

It was noticed in audit (October 1977 and March 1979) that in the case of four assessees (Chickmagalur District), the interest on loan was allowed by the assessing officer in excess of the prescribed limits for the assessment years 1975-76 and 1976-77. This resulted in short computation of agricultural income of Rs. 2,54,323, and consequent short levy of tax of Rs. 1,01,148.

On this being pointed out in audit (October 1977), the department initiated (November 1977) proceedings for reopening the assessments in the case of one assessee and agreed to examine the remaining cases. Further report is awaited (April 1980).

The matter was reported to Government in May and July 1979; reply is awaited (April 1980).

5.06. Excess deduction of interest charges

In the case of an assessee (Chickmagalur District), it was noticed in audit (June 1978) that a deduction of Rs. 34,396 was allowed as interest charges relating to previous years, for the assessment year 1976-77, although the same amount had already been deducted in computing the agricultural income for the assessment year 1974-75. There was a further omission to include cardamom sale proceeds of Rs. 7,000, returned by the assessee. This resulted in short computation of agricultural income of Rs. 41,396, and consequent short levy of tax of Rs. 24,126.

On this being pointed out in audit (October 1978), the department agreed (October 1978) to examine the matter. Further report is awaited (April 1980).

The matter was reported to Government in April 1979; reply is awaited (April 1980).

5.07. Omission to club the income of wife with that of her husband

Under the Karnataka Agricultural Income Tax Act, 1957, so much of the agricultural income of a wife as arises directly or indirectly from her membership in a firm in which her husband is a partner is required to be included in the total agricultural income of the husband.

(i) It was noticed in audit (March 1979) that in the case of an assessee assessed to tax in the status of "unregistered firm" (Hassan District), income arising to his wife from her membership in a firm in which the assessee husband was also a partner was omitted to be clubbed with his income, for the assessment years 1974-75 to 1977-78. This resulted in short levy of tax of Rs. 48,240.

On this being pointed out in audit (March 1979), the department stated (September 1979) that the assessments were being rectified. Further report is awaited (April 1980).

(ii) In the case of another firm (Hassan District), consisting of four partners and deriving agricultural income, it was noticed in audit (March 1979) that consequent on the death of one of the partners it was reconstituted with effect from 1st June 1976. The new firm comprised 19 partners including the wives of seven partners. The reconstituted firm was also dissolved on 31st December 1976. However, all the partners of the dissolved firm chose by a registered deed dated 31st December 1976, to continue the management of the affairs of the estate as 'tenants-in-common' from 1st January 1977. The return of agricultural income for the entire period 1st June 1976 to 31st March 1977 was filed in the status of 'tenants-in-common' and acted upon by the assessing officer. Though the assessment for the period 1st April 1976 to 31st December 1976 was to have been concluded in the status of a 'firm', the assessment was, however, made in the status of 'tenants-in-common' for the entire period. Consequent on the omission to assess the income in the hands of the firm, the clubbing of income of wives with the income of their husbands could not be made. This led to short levy of tax of Rs. 77,593, for the assessment year 1977-78.

On this being pointed out in audit (March 1979), the department agreed (March 1979) to examine the case. Further report is awaited (April 1980).

The cases at (i) and (ii) above were reported to Government in July and September 1979; reply is awaited (April 1980).

5.08. Short levy of tax on coffee income

In the assessment of a company (Kodagu District), for the assessment year 1964-65, an amount of Rs. 1,93,650 was included by the assessing officer towards arrears of coffee income for the 1961-62 season. On an appeal by the assessee that the income had already been assessed for the assessment year 1963-64, concluded in September 1966, the addition was deleted in March 1977, resulting in a refund of Rs. 1,16,952. But it was noticed in audit (May 1978) that the sum of Rs. 1,93,650, included in the original assessment for the assessment year 1963-64, had already been deducted from the total income for that year in a revised order passed in April 1972. This revised order had, however, been overlooked by the department while rectifying the assessment for the assessment year 1964-65, in March 1977. This resulted in short levy of Rs. 1,16,189.

On this being pointed out in audit (May 1978), the department accepted the audit objection and raised the additional demand (October 1978). Report regarding recovery is awaited (April 1980).

The matter was reported to Government in March 1979; reply is awaited (April 1980).

5.09. Incorrect computation of income from coffee points

Under the Karnataka Agricultural Income Tax Act, 1957, agricultural income from coffee crop is required to be computed on the basis of valuation of points declared by the Indian Coffee Board in respect of such coffee crop.

A case of omission to follow the prescribed provisions in this behalf was mentioned in paragraph 5.12 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year 1975-76.

In the case of another assessee in Chickmagalur District, it was again noticed in audit (June 1978) that in the case of an assessee for the assessment year 1977-78 valuation of coffee crop for the crop season 1976-77 was returned at Rs. 4 per point, as against a rate of Rs. 6 per point declared by the Coffee Board for the said season. This resulted in under-assessment of agricultural income of Rs. 46,000 and short levy of tax of Rs. 19,481.

The matter was reported to Government in April 1979; reply is awaited (April 1980).

5.10. Omission to assess coffee income

(i) In the case of an assessee (Chickmagalur District), the coffee dividend receipts were Rs. 83,477 and Rs. 1,35,401, for the assessment years 1975-76 and 1976-77, respectively, according to the statement obtained from the curer. Nevertheless, receipts of Rs. 12,938 and Rs. 1,31,741 were only returned by the assessee for these years and they were adopted by the assessing officer for determining the income. The omission to adopt the actual receipts resulted in under-assessment of taxable income of Rs. 72,139 (after earned income relief), involving a total short levy of tax of Rs. 12,852.

On this being pointed out in audit (June 1978), the assessing officer accepted the mistake and rectified the assessment (June 1978) and collected the difference of tax of Rs. 12,852 (June 1979).

(ii) In the case of another assessee firm (Chickmagalur District), the coffee income in respect of 1974-75 season crop was estimated as Rs. 4,45,935, in the assessment for the assessment year 1976-77, as against the actual cash receipt of Rs. 3,34,140 realised during the year. The assessee received (1975-76) a further sum of Rs. 1,28,588 making up the total cash receipt for 1974-75 to Rs. 4,62,728. The excess of Rs. 16,793 over the amount already included in the assessment for assessment year 1976-77 was, however, omitted to be considered in the assessment for the assessment year 1977-78. This resulted in short levy of tax of Rs. 10,412.

On this being pointed out in audit (June 1978), the assessing officer rectified the mistake and collected the amount (June 1978).

The cases at (i) and (ii) above were reported to Government in April 1979. Government confirmed the facts (November and December 1979).

5.11. Excess allowance of managing agency commission

Under the Karnataka Agricultural Income Tax Act, 1957, any expenditure (not being in the nature of capital

expenditure) laid out or expended in the previous year wholly and exclusively for the purpose of deriving agricultural income is an admissible deduction in arriving at the net taxable income. Payment at a certain percentage of profit or at a certain percentage of the turnover is allowable as an expenditure if the payment is made for earning the income.

Managing agency commission was payable by a company (Kodagu District) at seven and a half per cent of net profits before deduction of such commission. But, the assessing officer while revising the assessment order, for the assessment year 1963-64, during October 1975, pursuant to an appeal reduction, quantified the commission as Rs. 59,782 on a net profit of Rs. 1,63,589 as against the admissible commission of Rs. 12,269. The incorrect quantification of the commission resulted in excess deduction of Rs. 47,513 and consequent excess refund of Rs. 28,508.

On this being pointed out in audit (May 1978), the department accepted the objection, rectified the assessment and collected the amount (April and July 1979).

The matter was reported to Government in March 1979. Government confirmed the facts (August 1979).

5.12. Short levy of tax due to incorrect adoption of rates

Under the Karnataka Agricultural Income Tax Rules, 1957, if the agricultural produce of an assessee is not sold but utilised only as raw material for any manufacturing business, the value of such produce should be taken at the average market rate prevailing for the accounting year concerned.

A co-operative society (Belgaum District) utilised its agricultural produce of sugarcane and seeds for manufacturing sugar during the previous year relevant to the assessment years 1970-71 to 1974-75. But while determining the agricultural income derived by the assessee from the agricultural produce consumed by the factory, the produce was valued by adopting rates less than the market rates prevailing during the relevant previous years. This resulted in short levy of tax of Rs. 36,891.

On this being pointed out in audit (April 1979), the department revised the assessments and collected the amount (August 1979).

The matter was reported to Government in September 1979. Government confirmed the facts (October 1979).

5.13. Excess allowance of initial depreciation

Under the Karnataka Agricultural Income Tax Rules, 1957, as applicable prior to 2nd July 1973, initial depreciation on assets used only during part of a year is to be restricted to the fair proportional part of the amount which would be allowable if such assets were used during the whole year.

It was noticed in audit (May 1978) that in the case of an assessee company (Kodagu District), initial depreciation on assets used only for part of a year was allowed in full, for the assessment year 1964-65, without restricting the same in proportion to the period of use of the asset. This resulted in under-assessment of income of Rs. 71,339 and short levy of tax of Rs. 42,800.

On this being pointed out in audit (May 1978), the department accepted the objection and stated (November 1978) that remedial action for reopening the assessment has become time-barred.

The matter was reported to Government in March 1979; reply is awaited (April 1980).

5.14. Inadmissible depreciation on assets not owned by the assessee

Under the Karnataka Agricultural Income Tax Act, 1957, one of the conditions for allowing depreciation on machinery and plant as deduction for purpose of computation of agricultural income chargeable to tax is that the assets should be the property of the assessee.

Two assessees (Kodagu District) were allowed each, a depreciation of Rs. 9,167 on the assets, viz., tractor, pulp house, siphon tank, tractor shed, barbecue and pump house,

which were owned by the Hindu Undivided Family, to which the two assesseees belonged, on proportionate basis. In another case (Kodagu District), depreciation to the extent of Rs. 24,543 on the assets jointly acquired by the assessee and his brother after partition of Hindu Undivided Family property between them was allowed. This incorrect allowance of total depreciation of Rs. 42,877 on assets not exclusively owned by the assesseees resulted in short levy of tax of Rs. 20,124, for the assessment year 1977-78.

On this being pointed out in audit (May 1978), the department rectified the assessments and raised an additional demand of Rs. 20,124. The amount was collected between February and April 1979.

The matter was reported to Government in May 1979. Government confirmed the facts (October 1979).

5.15. Income escaping assessment

An assessee was holding 50 per cent share in one estate and two thirds share in another estate in the status of tenants-in-common. Incomes arising from both the estates were aggregated and assessed to agricultural income tax in the assessment records of the second estate till the assessment year 1974-75. The latter estate having been sold during April 1972, the assessment records of the second estate were treated as closed. While concluding the assessments of the former estate, for the assessment years 1975-76 and 1977-78, the share income of the assessee in respect of this estate was determined by the assessing officer but a note was kept that this income was required to be clubbed with the assessee's income from the second estate and was, therefore, transferred to the assessment file dealing with the latter estate. The assessment records of the second estate having, however, been closed, no tax was levied on the assessee's share income from the first estate in that file either. The assessee's share income of Rs. 49,430 and Rs. 1,86,093 in respect of the first estate for the assessment years 1975-76 and 1977-78, respectively, was thus omitted to be taxed. This omission resulted in non-levy of tax of Rs. 96,327.

On this being pointed out in audit (June 1978), the department accepted the objection and stated (December 1979) that after taking into account Rs. 52,640, paid as

provisional tax in September 1977, the balance to be collected worked out to Rs. 43,687. Further report is awaited (April 1980).

The matter was reported to Government in April 1979; Government confirmed the facts (December 1979).

5.16. Remission of tax on agricultural income from crops other than plantation crops

Under the Karnataka Agricultural Income Tax Act, 1957, tax was leviable on agricultural income from lands used for growing commercial crops. With an amendment of the Act in March 1976 effective from the assessment year 1976-77, agricultural income from land used for agricultural purposes (i.e., not only for growing commercial crops) was brought under its purview. By an executive instruction issued by the Commissioner of Commercial Taxes in July 1977, the tax payable on income from crops other than plantation crops earned during the previous year relevant to the assessment year 1977-78 was remitted by the department in full. Where an assessee was having income from both plantation and non-plantation crops, the remission of tax was given by levying tax on the entire income and then allowing proportionate rebate on that portion of income relating to non-plantation crops. There is no provision in the Act before or after the amendment authorising such remission of tax by executive instructions. The remission allowed on agricultural income relating to non-plantation crops, therefore, constituted an extra-statutory concession. The extent of remission of revenue on this account in three Agricultural Income Tax wards alone (Hassan, Chickmagalur, Additional Agricultural Income Tax Officer, Hassan) was about Rs. 1,65,510, in 265 cases. Information regarding other wards is awaited (April 1980).

The matter was reported to Government in July 1979. Government confirmed the facts (October 1979) and stated that steps have been taken to amend the Act to clothe Government with necessary powers in this regard. Further report is awaited (April 1980).

CHAPTER VI
LAND REVENUE

6.01. Omission to book the demand for watching collection

(i) Under the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Rules, 1964, betterment contribution shall be payable in twenty annual instalments.

It was noticed in audit (July and December 1978 and February 1979) of three talukas (Bijapur, Mysore and Shimoga Districts) that the annual instalments of betterment contributions had not been taken to demand register for watching collection, for the years 1975 to 1978. This resulted in non-raising of demands amounting to Rs. 14,85,189.

On this being pointed out in audit (July and December 1978 and February 1979), the Tahsildars agreed (July and December 1978 and February 1979) to raise the demand. Further report is awaited (April 1980).

(ii) According to the Karnataka (Personal and Miscellaneous) Inams Abolition Act, 1954, every permanent tenant or quasi-permanent tenant entitled to be registered as an occupant of any land shall be liable to pay a premium for acquisition of ownership of that land. The premia determined as payable are intimated to the Tahsildar concerned for noting the amount due in the demand registers and watching recovery thereof from the landholders.

It was noticed in audit (February 1979) of a taluka (Shimoga District) that demand of Rs. 71,778 representing inam premium in respect of 42 cases was not taken to the demand register for watching collection of dues.

On this being pointed out in audit (February 1979), the Tahsildar stated that the demand would be included in March 1979. Further report is awaited (April 1980).

The cases at (i) and (ii) above were reported to Government in May 1979. Government stated (June 1979) that the Tahsildars have taken action to raise the demands and the recovery of the demands is being pursued. Particulars of recovery are awaited (April 1980).

6.02. Non-levy of the betterment contribution due to non-issue of notification by the prescribed officer

Under the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, the prescribed officer shall issue notification for purposes of levy of betterment contribution by the Betterment Levy Officer and Government may either **suo motu** or on an application by any landholder affected by a notification direct such modification of the notification as it deems fit and the notification shall be modified accordingly by the prescribed officer.

The prescribed officer for three irrigation works, notified an area of 3,802.33 acres in seven villages (Bijapur District) between November 1967 and February 1969. The Betterment Levy Officer assessed contribution for an area of 2,742.09 acres in December 1975 and May 1976. No contribution was levied in respect of the balance areas as they were not benefited by irrigation works. However, the spot inspection conducted (December 1975 and May 1976) by the Betterment Levy Officer and a representative of the Public Works Department disclosed that an additional area of 799.30 acres actually benefited (December 1975) by the irrigation works was not notified by the prescribed officer. The non-issue of notification in respect of the additional area of 799.30 acres benefited by the irrigation works resulted in non-assessment of contribution amounting to Rs. 3,70,525, by the Betterment Levy Officer.

On this being pointed in audit (July 1978), the Betterment Levy Officer requested the prescribed officer (December 1978) to issue modified notification in respect of the additional area actually benefited.

The matter was reported to Government in May 1979. Government stated (July 1979) that the Executive Engineer, Public Works Department, Bijapur who is the prescribed officer for the three irrigation works has been requested to issue modified notification in respect of the additional area of 799.30 acres and that on receipt of modified notification, action would be taken for levy and collection of the additional betterment contribution. Further report is awaited (April 1980).

6.03. Non-levy of interest on arrears of betterment contribution

Under the Karnataka Irrigation (Levy of Betterment Contribution) Rules, 1964, interest at the rate of six per cent per annum is payable on all overdue instalments of betterment contribution.

It was noticed in audit (January and June 1978) in three talukas (Mysore, Mandya and Dharwar Districts) that interest, amounting to Rs. 69,286, was not levied on overdue instalments of betterment contribution, for the period 1972-73 to 1977-78.

The matter was reported to Government in May 1979. Government stated (June 1979) that the interest due on arrears of betterment contribution had since been taken (May and July 1979) to demand by the Tahsildars and that necessary recovery process initiated. Particulars of recovery are awaited (April 1980).

6.04. Non-levy/short levy of maintenance cess

Under the Karnataka Irrigation Act, 1965, maintenance cess is leviable at Rs. 4 per acre of land in the area benefited by any irrigation work maintained by Government.

During the course of audit (between April 1977 and December 1978) of four taluka offices in three districts (Kolar, Mysore and Uttara Kannada) it was noticed that maintenance cess, for the period 1974-75 to 1977-78, amounting to Rs. 2,23,951 in respect of 23,327 acres of land benefited by irrigation work maintained by Government was not levied/short levied.

The matter was reported to Government in July 1978 and July 1979. Government stated (August and September 1979) that a demand of Rs. 35,044 has been raised by the Tahsildars and the Tahsildar (Kolar District) directed to book the demand. Report regarding raising of balance demand and recovery is awaited (April 1980).

6.05. Short levy of water rate

Under the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 and the Rules

made thereunder, if the supply of water is assured during the entire period of the crop, water rate is leviable irrespective of the area over which crops are actually grown. The Tahsildar has to issue demand notices for water rate to the persons concerned after necessary enquiry and after satisfying himself that water was supplied/made available or used.

(i) It was noticed in audit (August—September 1978) that as against an area of 1,16,881 acres of land for the khariff and rabi seasons for growing semi-dry crops in 79 villages in two talukas (Bijapur District) for which water was made available during the entire period of the crops for the years 1975-76 and 1976-77, demand for water rate was raised for an area of 98,960 acres only. This resulted in short levy of water rate of Rs. 2,54,634.

On this being pointed out in audit (August and September 1978), the demand was raised by one Tahsildar (July 1979). Report regarding recovery and action taken in the other taluka is awaited (April 1980).

The matter was reported to Government in June 1979. Government stated (September 1979) that the notification issued in respect of two villages of a taluka was incorrect and hence out of 4,968.05 acres notified (April and August 1975) by the Irrigation Department, demand of Rs. 57,536 for an area of 4,794.32 acres had been assessed during 1975-76 and 1976-77 and action would be taken to recover the dues. Government also stated that in the other taluka, representations were received from the land owners against the notification issued (May and August 1975) by the Irrigation Department stating that water was not actually made available to their lands and, therefore, the levy of water rate was illegal, the representations were being enquired into and that water rate would be booked on completion of joint inspection by the concerned Executive Engineer and Assistant Commissioner. Results of joint inspection are awaited (April 1980).

(ii) Similarly, in another taluka (Belgaum District) it was noticed in audit (February 1979) that water rate was levied for areas of 632 acres and 691 acres though water was made available for areas of 3,223 acres and 6,672 acres

during the years 1975-76 and 1976-77, respectively. This resulted in short levy of water rate of Rs. 2,76,381, for the years 1975-76 and 1976-77.

On this being pointed out in audit (February 1979), the Tahsildar stated (October 1979) that short demands amounting to Rs. 1,58,693 had been raised (October 1979). The Tahsildar further stated that the discrepancy between the amount pointed out in audit and the demands booked is due to the discrepancies in the notifications issued by the Irrigation Department. Report regarding actual recovery is awaited (April 1980).

The matter was reported to Government in June 1979; reply is awaited (April 1980).

6.06. Omission to demand and recover water rate

Under the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, and the Rules made thereunder water rate is leviable for the use of water from the irrigation works maintained by the State Government.

It was noticed in audit (July and December 1978) that in two talukas (Bijapur and Mysore Districts) where water was made available for irrigation works for an area of 4,112 acres, during the years 1975-76 to 1977-78, water rate amounting to Rs. 1,38,242 was not levied.

The matter was reported to Government in June 1979. Government stated (August 1979) that the Tahsildars concerned had raised the demand and action has also been taken for recovery. Government further stated (October 1979) that an amount of Rs. 61,348 had been recovered in one of the talukas (Mysore District). Report regarding recovery of the balance amount is awaited (April 1980).

6.07. Short levy of water rate for temporary supply of water

Under the Karnataka Irrigation Act, 1965, an authorised temporary supply of water for six consecutive years is a condition precedent that should be satisfied before permanent supply of water can be considered by the Deputy

Commissioner. The water rate leviable for such authorised temporary supply of water is twice that prescribed for permanent water supply.

It was noticed in audit (August—September 1978) of a taluka (Bijapur District) that in respect of thirteen villages permission for temporary supply of water was given for an area of 2,601.30 acres of land for khariff and rabi seasons of 1975-76 and rabi season of 1976-77. Water rate as prescribed for permanent water supply was levied instead of twice the rate prescribed for permanent water supply. This resulted in short levy of water rate amounting to Rs. 59,896.

On this being pointed out in audit (August 1978), the Tahsildar stated (June 1979) that the demand had been raised (June 1979) and recovery of demand had also commenced. Particulars of recovery are awaited (April 1980).

The matter was reported to Government in April 1979. Government confirmed the facts (July 1979).

6.08. Non-levy of water rate in respect of lift irrigation schemes

Under the Karnataka Irrigation (Levy of Water Rates) Rules, 1965, as amended in July 1976, where water is supplied, made available or used from any lift irrigation work owned and maintained by Government for irrigation of any land, water rate at three times the normal rate for sugarcane or paddy crops and at twice the normal rate for other crops is leviable from 1st July 1976.

It was, however, noticed in audit (January 1979) of a Taluka Office (Belgaum District) that water rate in respect of two lift irrigation works benefiting an area of 1,912.23 acres where sugarcane and tobacco were grown had not been levied for the year 1976-77, resulting in non-levy of water rate of Rs. 4,34,395.

On this being pointed out in audit (January 1979), the Tahsildar agreed to examine and raise the demand. Further report is awaited (April 1980).

The matter was reported to Government in May 1979. Government stated (June 1979) that directions had been issued (May 1979) to the village accountants to book the demand under the two lift irrigation schemes. Further report is awaited (April 1980).

6.09. Non-levy of land revenue assessment in respect of supplemental akarbands

Under the Karnataka Land Revenue Act, 1964, land revenue is assessed on the basis of akarbands* received from the Survey and Settlement Department including supplemental akarbands revising the amounts of land revenue. In September 1977, Government issued instructions that land revenue demands should be properly booked after taking into account the demands made in the supplemental akarbands and no omission on this account should be made.

It was noticed in audit (December 1977, November 1978 and May/June 1979) of three talukas (Gulbarga, Mandya and Kolar Districts) that land revenue demand to the extent of Rs. 74,589, in respect of 524 supplemental akarbands, was not taken to demand register for collection.

The matter was reported to Government in May and July 1979. Government stated (September and December 1979) that demands to the extent of Rs. 60,740 have been booked. Report regarding the balance of demand and particulars of recovery are awaited (April 1980).

6.10. Non-collection of cesses for the period of suspension/ remission of land revenue

The Karnataka Land Revenue Act, 1964, and the Karnataka Land Revenue Rules, 1966, provide for suspension of land revenue and remission of suspended land revenue owing to a partial or total failure or destruction of crops on account of drought or any other causes. They do not, however, provide for remission of cesses such as local cess, education cess and health cess, which are levied under

* Akarband is a basic record indicating the extent of wet/dry land for assessment of land revenue.

the provisions of different Acts. These cesses are to be collected even though suspension or remission of land revenue is granted.

(i) It was noticed in audit (April and May 1979) of a taluka (Dharwar District) that the land revenue suspended for the years 1972-73 and 1973-74, was remitted during the years 1975-76 and 1976-77. Although the land revenue only is to be remitted, the department allowed the remission of cesses also which resulted in loss of revenue of Rs. 66,703.

The matter was reported to Government in April and May 1979. Government stated that action was being taken to collect the amount (October 1979). Further report is awaited (April 1980).

(ii) In another taluka (Bijapur District) it was noticed in audit (September 1978) that fifty per cent suspension of land revenue was granted in respect of 27 villages for the year 1975-76 and cesses were also collected on fifty per cent land revenue only, resulting in short collection of cesses amounting to Rs. 12,914.

The matter was reported to Government in June 1979. Government stated (September 1979) that the demand had been booked in the demand register and an amount of Rs. 580 collected. Further report regarding recovery of the balance amount is awaited (April 1980).

(iii) In another taluka (Tumkur District) it was noticed in audit (November 1978) that cesses amounting to Rs. 14,350 were reduced in June 1975, as the related land revenue amounting to Rs. 1,02,957, in respect of 242 villages for the year 1971-72, was remitted by Government in May/June 1975.

On this being pointed out in audit (September and November 1978), the Tahsildar stated (September and November 1978) that action would be taken to collect the cesses. Further report is awaited (April 1980).

The matter was reported to Government in June 1979; reply is awaited (April 1980).

6.11. Omission to raise the demand and recover water rate

Under the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, Government have to prescribe and levy water rate for water supplied, made available or used for purposes of irrigation or any other purpose from any work belonging to or constructed by or on behalf of the Government.

(i) Government issued orders in October 1965, to the effect that whenever water is supplied to industrial and commercial concerns direct from a river or nala, charges were to be levied at Rs. 1,500 per Mcft., of water. Government revised this rate in March 1967 to Rs. 350 per Mcft., of water with retrospective effect from 16th October 1965.

(a) It was noticed in audit (February 1978 and August 1979) of a Public Works Division (Shimoga) that demand amounting to Rs. 9,78,727 in respect of 17,418 million gallons (approximately) of water supplied to a company (Bhadravathi) from the Bhadra river, for the period 1965-66 to 1978-79, was not raised and recovered.

On this being pointed out in audit (February 1978), the Executive Engineer agreed (February 1978) to take necessary action. Further report is awaited (April 1980).

(b) Similarly, demand of Rs. 21,706 was not raised in respect of 386.3 million gallons of water drawn by the Sandalwood Oil Factory (Shimoga) from the Tunga river, for the period November 1965 to December 1977.

On this being pointed out in audit (February 1978), the department raised the demand (May 1978). Report regarding recovery is awaited (April 1980).

(ii) Government prescribed the rate at Rs. 150 per Mcft., in August 1970, in respect of water supplied for domestic use to Municipalities from irrigation canals.

It was noticed in audit (January 1977) that in a Public Works Division (Mysore District) demand had not been raised in respect of water supplied to the Municipality from Hongalli and Belagola Pumping Stations installed at the right

bank low level and Devaraya Channels, respectively, which form part of Krishnarajasagar Irrigational Canal System.

On this being pointed out in audit (January 1977), the Executive Engineer raised a demand of Rs. 11,64,520 (July 1978) against the Municipality in respect of 7,764Mcf., of water supplied from 1965-66 to 1977-78. Report regarding recovery is awaited (April 1980).

The cases at (i) and (ii) above were reported to Government in September 1979 and July 1977; reply is awaited (April 1980).

CHAPTER VII

OTHER TAX AND NON-TAX RECEIPTS

A—STAMP DUTY AND REGISTRATION FEES

7.01. Results of test audit in general

During the period 1st April 1978 to 31st March 1979 test audit of documents disclosed short collection of stamp duty and registration fees to the extent of Rs. 11.81 lakhs in 146 cases. The short collection of duty/fees is categorised under the following heads :

<i>Category</i>	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
Non-levy/short levy of stamp duty	94	11.04
Non-levy/short levy of registration fees	52	0.77
Total	146	11.81

Some important cases are mentioned in the following paragraphs.

7.02. Incorrect classification of documents

(i) Under the Karnataka Stamp Act, 1957, 'Bond' includes—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed or is not performed, as the case may be ;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another.

The stamp duty leviable on such bonds is at Rs. 22.50 for Rs. 1,000 and Rs. 11.25 for every Rs. 500 or part thereof in excess of Rs. 1,000.

In terms of the provisions in the Karnataka Excise (Possession, Transport and Export of Intoxicants) Rules, 1967, distillers or warehouse keepers who remove spirit without payment of duty have to execute instruments (styled as bonds) in favour of the State Government. The bond casts on them an obligation to pay to Government the duty on the spirit removed in case they fail to account for the spirit so removed. Obligation so created becomes void only when they produce proper accounts of the spirits removed or pay to Government the duty thereon and till then the obligation remains in full force and effect. The instruments are attested by witnesses and are also not payable to order or bearer. These instruments bear all the attributes of bonds for the purpose of levy of stamp duty under the Karnataka Stamp Act, 1957. On a reference made by Audit (December 1978), the Inspector General of Registration stated (May 1979) that the instruments in question were bonds.

It was, however, noticed in audit (July 1979) that bonds for amounts exceeding Rs. 1,000 executed by six distillers in the State during 1977-78 were executed on stamp paper of Rs. 22.50 only. This resulted in short levy of stamp duty of Rs. 5.12 lakhs.

The matter was reported to Government in September 1979; reply is awaited (April 1980).

(ii) A release deed is executed by a co-owner in favour of another person who had already some title to the estate and the effect of the release is only to enlarge that right. There can be no release by one person in favour of another person who is not already entitled to the property as a co-owner before the release.

It was noticed in audit (July 1976) of a Sub-Registry Office (Belgaum District) that documents relating to transfer of lands by certain persons in favour of the Town Municipal Council were registered as release deeds instead of as gift deeds. Further, the value of the land set forth in the instruments which was accepted was far less than the market value, on which stamp duty and registration fee was to be levied under Section 45A of the Act. The incorrect classification of the gift deed as a release and the under

valuation of the property resulted in short levy of stamp duty of Rs. 22,315 and registration fees of Rs. 3,975.

The matter was reported to Government in May 1977. Government stated (June 1979) that the amount has been recovered.

(iii) Under the Karnataka Stamp Act, 1957, 'Release' means any instrument whereby a person renounces a claim upon another person, or against any specified property, while 'Conveyance' is defined as conveyance on sale and includes every instrument by which property, whether movable or immovable is transferred. Under the orders issued by the Government of Karnataka (February 1969) stamp duty leviable under the Karnataka Stamp Act, 1957, is reduced to the extent of fifty per cent in respect of any instrument executed by the Housing Co-operative Societies or officers or members thereof relating to the business of such societies where the amount or value specified in the instrument is more than eight thousand rupees.

It was noticed in audit (May 1979) in a Sub-Registry Office (Bangalore City) that in respect of four deeds executed by the members in favour of a Housing Society (Bangalore District) for the allotment of apartments on ownership basis, the consideration of which was in excess of Rs. 8,000, a fixed stamp duty of Rs. 22.50 per deed as applicable to release deeds, was charged instead of at rates applicable to conveyance. This resulted in short collection of stamp duty of Rs. 20,488.

The matter was reported to Government in August 1979. Government confirmed the facts and ordered recovery of the amount (September 1979). Further report is awaited (April 1980).

(iv) Under the Karnataka Registration Rules, 1965, if a document purporting or operating to effect contract for the sale of immovable property and containing a recital that the possession of the property has been delivered to the person contracting to buy, an **ad valorem** fee on the amount or the value of the purchase money shall be charged on the document.

It was noticed in audit of a Sub-Registry Office (Hassan District) that though the fact of handing over possession of the property was recited in the sale agreement, the document was treated as an 'Agreement' instead of 'Agreement to sell' and a registration fee of Rs. 15 only was levied instead of Rs. 16,000 leviable as **ad valorem** fee on the purchase money of Rs. 16,00,000. This resulted in short levy of registration fee of Rs. 15,985.

The matter was reported to Government in August 1979. Government stated (September 1979) that the deficit registration fee had been ordered to be taken in the demand register and instructions had been issued to the Sub-Registrar to effect recovery. Further report is awaited (April 1980).

(v) Under the Karnataka Stamp Act, 1957, "Conveyance" includes a conveyance on sale and every instrument by which property whether movable or immovable is transferred **inter vivos** and which is not otherwise specifically provided for by the Schedule.

It was noticed in audit (December 1978 and January 1979) of a Sub-Registry Office in Bangalore City that one document wherein the Bangalore Development Authority allotted ready-made sites to the Posts and Telegraphs Employees' Co-operative Society in December 1976, on payment of lay-out charges and which was registered in May 1977 was treated as an 'agreement' instead of as a 'conveyance'. The incorrect classification of document resulted in short levy of stamp duty of Rs. 13,929.

The matter was reported to Government in August 1979. Government confirmed the facts (September 1979) and ordered that the deficit stamp duty be taken in the demand register (November 1979). Further report is awaited (April 1980).

7.03. Irregular exemption of stamp duty

Under the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974, any agriculturist given financial assistance by a credit agency, may, by a declaration in the prescribed form, charge the land or any

other immovable property owned by him as security for the amount of such financial assistance and interest payable thereon. Government clarified (November 1977) that instruments executed under the Act were exempt from stamp duty only to the extent of remission allowed under Section 9 of the Karnataka Stamp Act, 1957. No orders, however, have been issued under the Stamp Act exempting stamp duty on documents in respect of loans obtained in excess of Rs. 10,000.

(i) It was noticed in audit (October and November 1978 and February 1979) of three Sub-Registry Offices (Belgaum and Bidar Districts) that stamp duty was not levied on 22 instruments registered during the period May 1977 to March 1978, even though the amount of loan obtained in those deeds exceeded Rs. 10,000. This resulted in non-levy of stamp duty of Rs. 33,024.

The matter was reported to Government in May 1979. Government confirmed the facts and ordered recovery (June 1979). Further reply is awaited (April 1980).

(ii) Under the Karnataka Stamp Act, 1957, Government issued an order in February 1973, remitting stamp duty in full in respect of sale deeds the Central Government obtains from the State Government or from others. This remission is not admissible for exchange deeds. Under the Act, stamp duty as a conveyance has to be charged on instruments of exchange.

It was noticed in audit (January 1979) of Sub-Registry Office, Mandya that one document dealing with the exchange of sites between the City Municipal Council and the Posts and Telegraphs Department, registered in September 1977, was exempted from stamp duty on the basis of the Government Order mentioned above. The irregular exemption of stamp duty resulted in loss of revenue of Rs. 22,400.

The matter was reported to Government in August 1979. Government confirmed the facts (October 1979).

B—ENTERTAINMENTS TAX

7.04. Short collection of entertainments tax, surcharge and additional tax

Under the Karnataka Entertainments Tax Act, 1958, entertainments tax, surcharge and additional tax are to be collected at 50 paise, 50 paise and 30 paise, respectively, in cases where the rate of admission to entertainment is Rs. 1.60 per ticket.

It was noticed in audit (March 1979) that in the case of a theatre in Mandya District, entertainments tax, surcharge and additional tax were levied and collected at the rates of 45 paise, 45 paise and 20 paise, respectively.

The loss of revenue on account of application of incorrect rates amounted to Rs. 25,916, during the period 11th October 1976 to 18th March 1979.

The matter was reported to Government (November 1979); reply is awaited (April 1980).

C—FOREST RECEIPTS

7.05. Loss of revenue due to delay in confirmation of sale

During the re-sale of a coupe on 15th October 1977, in a Forest Division (Uttara Kannada District), the highest amount offered by a contractor was Rs. 14,58,000. As this amount was below the upset price (Rs. 17.00 lakhs) by 14.24 per cent, the department sought the approval of Government for acceptance of the offer (November 1977). The terms of the tender notification stipulated that the bidder was at liberty to withdraw his offer, if the acceptance of the offer was not communicated to him within sixty days of the sale of coupe. Government, however, communicated their approval on 15th December 1977 which was 2 days after the expiry of the stipulated period. The contractor withdrew his offer on the ground that he did not receive sanction order within sixty days as provided in the tender notification.

The same coupe was put to re-sale (June 1978) and the highest bid amount of Rs. 13,40,000 secured in this auction, was accepted (July 1978) by Government. This amount was lower than the upset price and that obtained in the previous re-sale.

The delay in communication of the sanction of Government confirming the highest offer in the previous re-sale, resulted in loss of revenue of Rs. 1,18,000.

The matter was reported to Government in July 1979; reply is awaited (April 1980).

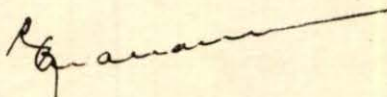
7.06. Loss of revenue in auction sale of timber

According to the terms and conditions of auction sales, the intending bidder shall, before he is allowed to participate in auction sales, deposit a prescribed amount based on the purchase consideration as earnest money deposit with the officer conducting the sales. The successful bidder should pay one fourth of the purchase money immediately after confirmation of sale, failing which the earnest money deposit shall be forfeited to Government and the timber re-sold at the risk and cost of the original bidder.

It was noticed in audit (November 1976) of auction sales of a forest division (Mysore District) held during 1975-76 that as against an amount of Rs. 20,000, being the prescribed deposit required to be made by fourteen bidders, an amount of Rs. 8,250 only was actually collected towards earnest money deposit. However, the bidders were allowed to participate in the auction. The total amount of Rs. 3,37,415 offered by them was accepted and being successful tenderers, they were required to deposit one fourth of the bid amount in terms of the conditions of auction. This amount was also not paid by the bidders within the prescribed period after confirmation of sale. The lots of timber were thereafter re-sold and fetched only Rs. 2,89,245 as against the bid amount of Rs. 3,37,415 in the first auction. If the provisions cited above had been strictly enforced, the department would have collected an earnest money deposit of Rs. 20,000 which could have been forfeited on re-sale.

On this being pointed out in audit (August 1977), the Department recovered between December 1976 and January 1978 an amount of Rs. 6,450 from two of the original bidders and referred (December 1978) the remaining cases to the revenue authorities as per sale condition. Further report is awaited (April 1980).

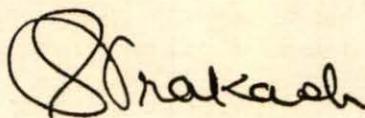
The matter was reported to Government in August 1977; reply is awaited (April 1980).



BANGALORE,
The 31st May 1980

(R. K. CHANDRASEKHARAN)
Accountant General, Karnataka.

Countersigned



NEW DELHI,
The

(GIAN PRAKASH)
Comptroller and Auditor General of India.

APPENDICES

APPENDIX

APPENDIX I

Statement showing cost of collection under the principal heads of revenue

(Reference : Paragraph 1.04, page 7)

Sl. No.	Head of Account	Year	Expendi- Gross ture on collection collection		Percentage of expendi- ture on gross collection
			(In crores of rupees)		
1.	Sales Tax	1976-77	137.30	2.42	1.76
		1977-78	151.09	2.42	1.60
		1978-79	164.48	2.67	1.60
2.	Taxes on Agricultural Income	1976-77	4.30	0.24	6.00
		1977-78	7.82	0.26	3.32
		1978-79	14.37	0.30	2.00
3.	Land Revenue*	1976-77	4.25	4.47	105.17
		1977-78	4.94	6.68	135.20
		1978-79	6.95	4.52	65.03
4.	State Excise Duties	1976-77	52.27	3.01	3.76
		1977-78	56.24	3.99	7.09
		1978-79	62.60	2.03	3.24
5.	Stamp Duty and Registration Fees	1976-77	10.78	1.07	9.92
		1977-78	14.95	1.34	8.97
		1978-79	17.91	1.45	8.09
6.	Taxes on Motor Vehicles	1976-77	24.92	0.54	2.12
		1977-78	29.82	0.73	2.45
		1978-79	29.48	0.92	3.12
7.	Forest*	1976-77	29.05	13.49	46.43
		1977-78	29.92	13.31	44.48
		1978-79	30.86	15.28	49.51

*The expenditure under Land Revenue and Forest cannot be considered as having been incurred solely for collecting revenue as the departments have several other administrative functions.

APPENDIX II

Arrears in Assessment

(Reference : Paragraph 1.06, page 8)

Year	Number of assessments for disposal	Number of assessments completed	Number of assessments pending at the end of the year	Percentage of pending assessments to total number of assessments due for disposal
1977-78				
<i>(a) Sales Tax</i>				
Karnataka Sales Tax	1,65,362	1,17,364	47,998	29
Central Sales Tax	56,763	31,267	25,496	45
<i>(b) Taxes on Agricultural Income</i>	65,271	27,009	38,202	58
<i>(c) Entertainments Tax</i>	38,415	36,778	1,637	4
1978-79				
<i>(a) Sales Tax</i>				
Karnataka Sales Tax	1,75,354	1,19,697	55,657	32
Central Sales Tax	63,504	34,227	29,277	46
<i>(b) Taxes on Agricultural Income</i>	1,29,596	34,106	95,527	73
<i>(c) Entertainments Tax</i>	38,377	35,852	2,525	7

Year wise break-up of the pendency as on 31st March 1979 is as under :—

Year	Sales Tax		Agricultural	Enter-
	Karnataka Sales Tax	Central Sales Tax	Income Tax	tainments Tax
up to 1973-74	574	280	1,876	..
1974-75	454	363	540	..
1975-76	2,329	1,697	1,142	41
1976-77	10,767	6,527	45,598	102
1977-78	41,533	20,410	3,719	35
1978-79	..	..	42,652	2,347
Total	55,657	29,277	95,527	2,525

WD 1900—GPB—1,400—31-5-1980