



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

**FOR THE YEAR ENDED 31 MARCH 1998**

**NO. 1  
(REVENUE RECEIPTS)**

**GOVERNMENT OF HIMACHAL PRADESH**



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## **PREFATORY REMARKS**

This Report for the year ended 31 March 1998 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The Audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, state excise, motor vehicles tax, passengers and goods tax, forest receipts, other tax and non-tax receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 1997-98 as well as those noticed in earlier years but could not be included in previous years' Reports.





## OVERVIEW

This report contain 26 paragraphs and 2 reviews involving a tax impact of Rs. 27.49 crore. Some of the major findings are mentioned below:

(Paragraph 1.9.)

### 1. General

(i) The total receipts of the Government for the year 1997-98 were Rs. 2,170.45 crore. Revenue Receipts of Government during the year were Rs. 698.20 crore, of which Rs. 476.16 crore represented tax revenue and Rs. 222.04 crore non-tax revenue. Government also received Rs. 651.23 crore as State's share of divisible Union Taxes and Rs. 821.02 crore as grants-in-aid from the Government of India. Receipts under state excise (Rs. 159.54 crore), sales tax (Rs. 171.18 crore) and taxes on goods and passengers (Rs. 96.80 crore) accounted for a major portion of receipts of tax revenue and under-tax revenue, the main receipts were from forestry and wild life (Rs. 41.15 crore).

(Paragraph 1.1.)

(ii) The arrears of revenue under principal heads of revenue as on 31st March 1998 amounted to Rs. 170.45 crore, of which Rs. 76.68 crore pertained to forestry and wild life.

(Paragraph 1.5.)

(iii) Test check of records of the Excise and Taxation, Transport, Forest and other departmental offices conducted during 1997-98, revealed under-assessment/short levy of revenue amounting to Rs. 38.92 crore in 747 cases. The concerned departments accepted under-assessments etc., of Rs. 5.81 crore.

(Paragraph 1.9.)



(iv) 2568 audit and inspection reports containing 7368 objections with money value of Rs. 140.37 crore issued upto 31st December 1997 were not settled upto 30th June 1998.

(Paragraph 1.10.)

## **2. Sales Tax**

A review on 'Evasion of sales tax' brings out the following points:

(i) Non-enforcement of the provisions of the notification by the department, a cement industrial unit availed incorrect tax exemption amounting to Rs. 437.10 lakh.

(Paragraph 2.2.6.)

(ii) Central sales tax amounting to Rs. 31.82 lakh erroneously collected in 1995-96 by a dealer of Shimla district, was not found deposited in the Government account.

(Paragraph 2.2.7.)

(iii) Sales of photo identity cards valuing Rs. 487.34 lakh during the period 1994-95 to 1996-97 were not disclosed by a dealer which resulted in evasion of tax of Rs. 57.92 lakh including interest and penalty.

(Paragraph 2.2.8.)

(iv) Deductions relating to sales of rice and wheat flour claimed by a dealer did not qualify for exemption and consequently resulted in evasion of tax of Rs. 76.01 lakh including interest.

(Paragraph 2.2.9.)

(v) In two districts, four dealers were liable for registration between the period 1986-87 and 1996-97 as their annual turnover had exceeded the taxable

(vi)



quantum, but they did not apply for registration. The department's failure to detect and register them resulted in evasion of sales tax amounting to Rs. 12.63 lakh.

[Paragraph 2.2.10(a)]

(vi) Non-withdrawal of concession availed of by five dealers who had closed down their business resulted in evasion of tax of Rs. 7.98 lakh including surcharge.

[Paragraph 2.2.11(i)]

(vii) Test check in audit of 12 barriers revealed that 1,05,792 goods vehicles which carried *sand* and *bajri* worth Rs. 942.84 lakh crossed the barriers during the period falling between 1994-95 and 1996-97 without filing the prescribed declaration forms. The department failed to exercise the prescribed checks in respect of registered and unregistered dealers, besides sales tax amounting to Rs. 75.43 lakh was also leviable.

(Paragraph 2.2.12.)

### **3. State Excise**

(i) Failure of the department to enforce the prescribed norms of production of spirit from malt and molasses in a distillery during the years 1995-96 and 1996-97 deprived the Government of excise duty amounting to Rs. 21.00 lakh.

(Paragraph 3.2.)

(ii) In a brewery, excise duty of Rs. 4.70 lakh leviable on spirit lost in the process of re-distillation during the year 1996-97 was not levied.

(Paragraph 3.3.)

### **4. Taxes on Vehicles, Goods and Passengers**

Additional goods tax amounting to Rs. 9.69 lakh which was recoverable at three barriers had either not been recovered or short recovered.

(Paragraph 4.4.)

(vii)



## 5. Forest Receipts

A review on 'Forest offences' revealed the following:

(i) In 98 cases relating to illicit felling of 3,099 trees and seizure of 562 nags of timber valued at Rs. 123.19 lakh pertaining to ten forest divisions, no damage reports were prepared/issued by the department during the years 1992-93 to 1996-97.

[Paragraph 5.2.7(a)]

(ii) In fifteen forest divisions, 3,056 offence cases became time barred during the years 1992-93 to 1996-97 due to failure of the department to compound these cases or to take them to the courts of law within the prescribed period which not only resulted in offenders going scot free but also a loss of revenue involving Rs. 80.58 lakh.

[Paragraph 5.2.7(c)]

(iii) In 21 cases of illicit felling noticed in seven forest divisions, the concerned field staff failed to seize timber valued at Rs. 50.07 lakh from the offenders.

[Paragraph 5.2.8(a)]

(iv) Contrary to the guidelines of the State Government, the Divisional Forest Officer compounded 2 cases involving illicit felling of 357 trees involving Rs. 12.37 lakh beyond his competence instead of registering the cases with the Police.

(Paragraph 5.2.9.)

(v) In nineteen forest divisions, 11,437 offence cases were pending at the beginning of 1992-93 which went upto 17,979 at the end of 1996-97 registering an increase of 57 per cent. The compensation and value of produce chargeable in these cases worked to Rs. 816.88 lakh and consequently delay in finalisation resulted in blocking of revenue.

(Paragraph 5.2.11.)

(viii)



(vi) In 1,884 cases, forest land measuring 387.308 hectares involving 1,831 trees was encroached upon by the offenders in sixteen forest divisions during the years 1992-93 to 1996-97. The cases were pending for decisions/ processing. Non vacation of forest land resulted in blocking of revenue of Rs. 234.21 lakh (value of trees only). The value and compensation of encroached land, had not been assessed by the department.

(Paragraph 5.2.12.)

(vii) In four forest divisions, royalty on broad leaved trees amounting to Rs. 192.67 (including sales tax) was demanded short.

(Paragraph 5.3.)

(viii) In seven forest divisions, royalty of Rs. 140.26 lakh (including sales tax) was either charged short or not charged at all.

(Paragraph 5.4.)

(ix) In four forest divisions, interest and penalty amounting to Rs. 25.39 lakh leviable on belated payments of royalty and sales tax were not demanded by the department from the State Forest Corporation.

(Paragraph 5.5.)

(x) In two forest divisions, application of incorrect rates of sales tax on timber resulted in short recovery of sales tax of Rs. 25.17 lakh.

(Paragraph 5.6.)

(xi) Less conversion of timber than prescribed and short supply of converted timber valued at Rs. 25.16 lakh meant for departmental sales depots was noticed in two forest divisions.

(Paragraph 5.7.)

(xii) In five forest divisions, royalty of Rs. 17.62 lakh (including sales tax) was recovered short due to incorrect application of volume of trees.

(Paragraph 5.8.)



(xiii) Royalty and sales tax of Rs. 11.16 lakh on fit trees were recovered short in one forest division.

(Paragraph 5.9.)

(xiv) Royalty amounting to Rs. 9.74 lakh (including sales tax) was recovered short due to application of lower rates of royalty.

(Paragraph 5.10.)

**6-A Stamp duty and registration fee**

In 88 cases, the loans obtained by individuals from the Gramin bank and the banks registered under the Himachal Pradesh Co-operative Societies Act, 1968, were meant for the purposes other than prescribed for exemption and consequently stamp duty and registration fee amounting to Rs. 7.49 lakh were leviable but was not levied.

(Paragraph 6.2.)



## CHAPTER 1

### GENERAL





## **CHAPTER 1 : GENERAL**

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## CHAPTER 1

### GENERAL

#### 1.1. Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 1997-98, the share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below and also exhibited in Chart 1.

		1995-96	1996-97	1997-98
		( In crore of rupees )		
I.	Revenue raised by the State Government			
(a)	Tax revenue	341.52	412.11	476.16
(b)	Non-tax revenue	117.34	146.86	222.04
	<b>Total</b>	<b>458.86</b>	<b>558.97</b>	<b>698.20</b>
II.	Receipts from the Government of India			
(a)	State's share of divisible Union taxes	400.28	440.23 <sup>@</sup>	651.23 <sup>@</sup>
(b)	Grants-in-aid	894.88	992.82	821.02
	<b>Total</b>	<b>1295.16</b>	<b>1433.05</b>	<b>1472.25</b>
III	Total receipts of the State Government (I and II)	1754.02	1992.02	2170.45
IV	Percentage of I to III	26	28	32

(a) For details, please see "Statement No.10-Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Himachal Pradesh for the respective years. Figures under the head "0021-Taxes on Income other than Corporation Tax-share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union Taxes in this Statement.



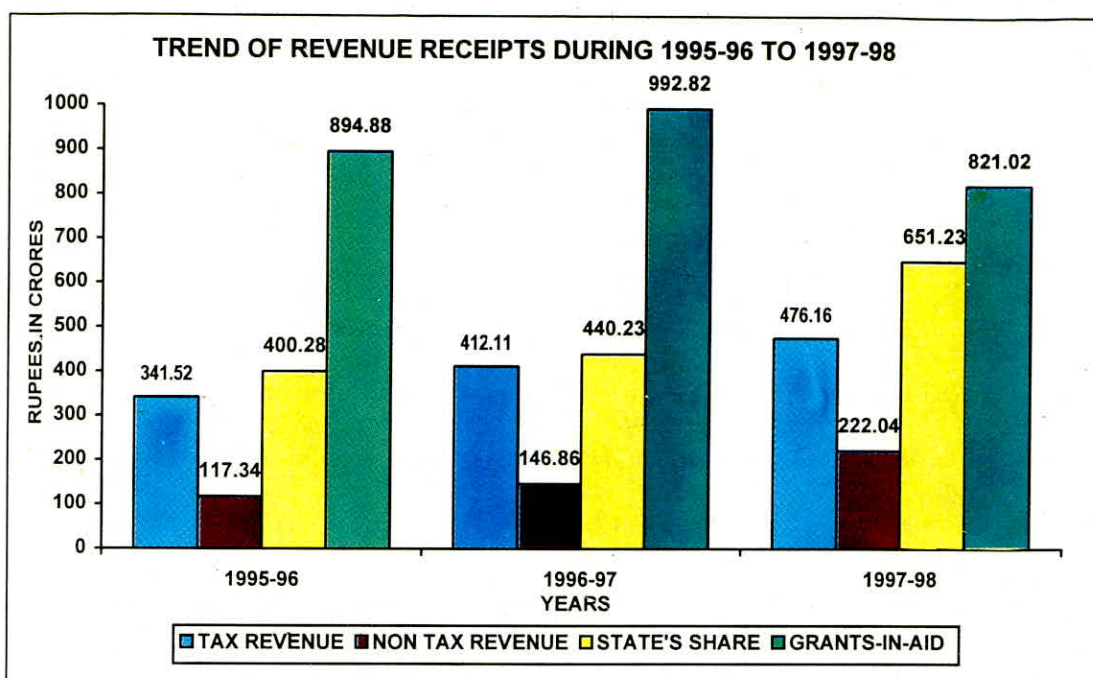


Chart 1

- (i) The details of the tax revenue raised during the year 1997-98, along with the figures for the preceding two years, are given below and also exhibited in Chart 2.

		1995-96	1996-97	1997-98	Percentage of increase(+) or decrease (-) in 1997-98 over 1996-97
( In crore of rupees )					
1.	State Excise	105.50	132.46	159.54	(+)20
2.	Sales Tax	122.83	146.26	171.18	(+)17
3.	Taxes on Goods and Passengers	45.80	65.26	96.80	(+)48
4.	Taxes on Vehicles	12.32	14.47	15.83	(+) 9
5.	Stamps and Registration fee	13.78	15.44	18.77	(+)22
6.	Taxes and Duties on Electricity	17.92	18.64	7.05	(-)62
7.	Land Revenue	0.87	5.95	1.67	(-)72
8.	Others	22.50	13.63	5.32	(-)61
	<b>Total</b>	<b>341.52</b>	<b>412.11</b>	<b>476.16</b>	<b>(+)16</b>



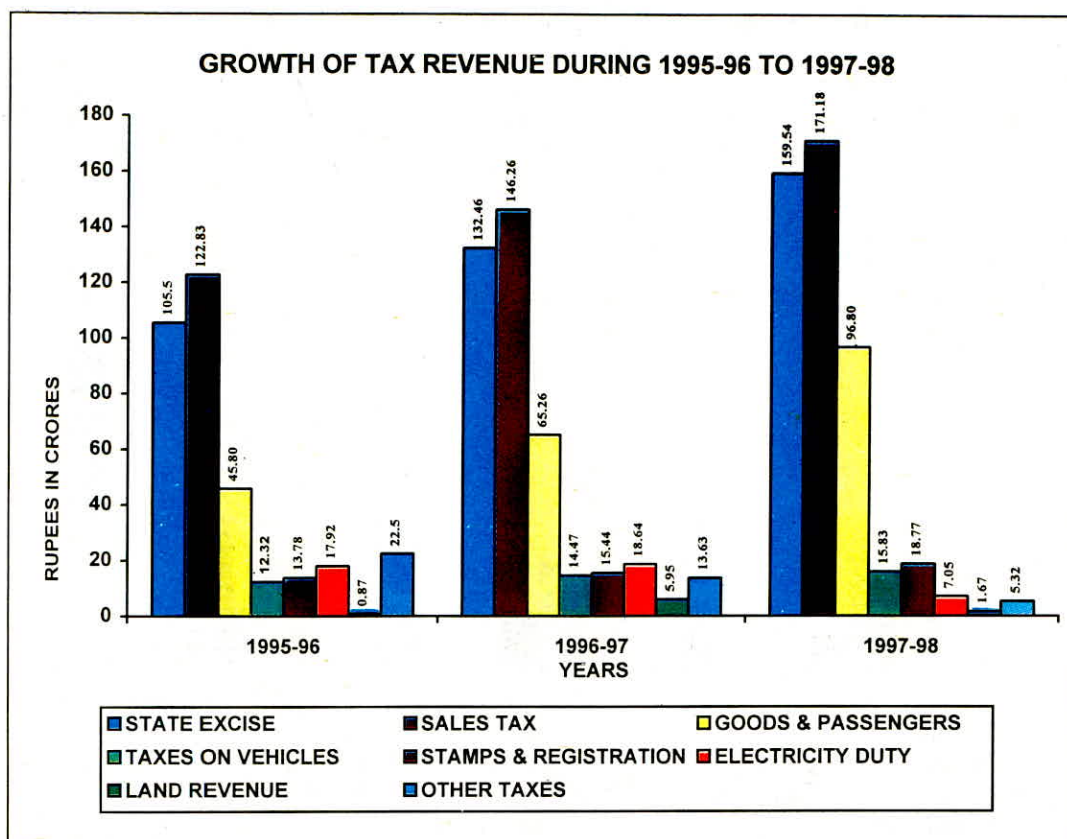


Chart 2

(ii) The details of non-tax revenue realised during the years 1995-96 to 1997-98 are given below and also exhibited in Chart 3.

		1995-96	1996-97	1997-98	Percentage of increase (+) or decrease (-) in 1997-98 over 1996-97
		( In crore of rupees )			
1.	Forestry and Wild Life	44.94	41.19	41.15	(-) 0.10
2.	Interest Receipts	25.37	24.35	13.01	(-) 46
3.	Non-ferrous, Mining and Metallurgical Industries	8.73	13.22	30.93	(+)134
4.	Education, Sports, Art and Culture	2.41	2.68	6.13	(+) 129
5.	Crop Husbandry (including Horticulture)	2.64	2.91	4.09	(+) 41
6.	Others	33.25	62.51	126.73	(+)103
	<b>Total</b>	<b>117.34</b>	<b>146.86</b>	<b>222.04</b>	<b>(+)51</b>

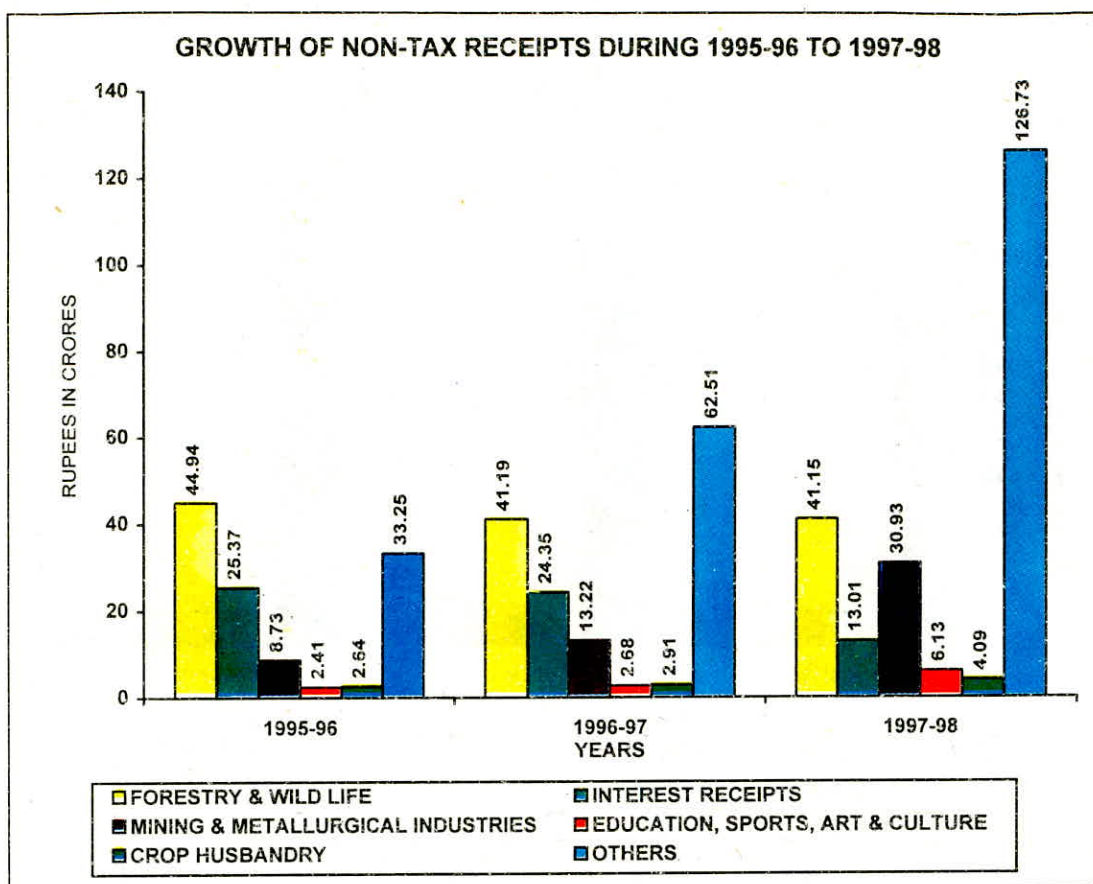


Chart 3

There was significant variation in receipts under the following heads and the reasons therefor as given by the concerned departments were as under :-

- (a) "Sales Tax" - The increase in receipts during 1997-98 as compared to the receipts of 1996-97 was mainly due to general increase in prices of commodities.
- (b) "Crop Husbandry (including Horticulture)" - The increase in receipts during 1997-98 under "Horticulture" as compared to the receipts of 1996-97 was mainly due to receipt of central contribution under market intervention scheme relating to apples.
- (c) "Taxes on Vehicles" - The increase in receipts during 1997-98 as compared to the receipts of 1996-97 was due to registration of more vehicles during the year and consequently more realisation of route permit fee, registration/inspection fee, composite fee and penalty amount.

## 1.2. Variations between Budget estimates and actuals

The variations between budget estimates of revenue for the year 1997-98



and actual receipts under the principal heads are given below.

	Head of revenue	Budget estimates (In crore)	Actual receipts (of rupees)	Variations increase(+) shortfall(-)	Percentage of variation
1	State Excise	120.00	159.54	(+)39.54	33
2	Sales Tax	160.00	171.18	(+)11.18	7
3	Taxes on Goods and Passengers	77.00	96.80	(+)19.80	26
4	Taxes on Vehicles	13.14	15.83	(+) 2.69	20
5	Stamps and Registration Fees	12.20	18.77	(+)6.57	54
6	Taxes and Duties on Electricity	16.63	7.05	(-)9.58	58
7	Land Revenue	0.96	1.67	(+)0.71	74
8	Other Taxes and Duties on Commodities and Services	5.54	5.32	(-)0.22	4
9	Forestry and Wild Life	86.00	41.15	(-)44.85	52
10	Interest Receipts	3.25	13.01	(+) 9.76	300
11	Village & Small Industries	0.13	1.14	(+) 1.01	777
12	Non-ferrous, Mining and Metallurgical Industries	7.00	30.93	(+)23.93	342
13	Education, Sports, Arts and Culture	3.19	6.13	(+)2.94	92
14	Crop Husbandry (including Horticulture)	2.09	4.09	(+)2.00	96
15	Housing	0.45	65.86	(+)65.41	14536

The reasons for variations between the budget estimates and the actuals as reported by the concerned departments were as under:-

- (a) Under 'State Excise', the increase (33 per cent) was mainly due to higher amount of auction money realised during the year 1997-98, increase in consumption of liquor, enhancement in the excise duty on 'country liquor' by rupee one and Rs. 6.50 per proof litre on Indian made foreign liquor and also due to issue of 35 new bar licenses.
- (b) Under 'Taxes on Goods and Passengers' the increase (26 per cent) was mainly due to more receipt on account of passengers tax consequent upon increase in the fare rates, levy of passengers and goods tax on lump sum basis on private vehicles, taxis and trucks with effect from April 1997 and levy of additional freight tax on the fly ash.
- (c) Under 'Stamps duty and registration fee', the increase (54 per cent) was mainly due to registration of more documents than anticipated and sale of stamps.

(d) Under 'Non-ferrous, Mining and Metallurgical Industries', the increase (342 per cent) was mainly due to additional receipt of about Rs. ten crore as a result of decision in favour of the department in respect of cases filed in the court by a cement company and realisation of more revenue consequent upon enhanced production capacity of cement plants.

(e) Under 'Village and Small Industries', the increase (777 per cent) was mainly due to more realisations from industrial estates, Government accommodation, more sale of mulberry plants and seeds and recovery of outstanding dues.

(f) Under 'Forestry and Wild Life', the Principal Chief Conservator of Forests intimated (August 1998) that for the year 1997-98 Forest department had proposed to the Secretary (Forests) to the Government of Himachal Pradesh budget provision of revenue receipts amounting to Rs. 40.50 crore whereas as per budget document, the budget provision under the aforesaid revenue head was kept at Rs. 86 crore. Against the budget provision of Rs. 86 crore, the actual revenue receipts during 1997-98 amounted to Rs. 41.15 crore. The reasons for the variation (52 per cent) enquired in audit, had not been intimated (September 1998) by the State Government. It appears that fictitious revenue of Rs. 44.85 crore was thus created to conceal the revenue deficit to that extent.

(g) Against budget provision of Rs. 0.45 crore for the year 1997-98 under the receipt head '0216-Housing' amount of Rs. 65.25 crore on account of loan raised from the Housing and Urban Development Corporation (HUDCO) on behalf of State Government for execution of Government Scheme 'Gandhi Kutir Yojana' were deposited as receipts under aforesaid Receipt head reportedly as per directions from the Finance Department. The Government had thus created fictitious revenue in order to conceal revenue deficit during the year 1997-98 to the extent of Rs. 65.25 crore.

### **1.3. Analysis of collections**

The break-up of the total collections (at pre-assessment stage and after regular assessment) of state excise, sales tax, passengers and goods tax and other taxes and duties on



commodities and services during the year 1997-98 and the corresponding figures for the preceding two years, as furnished by the Excise and Taxation Department, is given below.

Name of tax head	Year	Amount collected	Amount collected after regular assessment		Interest	Other Penalties	Amount refunded	Net collection of	Percentage of columns
		at pre-assessment stage	Additional demand	Penalties for delay in payment of taxes & duties				taxes/duties	3 to 9
← (In lakh of rupees) →									
1	2	3	4	5	6	7	7	9	10
State Excise	1995-96	10568.39	--	2.97	33.99	1.49	56.71	10550.13	100
	1996-97	13157.67	--	2.17	82.32	4.19	--	13246.35	99
	1997-98	15831.85	--	10.08	117.56	4.55	9.99	15954.05	99
Sales Tax	1995-96	11305.56	836.61	56.41	82.63	36.31	34.27	12283.24	92
	1996-97	13946.10	367.45	85.82	196.77	30.20	0.18	14626.16	95
	1997-98	16394.18	430.35	95.52	163.11	34.78	0.10	17117.84	96
Passengers and Goods Tax	1995-96	4351.60	170.80	47.49	--	10.55	--	4580.44	95
	1996-97	6304.48	179.55	27.66	--	14.31	--	6526.00	96
	1997-98	9471.27	150.39	15.08	--	43.23	--	9679.97	98
Other Taxes and Duties on Commodities and Services	1995-96	2230.89	8.43	1.76	9.41	0.41	1.36	2249.54	99
	1996-97	1332.15	12.40	13.28	4.98	0.03	0.57	1362.27	98
	1997-98	473.66	57.33	1.35	0.09	0.07	0.01	532.49	89

The position of revenue collected by the Excise and Taxation department as detailed above shows that the collection of revenue at the pre-assessment stage ranged between 89 and 99 per cent and the percentage of additional demand raised after regular assessments ranged between 1 and 11 during the year ending March 1998.

#### 1.4. Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1995-96, 1996-97 and 1997-98 along with the relevant all India average percentage of

expenditure on collections to gross collections for 1996-97 are given below.

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1996-97
<i>(In lakh of rupees)</i>					
1. State Excise	1995-96	10550.13	221.51	2	3.53
	1996-97	13246.35	237.82	1.79	
	1997-98	15954.05	280.62	1.76	
2. Sales Tax	1995-96	12283.24	257.89	2	1.19
	1996-97	14626.16	262.59	1.79	
	1997-98	17117.84	301.08	1.76	
3. Taxes on Vehicles, Goods and Passengers	1995-96	5811.96	132.54	5	2.60
	1996-97	7972.48	157.32	1.97	
	1997-98	11262.65	218.83	1.94	
4. Stamp Duty and Registration Fees	1995-96	1377.86	27.16	2	3.37
	1996-97	1544.22	47.07	3	
	1997-98	1876.63	52.92	3	

### 1.5. Arrears of revenue

As on 31st March 1998, arrears of revenue under principal heads of revenue, as reported by the departments, were as under.

Head of revenue	Arrears pending collection (In lakh of rupees)	Arrears more than five years old (In lakh of rupees)	Remarks
1. Forestry and Wild Life	7668.30	Not received	Period to which this arrear pertains and specific action taken to effect the recovery by the department had not been intimated (August 1998).
2. Sales Tax	4973.18	1262.77	Out of Rs. 4973.18 lakh, demands for Rs. 642.57 lakh had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 174.85 lakh and Rs. 69.07 lakh had been stayed by the courts, judicial authorities and Government respectively. Demands for Rs. 811.72 lakh were likely to be written off. Specific action taken in respect of remaining arrears of Rs. 3274.97 lakh called for (April 1998) had not been intimated (August 1998) by the department.



	Head of revenue	Arrears pending collection ( In lakh	Arrears more than five years old of rupees )	Remarks
3.	Taxes on Goods and Passengers	746.10	61.21	Out of the arrears of Rs. 746.10 lakh, demands for Rs. 66.40 lakh had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 20.80 lakh had been stayed by the courts. Recovery amounting to Rs. 11.50 lakh was held up due to rectification/review application. Demands for Rs. 39.93 lakh were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 607.47 lakh called for (April 1998) had not been intimated (August 1998) by the department.
4.	Taxes and Duties on Electricity	1624.64	--	The amount is recoverable from the Himachal Pradesh State Electricity Board in respect of electricity duty for the year 1997-98. The outstanding amount could have been adjusted against the interest subsidy amounting to Rs. 1942.60 lakh released to the State Electricity Board during the year 1997-98.
5.	State Excise	246.12	23.62	Out of Rs. 246. 12 lakh, demands amounting to Rs. 12.24 lakh had been certified for recovery as arrears of land revenue. Recoveries of Rs. 10.45 lakh had been stayed by the courts/judicial authorities. Demands of Rs. 9.86 lakh were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 213.57 lakh called for (April 1998) had not been intimated (August 1998) by the department.
6.	Other Taxes and Duties on Commodities and Services	59.22	1.54	Out of Rs. 59.22 lakh, demands amounting to Rs. 0.58 lakh had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 0.51 lakh had been stayed by the courts/judicial authorities. Specific action taken in respect of the remaining arrears of Rs. 58.13 lakh called for (April 1998) had not been intimated (August 1998) by the department.
7.	Water Supply, Sanitation and Minor Irrigation	948.86	Not received	Period to which this arrear pertains and specific action to effect the recovery by the department had not been intimated (August 1998).

	Head of revenue	Arrears pending collection (In lakh)	Arrears more than five years old (of rupees)	Remarks
8.	Industries (including village and small scale industries)	145.07	53.86	Efforts were reportedly being made to recover the outstanding revenue. The specific action taken by the department to recover these arrears called for (April 1998) had not been intimated (August 1998).
9.	Police	429.57	28.59	Out of the total arrears of Rs. 429.57 lakh, the bulk of the outstanding amount relates to National Hydro-electric Power Corporation (Rs. 123.51 lakh), Civil Aviation Authority (Rs. 106.73 lakh), Bhakra and Beas Management Board (Rs. 62.38 lakh) and the Railways (Rs. 73.29 lakh). The balance amount (Rs. 63.66 lakh) related to other departments/ institutions. The matter relating to recovery of arrears was reportedly being pursued.
10.	Land Revenue	70.93	28.11	Specific action to effect the recovery by the department had not been intimated (August 1998).
11.	Stationery and Printing	61.19	24.97	The outstanding amount was stated as recoverable from Education (Rs. 33.15 lakh), Integration and Rural Development (Rs. 13.45 lakh), Public Works (Rs. 4.39 lakh), Irrigation and Public Health (Rs. 2.53 lakh) and from other departments (Rs. 7.67 lakh). The department further intimated (June 1998) that the matter regarding waiving the recovery of arrears on account of subscription fee of Giriraj Weekly amounting to Rs. 52.46 lakh was under correspondence with the quarters concerned. Further report had not been received (July 1998).
12.	Local Audit Department	27.12	--	Efforts were reportedly being made by the department to liquidate the arrears.
13.	Non-ferrous, Mining and Metallurgical Industries	28.37	12.21	The amounts of Rs. 9.85 lakh, Rs. 4.52 lakh and Rs. 2.82 lakh were recoverable under recovery certificate process, recovery stayed by the court and the amounts likely to be written off respectively. Efforts were reportedly being made to recover the remaining arrears of Rs. 11.18 lakh (August 1998).



Head of revenue	Arrears pending collection ( In lakh )	Arrears more than five years old of rupees )	Remarks
14. Public Works	16.57	Not received	Period to which this arrear pertains and specific action to effect the recovery by the department had not been intimated (August 1998).
<b>Total</b>	<b>17045.24</b>		

### 1.6. Reconciliation of departmental figures

In order to exercise effective control over receipts, all departmental officers concerned are required to reconcile receipts of their respective departments periodically with the receipts booked in the accounts maintained by the Accountant General before the close of the year's accounts.

Despite reporting the extent of delay in reconciliation to Government/Department periodically, one\* controlling officer had not reconciled receipts amounting to Rs. 3.81 crore in respect of two heads of accounts for the year 1997-98.

The matter was reported to Government in August 1998; their reply had not been received

### 1.7. Arrears in appeals

According to the information furnished (August 1998) by the Excise and Taxation Department, the number of appeals filed under the sales tax, passengers and goods taxation act, etc., the number of appeals disposed of and the number of cases pending with the

\* Engineer-in-Chief, Irrigation and Public Health - (0215-Water Supply and Sanitation: Rs. 3.69 crore; 0702-Minor Irrigation : Rs. 0.12 crore).



appellate authorities at the end of each year during last five years ending March 1998 were as under.

Year	Opening balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to total number of cases
1993-94	456	212	668	316	352	47
1994-95	352	275	627	404	223	64
1995-96	223	324	547	290	257	53
1996-97	257	460	717	314	403	44
1997-98	403	431	834	339	495	25

Out of 495 cases outstanding at the end of March 1998, the oldest case relates to May 1986. There is a need to take effective steps for disposal of these cases.

### 1.8. Frauds and evasion of tax/duty

The details of cases of frauds and evasion of taxes and duties pending at the beginning of the year, the number of cases detected by the departmental authorities, the number of cases in which assessments/investigations were completed and additional demands (including penalties etc.) of taxes/duties were raised against dealers during the year and the number of cases pending finalisation at the end of March 1998, as supplied (August 1998) by the Excise and

Taxation Department are given as under.

Sr. No.	Name of tax/ duty	Cases pending as on 31st March 1997	Cases detected during 1997-98	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31st March 1998
				Number of cases	Amount of demand (In lakh of rupees)	
1.	Sales Tax	1110	1976	2306	29.09	780
2.	State Excise	--	124	123	1.62	1
3.	Passengers and Goods Tax	3007	3177	3261	30.02	2923
4.	Other Taxes and Duties on Commodities and Services	8	3	2	0.04	9
<b>Total.</b>		<b>4125</b>	<b>5280</b>	<b>5692</b>	<b>60.77</b>	<b>3713</b>

### 1.9. Results of audit

Test check of the records of sales tax, state excise, taxes on vehicles, goods and passengers, forest receipts, other tax and non-tax receipts conducted during the year 1997-98 revealed under-assessments/short levy/loss of revenue amounting to Rs. 3892.54 lakh in 747 cases. During the course of the year 1997-98, the concerned departments accepted under-assessments etc., of Rs. 581.14 lakh involved in 371 cases of which 7 cases involving Rs. 0.43 lakh had been pointed out in audit during 1997-98 and the rest in earlier years.

This Report contains 28 paragraphs (including two reviews) relating to non-levy, short levy of tax, duty, interest, penalty etc., involving Rs. 27.49 crore. The department/ Government have accepted audit observations involving Rs. 5.44 crore of which Rs. 4.44 crore had been recovered up to June 1998. No replies have been received in the other cases.



### 1.10. Outstanding inspection reports and audit observations

(i) Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the Head of Offices and other departmental authorities through Inspection Reports. Serious financial irregularities are reported to the concerned Heads of Departments and the Government. The Heads of Offices are required to furnish replies to the inspection reports through the respective Heads of Departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued during the last three years upto 31st December 1997 which were pending settlement by the departments as on 30th June 1996, 30th June 1997 and 30th June 1998 is given below.

	At the end of June		
	1996	1997	1998
Number of inspection reports pending settlement	2,335	2502	2568
Number of outstanding audit observations	6,688	7206	7368
Amount of revenue involved (in crore of rupees)	123.68	130.76	140.37

(iii) Year-wise break-up of the outstanding inspection reports and audit observations (as on 30th June 1998) is given below.

Year (in which inspection reports were issued)	Number of outstanding		Amount of receipts involved (in crore of rupees)
	inspection reports	audit objections	
upto 1993-94	1536	3770	73.65
1994-95	204	621	25.13
1995-96	238	655	11.39
1996-97	317	1251	15.07
1997-98	273	1071	15.13
<b>Total</b>	<b>2568</b>	<b>7368</b>	<b>140.37</b>

(iv) Department-wise break-up of the inspection reports and audit observations outstanding as on 30th June 1998 is given below.

Department	Number of outstanding		Amount of receipts involved (in crore of rupees)	Year to which observations relate	Number of inspection reports to which even first replies had not been received
	inspection reports	audit observations			
1. Revenue	494	1010	5.94	1974-75 to 1996-97	45
2. Forest Farming and Conservation	489	1623	89.10	1970-71 to 1996-97	12
3. Excise and Taxation	639	2305	28.27	1971-72 to 1996-97	43
4. Transport	410	1267	4.26	1971-72 to 1996-97	22
5. Other Departments (Public Works, Irrigation and Public Health, Agriculture and Soil Conservation, Horticulture, Co-operation, Food and Supplies and Industries)	536	1163	12.80	1974-75 to 1996-97	31
<b>Total</b>	<b>2568</b>	<b>7368</b>	<b>140.37</b>		<b>153</b>

The matter was last brought to the notice of the Chief Secretary to Government in July 1998; intimation regarding steps taken by the Government to clear the outstanding inspection reports and audit observations has not been received.

### 1.11. Arrears in assessment

The details of sales tax and passengers and goods tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1993-94 to 1997-98, as furnished by the department, are given below.

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
1993-94	44,209	32,798	77,007	28,097	48,910	36
1994-95	48,910	34,610	83,520	32,396	51,124	39
1995-96	51,124	35,667	86,791	35,909	50,882	41
1996-97	50,882	42,861	93,743	33,091	60,652	35
1997-98	60,652	45,441	1,06,093	34,279	71,814	32



The above table shows that the number of cases pending at the beginning of 1993-94 was 44,209 which went up to 71,814 at the end of 1997-98, registering an increase of 62 *per cent* while the percentage of finalisation of assessment cases, which had gone up to 41 *per cent* during 1995-96, declined to 32 *per cent* in 1997-98.

## **CHAPTER 2**

### **SALES TAX**





## **CHAPTER 2 : SALES TAX**

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## CHAPTER 2

### SALES TAX

#### 2.1. Results of audit

Test check of sales tax assessments and other records conducted in audit during the year 1997-98, revealed short assessments of tax amounting to Rs. 322.70 lakh in 196 cases, which broadly fall under the following categories:-

	Number of cases	Amount (In lakh of rupees)
1. Evasion of tax as a result of suppression of purchases/sales	79	254.08
2. Non-registration of dealers	8	10.60
3. Non-levy/short levy of interest/penalty	23	6.39
4. Under-assessment of tax	65	20.60
5. Other irregularities	21	31.03
<b>Total:</b>	<b>196</b>	<b>322.70</b>

During the course of the year 1997-98, the concerned department accepted the under-assessments etc., of Rs.22.13 lakh involved in 124 cases, of which 3 cases involving Rs. 0.12 lakh had been pointed out in audit during 1997-98 and the rest in earlier years, the earliest year being 1980-81. The results of review on "Evasion of sales tax" conducted by audit and a few illustrative cases highlighting important observations involving financial effect of Rs.747.01 lakh are given in the following paragraphs.

#### 2.2. Evasion of sales tax

##### 2.2.1. Introduction

Under the Himachal Pradesh General Sales Tax Act, 1968, no dealer who is liable to pay tax can carry on business as a dealer unless he has been registered and possesses a registration certificate. Dealers, liable for registration, evade tax by not



getting themselves registered. Registered dealers evade tax by suppression of sales/purchases, mis-representation of facts and falsification of accounts. The Act provides for penal action against those dealers who do not depict the true picture of their accounts. Unscrupulous industrial units avoid tax by not complying with the conditions laid down for availing of the concessional rate of tax or exemption from the payment of tax. Small scale industrial units which avail of exemptions/concessional rates of tax avoid tax at full rates in respect of units which have not continued for the specified period. In the case of manufacturing units exemption of tax is availed without complying with the conditions prescribed by the Government.

### **2.2.2. Organizational set up**

Sales tax laws and rules are administered by the Excise and Taxation Department which is headed by the Excise and Taxation Commissioner. He is assisted by one Additional Excise and Taxation Commissioner for the south zone and a Deputy Excise and Taxation Commissioner for the north zone. At the district level, there are Assistant Excise and Taxation Commissioners/ Excise and Taxation Officers, Taxation Inspectors and other allied staff for administering the relevant tax laws and rules. In order to assist in checking evasion, flying squads headed by Deputy Excise and Taxation Commissioner for the south zone and north zone each are also functioning in the department.

### **2.2.3. Scope of audit**

Out of 11 district offices and 45 barriers, relevant records of 8 district offices and 12 barriers for the period 1994-95 to 1996-97 were test checked in audit (June 1997 to March 1998) with a view to checking the extent of evasion of tax.

### 2.2.4. Highlights

- (i) Non enforcement of the conditions of the exemption by the department, a prestigious cement industrial unit availed incorrect tax exemption amounting to Rs. 437.10 lakh.

(Paragraph 2.2.6)

- (ii) A dealer of Shimla district erroneously collected central sales tax amounting to Rs. 31.82 lakh during 1995-96 and retained this amount with him instead of depositing the same to the Government accounts.

(Paragraph 2.2.7)

- (iii) Non disclosure of sale of photo identity cards valuing Rs. 487.34 lakh during the period 1994-95 to 1996-97 resulted in evasion of sales tax of Rs. 57.92 lakh including interest and penalty.

(Paragraph 2.2.8)

- (iv) Inadmissible deduction on sale of rice and wheat flour claimed by a dealer resulted in evasion of tax of Rs. 76.01 lakh including interest.

(Paragraph 2.2.9)

- (v) Non-withdrawal of concession of five dealers who had closed down their business in contravention of specific conditions for availing concession resulted into evasion of tax of Rs. 7.98 lakh.

[Paragraph 2.2.11(i)]

- (vi) Test check of 12 barriers revealed that 1,05,792 goods vehicles carrying sand and *bajri* worth Rs. 942.84 lakh involving tax effect of Rs. 75.43 lakh crossed the barriers without filing the declaration forms during the period 1994-95 to 1996-97. The department failed to register these dealers under the Sales Tax Act and consequently the dealers could evade tax of Rs. 75.43 lakh.

(Paragraph 2.2.12)



- (vii) **In two districts, five dealers had shown different accounts before the Income Tax department and Sales Tax department and thereby evaded tax of Rs. 5.73 lakh.**

(Paragraph 2.2.13)

### 2.2.5. Trend of revenue

The break up of total sales tax collection (at the pre assessment stage and after regular assessment) vis-a-vis the percentage of the amount collected after regular assessment during the three years ending March 1997 is shown below:-

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Total revenue collected	Financial impact of audit review as a result of test check	Percentage of Col. 3 and 4	Percentage of Col. 4 and 5
( In lakh of rupees )						
1.	2.	3.	4.	5.	6.	7.
1994-95	9,638.10	1,079.77	10,717.87	58.14	10	0.54
1995-96	11,305.56	977.68	12,283.24	179.46	8	1.46
1996-97	13,946.10	680.06	14,626.16	477.77	5	3.27

The above table shows that percentage of additional demand raised after regular assessments over the years had decreased from 10 to 5. In fact the financial impact of the review to the total collection in the year 1996-97 was 3.27 *per cent* which is 70.25 *per cent* of amount collected after regular assessment.

### 2.2.6. Wrong claim of exemption

The State Government vide notification dated 30 January 1996 accorded exemption from sales tax, to M/s Associated Cement Companies Limited, Barmana,

District Bilaspur for a period of nine years with effect from 30th January 1996 in respect of a new unit subject to the fulfilment of the following conditions:

- (a) that the payment of tax under the Himachal Pradesh General Sales Tax Act, 1968, and the Central Sales Tax Act, 1956, in respect of the old unit of the company (in existence since 1991) was actually to be maintained during each financial year of the period of exemption in respect of the new unit on the quantity respectively of 5,51,664 metric tonnes and 3,71,028 metric tonnes sold during 1991-92; and
- (b) that the level of manufacture of 9,22,692 metric tonnes of cement in the old unit was also to be maintained throughout each financial year during the period of exemption in respect of the new unit established as a result of expansion.

During test check of the records of the Assistant Excise and Taxation Commissioner, Bilaspur, it was noticed (August 1997) that the dealer did not pay tax amounting to Rs. 437.10 lakh on the sale of cement valued at Rs. 6,300.47 lakh of the new unit from 30.01.1996 to 31.03.1997 on the basis of the exemption certificate given by the Government.

It was, however, noticed that the exemption was incorrect as the dealer failed to maintain the level of the payment of tax and manufacture of cement (1991-92 level) of the old unit during the period of exemption.

On this being pointed out (August 1997) in audit, the department confirmed (March 1998) that the assessee had failed to comply with the conditions and the case was assessed and demand of Rs. 437.10 lakh was raised and the amount recovered (February-March 1998).



### **2.2.7. Evasion of tax collected in the course of inter-State trade or commerce**

An industrial unit of Shimla district engaged in manufacture and sale of optical fiber wire came into production with effect from 1st July 1995. The dealer sold manufactured goods worth Rs. 540.30 lakh during the year 1995-96 in the course of inter-State trade or commerce and claimed exemption from payment of tax on the basis of exemption certificate issued by the General Manager, District Industries Centre, Shimla.

A correlation in audit of the records filed by the dealer with the Central Excise department revealed that the dealer had made inter State sales worth Rs. 678.45 lakh during the year 1995-96 and collected Central sales tax of Rs. 31.82 lakh thereon. The dealer, however, had not deposited (September 1997) the above tax in the Government account. No action to recover this amount had been initiated by the department (September 1997).

### **2.2.8. Evasion of tax on suppressed turnover**

Under the Himachal Pradesh General Sales Tax Act, 1968, 'turnover' includes the aggregate of the amounts of sales and purchases actually made by the dealer during the given period. Sales under the Act, mean any transfer of property in goods for cash or for deferred payment or for any other valuable consideration and includes the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts. If a dealer fails to pay the tax due by the prescribed date, he shall pay interest at the rate of one *per cent* per month for period of one month and at the rate of one and a half *per cent* per month thereafter so long as the default continues. Further, if a dealer has maintained false or incorrect accounts with a

view to suppressing his sales, purchases or stocks of goods or has concealed any particulars of his sales or purchases or has furnished to, or produced before any authority any false or incorrect information, he is liable to pay, by way of penalty, (in addition to the amount of tax to which he is assessed, or is liable to be assessed) an amount which shall not be less than twenty five *per cent* but not more than one and a half times of the amount of tax to which he is assessed or is liable to be assessed.

According to the information collected in audit from the election department, a dealer engaged in the sale of televisions, computer and computer stationery entered into an agreement (November 1994) for the preparation of identity cards and sale thereof to the Government at predetermined rate of Rs. 18.74 per identity card for further issue to eligible electors. The dealer supplied 26,55,408 identity cards at a cost of Rs. 497.62 lakh. Out of this the election department rejected 54,864 identity cards costing Rs. 10.28 lakh. Thus, the turn over of the dealer on account of sale of identity cards during the years 1994-95 to 1996-97 amounted to Rs. 487.34 lakh. During audit of the Assistant Excise and Taxation Commissioner, Shimla, it was, however, noticed that these sales were not disclosed by the dealer in the quarterly returns submitted to the district taxation office. This resulted in evasion of tax of Rs. 38.99 lakh. Besides, minimum penalty of Rs. 9.75 lakh and interest of Rs. 9.18 lakh (upto September 1997) was also leviable. This was pointed out (July - September 1997) in audit to the department but reply had not been received (August 1998).

#### **2.2.9. Evasion of tax due to inadmissible deduction**

Under the Himachal Pradesh General Sales Tax Act, 1968, read with rule 31 of Himachal Pradesh General Sales Tax Rules, 1970, the sale of subsidized *wheat* through public distribution system in remote areas, declared as subsidized areas



from time to time by the Government is exempted from Sales tax. If a dealer fails to pay the tax due by the prescribed date, interest on the tax due at the rate of one *per cent* per month for a period of one month and at one and a half *per cent* thereafter is leviable, so long as the default continues.

During audit of the Assistant Excise and Taxation Commissioner, Shimla, it was noticed that a dealer\* who sold wheat, rice and wheat flour worth Rs. 3496.53 lakh during 1994-95 to 1996-97 in remote areas of Himachal Pradesh under the Public Distribution system had claimed exemption on the entire sales. Of the above, sale of Rs. 1723.57 lakh pertained to rice and wheat flour which did not qualify for exemption. This resulted in evasion of tax of Rs. 60.33 lakh. Besides, interest of Rs. 15.68 lakh (upto September 1997) was also leviable. This was pointed out (October 1997) in audit but the reply had not been received (August 1998).

#### **2.2.10. Evasion of tax due to non-registration**

Under the Himachal Pradesh General Sales Tax Act, 1968, a dealer liable to pay tax can carry on business only after he has been registered and possesses a valid registration certificate. Registration is compulsory for dealers whose gross turnover exceeds the taxable quantum (Rs. 40,000 in relation to any dealer who himself manufactures or produces any goods for sale and Rs. 3 lakh in relation to any other dealer).

(a) According to the information collected from the Income Tax department, Printing and Stationary Department and records of the Sales Tax Department, it was noticed that in respect of 4 dealers, their annual turnover had exceeded the 'taxable quantum' in each case but they did not apply for registration. The department also failed to detect these cases and get them registered. This resulted

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\* Himachal Pradesh State Civil Supplies Corporation Limited.



in evasion of tax of Rs. 12.63 lakh as detailed below:-

Year	Name of district	Number of dealers	Amount of transaction (In lakh of rupees)	Rate of tax leviable	Evasion of tax (In lakh of rupees)	Remarks
1992-93	Shimla	1	9.80	4% (Govt. works) 8% otherwise	0.44	The assessee in his income tax returns had shown turnover of Rs. 23.47 lakh, out of which Rs. 9.80 lakh was the value of material purchased and utilised for execution of works contract.
1994-95 to 1996-97	Shimla	1	78.92	8%	6.31	Stationery articles worth Rs. 75.01 lakh and waste paper amounting to Rs. 3.91 lakh were sold to local bodies, public sector undertakings and to private parties, respectively.
1986-87 to 1992-93	Kangra	2	75.18	7.7% upto 1990-91 8% from 01.04.1991 onwards	5.88	The assessee engaged in the business of stone crushing and sale thereof had depicted their turnover exceeding Rs. one lakh in the income tax returns.
Total		4	163.90		12.63	

(b) Under the Himachal Pradesh General Sales Tax Act, 1968, the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration falls within the definition of sale, and as such attracts levy of tax on income on account of hire charges. From the scrutiny of the case file of a contractor of Shimla district it was revealed that he had shown payments of Rs. 6,97,105 and Rs. 6,02,013 during the years 1992-93 and 1993-94 respectively on account of hire charges of a JCB Excavator. The name of the person to whom the payments made was neither available in the records nor known to the department. Due to non-levy of tax on the hire charges, there was evasion of tax of



Rs. 1.04 lakh. On this being pointed out in audit (October 1997) the department intimated (November 1997) that the matter was under action and notice had been issued. Further report in this regard had not been received (August 1998).

### **2.2.11. Failure to recover tax**

Through notifications of July 1978 issued under the Himachal Pradesh General Sales Tax Act, 1968, the small scale industrial units which were manufacturing goods taxable at the rate *7 per cent*/ more than *7 per cent* were allowed to pay tax at the concessional rate of *2 per cent*/*3 per cent* for the first five years and at *4 per cent*/*5 per cent* respectively for next five years subject to certain conditions. In the case of goods taxable at general rate of tax less than *7 per cent* complete exemption from payment of tax was granted subject to fulfilment of certain conditions. One of the conditions, stipulated was that the unit must continue to function for a further period equal to the period for which the concession had already been availed of, failing which tax was payable equal to the amount which would have been paid during the period but for such concession. This exemption was also subject to fulfilment of certain conditions.

(i) During test check of the records of the Assistant Excise and Taxation Commissioners, Chamba and Kangra it was noticed that 5 small scale industrial units which went into production (between July 1980 and May 1988) sold goods worth Rs. 149.93 lakh and availed tax concession amounting to Rs. 7.98 lakh were taxed at the concessional rates. These units stopped production (between January 1986 and March 1995) and thus failed to continue to function for the required period for which the concession had been availed. However, no action was taken to recover the tax/concession availed by them. This resulted in evasion of tax of Rs. 7.98 lakh including surcharge. On this being pointed out in audit, the Assistant Excise and Taxation Commissioner, Chamba stated (March 1998) that notice for re-assessment had been issued to the dealer. In remaining cases, the Assistant Excise and Taxation Commissioner, Kangra stated (March 1998) that the matter was still under action. Further report had not been received (August 1998).



(ii) During test check of records of Assistant Excise and Taxation Commissioner, Sirmour it was noticed (January 1998) from the assessment orders that a small scale industrial unit which remained in production from 8th November 1983 to 7th November 1988 sold goods worth Rs. 15.93 lakh and availed full exemption from the payment of sales tax. The unit was closed and no production was made thereafter. The assessing authority finalised the assessments for the year 1989-90 to 1991-92 on 1st June 1996 on the basis of the closing stock but did not withdraw the concession already availed by the dealer. This resulted in evasion of tax of Rs. 52,574 (including surcharge). This was pointed out (January 1998) in audit to the department but reply had not been received (August 1998).

#### **2.2.12. Non-enforcement of provisions of declaration forms**

Under the Himachal Pradesh General Sales Tax Act, 1968, tax is also leviable on taxable goods imported from outside the State. For this purpose, the owner or a person in-charge of a goods carriage entering the limits of the State is required to give in triplicate a declaration form (ST-XXVI-A) at the barrier. According to the provisions contained in the Himachal Pradesh General Sales Tax Rules, 1970 and instructions issued by the Excise and Taxation Commissioner from time to time separate white and pink registers in forms STXXVI-D and STXXVI-E in respect of registered and unregistered dealers respectively are required to be maintained at the barriers separately for each district in which particulars of each consignment passing through the barrier relating to the registered and un-registered dealers are recorded. A copy of the white and pink register alongwith declaration forms mentioned therein is required to be prepared and despatched to the officer incharge of the district concerned twice a week (Wednesday and Saturday) for cross verification from the books of the dealers at the time of finalisation of assessments.

Review of the records of 12 barriers for the years 1994-95 to 1996-97 revealed that 1,05,792 vehicles carrying sand (390689 tonnes) and bajri (480543 tonnes) worth Rs. 942.84 lakh (sand Rs. 570.05 lakh and bajri Rs. 372.79 lakh) paid tax under the Himachal Pradesh Taxation (on Certain Goods carried by Road) Act, and the

Himachal Pradesh Passengers and Goods Taxation (Amendment) Act, 1996. However, the vehicle owners were allowed to cross the barriers without filing declaration forms. Due to this the department failed to exercise the prescribed check in respect of both registered and unregistered dealers involved in these cases. Sales Tax amounting to Rs. 75.43 lakh (at general rate of 8 *per cent*) was leviable on this import of sand and bajri. This was pointed out (between June 1997 and July 1997) in audit to the department but reply had not been received (August 1998).

### **2.2.13. Evasion of tax due to suppression of purchases/ sales**

Under the Himachal Pradesh General Sales Tax Act, 1968, at the time of finalising the assessment, the assessing authority is required to check the accounts of the dealer to satisfy himself that all purchases and sales made by him have been properly accounted for. If a dealer has maintained false or incorrect accounts with a view to suppressing his sales or purchases, he is liable to pay by way of penalty, (in addition to the tax to which he is assessed), an amount which shall not be less than 25 *per cent*, but which shall not be more than one and a half times the amount of tax to which he is assessed or is liable to be assessed. Besides, if a dealer fails to pay tax due by the prescribed date, he becomes liable to pay interest on the tax due at the rate of one *per cent* per month for a period of one month and at one and a half *per cent* per month thereafter, so long as the default continues.

(i) During audit of the records of Assistant Excise and Taxation Commissioners, Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una districts and Excise and Taxation Office, Kinnaur and Lahaul Spiti, it was noticed (between June 1994 and November 1997) that assessments in 148 cases for the years between 1990-91 and 1995-96 were finalised (between November 1991 and March 1997) on the basis of purchases worth Rs. 586.70 lakh, as disclosed by the dealers in their trading accounts.

A scrutiny in audit of barrier chits (ST XXVI-A) and details of "C" forms, placed on records, however, revealed that during these years, the dealers had



actually purchased goods worth Rs. 746.95 lakh. Thus, the dealers had suppressed their purchases amounting to Rs. 182.35 lakh (after adding incidentals towards profit, freight etc.). The department's failure to verify barrier chits and details of "C" forms, which were available on records, resulted in non levy of tax of Rs. 22.34 lakh (including minimum penalty and interest).

On this being pointed out (between June 1994 and March 1998) in audit, the department stated that an additional demand of Rs. 5.55 lakh in 71 cases had been created, out of which Rs. 4.87 lakh had been recovered in 62 cases. Reply in respect of remaining 77 cases had not been received (August 1998).

(ii) Correlation in audit of trading accounts filed with the Assistant Excise and Taxation Commissioners, Chamba and Shimla with those filed with the Income Tax department revealed that five dealers (Chamba: 1 and Shimla: 4) had filed different trading accounts with the Income Tax Department and the Sales Tax Department. This resulted in evasion of tax of Rs. 5.73 lakh (including interest and penalty of Rs. 2.37 lakh) as detailed below:-

Name of the district	Year	Number of dealers	Purchases/ Sales disclosed with the Income Tax Department	Purchases/ Sales disclosed with the Sales Tax Department	Tax involved		
					Tax	Penalty	Interest
( In lakh of rupees )							
Chamba	1993-94	1	15,86,391 (Purchases)	3,28,295 (Purchases)	1.11*	0.28	0.62
Shimla	1991-92 to 1993-94	4	41,62,457 (Sales)	13,43,919 (Sales)	2.25	0.56	0.91

On this being pointed out (between June 1997 and October 1997) in audit, the Assistant Excise and Taxation Commissioner, Chamba stated that the case

\* Tax has been calculated after adding 10 per cent towards profit and incidental charges in purchase value to make it sale value.

was adjourned on the request of the dealer. Further progress and reply in respect of Shimla district had not been received (August 1998).

#### **2.2.14. Evasion of purchase tax**

According to notifications (May 1987 and March 1988) issued under the Himachal Pradesh General Sales Tax Act, 1968, if a dealer, liable to pay tax under the Act, purchases any taxable goods from any source on the purchase of which no tax has been paid and despatches such goods or goods manufactured therefrom for consumption or sale to his branch or commission agent outside Himachal Pradesh, he is liable to pay tax on the purchase value of such goods at the rate of four *per cent* or the rate at which the tax is payable on the sale thereof in the State, whichever is less.

(i) During audit of records of the Assistant Excise and Taxation Commissioners, Solan and Sirmour districts, it was noticed that assessments of three dealers for the years 1990-91 and 1991-92 were finalised (between January 1996 and February 1997) after allowing branch transfer/consignment sales of goods worth Rs. 599.76 lakh. A scrutiny in audit of the assessment records revealed that the dealer had purchased the goods from local dealers without payment of any tax. The purchase value of the goods despatch<sup>ed</sup> by them to their branches/ consignment sales outside the State during these years, worked out to Rs. 61.47 lakh. This resulted in evasion of



purchase tax of Rs 2.46 lakh as detailed below:-

Name of district	Number of dealers	Year of assessment	Branch transfer/consignment sales of goods (purchased locally without payment of tax) allowed by the assessing authorities	Purchase value of goods transferred worked out after deducting 10 per cent towards profit, freight etc.	Amount of tax leviable
( In lakh of rupees)					
Solan	2	1990-91 and 1991-92	495.17	39.13	1.57
Sirmour	1	1990-91 and 1991-92	104.59	22.34	0.89
Total:	3		599.76	61.47	2.46

The above cases were pointed out in audit (November -December 1997) to the department but reply had not been received (August 1998).

### 2.2.15. Non-levy of tax due to suppression of closing stock

According to departmental instructions issued (April 1978) under the Himachal Pradesh General Sales Tax Act, 1968, the assessing authority is required to see that the closing stocks have been correctly carried forward. If a dealer has maintained false or incorrect accounts with a view to suppressing his sales or purchases or stocks, he is liable to pay by way of penalty (in addition to the tax to which he is assessed), an amount which shall not be less than 25 *per cent*, but which shall not be more than one and a half times of the amount of tax to which he is assessed or is liable to be assessed. Besides, if a dealer fails to pay tax due by the prescribed date, he becomes liable to pay interest on the tax due at the rate of one *per cent* per month and at one and a half *per cent* per month thereafter, so long as the default continues.

During audit of the records of the Assistant Excise and Taxation Commissioners, Shimla and Solan districts it was noticed that 3 dealers had suppressed their stock amounting to Rs. 9.07 lakh, the corresponding sale value of which worked to Rs. 10.98 lakh. This resulted in evasion of tax of Rs. 2.00 lakh as detailed below:-

Name of district	Number of dealers	Year of assessment	Stock suppressed by the dealer (Rupees)	Sale* value of the suppressed stock (Rupees)	Amount of tax including minimum penalty and interest leviable ( In lakh of rupees)
Shimla	1	1991-92	6,35,180	7,87,623	1.40
	1	1994-95	1,16,881	1,40,257	0.26
Solan	1	1994-95	1,54,795	1,70,274	0.34
Total:	3		9,06,856	10,98,154	2.00

On this being pointed out in audit, the department re-assessed (December 1997) one case of Shimla district for the year 1994-95 and created additional demand of Rs. 0.26 lakh. Report of recovery and reply in remaining cases had not been received (August 1998).

The above points were reported to the department and Government in May 1998; their replies had not been received (August 1998).

### 2.3. Non-levy of penalty

Under the Himachal Pradesh General Sales Tax Act, 1968, a dealer who is granted provisional registration certificate is entitled to concessional rates of tax. However, if he fails to establish business within the period specified in the certificate or fails to comply with any of the conditions specified therein, he shall be liable to pay penalty equivalent to one half of the amount of tax which would have been payable in respect of all the purchases made by him within the period specified in the certificate.

\* The sale value has been calculated after adding 8 to 20 per cent towards profit.



(i) During test check of records of the Assistant Excise and Taxation Commissioner, Bilaspur, it was noticed that the owner of an industrial unit set up for the manufacture and sale of malt and malt products had purchased goods worth Rs. 27.44 lakh between January 1991 and August 1992 at concessional rates of tax against 'C' forms. This unit failed to establish business within the period specified in the provisional certificate of registration which was valid upto 20th May 1992. Production of malt on trial basis was started in April 1993 and malt worth Rs. 0.59 lakh was sold to a Solan based firm in July 1993. Thereafter, the unit was closed in July 1993. For the failure to establish business within the period prescribed in the provisional certificate, the dealer was liable to pay penalty of Rs. 1.37 lakh which was not levied.

On this being pointed out (August 1997) in audit, the department reassessed (January 1998) the case and an additional demand of Rs. 1.37 lakh was created. Report of recovery had not been received (August 1998).

The matter was reported to Government in May 1998; their reply had not been received (August 1998).

(ii) According to the notification of January 1991, small scale industrial units are entitled to make purchases of all goods without payment of sales tax on production of a declaration in Form 'A' to the selling registered dealers. Purchase of goods against form 'A' is subject to the condition that the goods are required by the industrial unit for use for manufacturing of goods for sale.

Through another notification issued during February 1992 the State Government allowed purchase of raw material at concessional rate of tax (two paise in a rupee upto 11th December 1992 and one paise in a rupee thereafter) by the industrial units subject to fulfilment of certain conditions. The concessional rate of tax on the purchase of raw material used by the industrial unit was subject to the condition that the



goods manufactured would be sold in the State of Himachal Pradesh or in the course of inter-State trade or commerce.

Utilisation of goods for the purpose other than disclosed in the declaration forms would entail the dealer to pay penalty of such amount which shall not be less than the difference between the amount of tax on the sale of such goods at the full rate applicable thereto but not exceeding one and a half times the amount of tax at such full rate.

During audit of the records of the Assistant Excise and Taxation Commissioners, Solan and Sirmour it was noticed (November 1997 and January 1998) that assessments of two dealers for the years 1991-92 and 1993-94 were finalised in August 1996 and March 1997 after allowing branch transfer/consignment sales of goods worth Rs. 130.12 lakh. A scrutiny in audit of the assessment records showed that the dealers had purchased goods worth Rs 261.65 lakh from the local dealers without payment of tax against form 'A' (Rs. 241.09 lakh) and at concessional rate of tax against form R.M.-I. (Rs. 20.56 lakh). Proportionate purchases of raw material utilised in the manufacture of goods sent outside the State by way other than sale works out to Rs. 49.11 lakh. No penalty for violation of the provisions was levied. Department's failure to detect the methodology adopted by the dealers to evade tax resulted in non-levy of penalty of Rs. 3.83 lakh.

This was pointed out (November 1997 and January 1998) to the department and reported to Government in May 1998; their replies had not been received (August 1998).

#### **2.4. Incorrect exemption of sales tax**

Under the Himachal Pradesh General Sales Tax Act, 1968, tax is leviable on the sale of Chilka<sup>o</sup> of foodgrains, pulses and oil cakes at the rate 8 per cent,



but cattle feed including fodder of every type (dry or green) and wheatbran is exempt from the tax. Besides, if a dealer fails to pay the tax due by the prescribed date, interest on the tax due at the rate of one *per cent* per month for a period of one month and at one and a half *per cent* per month thereafter is leviable, so long as the default continues.

(a) During audit of the Assistant Excise and Taxation Commissioner, Kangra it was noticed (February 1997 and November 1997) that the sales of rice bran/rice husk valuing Rs. 28.89 lakh made between the period 1991-92 and 1994-95 were allowed as tax free by the Assessing Authority at the time of finalisation of assessments of 2 dealers who were engaged in the trading of rice. The incorrect exemption resulted in under assessment of tax by Rs. 2.31 lakh. Besides interest of Rs. 1.49 lakh was also leviable.

The matter was pointed out (February 1997 and November 1997) to the department and reported to Government in April 1997 and January 1998; their replies had not been received (August 1998).

(b) A small scale industrial unit of Solan district which came into production in October 1990 included the sale of husk valuing Rs. 2.73 lakh in his turnover for 1991-92 of exempted sales. The sale of husk was taxable at general rate of eight *per cent*. This resulted in incorrect exemption of tax of Rs. 43,677 including interest of Rs. 21,800 leviable upto November 1997.

The matter was pointed out (October 1997) in audit to the department and reported to Government in May 1998; their replies had not been received (August 1998).

## **2.5. Short levy of tax due to application of incorrect rates**

Under the Himachal Pradesh General Sales Tax Act, 1968, timber is taxable at the rate of 30 *per cent* with effect from 1st April 1991. The Act, also provides that if a dealer fails to pay tax due from him under the Act, he shall pay



interest on the tax due at the rate of one *per cent* per month for a period of one month and at one and a half *per cent* per month thereafter, so long as the default continues.

During audit of the Assistant Excise and Taxation Commissioner, Mandi, it was noticed (February 1998) that assessment of a dealer for the year 1991-92 was finalised (September 1996) after taking his sales of timber (forest lots) worth Rs. 35.10 lakh at the rate of 27.5 *per cent* instead of the correct rate of 30 *per cent*. This resulted in short-levy of tax amounting to Rs. 1.79 lakh (Including interest: Rs. 0.92 lakh).

The matter was pointed out (February 1998) in audit to the department and reported to Government in March 1998; their replies had not been received (August 1998).

## **2.6. Under-assessment of sales tax**

As per the Central Sales Tax Act, 1956, tax is leviable on *inter-State* sales of goods (other than declared goods), at 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State under the State Sales Tax laws, whichever is higher.

(a) During audit of the Assistant Excise and Taxation Commissioners, Solan, it was noticed (November 1997) that a dealer engaged in the manufacture and sale of auto motive ancillary products made *inter-State* sales amounting to Rs. 82.74 lakh and Rs. 83.40 lakh (without production of 'C' forms) during the years 1991-92 and 1992-93 respectively. The Assessing Authority while finalising the assessments (May 1996 and November 1996) levied tax 10 *per cent* instead of 11 *per cent* leviable to such sales within the State under the Himachal Pradesh General Sales Tax Act, 1968. This resulted in tax being levied short by Rs. 1.66 lakh.



The matter was pointed out (November 1997) in audit to the department and reported to Government in January 1998; their replies had not been received (August 1998).

(b) During audit of records of the Assistant Excise and Taxation Commissioners, Solan and Kangra, it was noticed (January 1996 and November 1997) that three dealers engaged in the production and sale made inter-State sales of leather boards; Rs. 6.70 lakh, Indian-made foreign liquor Rs. 6.93 lakh and electronic goods Rs. 3.83 lakh (without production of 'C' forms) during the years between 1990-91 to 1993-94. While finalising the assessments (between March 1992 and August 1996) the assessing authority levied tax at 4 *per cent* on leather boards and 10 *per cent* on Indian-made foreign liquor instead of 10 *per cent* and 15 *per cent* respectively, as leviable to such sales within the State under the Himachal Pradesh General Sales Tax, <sup>Act</sup> No tax was levied for the sale of electronic goods of Rs. 3.83 lakh whereas tax is leviable at the rate of 10 *per cent* under State Law. This resulted in non levy and short levy of tax of Rs. 1.13 lakh:

On this being pointed out (January 1996 and November 1997) in audit, the department intimated (June 1998) that in respect of Kangra district, on re-assessment an additional demand of Rs. 34,630 had been deposited by the dealer and action in respect of cases relating to Solan district was being taken. Further report has not been received (August 1998).

The above cases were reported to Government in February 1996 and January 1998; their replies had not been received (August 1998).





**CHAPTER 3**  
**STATE EXCISE**





### **CHAPTER 3 : STATE EXCISE**

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## CHAPTER 3

### STATE EXCISE

#### 3.1. Results of audit

Test check of records relating to State Excise, conducted in audit during the year 1997-98, revealed non-levy of duty and other irregularities involving revenue amounting to Rs. 58.29 lakh in 17 cases which broadly fall under the following categories:-

	Number of cases	Amount (In lakh of rupees)
1. Low yield of spirit from malt/molasses	1	20.55
2. Non-levy of duty on spirit lost in redistillation	3	14.11
3. Other irregularities	13	23.63
<b>Total:</b>	<b>17</b>	<b>58.29</b>

During the course of the year 1997-98, the concerned department accepted under-assessments etc., of Rs. 1.51 lakh in 5 cases which had been pointed out in audit in earlier years, the earliest year being 1996-97. A few illustrative cases highlighting important observations involving financial effect of Rs. 28.39 lakh are given in the following paragraphs.

#### 3.2. Low yield of spirit

(a) As per the Punjab Distillery Rules, 1932, as applicable to Himachal Pradesh, 100 litres of wash of molasses should yield 12 proof litres of spirit. The rules further provide that 1.49 quintals of molasses are required to prepare 454.6 litres of wash. Thus, the yield of spirit per quintal of molasses works out to 36.61 proof litres.

During audit of the Assistant Excise and Taxation Commissioner, Una, it was noticed (August 1997) that a distillery in Una district, produced 27,96,634.2 proof litres of spirit from 79,714.00 quintals of molasses during the year 1996-97 as against the expected yield of 29,18,329.5 proof litres of spirit, as per the norms laid down in the Punjab Distillery Rules. The shortfall of 1,21,695.3 proof litres of spirit deprived the Government of excise duty amounting to Rs.20.69 lakh, which would have accrued if the norms had been achieved.

This was pointed out (August 1997) to the department and reported to Government in September 1997; their replies had not been received (August 1998).

(b) As per a Government notification (June 1979) issued under the provisions of the Punjab Excise Act, 1914 (as applicable to Himachal Pradesh) and rules framed thereunder, 19 Kilograms of malt are expected to yield 8.200 proof litres of whisky. However, if the yield is found to be less than the prescribed norms, there is no provision in the Act/Rules for the levy of duty or penalty on the shortfall.

During audit of the Assistant Excise and Taxation Commissioner, Una, it was noticed (March 1997) that during the year 1995-96, a unit manufacturing spirit produced 3,06,104 proof litres of spirit against an expected yield of 3,07,134 proof litres of spirit, out of 7,11,654 kilograms of malt, resulting in short production by 1,030 proof litres of spirit. Had the prescribed norms been achieved/ enforced, the Government would have earned additional revenue of Rs. 30,900 by way of excise duty.

This was pointed out in audit to the department in March 1997 and reported to the Government in April 1997; their replies had not been received (August 1998).



### 3.3. Re-distillation losses

The Punjab Distillery Rules, 1932, as applicable to Himachal Pradesh and as amended by the Himachal Pradesh Government from time to time, did not provide for any norms for wastage during the process of re-distillation of spirit. In an appeal\* case, the Excise and Taxation Commissioner-cum-Financial Commissioner (Excise) had held (October 1995) that excise duty would be levied on the spirit lost in the process of re-distillation.

During audit of the Assistant Excise and Taxation Commissioner, Una, it was noticed (August 1997) that in a brewery, 27,625.6 proof litres of country spirit was lost in the process of re-distillation during the year 1996-97, whereas no wastage was permissible in the process under the rules and excise duty was leviable in this quantity also. The department thus erred in not levying excise duty amounting to Rs. 4.70 lakh in view of the decision (October 1995) of the Financial Commissioner (Excise).

This was pointed out (August 1997) in audit to the department and reported to the Government in September 1997; their replies had not been received (August 1998).

### 3.4. Non-levy of permit fee

According to the Excise announcement (item No.31) for the year 1996 -97, permit fees at the rate of Rs. 2 per proof litre and Re. 1 per proof litre on Indian made foreign spirit and country liquor respectively were payable at the time of grant of permits for the import and transport of liquor.

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\* M/S Himachal Pradesh General Industrial Corporation, Country Liquor bottling plant, Mehatpur, District Una.

V/S  
Collector (Excise)-Cum-Deputy Excise and Taxation Commissioner (North Zone), Palampur,  
District Kangra.

During audit of the Assistant Excise and Taxation Commissioners, Hamirpur, Mandi, Shimla and Solan districts it was noticed (between July 1997 and January 1998) that in respect of excise permits issued during 1996-97 for the transportation of 1,33,792.24 proof litres (Hamirpur: 14,191.47 proof litres; Mandi: 43,907.70 proof litres; Solan: 38,709.49 proof litres and Shimla: 36,983.58 proof litres) of Indian made foreign spirit and 1,868.500 proof litres of country liquor of Shimla district, permit fees amounting to Rs. 2.69 lakh chargeable from 11 licensees, were not charged by the department at the time of issue of the permits.

On this being pointed out (between July 1997 and January 1998) in audit, the department intimated (December 1997, March 1998 and June 1998) that out of Rs. 2.69 lakh recoverable from 11 licensees, Rs. 1.41 lakh had been deposited by 6 licensees. Report of recovery and replies relating to remaining cases had not been received (August 1998).

The above cases were reported to Government between August 1997 and January 1998; their replies had not been received (August 1998).



## **CHAPTER 4**

### **TAXES ON VEHICLES, GOODS AND PASSENGERS**

4

4



## CHAPTER 4 : TAXES ON VEHICLES, GOODS AND PASSENGERS

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## CHAPTER 4

### TAXES ON VEHICLES, GOODS AND PASSENGERS

#### 4.1. Results of audit

Test check of the records of the departmental offices, conducted in audit during the year 1997-98, revealed non-realisation or short realisation of tax and other irregularities amounting to Rs. 90.49 lakh in 94 cases, which broadly fall under the following categories:-

	Number of cases	Amount (In lakh of rupees)
1. Non-realisation or short realisation of		
(i) Token Tax	41	26.82
(ii) Passengers and Goods Tax	14	28.19
2. Evasion of -		
(i) Token Tax	6	5.96
(ii) Passengers and Goods Tax	9	17.45
3. Other irregularities		
(i) Vehicles Tax	19	19.18
(ii) Passengers and Goods Tax	5	2.89
<b>Total</b>	<b>94</b>	<b>90.49</b>

During the course of the year 1997-98, the concerned departments accepted under-assessments etc., of Rs. 24.93 lakh, involved in 63 cases which had been pointed out in earlier years, the earliest year being 1972-73. A few illustrative cases highlighting important observations involving financial effect of Rs. 17.10 lakh are given in the following paragraphs.

## 4.2. Non-realisation of token tax

With a view to keeping a watch over timely and regular recovery of token tax, all the taxation authorities are required to maintain a token tax register wherein full particulars of the vehicle are entered. When any registered owner of any motor vehicle used or kept for use in Himachal Pradesh is in default in making payment of tax the taxation authority in addition to the amount of arrears of tax, may levy penalty, not exceeding the annual tax payable in respect of such vehicle or twice the amount of tax to which he is liable, whichever is higher.

During audit of the records of the Registering and Licensing Authority, Bilaspur, it was noticed (July 1997) that 50 vehicles registered during the period between May 1995 and October 1996 were not entered in the token tax register. The owners of these vehicles had paid token tax only at the time of registration. Thereafter, neither the owners of these vehicles turned up for making payment of tax nor the taxation authority took follow up action to effect the recoveries as these vehicles were not entered in the token tax register. Failure of the Registering and Licensing Authority to make entries in the prescribed token tax register for keeping a watch over regular and timely payments of tax due, resulted in non-realisation of tax of Rs. 1.59 lakh pertaining to the period 1995-96 and 1996-97. Besides maximum penalty amounting to Rs. 3.18 lakh was also leviable.

On this being pointed out (July 1997) in audit, the department stated that action to recover the tax would be taken. Further report had not been received (August 1998).

The matter was reported to Government in September 1997; their reply had not been received (August 1998).



### 4.3. Short realisation of one time token tax

Rule 4(1) of the Himachal Pradesh Motor Vehicles Taxation Rules, 1974, provides that the tax levied under Section 3 of the Himachal Pradesh Motor Vehicles Taxation Act, 1972, shall be paid in advance in the prescribed manner. Token tax in respect of motor vehicles other than transport vehicles, is required to be paid annually by the last date of April each year. Accordingly, a notification of April 1992, issued under the Act, *ibid*, one time lump sum amount of token tax for a ten year period is required to be levied and collected for all motor vehicles (as described in Schedule -II appended to the Act) used or kept for use in Himachal Pradesh. The lump sum amount of token tax in respect of vehicles having been registered earlier than April 1992 in Himachal Pradesh is to be computed according to the age of the vehicles in April 1992, calculated from the date of initial registration.

Test checks of the records maintained in the offices of the Registering and Licensing Authorities, Palampur, Parwanoo and Sundernagar, revealed (between May 1993 and May 1996) that token tax in respect of 119 vehicles registered during the period falling between 1987 and 1993 was realised annually instead of one time lump sum basis as prescribed under the Act, *ibid*. Non-compliance of the provisions of the Act deprived the department of timely realisation of revenue of Rs. 1.01 lakh.

On this being pointed out (between May 1993 and May 1996) in audit, the department recovered Rs. 4,752 (Sundernagar: Rs. 2,640 and Palampur: Rs. 2,112). Report of recovery of the remaining amount of Rs. 96,320 had not been received (August 1998).

The cases were brought to the notice of Government between 1993 and September 1996; their replies had not been received (August 1998).

#### 4.4. Non-levy/short levy of additional goods tax

In the Himachal Pradesh Passengers and Goods Taxation Act, 1955, a new section 3-B was inserted through the Himachal Pradesh Passengers and Goods Taxation Act (Amendment) ordinance, 1996 effective from 01.10.1996 which was later on repealed by notification issued on 7 January 1997 but made effective retrospectively with effect from 1st October 1996. Under the provision of these ordinance/notifications in addition to the tax leviable under section 3, an additional tax on the transport of the goods specified in column (2) of the Schedule at the rates given in column (3) thereof for every slab of one hundred and fifty kilometers or part thereof covered/being covered by road within the State was to be levied. As per Schedule appended to the new inserted section, the rates of additional goods tax chargeable for the transportation of lime stone, cement and clinker are as under:-

- |     |                     |      |                               |                |
|-----|---------------------|------|-------------------------------|----------------|
| (a) | Lime Stone          | (i)  | From 1.10.1996 to 31.12.1996: | Rs.7 per ton   |
|     |                     | (ii) | From 01.01.1997:              | Rs.25 per ton  |
| (b) | Cement and Clinker: |      |                               | Rs. 60 per ton |

Test check (May-June 1997) in audit of the records maintained at the Multipurpose barriers Darlaghat and Rajban revealed that additional goods tax had not been recovered in respect of lime stone, cement and clinker transported through these barriers from 1st October 1996 to 3rd October 1996 which resulted in loss of revenue amounting to Rs. 6.58 lakh. The records of the Rajban and Govindghat barriers also showed (May 1997) that additional goods tax recoverable at the rate of Rs. 25 per ton in respect of lime stone transported between 1st January 1997 and 11th January 1997 was recovered at lower rate of Rs. 7 per ton. This was resulted in short recovery of revenue amounting to Rs. 3.11 lakh.



The matter was pointed out (May-June 1997) in audit to the department and reported to Government in June and July 1997; their reply had not been received (August 1998).

#### **4.5. Vehicles not registered with the Excise and Taxation Department**

Under the Motor Vehicles Act, 1988, read with the Himachal Pradesh Motor Vehicles Taxation Act 1972, the owners of all motor vehicles are required to register their vehicles with the concerned Registering and Licensing Authority and pay motor vehicles tax. Owners of stage/contract carriages and goods carriers are also required to register their vehicles with the concerned Excise and Taxation Officers as per the Himachal Pradesh Passengers and Goods Taxation Act, 1955 and pay passengers and goods tax at the prescribed rates on all fares and freights in respect of passengers carried and goods transported by motor vehicles. For failure to apply for registration, penalty not exceeding five times the amount of tax or surcharge so assessed, subject to a minimum of five hundred rupees is also leviable. While the motor vehicles tax is administered by the Transport Department, the passengers and goods tax is administered by the Excise and Taxation Department. According to departmental instructions (December 1984) Excise and Taxation Officers are required to ensure registration of all vehicles liable to pay passengers and goods tax under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, in close co-ordination with the Registering and Licensing Authority in the Transport Department.

During a test check of the records of the Assistant Excise and Taxation Commissioners, Shimla, Hamirpur, Kangra and Kullu districts, it was noticed (between November 1992 and December 1997) that in the case of 93 goods vehicles registered with the Registering and Licensing Authorities Shimla (Urban), Dehra, Palampur, Nurpur, Dharamsala, Kullu and Hamirpur, goods tax amounting to Rs. 1.16

lakh calculated at lumpsum\* rates applicable for different periods falling between May 1991 and March 1997 had not been paid by the owners of the vehicles to the concerned taxation authorities as these vehicles were not registered with the Excise and Taxation Department required under the Himachal Pradesh Passengers and Goods Taxation Act, 1955. For failure to apply for registration under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, a minimum penalty of Rs. 46,500 was also leviable.

On this being pointed out in audit, the department had recovered Rs. 13,750 (Shimla: Rs. 3,750, Hamirpur: Rs. 10,000). Notices to owners for recovery were stated to have been issued in respect of Kangra district. Report of recoveries and reply from Kullu district had not been received (August 1998).

The cases were reported to Government between February 1993 and March 1998; their replies had not been received (August 1998).

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\* *The financial effect brought out in the para is only illustrative and is based on lump sum tax as actual tax could not be calculated for want of information relating to actual collections. These figures may undergo change on the basis of calculations on actual basis.*



**CHAPTER 5**  
**FOREST RECEIPTS**





## **CHAPTER 5 : FOREST RECEIPTS**

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## CHAPTER 5

### FOREST RECEIPTS

#### 5.1. Results of audit

Test check of the records of forest receipts, conducted in audit during the year 1997-98, revealed non-recoveries, short recoveries and other losses of revenue amounting to Rs.1,175.19 lakh in 160 cases, which broadly fall under the following categories:-

	Number of cases	Amount (In lakh of rupees)
1. Non-recovery of royalty	10	64.01
2. Short recovery of royalty	17	198.25
3. Non-levy of extension fee	18	40.02
4. Non-levy of interest	25	217.55
5. Other irregularities	90	655.36
<b>Total:</b>	<b>160</b>	<b>1175.19</b>

During the course of the year 1997-98, the concerned department accepted under-assessments etc., of Rs. 519.59 lakh involved in 109 cases which had been pointed out in earlier years, the earliest year being 1970-71. The results of review on "Forest offences" conducted by audit and a few illustrative cases highlighting important observations involving financial effect of Rs. 1,798.28 lakh are given in the following paragraphs.

## 5.2. Forest offences

### 5.2.1. Introductory

Any act of causing damage by negligence or deliberately felling a tree, girdling, lopping, tapping or burning a tree, stripping off the bark or leaves from a tree or breaking up or clearing of land for cultivation or for any other purpose or grazing of cattle in any protected forest etc., have been mainly categorised as forest offences in the Indian Forest Act, 1927. Any of the above offences is punishable with imprisonment for a term which may extend to six months or with fine up to Rs. 500, or with both or can be compounded by the Divisional Forest Officer after recovering the cost of forest produce at the prevailing market rates alongwith compensation for the offence committed which is fixed by him for his area keeping in view the nature and intensity of the offence/value of the produce/ intention of the offender. No specific norms have been prescribed for fixation of rates for compensation. A review was conducted in audit to assess the effectiveness of the procedure established to check these offences and safeguard the revenue from forest.

### 5.2.2. Trend of revenue

The total forest revenue collected during five years ending March 1997 was as under:-

Year	Budget estimates	Actual revenue	Variation increase(+) shortfall (-)
( In crore of rupees )			
1992-93	28.00	23.43	(-) 4.57
1993-94	26.00	65.36	(+) 39.36
1994-95	26.00	47.11	(+) 21.11
1995-96	26.00	44.94	(+) 18.94
1996-97	27.00	41.19	(+) 14.19

### 5.2.3. Forest cover assessment

The National Forest Policy, 1988 emphasizes on protective functions of forest in maintaining ecological balance and environmental stability and aims to



have a minimum of one third of the geographic area of the country under forest or tree cover. The policy enjoins maintaining two third of the area in hills under forest cover in order to prevent erosion and land degradation and to ensure the stability of the fragile eco-systems.

The district-wise forest cover assessment for the years 1993 and 1997 in respect of the State of Himachal Pradesh as brought out by the Forest Survey of India (Ministry of Environment) based on the Indian Remote Sensing Satellite data in their State of Forest Report was as under:-

Name of district	Geographical area	Forest cover		Excess (+) Less (-)	Percentage of forest cover to geographical area
		1993	1997		
		( In square kilometres )	( In square kilometres )		
Bilaspur	1,167	157	158	+1	13.54
Chamba	6,528	2,124	2,061	-63	31.57
Hamirpur	1,118	213	223	+10	19.95
Kangra	5,739	1,755	1,744	-11	30.39
Kinnaur	6,401	629	632	+3	9.87
Kullu	5,503	2,044	2,044	--	37.14
Lahaul and Spiti	13,835	19	83	+64	0.60
Mandi	3,950	1,309	1,315	+6	33.29
Shimla	5,131	2,425	2,425	--	47.26
Sirmour	2,825	1,019	1,024	+5	36.25
Solan	1,936	418	422	+4	21.80
Una	1,540	390	390	--	25.32
Total	55,673	12,502	12,521		22.49

The above figures are indicative of the fact that the forest cover as compared to geographical area of the State was 22.5 per cent which was far below the intended goal of 66 per cent of national Forest Policy although State Government had carried out planting of various species in an area of 6,53,764 hectares since 1951 to

1992-93 after incurring an expenditure of Rs. 520.72 crore under State Sector Forestry and Soil Conservation including grant-in-aid.

It could further be seen from the above figures that the forest cover in two districts had decreased by 74 square kilometres during the year 1997 as compared to the year 1993 although the over all forest cover of the State had increased by 19 square kilometres during the same period.

#### **5.2.4. Organisational set-up**

The Forest Department is headed by the Principal Chief Conservator of Forests who is assisted by an Additional Principal Chief Conservator of Forests and five Chief Conservators of Forests, one each for planning and development, protection, projects, working plan and settlement and wild life. There are 16 Circles and 53 Forest Divisions in the State headed by Conservators of Forest and Deputy Conservators of Forest (also designated as Divisional Forest Officers) respectively.

#### **5.2.5. Scope of audit**

Out of 38 territorial forest divisions, records of 19 forest divisions pertaining to the years 1992-93 to 1996-97 were test checked (June 1997 to January 1998) in audit to see:-

- (i) that in the case of forest offence cases the department had followed the procedure laid down for the preparation of damage reports and their disposal in accordance with the provisions contained in the Indian Forest Act, 1927 and the departmental instructions issued from time to time; and
- (ii) that the seized timber/ forest produce had been properly accounted for in Form 17 and disposed of as per departmental instructions issued from time to time.



The results of the test check are brought out in the succeeding paragraphs.

### **5.2.6. Highlights**

(i) In 98 cases of 10 Forest divisions pertaining to illicit felling of 3,099 trees and seizure of 562 nags during the years 1992-93 to 1996-97 valued at Rs. 123.19 lakh, no damage reports were prepared/issued against the offenders by the concerned field staff.

[Paragraph 5.2.7(a)]

(ii) In 15 Forest divisions 3056 offence cases involving Rs. 80.58 lakh became time barred due to failure of department to compound the cases or take them to the court of law within the limitation periods.

[Paragraph 5.2.7(c)]

(iii) In 7 Forest divisions, in 21 cases, the concerned field staff failed to seize timber valuing Rs. 50.07 lakh from the offenders.

[Paragraph 5.2.8(a)]

(iv) Contrary to the guidelines of the State Government, the Divisional Forest Officer compounded 2 cases involving illicit felling of 357 trees valued at Rs. 12.37 lakh beyond his competence instead of registering the cases with the Police.

(Paragraph 5.2.9)

(v) In 16 divisions, in 1,884 cases, forest land measuring 387.308 hectares involving 1,831 trees was encroached upon by the offenders during the years 1992-93 to 1996-97 and these cases were either pending for decision in the Courts of law or under process with the department resulting in blocking of

revenue of Rs. 234.21 lakh being value of trees whereas compensation in respect of encroached land had not been assessed.

(Paragraph 5.2.12)

#### 5.2.7(a) Non-preparation/issuance of damage reports

According to the instructions issued (April 1951) by the State Government, in order to take cognizance of a forest offence, a damage report is required to be prepared/issued immediately by the Beat Forest Guard for the offence committed and the damage got accepted from the offender. In cases where the offender escapes arrest from the spot, an immediate report is required to be made and got signed by the nearest *Lambardar* or an influential person.

It was noticed in audit that in 10\* Forest Divisions in respect of 98 cases of illicit felling of 3,099 trees of conifers and broad leaved species and 562 nags\*\* of seized timber valued at Rs. 123.19 lakh (at market rates), no damage reports were prepared/issued by the department during the years 1992-93 to 1996-97. These cases were detected either by the Enforcement wing of the State or Flying Squad of the department.

The matter regarding the action taken against the negligent officials was taken up with the Government in March 1998; their reply had not been received (August 1998).

#### 5.2.7(b) Delay in issue of damage reports

As per Government's instructions of (April 1951) it is the duty of every nearest Forest Officer to immediately take cognizance of a forest offence. The offender is to be arrested and implements used in the offence and the forest produce

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\* Chamba, Chopal, Jubhal, Kotgarh, Nichar, Nurpur, Parbati, Renuka, Rohroo and Theog.

\*\* Nags means a unit of timber.



intended to be removed are to be seized. A report to this effect is to be entered immediately in the damage Report Book giving full particulars of the offence committed.

It was noticed in 4\* Forest divisions, 6 cases of forest offences, valued at Rs. 9.43 lakh, the field staff could not take notice of these offences till the same were brought to their notice by the public/Flying Squad and thereby the preparation/issue of the damage reports delayed by a half month to 27 months by the concerned field staff after these offences were committed.

### **5.2.7(c) Loss of revenue due to cases becoming time barred**

The forest offence cases are required to be either compounded or *challaned* in the Court of law within one year as no Court can take cognizance of such cases after the expiry of one year under the provisions of the Criminal Procedure Code. The department directed (February 1985) all the Divisional Forest Officers to ensure that no case became time barred for *challaning* and to take prompt action for the disposal of forest offence cases as the delay in taking action resulted not only in acquittals in Courts but compounding of offences also became difficult and offenders went scot free because of delay.

The progress of settlement/disposal of outstanding forest offence cases is monitored at Circle level on the basis of the monthly reports submitted by each Forest Officer under his control.

Test check of records conducted in audit revealed that in 15\*\* Forest divisions 3,056 offence cases out of 52,328 test checked became time barred during

\* Churah, Kotgarh, Nachan and Sundernagar.

\*\* Chamba, Chopal, Churah, Jubbal, Karsog, Kotgarh, Nachan, Nurpur, Parbati, Paonta Sahib, Rajgarh, Renuka, Rohroo, Seraj and Theog.

the years 1992-93 to 1996-97, due to failure of the department to compound these cases or to take them to the courts of law within the prescribed period. This resulted not only in the offenders going scot free but also a loss of revenue to the tune of Rs. 80.58 lakh (being the amount of value of produce and compensation as assessed by the department).

The matter was reported (April 1998) to the department to enquire about the action taken for such failures. Further progress had not been received (August 1998).

#### **5.2.8. Non-seizure/timely disposal of timber involved in offence cases**

The seized timber/forest produce should either be kept in the *sapurdagi* (safe custody) of a *Sapurdar* (*Lambardar* or any other reliable person of the place) or with the concerned field staff after its accounting in Form 17 (Register of seized timber). The timber/forest produce accounted for in Form 17 is required to be disposed of after the offence has either been compounded or decided by the Court. Where the proceedings of the Court are expected to be prolonged, the timber/forest produce should be auctioned after obtaining prior permission of the Court to save the timber/forest produce from deterioration. Further Government instructions of 1951, deem the non-detection of any forest offence or taking cognizance of the same much after its committal as tantamount to the failure of the concerned field staff.

(a) In 7\* Forest Divisions, test check of records conducted in audit revealed that in 21 cases involving 718 trees containing 757.645 cubic metres of standing volume of timber were illicitly felled during 1992-93 <sup>and</sup> to 1996-97 by the offenders. The concerned field staff failed to seize any timber from the offenders. This resulted in non-seizure of timber valuing Rs. 50.07 lakh.

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\* *Nichar, Parbati, Rajgarh, Rampur, Renuka, Rohroo and Theog.*

(b) Test check of the records of 8\* forest divisions conducted in audit revealed that in 12 cases, 210 trees containing 298.741 cubic metres of standing volume of timber were illicitly felled by offenders during the period between 1993-94 and 1995-96. Out of this, the field staff could seize 118.801 cubic metres of timber. The short seizure of 179.94 cubic metres standing volume of timber resulted in loss of revenue of Rs. 11.13 lakh (calculated at market rates).

(c) It was noticed in audit that in Jubbal and Nurpur divisions, during the years 1992-93 and 1994-95, 5.181 cubic metres of timber, 10 bags of walnut bark and 35.30 quintals of *khair*/ fuel wood seized from offenders had completely deteriorated due to prolonged storage and vagaries of weather. The department's failure to take timely action to dispose of the seized timber resulted in loss of revenue amounting to Rs. 59,202.

#### **5.2.9. Incorrect compounding of forest offence cases**

As per guidelines issued (December 1986) by the State Government, the Divisional Forest Officers are not empowered to compound forest offence cases involving illicit felling of more than one tree of higher class (class IIA and above) and more than two trees of lower class (class III and below). Such cases are to be registered with the Police.

In Nichar forest division, 2 cases involving 254 trees and 103 trees, pertaining to M/s J.P. Industries Limited were compounded during 1994-95 and 1995-96, by the Divisional Forest Officer beyond his competence. This resulted in incorrect compounding of 357 trees containing 123.95 cubic metres of standing volume of timber valued at Rs. 12.37 lakh and non-registering of cases against the offenders with the Police.

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\* *Chopal, Chamba, Churah, Nichar, Parbati, Rampur, Rohroo and Renuka.*



**5.2.10. Application of incorrect rates**

As per guidelines for compounding of forest offences, issued (December 1986) by the State Government, for all cases to be compounded under the Indian Forest Act, 1927, in addition to compensation, the forest produce is to be released after charging the value at prevalent market rates.

In 4\* divisions, while compounding 5,626 cases relating to the years falling between 1992-93 and 1996-97, the value of forest produce was assessed at rates applicable to earlier years. This resulted in short realisation of revenue amounting to Rs. 2.53 lakh.

**5.2.11. Blocking of revenue due to delay in disposal of offence cases**

As per general directions issued (April 1951) for the disposal of forest offence cases, the damage reports should either be compounded within two months or taken to Courts within one year of the commission of the offence. Mention was also made in paragraph 6.4(i) of the Audit Report on Revenue Receipts of the Government of Himachal Pradesh for the year 1983-84. The Public Accounts Committee in its 113th Report (Sixth Vidhan Sabha) which was presented to the House on 31<sup>st</sup> March 1987 expressed regret over the delay in the disposal of forest offence cases and recommended action against defaulting and negligent officials responsible for delay.

The Government's reply contained in 116<sup>th</sup> Action taken report of the Public Accounts Committee (Seventh Vidhan Sabha) presented to the House on 16<sup>th</sup> Decemeber 1993 stated that the information relating to this para was being collected from the field offices and will be supplied to the Committee as and when received.

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\* *Paonta Sahib, Rohroo, Seraj and Suket.*

The Committee was not satisfied with the reply of the Government and in their recommendations again wanted to know the action taken against the officials responsible for delay in disposal of the forest offence cases.

Test check of records conducted (between June 1997 and January 1998) in audit revealed that in 19\* divisions, 11,437 offence cases were pending at the end of 1991-92 which increased to 17,979 by the end of March 1997, thereby registering an increase of 57.20 *per cent*. The compensation and value of produce chargeable in 17,979 cases worked out to Rs. 816.88 lakh and consequently delay in the finalisation of the cases resulted in blocking of revenue. Out of this, 17,100 cases involving amount of Rs. 520.17 lakh pending with the department and the rest of the cases were with either Police or Court.

#### 5.2.12. Encroachment on forest land

Encroachment of forest land by breaking it up for agricultural/horticultural purposes constitutes an offence under the Indian Forest Act, 1927.

Test check of records of 16\*\* forest divisions, revealed that in 1,884 cases, forest land measuring 387.308 hectares involving 1,831 trees was encroached upon by the offenders during the years 1992-93 to 1996-97. These cases were pending with Revenue Courts and the Forest Department for decisions and processing

\* Chamba, Chopal, Churah, Jubbil, Karsog, Kotgarh, Nachan, Nichar, Nurpur, Paonta Sahib, Parbati, Rajgarh, Rampur, Renuka, Rohroo, Seraj, Sundernagar, Theog and Una.

\*\* Chamba (10.12), Chopal (13.50), Churah (0.04), Jubbil (0.46), Kotgarh (52.48), Nachan (28.16), Nichar (1.71), Nurpur (80.33), Paonta Sahib (25.78), Parbati (4.48), Rajgarh (41.68), Rampur (1.49), Rohroo (83.208), Renukaji (22.64), Seraj (9.52) and Sundernagar (11.71)

Note : Figures in brackets represent the area in hectares.

respectively. Non-vacation of forest land measuring 387.308 hectares in 1,884 cases resulted in non-realisation of compensation/ value of trees and consequent blocking of revenue to the tune of Rs. 234.21 lakh (representing the value of 1,831 trees only). The value and compensation in respect of encroached forest land had not been assessed by the department.

**5.2.13. Failure to conduct physical verification of seized forest produce**

To ensure safety from any shortage/pilferage or misutilisation, the seized forest produce/property is required to be physically verified by the Forest Officer periodically. Any case of theft/ pilferage is required to be reported to the Police.

In 17\* divisions, it was noticed in audit (between June 1997 and January 1998) that timber measuring 1,380.786 cubic metres of coniferous and broad leaved species valued at Rs. 105.46 lakh was seized during the years 1992-93 to 1996-97. Although this quantity of timber was being shown in the books of the divisions concerned but no physical verification thereof had been conducted by the Forest Officers of these divisions.

Thus the department had failed to ensure that the ground balances of seized timber were equal to the book balances and there was no pilferage/ shortage.

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\* Chamba, Chopal, Churah, Jubbal, Karsog, Kotgarh, Nachan, Nichar, Paonta Sahib, Parbati, Rajgarh, Rampur, Renuka, Rohroo, Seraj, Sundernagar and Theog.



These cases were brought to the notice of the Divisional Forest Officers (between June 1997 and January 1998) in audit, their replies had not been received (August 1998).

#### **5.2.14. Working of High Powered Committee**

With a view to taking effective steps to check illicit felling of trees in Himachal Pradesh and to coordinate activities of Police, Forest and Enforcement departments, the State Government constituted (June 1982) three committees viz. High powered Committee headed by the Chief Secretary, Middle level Coordination Committee headed by the Financial Commissioner (Development) and Field level Committee headed by the Chief Conservator of Forests, Himachal Pradesh. The Middle level and Field level Committees were abolished in December 1987 and December 1996 respectively. The High Powered Committee has generally been reviewing the cases pending with the Enforcement department and the difficulties being experienced by them in the prompt disposal of such cases only. The High Powered Committee which was constituted to take effective steps to check illicit felling of trees reviewed only the working of Enforcement department. Instructions issued by the Government on the basis of the suggestions, if any, made by the High Powered Committee to check illicit fellings of trees in the State have been called for (June 1998), their reply had not been received.

Thus, review mainly brings out that the department could not exercise proper control to check the forest offences as it had failed to issue damage reports for 3,099 trees illicitly felled and seizure of 562 nags worth Rs. 123.19 lakh; compound 3,056 offence cases involving Rs. 80.58 lakh departmentally or take them to the Court

of law within the limitation period and consequently became time barred; seize timber of trees felled illicitly valuing Rs.50.07 lakh; in 17,979 offence cases, which were pending at the end of March 1997, the revenue blocked on account of compensation and value of produce chargeable amounted to Rs. 816.88 lakh whereas encroachment cases (1,884) on forest land measuring 3,87,300 hectares involving 1,831 standing trees were also pending for decision/processing.

### **5.3. Incorrect determination of royalty on broad leaved trees**

According to a decision (April 1983) of the State Government, royalty for coniferous trees, marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation in salvage lots, is chargeable at 60 *per cent*, 50 *per cent* and 30 *per cent* of the rates of royalty fixed for standing green trees, if the intensity of the trees so marked is 15 cubic metres and above, 5 cubic metres to below 15 cubic metres and below 5 cubic metres respectively per hectare of the total area of the forest or compartment thereof. The lots, other than coniferous trees marked for sawing of timber, are not covered under the aforesaid decision and full rates of royalty are required to be charged on trees included in such lots.

During audit of the records of four\* Divisional Forest Officers, it was noticed (between August 1996 and January 1998) that 99 salvage lots of broad-leaved trees containing 8,254.192 cubic metres standing volume of timber and 11,555.809 metres girth of khair were handed over to the Corporation for exploitation during the years 1993-94, 1994-95, 1995-96 and 1996-97. Scrutiny of the divisional records, however, revealed that royalty on these lots was charged by the department at lower

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\* Jogindernagar Nahan, Nurpur and Una.

rates, by applying the intensity factor, instead of at full rates chargeable for broad-leaved trees. This resulted in royalty being charged short by Rs. 192.67 lakh (including sales tax) as detailed below:

Sr. No.	Name of Division	No. of Lots	Year of working	Standing Volume (in cubic metres/M.G. of khair)	Amount of royalty			Sales tax charged short	Total
					Charge -able	Charged	Short charged		
( In lakh of rupees )									
1.	Nahan	7	1994-95	373.189 metres girth	3.70	0.55	3.15	0.95	4-10
		16	1995-96	4741.302 cubic metres	107.24	23.58	83.66	25.10	108.76
2.	Nurpur	16	1995-96	4391.010 metres girth	39.91	30.44	9.47	2.84	12.31
		1	1995-96	20.830 cubic metres	0.20	0.02	0.18	0.06	0.24
		31	1996-97	4044.900 metres girth	40.45	21.13	19.32	5.80	25.12
3.	Una	20	1995-96	2746.710 metres girth	36.48	11.09	25.39	7.61	33.00
4.	Joginder nagar	4	1993-94	3492.06 cubic metres	10.04	3.01	7.03	2.11	9.14
		4	1994-95						
Total		99		8254.192 cubic metres 11,555.809 metres girth	238.02	89.82	148.20	44.47	192.67

On this being pointed out (between November 1995 and January 1998) in audit, the department stated (February 1997) that in respect of Jogindernagar division, revised demand of differential amount of Rs. 9.14 lakh had been raised against the Corporation, of which Rs. 0.07 lakh had been recovered. The Divisional Forest Officer, Nurpur stated (April 1997) that a revised bill was being issued to the Corporation in respect of one lot of 1995-96. In the case of Una division, the matter had been referred to the Principal Chief Conservator of Forests, Himachal Pradesh for clarification and in the case of Nahan division the demand was being raised in respect of khair lots. Further progress and reply in respect of 16 lots of Nahan and 47 lots (16



lots: 1995-96, 31 lots: 1996-97) of Nurpur division and report of recoveries had not been received (August 1998).

The cases were reported (between September 1996 and January 1998) to Government; their replies had not been received (August 1998).

#### **5.4. Short recovery/non-recovery of royalty**

The Himachal Pradesh State Forest Corporation is entrusted with the responsibility of exploitation of all forest lots, is required to pay royalty on trees at rates fixed by the State Government on the recommendations of the Pricing Committee. As per the departmental instructions issued in June 1985, demand on account of royalty is to be raised by the department immediately after the lots are handed over to the Corporation for exploitation.

(a) During audit of records of six Divisional Forest Offices, it was noticed (between March 1995 and September 1997) that 11 salvage forest lots containing 31,364.46 cubic metres of standing volume of timber 63.48 metres girth of khair and one fuel wood lot were handed over to the Corporation for exploitation between the years 1993-94 and 1995-97. Scrutiny of the records revealed that royalty amounting to Rs. 139.38 lakh had either not been charged or charged short on these trees and fuel wood. This resulted in non-recovery/short recovery of royalty amounting to

Rs. 139.38 lakh (including sales tax) as per details given below:-

Sr. No.	Name of division	Original marking	No. of lots	Year of working	No. of trees	Standing volume	Amount of royalty (including sales tax)		
		Or supplementary marking				(in cubic metres/ metres girth of khair)	Charge-able	Charged	Non/ Short charged
( In lakh of rupees )									
1.	Rohroo	Original plus first Supplementary	1	1994-96	3,270	3,023.00	38.59	20.39	18.20
Remarks:	Incorrect rates of royalty were applied.								
		Second supplementary			1,541	3,519.79	43.96	--	43.96
Remarks:	Royalty was not claimed								
		Original plus first Supplementary	1	1994-97	4,447	10,397.11	62.95	32.96	29.99
Remarks:	Incorrect rates of royalty were applied								
		Second supplementary			2,705	8,660.58	42.47	--	42.47
2.	Seraj	Original	1	1995-97	839	3,213.88	34.26	34.26	--
		Supplementary			389	2,197.08	25.61	23.68	2.33
Remarks:	Royalty on trees marked in supplementary marking was not claimed								
3.	Nalagarh	Original	5	1995-96	--	63.48 (M.G.) 3.05 cubic metres	0.95	0.05	0.90
Remarks:	Royalty for khair lots was charged per cubic metre rates instead of metre girth rates and also applied incorrect rates to broad leaved species.								
4.	Bilaspur		1	1993-94	31 hectares	--	1.38	0.66	0.72
Remarks:	Royalty was charged at the rates fixed for fuel wood per cubic metres instead of rates fixed per hectare for coppice lots								
5.	Chamba		1	1995-96	347	349.97	1.31	0.87	0.44
Remarks:	Royalty on 96 trees (volume: 119.491 cubic metres) of supplementary marking was not demanded.								
6.	Churah		1	1993-95	--	6,918 Quintals	0.37	--	0.37
Remarks:	Royalty on fuel wood was not claimed								
Grand Total			11		--	31,364.46 M3 63.48 M.G. 6,918 Quintals	251.85	112.47	139.38

On this being pointed out ( between October 1995 and September 1997) in audit, the department stated (November 1995 and March 1998) that the matter in respect of Rohroo division was under correspondence/ reconciliation with the Corporation whereas revised demands of differential amounts of Rs. 3.67 lakh had been raised in respect of Seraj, Chamba and Nalagarh divisions. Further progress and reports of recoveries had not been received (August 1998).

Government to whom the cases were reported (between July 1996 and October 1997) stated (August 1995 and February 1996) that in Churah and Bilaspur divisions, demands of Rs. 1.09 lakh had been raised (May-October 1995) against the Corporation. Reports of recoveries and replies in respect of the remaining divisions had not been received (August 1998).

(b) According to a decision (July 1990) of the State Government, for the 1990 fruit season and onwards, no trees were to be felled for conversion into geltus\* and only left over stocks of geltus lying with the Corporation were to be supplied to saw millers. However, in respect of left over trees, which had been handed over to the Corporation for felling before July 1990 for *geltus*, these could be felled for commercial purposes other than geltu. The royalty of such salvage trees was required to be charged at commercial rates instead rates of geltu.

During audit of the records of the Suket forest division, it was noticed (July 1994) that two geltu lots consisting of 1,447 trees containing 1,763.694 cubic metres standing volume of timber were handed over to the Corporation for exploitation during the years 1987-88 and 1988-89, of which 256 trees fir/kail, containing 609.87 cubic metres of standing volume of timber were felled as

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\* *Geltus represent pieces of logs of specified sizes meant for conversion into standard size fruit packing cases.*



commercial timber by the Corporation after the imposition of the ban, for which commercial rates were chargeable. Scrutiny of the divisional records revealed (July 1994) that the department had claimed differential royalty amounting to Rs. 1.90 lakh instead of Rs. 2.59 lakh. This resulted in a short recovery of royalty by Rs. 88,249 (including sales tax and surcharge).

On this being pointed out (July 1994) in audit, the department stated (March 1995) that a demand amounting to Rs. 88,248 had been accepted for payment by the Corporation. Report of recovery has not been received (August 1998).

#### **5.5. Non-levy of interest and penalty**

The Himachal Pradesh State Forest Corporation entrusted with the responsibility of exploitation of forest lots is required to deposit instalments of royalty in respect of different forest lots by due dates as fixed by the State Government on the recommendations of the Pricing Committee. Government decided in September 1987 that interest at the rate of 15 *per cent* per annum from the year 1986-87, would be chargeable, if royalty was not paid within 90 days after the due date. The rate was enhanced (September 1991) to 16.5 *per cent* per annum from 1991-92.

Further, as per clause 18 (G) of the standard agreement deed (applicable to the State Forest Corporation), sales tax as leviable under the relevant State Tax Laws of the State on the sale value of the lot would be payable alongwith royalty instalment. Failure to do so, the Corporation would have to pay penalty at the rate of 18 *per cent* per annum for the belated payment of sales tax.

During audit of records of four Divisional Forest Offices, it was noticed (between June 1993 and January 1997) that in respect of 24 forest lots, which were handed over to the Corporation for exploitation during the years

1992-93, 1994-95, 1994-96 and 1995-96, either the instalments of royalty were not paid within 90 days or the amount of sales tax leviable on royalty instalments had been paid after the due dates. For the delays in payments of royalty and sales tax, interest and penalty at the rates of 16.5 *per cent* and 18 *per cent* per annum respectively were leviable but were not demanded by the department. This resulted in non-recovery of revenue amounting to Rs. 25.39 lakh as per details given below:-

Sr. No.	Name of division	Number of lots	Year of exploitation	Amount chargeable on account of		Non-levy of interest and penalty
				Interest	Penalty	
				( In lakh of rupees )		
1.	Kullu (Territorial)	8	1992-93	---	13.34	13.34
		2	1992-94			
		1	1992-95			
2.	Palampur	3	1994-95	6.82	---	6.82
		5	1994-96			
3.	Bilaspur	2	1994-95	0.57	---	0.57
		2	1995-96			
4.	Kullu (Wild Life)	1	1994-96	4.66	---	4.66
Total:		24		12.05	13.34	25.39

On this being pointed out (between June 1993 and January 1997) in audit, the department stated (March 1997 and November 1997) that interest on sales tax in respect of Kullu division had been reconciled with the Corporation who had agreed to release the amount on receipt of assessment of sales tax from the Assessing Authority whereas a demand on account of interest had also been raised against the Corporation in respect of Bilaspur division. Reports of recoveries and reply in respect of Kullu (Wild Life) division had not been received (August 1998).

Government to whom the cases were reported between September 1993 and February 1997, stated (June 1998) that demand on account of interest in respect of Palampur division had been raised (August 1997) against the Corporation.

Replies in respect of the remaining divisions and report of recovery had not been received (August 1998).

### **5.6. Short recovery of sales tax**

Clause 18 (G) of the standard agreement for lease of forests, for purposes of felling of marked trees, their conversion and extraction of timber, provides that a lessee, whether a registered sales tax assessee or not, shall pay sales tax as leviable under the relevant sales tax laws of the State on the sale value of the lots in addition to royalty. The Himachal Pradesh State Forest Corporation Limited, which is entrusted with the lease rights for working forest lots, is accordingly required to pay sales tax.

(a) During the course of audit of the records of the Divisional Forest Officer, Chopal, it was noticed (July 1993) that in respect of salvage forest lots, involving royalty amounting to Rs. 982.42 lakh, which were handed over to the Corporation for exploitation during the years 1991-92 and 1992-93, sales tax was chargeable at the rate of 30 *per cent* of the royalty. But the department had charged sales tax at lower rates of 27.5 *per cent* (including 10 *per cent* surcharge on sales tax). This resulted in short recovery of sales tax amounting to Rs. 24.56 lakh.

On this being pointed out in audit (July 1993), the department stated in January 1996 that revised bills on account of sales tax at the rate of 30 *per cent* were being raised against the Corporation. Further progress and report of recovery had not been received (August 1998).

The case was reported to Government in November 1993; their reply had not been received (August 1998).



(b) During the course of audit of the records of the Divisional Forest Officer, Pangi, it was noticed (September 1994) that 2 salvage lots involving royalty amounting to Rs. 24.37 lakh were handed over to the Corporation for exploitation during the year 1991-92. Sales tax chargeable at the rate of 30 *per cent* of the royalty with effect from April 1991 had been charged by the department at lower rates of 27.5 *per cent* (including 10 *per cent* surcharge on sales tax). This resulted in short recovery of sales tax amounting to Rs. 60,933 during the year 1991-92.

On this being pointed out in audit in September 1994, the department stated (April 1995) that revised demand on account of sales tax had been raised against the Corporation in December 1994. Report of recovery has not been received (August 1998).

The case was reported to the Government in October 1994; their reply has not been received (August 1998).

#### **5.7. Short realisation of revenue due to less conversion of timber**

The Himachal Pradesh State Forest Corporation, entrusted with the responsibility of exploitation of all forest lots, is required to pay royalty on trees at rates fixed by the State Government on the recommendations of the Pricing Committee. The Corporation also exploits such lots which are marked for the supply of timber to the various sale depots being run by the Forest Department to meet the bonafide requirements of the right holder. The outturn percentages (including sawn timber, hakaries\*, pulpwood and fuelwood etc.) have been fixed (February 1986) by

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\* *Hakaries are pieces of logs, golas etc. cut into two from centre.*

the department as 65 *per cent* of the standing volume for deodar, kail and chil trees and 50 *per cent* for fir and spruce trees.

During audit of the records of the Divisional Forest Officers, Chamba and Lahaul, it was noticed (March 1996 and August 1996) that two salvage lots comprising deodar, kail, fir and spruce species containing 2,978.84 cubic metres of standing volume of timber were handed over to the Corporation for exploitation during the years 1993-95 and 1994-95 for the supply of converted timber to various sale depots run by these divisions for sale of timber at concessional rates to the right holders. Scrutiny of the records revealed that against 2,574 cubic metres standing volume of timber (excluding 404.84 cubic metres standing volume of kail timber in respect of which the conversion had exceeded the prescribed limit), a minimum quantity of 1,434.09 cubic metres of converted timber was required to be obtained in accordance with the norms fixed by the department. However, the Corporation had extracted only 928.91 cubic metres of timber which resulted in less conversion of 505.18 cubic metres of timber. In Lahaul division, the Corporation had extracted 891.69 cubic metres of converted timber, against which only 275.60 cubic metres of timber was supplied till December 1995 though the working period of the lot had expired in March 1995. No action was taken by the department to obtain the balance 616.09 cubic metres of converted timber. Thus, less conversion and short supply of converted timber resulted in less receipt of timber valuing Rs. 25.16 lakh (including sales tax).

On this being pointed out in audit, the department stated (July 1997) that less conversion of timber was attributed by the Corporation to rotten, damaged

and hollow trees in the lots. This was not tenable as no tree was categorised as such in the marking lists of the lots handed over to the Corporation for exploitation. As regards short supply of converted timber to sale depots, the department intimated that 616.09 cubic metres of timber lying in the forest/roadside would be carried to the sale depots during the coming working season. Further progress in these cases had not been received (August 1998).

The cases were reported to Government in April 1996 and October 1996; their replies had not been received (August 1998).

**5.8. Short recovery of royalty due to incorrect determination of volume of trees**

The Himachal Pradesh State Forest Corporation, entrusted with the responsibility of forest exploitation work, is required to pay royalty on trees at the rates fixed by the State Government on the recommendations of the Pricing Committee on the basis of the volume table prescribed in the relevant working plan.

During audit of the records of five Divisional Forest Offices, it was noticed (between August 1995 and July 1997) that 50 salvage lots were handed over to the Corporation for exploitation during the years 1994-95 (18 lots), 1995-96 (16 lots), 1995-97 (one lot), 1995-98 (one lot) and 1996-97 (14 lots). Scrutiny of the divisional records revealed that due to incorrect application of the volume tables, incorrect determination of classes of trees and mistakes in calculation of volume, the standing volume of 10,101 trees marked and included in these lots, was worked out as 7,251.276 cubic metres and 375.45 metres girth of khair as against the correct volume



of 7,776.904 cubic metres and 426.61 metres girth of khair respectively. This resulted in short recovery of royalty amounting to Rs. 17.62 lakh (including sales tax) as detailed below:-

Sr. No.	Name of division	Number of lots	Number of trees	Standing volume of trees			Royalty and sales tax charged short (Rupees)
				Actual	Worked out by the department	Less taken by the department	
1.	Nahan	22	6,951	3,052.104	2,715.766	336.338	15,35,288
Remarks: The volume table prescribed in the relevant working plan was not applied correctly..							
2.	Nurpur	15	593 (Chil)	919.220	881.020	38.200-	80,026
			597 (Khair)	426.610 (metres girth)	375.450 (metres girth)	51.160 (metres girth)	
Remarks: Incorrect application of the prescribed volume table/wrong classification of trees in the abstract of the marking lists and mistakes in calculation of volume..							
3.	Bilaspur	2	1,473 (Chil)	2,149.910	2,064.590	85.320	59,580
Remarks: Applied pre-revised volume table..							
4	Parbati	2	431 (Kail)	1,547.700	1,530.700	17.000	46,966
Remarks: Incorrect classification of trees.							
5.	Dalhousie	9	56 (Chil)	107.970	59.200	48.770	39,773
Remarks: Incorrect classification of trees.							
Total		50	10,101	7,776.904 (cubic metres)	7,251.276 (cubic metres)	525.628 (cubic metres)	17,61,633 or say Rs.17.62 lakh.
				426.610 (metres girth)	375.450 (metres girth)	51.160 (metres girth)	



On this being pointed out (between August 1995 and July 1997) in audit, the department stated (between December 1995 and September 1997) that revised bills on account of royalty and sales tax in respect of 525.628 cubic metres standing volume of timber had been raised (between November 1995 and August 1997) against the Corporation and that the matter regarding incorrect determination of 4.76 metres girth of khair, in Nurpur division, was being looked into whereas royalty bill for the remaining volume of 46.40 metres girth of khair trees was being raised. Further progress and report of recovery had not been received (August 1998).

The cases were reported to Government (between September 1995 and August 1997); their replies had not been received (August 1998).

#### **5.9. Short recovery of royalty on fit trees**

The terms of the standard agreement deed on lease of forests provide that if the lessee (the Himachal Pradesh State Forest Corporation) agrees to accept the number of trees, their measurements, classification and other categorisations specified in the marking lists, the standing volume as worked by the Forest Department is to be treated as final and correct and thereafter, the department is not responsible for the soundness or otherwise of any trees. It provides further that no application for recheck of uprooted, dry, snow damaged and wind-fallen trees (marked as salvage lots), trees marked in the alignment of roads and electric transmission lines shall be entertained. Similarly, no complaints on wrong classification of fit and unfit trees will be entertained.

During audit of the records of the Divisional Forest Officer, Rohroo, it was noticed (July 1995) that a salvage lot consisting of 2,199 fit trees containing 4,063.95 cubic metres of standing volume of timber were marked and marking lists sent to the Corporation in April 1991 (original marking: 3,781.96 cubic metres) and



July 1991 (supplementary marking: 281.99 cubic metres) for ~~e~~xploitation during the years 1991-93. The lease period of working the lot was upto 31st March 1993. Scrutiny of the records revealed that against the entire fit volume of 4,063.95 cubic metres, the department had accepted a reconciliation statement indicating 1,046.68 cubic metres of unfit standing volume of timber with the Corporation after the trees were rechecked during the joint inspection conducted on 15 December 1992, contrary to the provisions of the agreement deed. This resulted in short recovery of royalty amounting to Rs. 11.16 lakh (including sales tax).

On this being pointed out (July 1995) in audit, the department stated (March 1998) that the matter was under correspondence with the Corporation. Further report had not been received.

The case was reported to Government in August 1995; their reply had not been received (August 1998).

#### **5.10. Short recovery of royalty due to application of incorrect rates**

According to a decision of the State Government of April 1983, royalty for all green standing, green top-broken, dying and diseased green trees marked and handed over to the Himachal Pradesh State Forest Corporation (Corporation) for exploitation in salvage lots is payable by the Corporation at full rates fixed for standing green trees.

(a) During audit of the records of the Divisional Forest Officer, Rampur, it was noticed (September 1996) that 3 salvage lots were handed over to the Corporation for exploitation during the years 1995-98. Scrutiny of the divisional records revealed that inspite of fact that though these lots did not fall in category



where 50 *per cent* or 30 *per cent* of the full rates of royalty of green trees were chargeable yet the department incorrectly charged royalty at lower rates of 50 *per cent* (two lots) and 30 *per cent* (one lot) on 129 green top-broken trees containing 694.715 cubic metres of standing volume of timber. This resulted in short recovery of royalty amounting to Rs. 6.95 lakh (including sales tax).

On this being pointed out in audit in September 1996, the department stated (May 1997) that demand on account of differential amounts of royalty of Rs. 6.95 lakh (including sales tax) had been raised against the Corporation in December 1996 (Rs. 0.84 lakh) and January 1997 (Rs. 6.11 lakh). Report of recovery had not been received (August 1998).

The case was reported to Government in November 1996; their reply had not been received (August 1998).

(b) During audit of the records of the Divisional Forest Officer, Nichar, it was noticed (July 1996) that 2 salvage lots were marked and handed over to the Corporation for exploitation during the year 1995-96. Scrutiny of the divisional records revealed that though royalty was required to be charged at full rates yet royalty on 113 dying green trees containing 243.16 cubic metres of standing volume of timber was incorrectly charged at lower rate of 60 *per cent* (138.28 cubic metres) and 50 *per cent* (104.88 cubic metres) of full rates for standing green trees. This resulted in royalty on those trees being charged short by Rs. 2.79 lakh (including sales tax).

On this being pointed out (July 1996) in audit, the department accepted the audit observations and stated (November 1997) that demand of the differential

amount of Rs. 2.79 lakh had been raised (February 1997). Report of recovery has not been received (August 1998).

The case was reported to the Government in August 1996; their reply had not been received (August 1998).

**5.11. Short recovery of royalty due to incorrect determination of intensity of trees**

According to a decision (April 1983) of the State Government, royalty for all dry (fit) trees marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation in salvage lots, is chargeable at 60 *per cent*, 50 *per cent* and 30 *per cent* of the rates of royalty fixed for standing green trees, if the intensity of the trees so marked is 15 cubic metres and above, 5 cubic metres to below 15 cubic metres and below 5 cubic metres per hectare of the total area of the forest or compartment thereof respectively. Further, Government decided in March 1993 that where the exploitation work was already going on, supplementary markings of trees should be considered as a part of the original lot, irrespective of the quantity of standing volume marked.

As per the State Government's decision of May 1989, the intensity of marking of a lot is to be worked out by taking into account the total volume of the trees marked in all markings including original, additional or supplementary markings.

During audit of the records of three Divisional Forest Officers, it was noticed (between July 1996 and July 1997) that four salvage lots consisting of 4,043 trees containing 4,288.129 cubic metres standing volume of timber were marked and



handed over to the Corporation for exploitation during the years 1993-94 (one lot), 1995-96 (two lots) and 1996-97 (one lot). Scrutiny of records, revealed that the department had incorrectly determined intensity of marking of these trees which resulted in royalty (including sales tax) being charged short by Rs. 5.05 lakh as detailed below:-

retained below:

Name of division	Number of lots/year of working	Number of trees	Standing volume (in cubic metres)	Intensity of marking of trees per hectare		Amount of royalty (including sales tax) charged short (Rupees)
				Applied	Applicable	
Nichar	1/1993-94	911	1,387.17	3.87	10.55	2,88,698
Remarks: Working period was extended upto June 1995 and second supplementary marking was handed over in March 1995. This was treated as a separate lot and not as a part of original lot. Royalty was incorrectly charged at 30 per cent instead of 50 per cent of full royalty rates.						
Karsog	1/1996-97	42	119.139	4.77	5.957	1,50,019
Remarks: Area of the forest was wrongly taken into account as 25 hectares instead of 20 hectares. Consequently royalty charged at 30 per cent instead of 50 per cent of full royalty rates.						
Hamirpur	1/1995-96	2,998	2,633.500	10.51	9.20	66,483
	1/1995-96	92	148.320	2.86	(Combined)	
Remarks: The department made two separate lots in the same forest in the same working period (1995-96) instead of one lot and royalty charged at 50 per cent and 30 per cent of royalty rates. In fact both the lots should have been clubbed and royalty charged at 50 per cent of the full rates.						
Total:		4,043	4,288.129			5,05,200. or say Rs. 5.05 lakh

On this being pointed out (between July 1996 and July 1997) in audit, the Divisional Forest Officers, accepted the audit observation and stated (June 1997 and November 1997) that in respect of Karsog division differential amount of royalty would be recovered from the Corporation whereas in respect of Nichar and Hamirpur division, balance amount of Rs. 3.55 lakh had been demanded. Further progress and report of recovery had not been received (August 1998).



The cases were reported to Government in August 1996 and April-July 1997; their replies had not been received (August 1998).

#### **5.12. Non-levy of extension fee**

Clause 3 of the standard agreement deed (also applicable to the Himachal Pradesh State Forest Corporation) provides that if a lessee fails to fell, convert and carry trees outside the leased area within the contract period, he may seek extension in the working period, failing which he shall have no right on the standing/felled trees and scattered/ stacked timber lying in the leased forest. If extension is applied for and granted, the lessee is required to pay extension fee at the rate of 2 *per cent* per month on the balance amount of royalty payable to the Government. However, in case the entire royalty has been paid by the lessee, the rate of extension fee chargeable would be 0.3 *per cent* per month on the total sale price of the forest lot.

During test check of the records of eight Forest Divisions, it was noticed (between December 1993 and August 1996) that 17 forest lots, with lease periods between 31st March 1992 and 31st March 1996, were handed over to Corporation for exploitation between the years 1991-92 and 1995-96. Scrutiny of the divisional records revealed that as the exploitation work of these lots could not be completed within the lease periods, the Corporation sought extension in the working periods of 15 lots whereas no extension was sought by it in the remaining 2 lots. Although the Corporation continued to work the lots after the expiry of the lease periods, the department had neither granted extension in the working periods in respect of 14 lots nor taken any action to forfeit the forest produce of these lots and to

demand/recover extension fee amounting to Rs. 3.24 lakh. This resulted in non-levy of extension fee amounting to Rs. 3.24 lakh as tabulated below:-

Name of Division	No. of forest lots	Year of working the lot	Lease period upto	Whether extension		Amount of extension fee		
				Sought	granted	Charge-able	Charged	Not/ short charged
				( R u p e e s )				
Dharamsala	2	1992-93	30th June 1993	Not	Not	65,594	---	65,594
Churah	1	1991-92	31st March 1992	Yes	Yes	48,250	---	48,250
Nachan	1	1994-95	31st March 1995	Yes	Not	29,539	---	29,539
Suket	3	1994-95	31st March 1995	Yes	Not	46,051	---	46,051
Renuka	1	1992-93	30th June 1993	Yes	Yes	43,644	---	43,644
	1	1993-94	30 th June 1994	Yes	Yes			
Rajgarh	1	1994-95	31st March 1995	Yes	Not	24,058	---	24,058
Karsog	4	1995-96	31st March 1996	Yes	Not	41,092	---	41,092
Joginder-nagar	1	1994-95	31st March 1995	Yes	Not	25,487	---	25,487
	2	1995-96	31st March 1996	Yes	Not			
<b>Total</b>	<b>17</b>					<b>3,23,715</b>	<b>---</b>	<b>3,23,715</b>

On being pointed out (between May 1994 and August 1996) the cases (except Churah division) in audit, the department stated between March 1995 and July 1997 that demands on account of extension fee amounting to Rs. 2.44 lakh (Dharamsala: Rs. 68,339; Nachan: Rs. 28,556; Suket: Rs. 47,206; Renuka: Rs. 41,872; Karsog: Rs. 32,851 in respect of three lots and Jogindernagar: Rs. 25,293) had been raised against the Corporation. The Divisional Forest Officer, Rajgarh



stated (February 1996) that extension fee would be recovered from the Corporation. Demands of lesser amounts raised in respect of Nachan, Renuka and Karsog forest divisions were pointed out (December 1997 and February 1998) in audit to the department for revision. Further progress and reports of recoveries had not been received (August 1998).

Government to whom the cases were reported (between April 1994 and September 1996) stated (January 1995) that in respect of Churah division demand on account of extension fee for Rs. 724 (at the rate of 0.3 *per cent* per month) had been raised against the Corporation. As the royalty amounting to Rs. 8.04 lakh was paid by the Corporation after the working was over, the department had been asked (November 1995 and again in January 1998) to consider its revision at the rate of 2 *per cent*. Further reply in this regard and replies in respect of the remaining divisions had not been received (August 1998).

### **5.13. Non-disposal of trees**

Consequent upon the nationalisation of forest exploitation work and departmental instructions issued in January 1986, all the trees listed in salvage lots are to be handed over to the Himachal Pradesh State Forest Corporation for exploitation and the Corporation is bound to exploit the trees included in such lots irrespective of their location, size and quantity. Royalty on such lots is chargeable at the rates recommended by the Pricing Committee and approved by the State Government.

During audit of the records of the Divisional Forest Officer, Seraj, it was noticed (July 1997) that 62 salvage trees containing 215.95 cubic metres of standing volume of timber were marked and necessary approval, to hand over the trees to the Corporation for exploitation was accorded by the Conservator of Forests, Kullu in February 1996. Scrutiny of the records revealed that the marking lists of the lot were sent to the Corporation in March 1996 and again in February 1997 but the

Corporation refused to take over the lot on the plea that intensity of marking of these trees was less than 3 cubic metres per hectare. The Divisional Forest Officer directed (March 1997) the concerned Forest Range Officer to explore the possibilities of marking more salvage trees but the trees could not be handed over to the Corporation till July 1997 and thus remained unexploited (February 1996 to July 1997). This resulted in non-disposal of already damaged trees and consequent blocking of revenue to the tune of Rs. 1.84 lakh (including sales tax).

On this being pointed out (July 1997) in audit, the department stated (January 1998) that after rechecking the forests no dry or uprooted trees were available for further salvage marking and that the Corporation had been asked (August-October 1997) to take over the lots for exploitation. Further progress in matter had not been received (August 1998).

The case was reported to Government in September 1997; their reply had not been received (August 1998).



**CHAPTER 6**  
**OTHER TAX AND NON-TAX  
RECEIPTS**





## **CHAPTER 6 : OTHER TAX AND NON-TAX RECEIPTS**

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## CHAPTER 6

### A-STAMP DUTY AND REGISTRATION FEE

#### 6.1. Results of audit

Test check of records relating to stamp duty and registration fee, conducted in audit during the year 1997-98, revealed non-levy/short determination of stamp duty and registration fee and other irregularities amounting to Rs. 24.45 lakh in 256 cases, which broadly fall under the following categories:-

	Number of cases	Amount (In lakh of rupees)
1. Non-levy/short determination of stamp duty and registration fee	223	21.03
2. Other irregularities	33	3.42
<b>Total</b>	<b>256</b>	<b>24.45</b>

During the course of the year 1997-98, the concerned department accepted under-assessments etc., of Rs. 4.76 lakh involved in 58 cases, of which 4 cases involving Rs.0.31 lakh had been pointed out in audit during 1997-98 and the rest in earlier years, the earliest year being 1986-87. A few illustrative cases highlighting important observations involving financial effect of Rs. 14.38 lakh are given in the following paragraphs.

#### 6.2. Non-levy of stamp duty and registration fee

By notifications issued in July 1987 and June 1988, Government remitted the stamp duty and registration fees in respect of any instrument executed by agriculturists in favour of any Commercial bank and Himachal 'Gramin Bank' for securing loan upto rupees one lakh for specific purposes. Through another notification issued in March 1988, under the Indian Stamp Act, 1899, as applicable to Himachal

Pradesh, the State Government exempted stamp duty on the instruments executed by or on behalf of a co-operative society or by any officer or member thereof and relating to the business of such society or any class of such instruments or in respect of any award or order made under the Himachal Pradesh Co-operative Society Act, 1968. It was clarified (August 1993) by the State Government that the Himachal Pradesh State Co-operative Agricultural and Rural Development Bank fell within the jurisdiction of the Himachal Pradesh Co-operative Society Act, 1968.

Section 3 of the Himachal Pradesh Co-operative Agricultural and Rural Development Bank Act, 1979 provides that loans may be advanced by the banks for land improvement and productive purposes, erection, re-erection or repairing of houses for agricultural purposes, purchases of or acquisition of title to agricultural land by tenants under any law for the time being in force in any part of the State and liquidation of debts under any Act for the time being in force in any part of the State. No fee is to be charged in respect of the registration of any instrument executed in favour of the Agriculture and Rural Development Bank by any of its officers or members, under any law for the time being in force under section 53 of the Act *ibid*.

During audit of the accounts of the Sub-Registrars, Aut, Hamirpur, Kandaghat, Keylong, Karsog, Kumarsain, Mandi (Sadar), Nalagarh, Nankhari and Sundernagar, it was noticed (between April 1997 and February 1998) that during the year 1996, eighty eight documents were executed in the name of individuals for obtaining loans from 'Gramin Bank' and banks registered under the Himachal Pradesh Co-operative Societies Act, 1968 for the purposes other than prescribed for exemption. The loans secured through these documents were for the purpose of trucks/mini trucks/ Bus/ Jeep/ three wheelers/ construction of hotel/ Guest houses, opening of dhabas, shop of jewellery, readymade garments, repairs of televisions and refrigerators, welding work



and furniture setting up of service stations, woolen and carpentry industry and installation of filter. Though the loans secured through these documents were meant for commercial purposes, the Sub-Registrars, while registering the documents, did not levy any stamp duty and registration fee thereon. This resulted in non-realisation of stamps duty and registration fee amounting to Rs. 7.49 lakh.

This was pointed out (April 1997 and February 1998) in audit to the department and reported to Government between May 1997 and March 1998; their final replies had not been received (August 1998).

The Government, however, clarified in November 1997 that the stamp duty and registration fee was leviable in all cases where loans had been paid for the purpose other than agricultural purposes. Further progress and reports of recoveries had not been received (August 1998).

### **6.3. Short determination of stamp duty and registration fee**

Under the Indian Stamp Act, 1899, as amended (vide the Himachal Pradesh Act No. 7 of 1989) in its application to the Himachal Pradesh, with effect from 31st March 1989, the consideration, if any, the market value of the property and all other facts and circumstances, affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth in the instrument. The "market value" of the property is defined as the price which such property would have fetched, if sold in the open market on the date of execution of the instrument relating to the transfer of such property. If the registering officer, while registering any instrument has reason to believe that the market value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he

may, after registering such instrument refer the same to the Collector for determination of the market value or consideration and the proper duty payable thereon.

During audit of the records of ten\* Sub-Registrars it was noticed (between June 1997 and February 1998) that in 95 cases registered during 1996, the consideration of the properties set forth in the instruments, was much below the average price certified by the concerned Patwaris of the locality. In spite of the wide variation between the value of the land obtaining and the consideration set forth in these instruments, the Registering Officers, after registering these instruments did not refer these cases to the collector as required under section 47- A of the Act for determination of the market value. Calculated on the basis of the prices of land in that vicinity obtaining during 1995 as indicated by the Patwari of the Halka concerned, stamp duty and registration fee forgone worked out to Rs. 6.89 lakh.

On this being pointed out (between June 1997 and February 1998) in audit, the Sub-Registrars, Dharamsala and Kangra intimated (July 1998) that amount of Rs. 7,200 (Out of Rs. 26,840) and Rs. 14,060 (Out of Rs. 23,030) had been recovered and efforts were being made to recover the balance amount. Further report of recovery and replies in remaining cases had not been received (August 1998).

The cases were reported to the Government (between July 1997 and March 1998); their replies had not been received (August 1998).

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\* Dehra, Dharamsala, Ghumarwin, Hamirpur, Kangra, Kullu, Nahan, Nalagarh, Palampur and Sainj.



## B-HOME DEPARTMENT

### 6.4. Non-recovery of cost of deployment of police force

As per Rule 2.13 (1) of the Punjab Police Rules, 1935 as applicable in Himachal Pradesh, when police arrangements are required for maintenance of order and protection of property on behalf of promoters of private gatherings or entertainment programmes, such promoters shall be invited to apply in Form 2.11 (1) A or B for additional police forces at their own cost as provided under section 13 of the Police Act. The Superintendent of Police shall recover from the applicants charges on the scale given in sub-rule (2) of Rule 2.13 of the Punjab Police Rules, 1935 and deploy police accordingly. A bill will be prepared in Form 10.21 and all sums recovered shall be credited to the Government account.

During scrutiny (July - September 1997) of the records of seven out of 12 units of the police department relating to deployment of police forces for various fairs/ festivals etc., it was noticed that the police force was deployed without charging any cost. The scale of charges referred to in Rule 2.13 (2) had also not been fixed/ approved by the Government. Non-recovery of cost of deployment of the police forces has caused a loss of at least Rs. 142.96 lakh during the last three years ending 31st March 1997. The loss was worked out by taking the rate of charges per day at the minimum of the pay scale of the concerned ranks, as the deployment was for whole day(s).

On this being pointed out in audit, the concerned Superintendents of Police stated that no rates of charges had been fixed by the Government and the matter regarding fixation of rates of charges as well as for their recovery would be taken up with the Director General of Police and Government and a reply would follow (June 1998).

The matter was reported to Government in October 1997; their reply has not been received (August 1998).

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*Bilaspur, Hamirpur, Kullu, Mandi, Shimla, Sirmaur and Una.*

## C-PUBLIC WORKS DEPARTMENT

### 6.5. Results of audit

Test check of records relating to public works department, conducted in audit during the year 1997-98, revealed irregularities involving revenue amounting to Rs.4.49 lakh in 21 cases which broadly fall under the following categories:-

		Number of cases	Amount (In lakh of rupees)
1.	Short recovery of rent	7	2.77
2.	Other irregularities	14	1.72
	<b>Total</b>	<b>21</b>	<b>4.49</b>

During the course of the year 1997-98, the concerned department accepted under-assessments of Rs. 8.21 lakh involved in 12 cases, which had been pointed out in audit in earlier years, the earliest year being 1981-82. An illustrative case highlighting important observations involving financial effect of Rs. 1.04 lakh is given in the following paragraph.

### 6.6. Non- recovery of damages

Under the Himachal Pradesh Allotment of Government Residences (General Pool) Rules, 1994, an officer occupying an earmarked accommodation, may on transfer retain the accommodation upto one month from the date of handing over charge. The allotment shall be deemed to be cancelled on the expiry of the permissible period and thereafter for non-vacation of the accommodation, damages for use and occupation etc., are payable at the rate of Rs. 4 per square foot of the area occupied.

During audit of the Executive Engineer, Public Works Division, Solan, it was noticed (January 1997) that an officer in occupation of an earmarked accommodation (area occupied: 4,570.09 square foot), on transfer, relinquished his charge on 11 June 1996. Under the rules, the officer could retain the accommodation



upto 10th July 1996. Scrutiny of the records, however, revealed that he did not vacate the accommodation (December 1996). For violation of the rules, damages amounting to Rs. 1.04 lakh for the period from 11 July 1996 to December 1996 had not been recovered by the department.

On this being pointed out (January 1997) in audit, the department stated (January 1998) that efforts were being made to recover the amount from the officer.

The matter was reported to Government in February 1997; their reply had not been received (August 1998).

Shimla  
The

27 NOV 1998

*Revathi Bedi*

(REVATHI BEDI)  
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*Countersigned*

*V. K. Shunglu*

2 - DEC 1998

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Comptroller and Auditor General of India

