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# REPORT

OF THE

## COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED  
31 MARCH 1999

No. 2

(REVENUE RECEIPTS)

GOVERNMENT OF GUJARAT



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## **PREFATORY REMARKS**

This Report for the year ended 31 March 1999 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1998-99 as well as those noticed in earlier years but could not be covered in previous years' Reports.





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# ***OVERVIEW***

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## OVERVIEW

*This report contains 49 paragraphs including two reviews relating to non-levy/short levy of tax, penalty and interest etc. involving Rs. 350.63 crore. Some of the important audit findings are mentioned below :*

### **1. General**

*(i) The total revenue receipts of the Government of Gujarat in 1998-99 were Rs.12742.74 crore as against Rs. 11125.39 crore during 1997-98. The revenue raised by the State from taxes during 1998-99 was Rs.7615.78 crore and from non-tax receipts was Rs.2766.49 crore. State's share of divisible Union taxes and grants-in-aid from Government of India were Rs. 1641.60 crore and Rs. 718.87 crore respectively. The main source of tax revenue during 1998-99 was Sales Tax (Rs.4795.84 crore). The main receipts under non-tax revenue were from Interest (Rs.1592.69 crore) and Non-ferrous Mining and Metallurgical Industries (Rs.470.23 crore).*

*[Para 1.1 and 1.2]*

*(ii) As on 31 March 1999, 1638681 cases were pending for assessment under Sales Tax Act. Out of these, 61123 cases had turnover of above Rs.1 crore in each case.*

*[Para 1.6]*

*(iii) A test check of the records in the offices of Sales Tax, Land Revenue, Motor Vehicles Tax and other departmental offices conducted during 1998-99 revealed under assessment and loss of revenue of Rs.22731.03 lakh in 1458 cases. During the year, the concerned departments accepted under assessments etc. of Rs.7239.67 lakh in 823 cases and recovered Rs.651.04 lakh in 613 cases pointed out during 1998-99 and earlier years.*

*[Para 1.9]*

### **2. Sales Tax**

*(i) A review on "Functioning of Internal Audit in Sales Tax Department" revealed the following :*

*(a) Target for selection and audit of assessment of Sales Tax by Internal Audit Wing was not achieved. The expenditure of Rs.970.41 lakh incurred on pay and allowances of the staff was disproportionately higher compared to the additional demand of Rs.343.43 lakh raised as a result of internal audit..*

*(Para 2.2.7))*

*(b) All the cases of Category I of Sales Tax assessments are required to be audited by internal audit. Test check of 86 cases of Category I revealed under assessment/short recovery of Rs.22.80 crore.*

*(Para 2.2.12))*



(ii) Under Sales Tax Incentive Scheme, excess exemption of sales tax of Rs.254.11 lakh was allowed to 41 dealers and incorrect exemption of Rs.83.18 lakh was allowed to 61 ineligible industrial units.

[Para 2.3.A to H]

(iii) Deferred tax of Rs.498.05 lakh was not recovered from 35 dealers eventhough the units had stopped commercial production.

[Para 2.4]

(iv) Purchase tax of Rs.427.17 lakh was not levied in the case of 74 dealers for breach of recitals of forms.

[Para 2.5 A to E]

(v) Incorrect deduction on forms resulted in short levy of tax of Rs.124.82 lakh..

[Para 2.6 A, B]

(vi) There was short levy of Sales Tax of Rs.53.03 lakh due to incorrect classification of goods.

[Para 2.7]

(vii) Sales Tax of Rs.164.58 lakh was evaded by an oil miller on purchases of oil seeds and oil extracted by declaring oil cakes as purchases from outside the State from a non existing dealer.

[Para 2.15A]

### **3. Land Revenue**

(i) A review on "Assessment and Collection of Land Revenue" revealed the following :

(a) Grant of exemption by Government from payment of land revenue to agriculturists in respect of agricultural land without approval of legislature resulted in loss of revenue of Rs.31.19 crore.

[Para 3.2.6]

(b) Transfer of land granted on lease to a trust without permission of Government and without payment of premium resulted in loss of revenue of Rs.16.04 crore.

[Para 3.2.7(i)]

(c) Incorrect application of rate of non agricultural assessment and local fund cess resulted in short levy of Rs.9.69 crore.

[Para 3.2.8]

(d) Failure to recover occupancy price resulted in non levy of Rs.9.33 crore.

[Para 3.2.9]

(e) Failure to raise demand for conversion tax and non-agricultural assessment resulted in non levy of Rs.5.22 crore.

[Para 3.2.10]

(ii) Premium of Rs.139.73 Lakh was not recovered for unauthorised transfer of land and for breach of conditions of allotment.

[Para 3.3A (i) & (ii)]

(iii) There was short levy of Rs.183 lakh of non-agricultural assessment due to incorrect application of rate.

[Para 3.4]

#### **4. Taxes on Vehicles**

(i) Failure to raise demand for interest resulted in short levy of Rs.1032.96 lakh.

[Para 4.2]

(ii) Composite tax of Rs. 455.55 lakh was not recovered from operators of 565 omnibuses in 17 Regional Transport Offices.

[Para 4.3]

#### **5. Stamp duty and Registration Fees**

(i) Stamp duty and registration fees of Rs.274.32 lakh were short levied due to incorrect application of concessional rate.

[Para 5.2]

(ii) Power vested in the Act was invoked by the Government to benefit a single industrial unit resulting in foregoing of revenue of Rs.16.17 crore..

[Para 5.3]

(iii) Stamp duty and registration fees of Rs.892.31 lakh was short levied due to mis-classification of documents.

[Para 5.4]

(iv) Non levy of aggregate rate on documents containing more than one matter resulted in short levy of Rs.248.36 lakh..

[Para 5.5]



## **6. Other Tax Receipts**

### **A. Entertainments Tax**

*(i) Incorrect grant of exemption resulted in loss of revenue of Rs.15.19 crore..*

*[ Para 6.2]*

*(ii) Non recovery of entertainments tax from cable operators and operators of cinema houses and video parlours resulted in short levy of Rs.41.76 lakh..*

*[ Para 6.3 and 6.4 ]*

### **B. Electricity Duty**

*(i) Due to application of incorrect rate of electricity duty and due to continuation of exemption beyond the admissible period resulted in short recovery of Government dues of Rs.77.82 lakh.*

*[Para 6.6]*

## **7. Non Tax Receipts**

### **A. Interest Receipts**

*Interest of Rs.12803.86 lakh, though recoverable from Gujarat Water Supply and Sewerage Board, was neither recovered nor adjusted against the subsequent grants paid to the Board.*

*[Para 7.2]*

### **B. Mining Receipts**

*(i) There was short recovery of royalty of Rs.3186.42 lakh on crude oil and natural gas extracted.*

*[Para 7.3]*

*(ii) Failure to raise demand in respect of minerals extracted and non recovery of dead rent in cases where lease holders stopped extraction of minerals resulted in short levy of Rs.257.04 lakh.*

*[Para 7.4]*

## Chapter - I

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General





## GENERAL

### 1.1 Trend of revenue receipts

The tax and non-tax revenue raised by Government of Gujarat and the State's share of divisible Union taxes and grants-in-aid received from Government of India during 1998-99 and the preceding two years are given below:

	1996-97	1997-98	1998-99
	(.....Rupees in crore.....)		
<b>I.</b> Revenue raised by State Government			
(a) Tax revenue	6065.95	6591.06	7615.78
(b) Non-Tax revenue	1572.74	2220.97	2766.49
<b>Total</b>	7638.69	8812.03	10382.27
<b>II.</b> Receipts from Government of India			
(a) State's share of divisible Union taxes	1174.50	1574.49	1641.60
(b) Grants-in-aid	854.84	738.87	718.87
<b>Total</b>	2029.34	2313.36	2360.47
<b>III.</b> Total receipts of the State Government (Revenue Account)	9668.03	11125.39	12742.74*
Percentage of I to III	79	79	81

\* For details, please see statement No.11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Gujarat for the year 1998-99. Figure 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.

**1.2 Revenue raised by the State Government**

The details of tax revenue raised from major taxes during the three years upto 1998-99 are given below :

	1996-97	1997-98	1998-99	Percentage of increase(+) or decrease (-) in 1998-99 over 1997-98
(Rupees in crore)				
1. Sales Tax	4025.69	4402.39	4795.84	9
2. Taxes and Duties on Electricity	900.60	1023.54	1447.17	41
3. Stamp Duty and Registration Fees	399.13	411.01	506.23	23
4. Taxes on Vehicles	333.94	395.99	460.21	16
5. Taxes on Goods and Passengers	96.19	38.26	62.14	62
6. Land Revenue	87.58	75.13	71.98	(-) 4
7. State Excise	24.32	24.35	27.25	12
8. Other Taxes	198.50	220.39	244.96	11
Total	6065.95	6591.06	7615.78	

**(ii) Non-tax revenue**

(a) Details of revenue raised from some of the major non-tax receipts during the three years upto 1998-99 are given below :

	1996-97	1997-98	1998-99	Percentage of increase (+) or decrease (-) in 1998-99 over 1997-98
( — Rupees in crore — )				
1. Non-ferrous Mining & Metallurgical Industries	441.90	460.66	470.23	2
2. Interest Receipts	816.14	1207.21	1592.69	32
3. Major & Medium Irrigation	37.54	91.29	132.10	45
4. Medical & Public Health	25.14	45.94	38.65	(-) 16
5. Others	252.02	415.87	532.82	28
Total	1572.74	2220.97	2766.49	



### 1.3 Variations between Budget estimates and actuals

The variations between Budget estimates and actuals of some major revenue receipts for the year 1998-99 are as follows:

Heads of Revenue	Budget estimates	Actuals	Variation increase (+) decrease (-)	Percentage of variation
<b>Tax revenue</b> ( Rupees in crore )				
1. Sales Tax	5000.00	4795.84	(-) 204.16	4
2. Taxes & Duties on Electricity	1625.00	1447.17	(-) 177.83	11
3. Stamp Duty & Registration Fees	700.00	506.23	(-) 193.77	28
4. Taxes on Vehicles	550.00	460.21	(-) 89.79	16
5. Taxes on Goods & Passengers	110.00	62.14	(-) 47.86	44
6. Land Revenue	217.00	71.98	(-) 145.02	67
7 State Excise.	31.77	27.25	(-) 4.52	14
8. Other Taxes on Income & Expenditure	66.00	75.33	(+) 9.33	14
<b>Non-tax revenue</b>				
9. Non-ferrous Mining & Metallurgical Industries	679.10	470.23	(-) 208.87	31
10 Interest Receipts	539.56	1592.69	(+) 1053.13	195
11. Major & Medium Irrigation	200.00	132.10	(-) 67.90	34
12. Medical & Public Health	42.80	38.65	(-) 4.15	10
13. Forestry & Wild Life	18.50	16.03	(-) 2.47	13
14. Education, Sports, Arts & Culture	22.00	30.90	(+) 8.90	40
15. Police	37.09	30.25	(-) 6.84	18
16. Public Works	12.50	19.32	(+) 6.82	55
17. Miscellaneous General Services	18.60	253.04	(+) 234.44	1260

## 1.4 Cost of collection

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

Sr No.	Heads of Revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to collection	All India average (percentage for the year) 1997-98
(Rupees in crore)						
1.	Sales Tax	1996-97	4025.69	34.91	1	
		1997-98	4402.39	41.05	1	1.28
		1998-99	4795.84	56.98		
2.	Stamp Duty and Registration Fees	1996-97	399.13	11.33	3	
		1997-98	411.01	14.16	3	3.14
		1998-99	506.23	20.96	4	
3.	Taxes on Vehicles	1996-97	333.94	10.83	3	
		1997-98	395.99	12.82	3	2.65
		1998-99	460.21	20.35	4	
4.	State Excise	1996-97	24.32	3.20	13	
		1997-98	24.35	3.51	14	3.20
		1998-99	27.25	4.57	17	

Percentage of expenditure is more when compared to collection in "State Excise" mainly due to expenses of police personnel engaged in implementing prohibition and also propaganda expenses for enforcing prohibition in the State.

## 1.5 Arrears of revenue

As on 31 March 1999 arrears of revenue under principal heads of revenue, as reported by the departments were as under:

Sr No.	Heads of revenue	Arrears pending collection	Arrears more than five years old	Remarks
1.	2.	3.	4.	5.
(Rupees in lakhs)				
1.	Sales Tax	110148.00	26885.00	Out of arrears of Rs. 110148.00 lakh, Rs. 3868 lakh were due to demand covered by recovery certificates, Rs. 13236 lakh were due to stay granted by judicial authorities,



1.	2.	3.	4.	5.
				Rs. 6919 lakh were due to dealers being insolvent, Rs. 3832 lakh were to be written off and Rs. 82293.00 lakh were due to other reasons.
2.	Motor Vehicles Tax	1510.77	557.52	Out of Rs.1510.77 lakh, Rs.499.91 lakh were due to demand covered by recovery certificates, Rs.2.56 lakh were due to stay granted by High Court and other judicial authorities and Rs.1008.30 lakh were due to other reasons.
3.	Profession Tax	2503.92	1607.59	Arrears of Rs. 2503.92 lakh were due to demand covered by recovery certificates.
4.	Goods and Passenger Tax	384.36	220.41	Out of total arrears of Rs.384.36 lakh, Rs.106.08 lakh were due to demand covered by recovery certificates, Rs.1.37 lakh were pending due to stay granted by High Court and other judicial authorities and Rs.276.91 lakh were due to other reasons.
5.	Entertainments Tax	337.37	143.03	No specific reasons were given by the Department.
6.	Luxury Tax	473.81	Nil	Out of Rs.473.81 lakh, Rs.24.27 lakh were due to stay granted by High Court and Rs.449.54 lakh were due to other reasons.
7.	Electricity Duty	1392.00	1392.00	The arrears of Rs. 13.92 crore are to be recovered from Baroda Municipal Corporation.
8.	Interest Receipts	51231.00	7728.00	No specific reasons were given by the Department.
9.	Co-operation	91.24	19.58	Many of the cooperative societies have gone into liquidation.
10.	Stamps	456.70	5.67	Recovery pending due to appeals pending in Courts and High Courts.

**1.6 Arrears in Sales Tax assessments**

The number of assessments due for assessment, number of assessments completed during the year and the number of assessments pending at the end of the year under report with corresponding figures of the year 1997-98 are as under:

	1997-98	1998-99
(a) Number of assessments due for completion during the year		
Arrear cases	2240378	2196664
Current cases	460196	458221
Remand cases	491	156
Total	2701065	2655041
(b) Number of assessments completed during the year		
Arrear cases	432737	886603
Current cases	71373	129696
Remand cases	291	61
Total	504401	1016360
(c) Number of assessments pending finalisation as at the end of the year		
Arrear cases	1807641	1310061
Current cases	388823	328525
Remand cases	200	95
Total	2196664	1638681
(d) Yearwise break-up of pending cases are as under:		
Upto 1994-95	864739	548799
1995-96	417033	224372
1996-97	528826	273458
1997-98	386066	493753
1998-99		98299
Total	2196664	1638681

The above table shows that during the year out of 2196664 arrear cases only 40.36 per cent cases were assessed and out of 458221 current cases only 28.30 per cent cases were assessed. As on 31 March 1999, 1638681 cases were pending for assessment, out of which 102626 cases involved turnover of over Rs.50 lakh but not exceeding one crore and 61123 cases involved turnover of over Rs.1 crore and above in each case.

Though the system of deemed (Summary assessments) was introduced in November 1991 as per recommendations of the Sales Tax Study Team (Subba Rao Committee - October 1990), there was no significant improvement in the clearance of



arrear cases during 1998-99 but clearance during this year was better than 1997-98. The recommendations of the Committee regarding clearance of the pending assessments within one year of the closure of accounting year are yet to be implemented.

The assessment is in arrears mainly due to shortage of staff. As against the requirement of staff of 638, in the cadres of Assistant Commissioner and Sales Tax Officer class I and II, for the assessment of sales tax cases, 371 posts only have been filled in leaving 42 percent posts in the above cadres vacant. Since Sales Tax is the major revenue of the State, Government may consider filling up the vacancies if necessary, by diverting staff from other departments.

### 1.7 Internal Audit

The Internal Audit in Sales Tax Department was constituted in May 1960. During 1998-99, assessments of 157 cases were revised at the instance of internal audit and additional demands of Rs. 256.80 lakh were raised.

Internal Audit was constituted in Entertainments Tax Department in February 1989 and in Motor Vehicles Tax Department in April 1992. During 1998-99, 214 objections were pointed out by internal audit wing of Entertainments Tax Department and additional demands of Rs. 2.78 lakh were raised. Information regarding additional demands raised as a result of internal audit, though called for in May 1999, has not been furnished by Motor Vehicles Tax Department (October 1999).

### 1.8 Frauds and evasion of taxes

The details of cases of frauds and evasions of taxes pending at the beginning of the year, number of cases detected during the year and assessments/investigations completed during the year and the number of cases pending finalisation at the end of March 1999 as supplied by the respective departments are given below :

Sr. no.	Name of Tax	Cases pending as on 31 March 1998	Cases detected during 1998-99	Number of cases in which assessments/investigations completed and demand raised		Number of cases pending as on 31 March 1999
				No. of cases	Amount of demand (Rs.in lakh)	
1.	Sales Tax	949	660	608	15118.09	1001
2.	Entertainments Tax	43	4	43	23.56	4
3.	Stamp duty and Regsitration fees	416285	477753	331422	9061.25	562616
4.	Taxes on Vehicles	310	—	—	—	310
5.	Luxury Tax	17	72	50	2.68	39

## 1.9 Results of audit

Test check of records of Sales Tax, Land Revenue, Motor Vehicles tax and other departmental offices conducted during the year 1998-99 revealed under-assessments/short levy/loss of revenue aggregating Rs. 22731.03 lakh in 1458 cases. During the year the concerned departments accepted under-assessments etc. of Rs 7239.67 lakh (823 cases) and recovered Rs. 651.04 lakh ( 613 cases), of which Rs. 86.50 lakh ( 127 cases) were pointed out during 1998-99 and the rest in earlier years.

This Report contains 49 paragraphs including two reviews involving Rs. 350.63 crore which illustrate some of the major points noticed in audit. Of these, the departments accepted audit observations amounting to Rs. 76.50 crore and recovered Rs. 2.21 crore. The departments did not accept audit observations involving an amount of Rs. 2.47 crore but their contentions were found to be at variance with the facts or legal position. These have been commented upon in the relevant paragraphs.

## 1.10 Outstanding inspection reports and audit observations

(i) Audit observations on assessments, collection and accounting of receipts and defects noticed during local audit are communicated to the heads of offices and the departmental authorities through audit inspection reports. More important irregularities are also reported to the heads of departments and to the Government.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1998, which were pending for settlement by the departments as on 30 June, 1999 along with corresponding figures for the preceding two years are as follows:

	<u>As at the end of June</u>		
	1997	1998	1999
Number of outstanding Inspection Reports	1944	2572	2953
Number of outstanding audit observations	6709	7606	8396
Amount of receipts involved (Rs. in crore)	362.22	355.93	558.27

The departments (Revenue, Information, Broadcasting and Tourism, Finance and Forest department) have not even furnished first replies in respect of 210 Inspection Reports issued during 1998 involving revenue of Rs. 67.81 crore.

(ii) Yearwise break-up of the outstanding Inspection Reports and audit observations as on 30th June 1999 is given below:



Year in which Inspection Reports were issued	Number of outstanding		Amount of receipts involved (Rupees in crore)
	Inspection Reports	Audit observations	
upto 1995-96	1345	4434	201.95
1996-97	596	1504	65.41
1997-98	632	1482	107.32
1998-99	380	976	183.59
Total	2953	8396	558.27

The above position was brought to notice of Secretaries to Government in the concerned departments from time to time.



## Chapter - II

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2.7	Short levy of tax due to mis-classification of goods	32
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2.9	Incorrect determination of turnover	34
2.10	Short levy of Central Sales Tax	35
2.11	Non-levy of penalty	36
2.12	Non/short levy of interest	36
2.13	Non/short levy of turnover tax.	37
2.14	Incorrect allowance of concessional rate of tax	38
2.15	Other irregularities	39





### SALES TAX

#### 2.1 Results of Audit

Test check of assessment records in various Sales Tax offices conducted in audit during the year 1998-99 revealed under assessment of Rs. 3957.35 lakh in 638 cases, which broadly fall under the following categories:

Sl. No.	Categories	Number of cases	Amount (Rs. in lakh)
1.	Incorrect rate of tax and mistake in computation	243	756.17
2.	Incorrect concession/exemption	115	704.56
3.	Short levy of interest/ penalty	116	75.76
4.	Incorrect grant of set-off	90	64.65
5.	Other irregularities	74	76.62
6.	Review on functioning of Internal Audit in Sales Tax Department		2279.59
	Total	638	3957.35

During the year 1998-99, the department accepted under assessment of Rs. 255.04 lakh in 414 cases and recovered Rs. 59.08 lakh in 260 cases, of which 96 cases involving Rs. 4.42 lakh were pointed out during 1998-99 and the rest in earlier years. A few illustrative cases involving important audit observations and the results of a review on "Functioning of Internal Audit in Sales Tax Department", involving Rs. 4218.11 lakh are given in the following paragraphs.

#### 2.2 Functioning of Internal Audit in Sales Tax Department

*Review*

##### 2.2.1 Introduction

Sales Tax is the largest source of revenue of the State Government. Out of total tax receipts of the state 67 % was derived from sales tax during 1997-98. With a view to improve the quality of assessment, ensuring implementation of sales tax statutes, executive orders and instructions, better collection of revenue and plugging various loopholes, an Internal Audit organisation was set up in Sales Tax Department in 1960.

##### 2.2.2 Organisational set-up

The Internal Audit in Sales Tax Department works under the overall control of Commissioner of Sales Tax. The Deputy Commissioner of Sales Tax (Audit) carries out the functions of Internal Audit through 13 ACs. The Inspectors and Clerks assist the Asstt. Commissioners of Sales Tax (Audit) in discharging their duties.

##### 2.2.3 Scope of audit

With a view to evaluate the extent to which the objectives of the system set up by the Department were achieved, a test-check of Internal Audit System in Sales Tax Department was conducted during November 1998 to June 1999 in the offices of all the 13 Assistant Commissioners (Audit), (A.C) covering the period from 1995-96 to 1997-98. The results of the review are given in subsequent paragraphs.



#### **2.2.4 Highlights**

1. Targets of number of cases to be selected and those audited were not achieved by any of the Assistant Commissioners. The percentage of cases actually selected and audited remained between 42 to 58 and 71 to 75 percent respectively during 1995-96 to 1997-98. The expenditure of Rs.970.41 lakh incurred on pay and allowances of the staff was disproportionately higher as compared to the additional demand of Rs.343.43 lakh only raised as a result of internal audit.

(Paragraph 2.2.7)

2. Prescribed registers were not maintained or maintained improperly resulting in lack of control over cases received and audited.

(Paragraph 2.2.8)

3. As on 31 March 1998, 9115 cases of audit objections were pending finalisation.

(Paragraph 2.2.11)

4. Assessments relating to all the cases of Category I are required to be audited by internal audit wing. In 86 such cases audit detected non/short levy of tax of Rs.22.80 crore.

(Paragraph 2.2.12)

#### **2.2.5 Norms of Internal Audit**

As per departmental instructions of January 1986 and February 1986 each AC has to complete audit of 250 cases in a month by giving priority in selection of the cases of Category I i.e. cases of the dealers i) who pay monthly tax ii) file monthly returns and iii) enjoy benefit of incentive schemes. Shortfall if any may be compensated by selecting cases of special dealers viz. manufacturers, importers, licence holders whose turn over exceeds Rs.10 lakh (Category II). Shortfall, if any, remaining even after selection of cases out of the two categories selection may be made by AC(Audit) on the basis of local importance of business (Category III). Pre-audit of the cases involving refund of more than Rs.20000 may also be done by Internal Audit.

With effect from April 1997, audit of records of registration, VTS (Verification of Treasury Schedule), exemption / deferment certificates issued by the department and recovery in deferment cases had also come under the purview of Internal Audit Wing.



## 2.2.6 Man power resources and training.

### (a) (i) Shortfall in staff strength.

The position of the sanctioned and operated strength of the Wing is given below :

Year	Sanctioned strength			Operated strength			Shortfall		
	A.C.	S.T.I.	Clerk	A.C.	S.T.I.	Clerk	A.C.	S.T.I.	Clerk
1995-96	13	63	13	11	48	12	2	15	1
1996-97	13	65	13	13	50	12	-	15	1
1997-98	13	65	13	13	50	12	-	15	1

It was noticed that out of 13 ACs, 5 ACs were holding additional charges. Though the post of A.C. (Audit) circle XIII, Valsad was sanctioned from August 1995, no independent AC was posted till July 1996. The post of AC (Audit) Rajkot remained vacant from September 1993 to June 1996. In AC offices at Valsad and Nadiad the work of STI was got done by diverting the STI from other divisions.

### (ii) Imparting of training

It is imperative that the staff working in the wing should be trained for their respective duties periodically with a view to improving the efficiency of the Internal Audit. It was, however, noticed that the staff working in the Internal Audit Wing was not given any training during 1995-96 to 1997-98.

## 2.2.7 Programming and planning

### Shortfall in selection and audit of cases

As per departmental instructions, the Divisions should send cases of Category-I to A.C. (Audit) by the 20th of next month following the month of assessment and those of other categories within 90 days from completion of assessment. The audit of cases received from the Divisions was to be completed within the next quarter so that the internal audit could be completed before the commencement of audit by the Accountant General.

Position of cases to be selected, cases actually selected, cases audited and shortfall is given below :

Year	No. of cases to be selected	No. of cases actually selected	No. of cases audited	Shortfall in selection of cases	Percentage of 3 to 2	No. of cases in which additional demand raised	Amt. of additional demand raised (Rs. in lakh)	Expen. on pay and allowances (Rs. in lakh)	Percentage of additional demand raised to expenditure on pay and allowances
1	2	3	4	5	6	7	8	9	10
1995-96	39000	16196	11766	22804	41.52	245	68.60	285.00	24.07
1996-97	39000	20718	14719	18282	53.12	375	46.92	312.41	15.01
1997-98	39000	22472	16931	16528	57.62	526	227.91	373.00	61.10
	117000	59386	43416	57614		1146	343.43	970.41	

As against 117000 cases required to be selected, 59386 cases were selected, of which only 43416 cases were actually audited and 10400 cases were returned without completing audit stating that the same were received just before the commencement of Audit by Accountant General. Target of number of cases to be selected and those audited was not achieved by any of the A.Cs, and the percentage of cases actually selected and audited remained between 42 to 58 and 71 to 75 respectively during 1995-96 to 1997-98. Percentage of cases actually audited to those required to be selected and audited was only 37.10% during the period 1995-96 to 1997-98.

The expenditure incurred on pay and allowances of the staff of Internal Audit was also disproportionately higher as compared to the additional demand raised as a result of internal audit.

### **2.2.8 Maintenance of records**

For effective functioning and control over the work of the Internal Audit Wing, the department had prescribed the following six registers to be maintained by the Wing.

1. Register No. 1 - Showing details of cases selected for audit
2. Register No. 2 - Showing details of cases audited
3. Register No. 3 - Showing details of notices issued to dealers to be present with books of accounts
4. Register No. 4 - Showing details of notices issued to dealers raising additional demands
5. Register No. 5 - Showing details of cases revised suo motu
6. Register No. 6 - Showing details of cases returned to S.T.O. concerned

A test check revealed that none of the A.Cs. had maintained Register No.2 and No.5 properly. Register No.6 was not maintained by any of the A.Cs. Register No.1 was not maintained by 5 A.Cs. and Register No.3 was not maintained by one A.C.. In the absence of prescribed records/ properly maintained records, authenticity of the figures regarding number of cases selected for audit and those actually audited could not be verified in audit.

It also could not be checked in audit as to how the Department could keep an effective control over the quantity and quality of the work done in the Internal Audit Wing in the absence of the basic records.



### 2.2.9 Monitoring

The Deputy Commissioner of Sales Tax (Audit) is required to visit each A.C. office once in a year for general inspection to ensure proper maintenance of records. Commissioner of Sales Tax is required to evaluate the work done by Asstt. Commissioner (Audit) bi-monthly and circulate the common mistakes in assessments noticed during such evaluation, among the S.T.Os working in field offices so as to avoid occurrence/ repetition of such mistakes. It was however observed that no inspection/ evaluation was carried out during the period covered under the review. A test check further revealed that in 4 circles (3 at Ahmedabad and one at Baroda) mistakes noticed in one circle/ year were repeated in another circle/ subsequent year involving additional demands of Rs. 26.46 lakh in 12 cases.

It was also noticed that audit of records of registration, V.T.S. and recovery of deferment cases was not done by any A.C except two (one each at Baroda and Surat).

### 2.2.10 Quality of reports (coverage and contents)

Commissioner had fixed (July 1996) Rs.1.67 lakh as monthly financial target for each A.C. for raising additional demand as a result of Internal Audit.

(i) A scrutiny of records maintained by A.Cs. revealed that as against the target of Rs.195.39 lakh for the year 1996-97 (July 1996 to March 1997), 13 A.Cs. could raise additional demands of Rs.41.90 lakh only. Only 4 out of 13 A.Cs. could achieve the target for the year 1997-98 and the remaining 9 A.Cs. could raise additional demands for Rs.47.40 lakh as against the target of Rs.180.36 lakh. Shortfall with reference to targets fixed during these years was 78.56 per cent and 73.52 per cent respectively.

*There was shortfall of 79 and 74 per cent for the year 1996-97 and 1997-98 respectively in the achievement of the target fixed for raising additional demand as a result of Internal Audit*

(ii) A scrutiny of cases revised between 1995-96 and 1997-98 revealed that as against objections raised in 7361 cases in Internal Audit, only 1146 cases could be revised suo motu. The objections raised in the remaining cases were not sustainable.

### 2.2.11 Follow up of action

Immediately after completion of audit, A.C. (Audit) should issue a notice to the dealer and complete the entire proceedings within three months.

Test check of records revealed that Internal Audit Wing had issued notices (in form 45) in 12191 cases between 1995-96 and 1997-98. Of those, 9115 cases were pending for finalisation (30th June 1998).



### 2.2.12 Performance of Internal Audit

The departmental instructions of October 1988 provide that all cases of Category-I should be selected and checked by Internal Audit. Besides, A.Cs (Audit) are required to visit Divisional Offices periodically to ensure that all such cases are sent by the divisions to the Internal Audit Wing. In the case of default, list of the cases not sent is to be prepared by him and sent to commissioner for penal action. It was however observed that the department did not prescribe/ maintain any record to register all such cases separately. Consequently it could not be verified whether Internal Audit had audited all these cases.

Test check by Audit of 86 cases of Category-I (required to be audited by Internal Audit Wing cent per cent) revealed that in 54 cases though the manufacturing units which had availed off benefit of deferment of tax under various incentive schemes were closed down/ had discontinued production for a period more than 12 months, the recovery of deferred tax amounting to Rs. 308.43 lakh which became due for recovery had not been made.

**Test check of 86 cases of category I revealed under assessment/short recovery of Rs.2279.59 lakh**

In the remaining 32 cases there was non levy / short levy of tax amounting to Rs. 1971.16 lakh. Aggregate tax involved in these cases was Rs. 2279.59 lakh as detailed below.

Sl. No. of no. divisions	No. of cases	Assessment period	Money Value (Rupees in lakhs)	Nature of irregularity	Remarks	
1	2	3	4	5	6	7
1	13	54	—	308.43	Non recovery of deferred tax	The department stated that action had been initiated in 53 cases. In one case dealer was absconding.
2	3	3	1993-94 to 1995-96	1328.03	Incorrect grant of exemption	In one case the department stated that change of option from deferment to exemption scheme was allowed by DIC, whereas the scheme does not permit change of such option. In two cases department did not agree with the audit observations. The contention of the department was not tenable as the tax was leviable under the schemes.
3	5	5	1990-91 to 1995-96	365.75	Application of incorrect rate of tax	In three cases department agreed to initiate necessary action and in the remaining two cases the department stated that the goods in question were not taxable. The reply was not tenable as in view of Supreme Court# decisions the goods were taxable.

\* M/s Sirpur Paper Oils (1998-97-ELT-3) and Vasuntham Foundry v/s Union of India (98 STC 87)

1	2	3	4	5	6	7
4	1	2	1990-91 to 1992-93	18.71	Turnover escaping assessment	The Assessing officer agreed to re-examine the cases.
5	5	7	1983-84 to 1995-96	14.91	Incorrect/excess grant of set-off	The Assessing officer agreed to re- examine the cases.
6	3	3	1982-83 to 1994-95	109.76	Incorrect allowance of deduction	The Assessing officer agreed to re-examine two cases. In one case reply has not been received.
7	9	12	1990-91 to 1996-97	134.00	Non-levy of penalty	The Assessing officer agreed to re-examine two cases. In ten cases he did not agree with the audit observations due to certain reasons, which were not acceptable. These cases were required to be re-examined with reference to the provision of the act applicable to them.
Total		86		2279.59		

### 2.2.13 Audit of refund Cases

All the cases in which refund of more than Rs. 20,000 arises were to be sent to Asstt. Commissioner (Audit) for pre-audit to be completed within 35 days from the date of receipt of these cases.

Test check revealed that none of the offices had maintained any record showing the date of receipt of the refund cases and the date of completion of pre-audit. In the absence of such records, proper check on timely disposal of the cases received could not be exercised by the department and consequently 539 out of 5947 refund cases received from various Divisions between 1994-95 and 1997-98 involving refund of Rs. 684.53 lakh remained pending (March 1998).

### 2.2.14 Conclusion

Basic records required to be maintained by internal audit wing were not maintained at all in some cases and were not maintained properly in other cases. This has adversely affected monitoring over the working of the wing so much so that it could not achieve the targets fixed. The wing is also short of trained personnel. Expenditure incurred on pay and allowances of the staff was disproportionately large as compared to the additional demands raised. Scrutiny in Audit of assessment cases required to be audited by Internal Audit Wing indicated various mistakes and omissions, indicating that the wing was not working properly.



### 2.3 Incorrect grant of exemption under incentive schemes

According to sales tax incentive schemes of 1981, 1986 and 1992, a specified manufacturer is exempted from payment of sales tax/purchase tax in respect of goods manufactured by him subject to the conditions laid down in the respective schemes. The tax so saved is adjusted against the ceiling limit fixed in respect of each specified manufacturer with reference to the capital invested by him. A few illustrative cases where such conditions had been violated are given below :

(A) Under the schemes, the goods manufactured by a specified manufacturer are to be sold within the State. In the event of transfer of the manufactured goods by an eligible unit to its branch or to the place of business of its agent outside the State, 4 per cent of the sale price of the goods so transferred is to be adjusted against the tax ceiling limit.

During test check of records of eight Sales Tax Offices<sup>s</sup> it was noticed (between October 1996 and July 1998) in the assessment of 8 dealers (6 of exemption and 2 of deferment certificate holders) for the periods between 1989-90 and 1995-96 (finalised between April 1993 and March 1998) that though the dealers had transferred the manufactured goods worth Rs.5699.53 lakh to their branches outside the State, 4 per cent of the sale price of the goods so transferred was not adjusted against the ceiling limit. This resulted in short adjustment of Rs.173.92 lakh against the ceiling limit.

***Four per cent of the sale price of the goods transferred to branches outside the State was not adjusted against the ceiling limit resulting in excess benefit of Rs.173.92 lakh***

The above cases were pointed out to the department between January 1997 and December 1998. The department accepted the audit observation involving an amount of Rs.26.73 lakh in two cases and adjusted the amount against the ceiling limit. Reply in respect of the remaining cases has not been received ( October 1999).

The above cases were pointed out to the department between January 1997 and December 1998. The department accepted the audit observation involving an amount of Rs.26.73 lakh in two cases and adjusted the amount against the ceiling limit. Reply in respect of the remaining cases has not been received ( October 1999).

This was reported to Government in February 1999, their reply has not been received ( October 1999).

(B) (i) During test check of records of 5<sup>#</sup> Sales Tax Offices it was noticed (between June 1990 and July 1998) in the assessment of 5 dealers for the periods between November 1982 and 1995-96 (finalised between August 1989 and September 1998) that sales valued at Rs.197.25 lakh of amusement rides, tanks of transformer (component part), rubber flaps, corrugated paper and guvar gum were incorrectly classified as electronic goods, transformer, rubber tubes, packing material and guvar powder respectively instead of

***Misclassification of the goods resulted in excess exemption of Rs. 15.95 lakh***

<sup>s</sup> Ahmedabad, Anand, Ankleshwar, Gandhinagar, Petlad, Surat, Kadi and Viramgam.

<sup>#</sup> Modasa, Mehsana, Amreli, Viramgam and Petlad



classifying them under entries 195, 57 and 31 of Schedule II-A. This resulted in short adjustment of Rs.15.95 lakh against the ceiling limit.

The above cases were pointed out to the department between July 1990 and September 1998. The department accepted the audit observation amounting to Rs.5.85 lakh in 3 cases and adjusted Rs.4.99 lakh against the ceiling limit in two cases. Details of recovery and reply in the remaining cases have not been received (October 1999).

This was reported to Government in March 1999; their reply has not been received (October 1999).

(ii) During test check of records of Sales Tax Office, Kalol it was noticed (July 1998) in the assessment of a dealer for the period 1995-96 (finalised in December 1998) that the dealer was holding exemption certificate for manufacture of surgical items. In the assessment sales valued at Rs.162.90 lakh (1992-93 to 1995-96) of Rolled Cotton Bandages were allowed tax free, treating it as handloom fabrics whereas as per High Court decision<sup>@</sup> it was leviable to tax as medicine. This resulted in short levy of tax of Rs.27.37 lakh including interest and penalty as the dealer had exhausted the ceiling limit of exemption.

***Rolled cotton bandages though leviable to tax as medicine were allowed tax free resulting in short levy of Rs. 27.37 lakh***

This was pointed out to the department in December 1998 and reported to Government in March 1999; their replies have not been received (October 1999).

(C) According to composite scheme (combination of two incentive schemes viz. sales tax exemption and deferment scheme) introduced under sales tax incentive schemes the eligible unit, which is allowed the benefit of composite incentive, shall not hold the recognition certificate (which enables the manufacturer to purchase raw, processing and consumable stores without payment of tax for use in manufacture).

During test check of records of Sales Tax Office, Mahuva it was noticed (July 1995) in the assessment of a dealer for the period 1990-91 (finalised in March 1994) that the dealer was granted (September 1991) the benefit of incentive under the composite scheme with retrospective effect from March 1984 though the dealer was holding the recognition certificate from June 1984. This resulted in incorrect grant of incentive benefit of Rs.31.36 lakh.

***The benefit of composite scheme was allowed though the dealer was not eligible***

This was pointed out to the department in October 1995. The department accepted (October 1998) the audit observation and raised the demand for Rs.31.36 lakh. Further details of recovery have not been received (October 1999).

This was reported to Government in March 1999; their reply has not been received (October 1999).

<sup>@</sup> M/s C.K. Gauze Bandage Manufacturing Co. v/s High Court of Gujarat (27-84 STC-571)



(D) Under the schemes, the units are eligible for the benefit of exemption from the payment of tax or for deferment of tax only in respect of goods manufactured by the units for which eligibility certificate is issued to the unit by Industries department and only in respect of process included in the scheme. The process of repacking of any goods is specifically excluded from the incentive schemes.

During test check of records of 3 Sales Tax Offices (Ahmedabad, Mehsana and Surendranagar) it was noticed (between September 1997 and June 1998) in the assessment of 3 dealers for the periods between January 1987 and 1995-96 (finalised between May 1996 and May 1997) that the benefit of exemption of tax was incorrectly granted to 2 dealers in respect of the products which were not included in the eligibility certificates and deferment of tax was allowed to one dealer for the process of repacking of tea. This resulted in incorrect grant of exemption of Rs.31.34 lakh.

*Exemption of Rs. 31.34 lakh was incorrectly allowed in respect of goods not included in eligibility certificate*

The above cases were pointed out to the department in March and December 1998 and to Government in March 1999; their replies have not been received (October 1999).

(E) Under the scheme, a person in the State of Gujarat, who had already availed incentive benefit under any earlier incentive scheme, is not eligible for incentive benefit under any subsequent incentive scheme either for a new industry or for expansion.

During test check of records of Sales Tax Office, Nadiad and Himatnagar it was noticed (September 1995 and 1997) in the assessment of two specified manufacturer for the period 1990-91 to 1993-94 (finalised in July 1994 and February 1997) that though they had availed the benefit of tax exemption under 1981 and 1986 schemes, they were allowed to avail the benefit again for expansion under subsequent schemes. The benefit thus incorrectly allowed amounted to Rs.20.48 lakh.

*Incorrect grant of exemption to 2 units which had availed the incentive benefit earlier resulted in loss of revenue of Rs. 20.48 lakh*

This was pointed out to the department in September 1998 and reported to Government in March 1999; their replies have not been received (October 1999).

(F) Under the scheme of 1986, the specified manufacturer (based on goods and location of Industry) is not entitled to purchase goods at concessional rate or without payment of tax. He is also not entitled to deduction on sales made against any of the prescribed certificates.

During test check of records of 7 Sales Tax Offices \* it was noticed (between April 1997 and July 1998) in nine assessments for the periods between 1989-90 and

\* Bharuch, Vijapur, Kadi, Ahmedabad, Kapadvanj, Junagadh and Dahod



1995-96 (finalised between April 1991 and March 1998) relating to 7 manufacturers, who were holding exemption certificates, that the benefit was allowed on sale of manufactured goods valued at Rs.202.80 lakh against various declarations to 6 dealers and on purchase of raw material valued at Rs.59.17 lakh against declaration, to one manufacturer. Thus the tax of Rs.18.09 lakh payable by the dealers had not been adjusted against their tax exemption limit resulting in excess exemption of tax being allowed to them.

*Non adjustment of tax against ceiling on value of goods purchased/ sold on declaration resulted in excess exemption of Rs. 18.09 lakh*

This was pointed out to the department between August 1997 and July 1998. The department accepted the audit observation amounting to Rs.5.10 lakh in 3 cases. Further action and reply in respect of remaining cases have not been received (October 1999).

This was reported to Government in February 1999; their reply has not been received (October 1999).

(G) During test check of records of 4 Sales Tax Offices it was noticed (between February 1997 and August 1998) in 5 assessments of 4 dealers for the periods between 1991-92 and 1994-95 (finalised between February 1995 and January 1998) that they were allowed excess exemption of Rs.11.16 lakh due to the following irregularities:

*Short levy of tax due to incorrect exemption of Rs.11.16 lakh*

Sr. no.	Place (no of cases)	Amount of excess exemption (Rs. in lakh)	Nature of irregularity
1.	Gondal(2)	6.98	In one case the turnover tax was to be recovered in cash but it was incorrectly allowed to be deferred. In another case the eligibility certificate issued for deferment was effective from September 1993 onwards whereas Sales tax deferment was allowed from April 1993 onwards.
2.	Dn. IVBaroda	3.01	Though a small scale industrial unit was eligible for sales tax exemption of 90 per cent of its capital investment for expansion under 1986 scheme, the unit was incorrectly allowed exemption of 100 per cent of capital investment.
3	Dn. I Nadiad & Ankleshwar (2)	1.17	Excess exemptions were allowed due to incorrect carry forward of exemption in one case and due to purchase of raw material tax free even after exhausting exemption limit in the other case.
Total		11.16	

The above cases were pointed out to the department between June 1997 and September 1998. The department accepted the audit observation amounting to



Rs.10.74 lakh in 4 cases and adjusted an amount of Rs.0.75 lakh in one case against the ceiling limit. In another case the department stated that exemption was allowed by sales tax department on the basis of the eligibility certificate issued by the Industries department. Recovery details in the remaining cases have not been received.

This was reported to Government in March 1999; their reply has not been received ( October 1999).

(H) During test check of records of 8\* Sales Tax Offices it was noticed in the assessment ( finalised between May 1990 and March 1998 ) of 10 dealers holding exemption certificates for the periods between November 1986 and 1996-97 that application of incorrect rate of tax had resulted in short levy of tax of Rs.7.62 lakh.

The above cases were pointed out to the department between August 1997 and October 1998. The department accepted audit observation amounting to Rs.3.96 lakh in 6 cases and adjusted an amount of Rs.3.07 lakh in 4 cases against the ceiling limit. Reply in respect of remaining cases have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

## **2.4 Non recovery of deferred tax**

Under the deferment schemes, a specified manufacturer collects the tax on sale of its products and retains the tax so collected for a prescribed period and after that period pays it to Government in prescribed annual instalments. If the manufacturer discontinues the commercial production at any time within the period of deferment for a period exceeding 12 months, entire amount of tax deferred is recoverable within a period of 60 days from the date of expiry of aforesaid period of twelve months.

During test check of records of 7# Sales Tax Offices it was noticed (between March 1992 and October 1997) in the case of 35 dealers, that the units were either closed or had stopped their commercial production for a period exceeding twelve months but recovery of deferred tax of Rs.498.05 lakh was not effected.

*Deferred tax of Rs. 498.05 lakh was not recovered from 35 dealers, though the units had stopped the commercial production*

The above cases were pointed out to the department between March 1997 and October 1998. The department while accepting the above audit observation stated that though demand notices have been issued in all cases, notices in 5 cases could not be delivered as units were closed and whereabouts of owners were not known. In 14 cases action for recovery under Land Revenue Code was in progress. In the remaining cases replies have not been received ( October 1999).

The above cases were reported to Government in March 1999; their reply has not been received ( October 1999).

\* Bhavnagar, Rajkot, Godhra, Ahmedabad, Khambahat, Surat, Amreli and Prantij.

# Vapi, Gandhinagar, Vyara, Baroda, Godhra, Visnagar and Surendranagar



## 2.5 Non/short levy of purchase tax

(A) The tax on oil seeds is leviable in the hands of the last dealer who uses the oil seeds for extracting oil or sells otherwise than against declaration. Further, purchase tax under Section 15 is leviable on the goods purchased from unregistered dealers if these are not sold.

During test check of records of 6<sup>#</sup> Sales Tax Offices it was noticed (July and August 1998) in the assessment of 43 dealers for the periods between 1992-93 and 1995-96 (finalised between June 1996 and March 1998) that the dealers had purchased unginning cotton from farmers for ginning without payment of tax. The ginned cotton obtained was sold and the cotton seeds valued at Rs.6801.60 lakh obtained from ginning were either used in the manufacture of oil or consigned outside the State. No tax on the oil seeds was levied under Sections 19-B. This resulted in non levy of tax of Rs.240 lakh.

*Though, all the oil seeds are leviable to tax, cotton seeds obtained from cotton after ginning, escapes tax due to lacuna in the provisions of the Act resulting in loss of revenue of Rs. 240 lakh*

The above cases were pointed out to the department between July and December 1998. The department did not agree with the audit observation stating that the dealers had neither purchased the oil seeds nor sold and hence no tax could be levied on the oil seeds under Section 19-B. The cotton seeds obtained by the dealer after ginning the unginning cotton are either sold locally or consigned/transferred to branches outside the State or used by himself in the manufacture of oil. Though tax on oil seeds (cotton seeds) gets recovered when it is sold locally but escapes tax when is utilised in other two processes. Due to lacuna in the provisions of the Act for not providing levy of purchase tax on all oil seeds, which the dealer comes into possession, acquires etc., most of the cotton seeds produced in the State escape from levy of tax though all oil seeds are liable to tax.

This was reported to Government in March 1999; their reply has not been received (October 1999).

(B) Under the provisions of Gujarat Sales Tax Act, 1969, goods are allowed to be sold or purchased tax free or at concessional rate subject to fulfilment of the conditions prescribed for such concessions. In the event of breach of any of the conditions prescribed therein purchase tax is leviable.

During test check of records of 4 Sales Tax Offices it was noticed (between March and November 1998) in the assessment of 8 dealers for the periods between 1993-94

<sup>#</sup> Botad, Kadi, Dist. Dn.3 Ahmedabad, Morvi, Idar and Himatnagar

and 1996-97 (finalised between June 1996 and March 1998) that the dealers had committed breach of prescribed conditions. This resulted in non-realisation of revenue of Rs.78.89 lakh as given below :-

*Purchase tax of Rs. 78.89 lakh, for committing breach of prescribed conditions of declarations, was not levied in the case of 8 dealers*

Sr. no.	Location (No. of dealers)	Taxable turnover (Rs. in lakh)	Short levy	Nature of irregularity
1.	Ahmedabad (3 dealers)	9089.58	41.73	Under the Act, tax is leviable at concessional rate on oil seeds if used in the manufacture of edible oil and sold within the State. Though the dealers had consigned the oil manufactured from the oil seeds outside the State, tax was levied at concessional rate.
2.	Ahmedabad (1 dealer)	115.99	30.80	Under the Act granules of PVC etc. can be purchased at concessional rate but the same should be used in the manufacture. The dealer had purchased plastic granules and sold them after colouring. Since colouring is not a manufacturing process, purchase tax was leviable.
3.	Viramgam, Godhra and Kadi (4 dealers)	181.68	6.36	Under the Act iron and steel purchased against declaration (Form "LL") should be used in the manufacture of iron and steel of any other type described in Entry 5 of Schedule II-A for sale within the State. 2 dealers had purchased "stores and spares" against declaration and remaining 2 dealers consigned/transferred outside the State the goods manufactured out of purchases against declarations. For this breach, purchase tax was leviable but was not levied.
Total		9387.25	78.89	

This was pointed out to the department between March and December 1998 and reported to Government in March 1999; their replies have not been received (October 1999).

(C) Under the Act, where a dealer purchases any taxable goods (other than declared goods) and uses them as raw or processing materials or consumable stores in the manufacture of taxable goods, purchase tax at the prescribed rate is leviable. The purchase tax so levied can be claimed as refund under Rule 42.E of Gujarat Sales Tax Rules 1970, provided the manufactured goods are sold within the State of Gujarat and tax is paid on their sale.



During test check of records of 8 Sales Tax Offices # it was noticed (between January 1997 and November 1998) in the assessment of 11 dealers for the periods between 1988-89 and 1995-96 (finalised between March 1991 and March 1998) that in 7 cases the dealers had transferred 15 to 95 per cent of the manufactured goods to their branches or consigned outside the state, and 3 dealers used 86 to 99 per cent of raw material valued at Rs.30.02 lakh purchased by them, in job work but no purchase tax was levied. In one case purchases valued at Rs.15.61 lakh from a specified manufacturer were excluded from levy of purchase tax though the goods were taxable. This resulted in non levy of purchase tax amounting to Rs.66.79 lakh.

*Purchase tax of Rs. 66.79 lakh was not levied though the goods were consigned/ transferred outside the State or used in job work*

The above cases were pointed out to the department between January 1997 and November 1998. The department accepted the audit observation in 2 cases amounting to Rs.1.16 lakh and raised the demand. Further details of recovery and reply in the remaining cases have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

(D) Under the Act, a recognised dealer, on production of certificate in Form-19, can purchase goods other than prohibited goods without payment of tax for use in the manufacture of taxable goods for sale. In the event of breach of conditions of the declaration, the dealer would be liable to pay purchase tax.

During test check of records of 12\* Sales Tax Offices it was noticed (between January 1995 and October 1998) in the assessment of 13 dealers for the periods between August 1987 and 1995-96 (finalised between May 1993 and June 1997) that dealers had purchased raw materials against Form-19 without payment of tax and used them in the manufacture of goods. Part of the manufactured goods valued at Rs.11356.69 lakh was either branch transferred, sold on declarations without payment of tax or the purchases were used in the process which does not amount to manufacture or used in the manufacture of tax free goods in contravention of the conditions of Form-19. For breach of conditions of the declarations the dealers were liable to pay purchase tax. Further, in the case of 2 dealers goods valued at Rs. 16.49 lakh were purchased from unregistered dealers but purchase tax was not levied. This resulted in short levy of tax of Rs. 36.16 lakh.

*For breach of conditions of Form 19, purchase tax of Rs.36.16 lakh though leviable was not levied*

# 2 of Ahmedabad, Ankleshwar, Bhavnagar, Nadiad, Junagadh, Himatnagar and Jamkhambhalia

\* 7 of Ahmedabad and 1 each of Mehsana, Anand, Ankleshwar, Upleta and Viramgam



The above cases were pointed out to the department between January 1995 and November 1998. The department accepted the audit observation involving an amount of Rs. 3.78 lakh in 5 cases and recovered an amount of Rs. 1.01 lakh in 3 cases. Further details of recovery and reply in the remaining cases have not been received (October 1999).

This was reported to Government in March 1999, their reply has not been received (October 1999).

(E) Under Section 18 of the Act, read with Entry 19 of notification issued under Section 49(2), if the sugarcane purchased by a dealer is used by him in the manufacture of sugar which is exported against export quota fixed by Government of India, purchase tax leviable on sugarcane was exempted. This Section was repealed and a new ordinance called "Gujarat Purchase Tax on Sugarcane Act, 1988" was introduced from 1st October 1987 for the purpose of levy and collection of tax on sugarcane in the State. With the introduction of the new Act, the notification issued under Section 49(2) of Sales Tax Act became defunct from October 1987 but the above entry was deleted only in April 1992.

During test check of records of Sales Tax Office Vyara, it was noticed (September 1992) in the assessment of a dealer for the period 1992-93 (finalised in June 1994) that no purchase tax was levied on 22198 M.T. of sugarcane used in the manufacture of sugar exported outside the territory of India when there was no provision in the new Act for such exemption. This resulted in non levy of purchase tax of Rs.5.33 lakh.

*Purchase tax was not levied on 22198 M.T. of sugarcane used in the manufacture of sugar*

The above case was pointed out to the department in April 1996 and reported to Government in May 1999; their replies have not been received (October 1999).

## **2.6 Incorrect allowance of deduction**

(A) Under the Act, the sales and purchases of certain goods specified in Schedule-I are free from all taxes. Similarly sales made on certain declarations are allowed without payment of tax subject to fulfilment of prescribed conditions. Such sales and purchases are deducted from the gross turnover to compute taxable turnover.

During test check of records of 12 Sales Tax Offices\* it was noticed (between June 1994 and August 1998) in the assessment of 16 dealers for the periods between April 1987 and 1995-96 (finalised between September 1994 and August 1998) that sales valued at Rs.717.03 lakh were incorrectly allowed as deduction though the

*Sales of 16 dealers were incorrectly allowed as deduction from levy of tax resulting in non levy of tax of Rs.68.86 lakh*

\* 7 of Ahmedabad, 2 of Baroda and 1 each of Junagadh, Radhanpur and Kadi



sales were liable to be taxed. Incorrect grant of deduction resulted in non levy of tax of Rs.68.86 lakh . A few illustrative cases are given below:

Sr. no.	Place	Amount of non levy (Rs. in lakh)	Nature of irregularity
1.	Division 2 Baroda	47.16	Deduction was allowed though the dealer had not furnished any proof of payment of tax by his commission agent.
2.	Junagadh	4.47	Deduction, claimed by the dealer as consignment sales was allowed based on the Form 'F' relating to earlier year.
3.	Radhanpur (3 dealers)	2.85	Under Entry 66 of notification issued under Section 49(2) of the Act purchase tax leviable under section 15 is exempted on sale of goods on Form CC. But deduction of sales on oil seeds was allowed on Form CC though tax on oil seeds was leviable under Section 19.B.
4.	District Dn.3 Ahmedabad and Kadi	2.64	Deduction was allowed on the sales made against bogus Form.

The above cases were pointed out to the department between March 1996 and August 1998. The department accepted the audit observation involving an amount of Rs.0.93 lakh in two cases and recovered an amount of Rs. 0.70 lakh.

This was reported to the Government in March 1999; their reply has not been received ( October 1999).

(B) Under the Act, sale of prohibited\* goods against declaration in Form 19 without payment of tax is not permissible.

During test check of records of 5# Sales Tax Offices it was noticed (between August 1996 and September 1998) in the assessment of 5 dealers for the periods between 1990-91 and 1995-96 (finalised between September 1995 and 1997) that sales of prohibited goods§ valued at Rs. 831.05 lakh

made against declarations in Form-19 were incorrectly allowed as deductions from the sales turnover. This resulted in non levy of tax of Rs. 55.96 lakh.

*Sales of prohibited goods were incorrectly allowed as deduction resulting in short levy of Rs. 55.96 lakh*

This was pointed out to the department between December 1996 and November 1998 and reported to Government in March 1999, their replies have not been received (October 1999).

\* Goods which are notified as prohibited for certain purposes

# District Dn.1 and 3 of Ahmedabad, Baroda, Godhra and Rajkot

§ PVC resin, P.P. Granules, Roll and Roller of textile parts, Iron castings, Switchgears and Switchboards and Polythene tubings

## 2.7 Short levy of tax due to mis-classification of goods

According to the Act, tax is leviable at rates as laid down in the Schedules to the Act, depending upon the classification of goods. However, where goods are not covered under any of the Schedules general rate of tax applicable from time to time is leviable.

During the course of test check of records of 13 & Sales Tax Offices, it was noticed in the assessment of 18 dealers for the periods between 1990-91 and 1996-97 (finalised between July 1995 and 1998) that inspite of specific decisions/orders available for classification, sales of various goods valued at Rs.730.71 lakh were mis-classified. This resulted in short levy of tax of Rs.53.03 lakh as per illustrative cases given below:

*There was short levy of tax of Rs.53.03 lakh due to incorrect classification of goods*

Sr. no.	No of. dealers (location)	Nature of commodity	Rate of tax <u>leviable</u> Rate of tax levied	Amount of short levy (Rs. in lakh)	Nature of irregularity
1.	One dealer (Petlad)	B.O.P.P. film	<u>6</u> Nil	17.55	As per Tribunal's decision (92-381 Panch) the item being prohibited goods and classifiable as packing materials, were incorrectly allowed on Form 19 instead of levying tax.
2.	4 dealers (1 each of Rajkot, Ahmedabad, Bhavnagar and Baroda)	Spray pumps and its parts	<u>7 and 14</u> Nil	16.34	As per determination and Public Circular dated 27-9-1993, though the goods were leviable to tax as agricultural machinery and under general entry, the same were allowed tax free treating them as agricultural implements.
3.	1 dealer (Baroda)	Fertilizer	<u>7</u> Nil	4.40	Though tax was leviable on the new product arrived at by mixing different kinds of fertilizers, no tax was levied.
4.	1 dealer (Ahmedabad)	Fabrication	<u>14</u> 7	3.26	Sales of fabricated items were levied to tax as machinery parts instead of levying tax under residual entry.

The above cases were pointed out to the department between September 1996 and January 1999. The department accepted the audit observation involving an amount of Rs.13.53 lakh in two cases and raised the demands. Recovery details and reply in the remaining cases have not been received ( October 1999).

This was reported to Government in May 1999; their reply has not been received ( October 1999).

& 8 of Ahmedabad one each of Baroda, Petlad, Rajkot, Bhavnagar and Surat



## 2.8 Incorrect/excess grant of set-off

(A) Under the Gujarat Sales Tax Rules, 1970, a dealer, who has paid tax on the raw materials used in the manufacture of taxable goods, is allowed set-off from the tax payable on the sale of manufactured goods provided tax is paid on its sale. Further, no set-off is admissible on the tax paid on the purchases of "prohibited goods" as defined in the Act. As per the condition of Rule, 4 per cent of the sale price of the manufactured goods consigned or transferred to branches outside the State is to be deducted from the set-off arrived at.

(i) During test check of records of 11<sup>#</sup> Sales Tax Offices it was noticed (between September 1996 and October 1998) in the assessment of 11 dealers for the periods between 1987-89 and 1995-96 and one case of October 1970 to November 1972 (finalised between August 1994 and March 1998) that the dealers had transferred the manufactured goods to their branches outside the state the set-off to the extent of 4 per cent of the sale price of manufactured goods so transferred was not disallowed. This resulted in excess grant of set-off of Rs.13.39 lakh.

*There was short levy of Rs.32.01 lakh due to incorrect grant of set-off to 25 dealers*

This was pointed out to the department between March 1998 and November 1998. The department accepted the audit observation involving an amount of Rs.5.52 lakh in 6 cases and recovered Rs.1.11 lakh in one case. Further details of recovery and reply in the remaining cases have not been received (October 1999).

This was reported to Government in March 1999; their reply has not been received (October 1999).

(ii) During test check of records of 6<sup>&</sup> Sales Tax Offices it was noticed (between January and October 1998) in the assessment of 6 dealers for the periods between 1991-92 and 1996-97 (finalised between April 1996 and March 1998) that set-off was incorrectly allowed on the purchases of prohibited goods like electric control panel, lubricants, grease, machinery parts, rubber blanket, super enameled copper winding wire, etc. This resulted in incorrect grant of set-off of Rs.10.67 lakh.

This was pointed out to the department between January and December 1998. The department accepted the audit observation involving an amount of Rs.0.37 lakh in one case and recovered the amount. Reply in the remaining cases has not been received (October 1999);

This was reported to Government in March 1999; their reply has not been received (October 1999).

(iii) During test check of records of 8<sup>@</sup> Sales Tax Offices it was noticed (between November 1995 and August 1998) in the assessment of 8 dealers for the periods between 1986-87 and 1996-97 (finalised between March 1995 and February 1998)

<sup>#</sup> 4 of Ahmedabad, Rajkot, Surat, Vapi, Upleta, Kadi, Bharuch and Godhra

<sup>&</sup> 4 of Ahmedabad, Anand and Baroda

<sup>@</sup> 5 of Ahmedabad, Mehsana, Nadiad and Kalol



that excess set-off was allowed due to application of incorrect rate of tax and computation error. This resulted in excess grant of set-off of Rs.7.95 lakh.

The above cases were pointed out to the department between April 1996 and October 1998. The department accepted the audit observation involving an amount of Rs.1.18 lakh in 3 cases and recovered Rs.1.09 lakh in 3 cases. Further details of recovery and reply in the remaining cases have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

(B) Under Rule 42 E, set-off of purchase tax is admissible when the goods so manufactured are sold in the State. When the goods so manufactured are transferred to the branches/ consigned outside the State, proportionate set-off to the extent branch transferred is required to be disallowed.

During test check of records of 6<sup>#</sup> Sales Tax Offices it was noticed (between March 1997 and July 1998) in the assessment of 6 dealers for the periods between October 1987 and 1994-95 (finalised between May 1995 and March 1997) that though the dealers had transferred the manufactured goods to their branches outside the State, the set-off to that extent was not disallowed. Further in one case set-off under Rule 44 was allowed in respect of goods sold outside the State beyond 18 to 24 months against admissible period of 12 months of its purchase. This resulted in excess grant of set-off of Rs.26.06 lakh.

*Set-off in proportion to the goods transferred to branches was not disallowed resulting in short levy of Rs.26.06 lakh*

This was pointed out to the department between June 1997 and October 1998. The department accepted the audit observation in one case and recovered Rs.0.45 lakh. Reply in the remaining cases has not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

## **2.9 Incorrect determination of turnover**

Under Section 2(29) of the Act, sale price includes the amount of valuable consideration paid or payable to a dealer for any sale. Charges for freight or delivery or installation or any other services which are attributable to the stage upto the completion of the sale would be component of the valuable consideration of the goods.

During test check of records of 8<sup>#</sup> Sales Tax Offices, it was noticed (between September 1994 and January 1998) in the assessment of 8 dealers for the periods

<sup>#</sup> Surat, Flying Squad Ahmedabad, Kalol, Rajkot, Dhoraji and Surendranagar

<sup>#</sup> 2 of Surat, Bhavnagar, Junagadh, Veraval, Viramgam, Ahmedabad, Mehsana



between 1989-90 and 1997-98 (finalised between April 1993 and March 1997) that due to non-inclusion of certain charges, the taxable turnovers of the dealers were determined less to the extent of Rs.628.20 lakh. This resulted in short levy of tax of Rs.59.41 lakh.

*Non-inclusion of certain charges in the taxable turnover resulted in short levy of Rs.59.41 lakh*

The cases were pointed out to the department between April 1996 and January 1998. The department accepted the audit observation involving an amount of Rs.0.47 lakh in one case. The recovery details and reply in the remaining cases have not been received ( October 1999).

This was reported to Government in May 1999; their reply has not been received ( October 1999).

## 2.10 Short levy of Central Sales Tax

Under Sections 8(1) and 8(4) of Central Sales Tax Act, 1956, production of 'C' form is mandatory for availing the benefit of concessional rate of tax. In the event of failure to produce 'C' forms, tax shall be levied at twice the rate in respect of declared goods and at the rate of 10 per cent or at the rate applicable for such goods inside the State whichever is higher in respect of other goods.

During test check of records of 5<sup>@</sup> Sales Tax Offices it was noticed (between October 1993 and September 1998) in the assessment of 6 dealers for the periods between January 1988 and March 1995 (finalised between November 1992 and July 1997) that sales valued at Rs.166.34 lakh were levied at concessional rate either without the production of 'C' forms or on invalid 'C' forms issued by a dealer not holding registration certificate. This resulted in short recovery of Rs.23.57 lakh.

*Central sales tax of Rs.23.57 lakh was levied short due to incorrect application of concessional rate*

The above cases were pointed out to the department between May 1996 and January 1999. The department accepted the audit observation in one case and recovered the amount of Rs.0.19 lakh. Reply in the remaining cases has not been received ( October 1999).

This was reported to Government in May 1999; their reply has not been received ( October 1999).

<sup>@</sup> 2 of Ahmedabad, Junagadh, Surat and Porbandar

## 2.11 Non-levy of penalty

Under Section 45(6) of Gujarat Sales Tax Act, 1969, where the amount of tax assessed or reassessed exceeds the amount of tax paid alongwith returns by a dealer by more than 25 per cent, penalty at the slab rates would be leviable.

During test check of records of Sales Tax Offices it was noticed (between February 1997 and July 1998) in 42 assessments of 29 <sup>#</sup> dealers for the assessment periods between April 1990 and August 1997 (finalised between February 1993 and March 1998) that though the difference between the tax assessed and tax paid with returns exceeded 25 per cent, no penalty was levied. In 8 cases the tax paid (Rs.16.53 lakh) by the dealers in lumpsum just before the assessment was incorrectly considered for working out the liability for levy of penalty though tax paid with the returns only was required to be considered. This resulted in non-levy of penalty of Rs.59.42 lakh.

*There was short levy of Rs.59.42 lakh due to incorrect computation of penalty*

The above cases were pointed out to the department between October 1997 and November 1998. The department accepted the audit observations involving an amount of Rs.4.61 lakh in 5 cases and recovered Rs.1.35 lakh in one case. In respect of remaining cases reply has not been received (October 1999).

This was reported to Government in May 1999; their reply has not been received (October 1999).

## 2.12 Non/short levy of interest

Under the Act, if a dealer does not pay the amount of tax within the prescribed period, simple interest at the rate of 24 per cent per annum is leviable on the amount of the tax not paid or any amount thereof remaining unpaid for the period of default.

During test check of records of 6<sup>s</sup> Sales Tax Offices, it was noticed (between January 1996 and September 1998) in the assessments of 7 dealers for the periods between January 1988 and March 1995 (finalised between June 1994 and February 1998) that interest amounting to Rs.28.30 lakh was either not levied or levied short on the amount of tax due and remained unpaid on the finalisation of the assessments.

*Interest was either not levied or levied short in the assessment of 7 dealers resulting in short levy of Rs.28.30 lakh*

The above cases were pointed out to the department between January 1996 and October 1998. The department accepted the audit observation involving an amount of

<sup>#</sup> 9 of Ahmedabad, 5 of Vadodara, two each of Kadi, Godhra, Nadiad, Rajkot and Vapi and One each of Anand, Bhuj, Bharuch, Surendranagar and Visnagar

<sup>s</sup> Ahmedabad, Baroda, Surat, Mehsana, Godhra and Kadi



Rs.10.85 lakh and recovered Rs.1.38 lakh. Recovery details and replies in respect of remaining cases have not been received ( October 1999).

This was reported to Government in May 1999, their reply has not been received ( October 1999).

### **2.13 Non/short levy of turnover tax.**

Under Section 10-A of the Act, where the turnover of all sales of a dealer liable to pay tax under Section 3, first exceeds Rs. 50 lakh the dealer is liable to pay turnover tax at prescribed rate on the turnover of sales of goods after allowing permissible deductions under the Act. From April 1993 sales made against various declarations were excluded from the items of permissible deductions making such sales liable for levy of turnover tax. Further while working out the liability and applicability of rate of turnover tax, the taxable sales turnover in aggregate of all the branches of the dealer within the State is to be considered.

(i) During test check of records of 8<sup>#</sup> Sales Tax Offices, it was noticed (between March 1997 and October 1998) in the assessment of 9 dealers for the periods between 1993-94 and 1995-96 (finalised between December 1995 and March 1998) that deduction of sales made against various declarations (Form 17A, 19 and 34 etc.) were allowed though such sales were required to be considered for working out the liability and for levy of turnover tax. This resulted in non/short levy of turnover tax of Rs.13.49 lakh.

*Non inclusion of sales made on forms, incorrect computation of turnover and non consideration of sales of all the branches of the dealer for computing taxable turnover for levy of turnover tax resulted in short levy of Rs.29.47 lakh.*

This was pointed out to the department between July 1997 and November 1998. The department accepted the audit observation involving an amount of Rs. 2.91 lakh in 5 cases and recovered Rs. 0.94 lakh in 3 cases. Recovery details and reply in the remaining cases have not been received (October 1999).

This was reported to Government in April 1999; their reply has not been received ( October 1999).

(ii) During test check of records of 7<sup>\*</sup> Sales Tax Offices it was noticed (between July 1997 and 1998) in the assessment of 7 dealers for the periods between 1991-92 and 1996-97 (finalised between October 1996 and March 1998) that due to incorrect computation of turnover, turnover fell below the taxable limit. This resulted in non levy of turnover tax of Rs. 8.51 lakh.

<sup>#</sup> 5 of Ahmedabad, Porbandar, Ankleshwar and Surat

<sup>\*</sup> 2 of Ahmedabad, Dahod, Khambhat, Mehsana, Anand and Bharuch



The above cases were pointed out to the department between September 1997 and December 1998. The department accepted the audit observation involving an amount of Rs. 3.11 lakh in 4 cases and recovered Rs. 1.08 lakh in 2 cases. Further details of recovery and reply in the remaining cases have not been received (October 1999).

This was reported to Government in April 1999, their reply has not been received (October 1999).

(iii) During test check of records of 2 Sales Tax Offices (Ahmedabad and Surat) it was noticed (between January and March 1998) in the assessment of 3 dealers for the periods between 1991-92 and 1995-96 (finalised during 1996-97) that the turnover of sales of all the branches of the dealer in the State was not considered for levy of turnover tax. This resulted in short levy of turnover tax of Rs. 7.47 lakh.

This was pointed out to the department between August 1998 and November 1998. The department accepted the audit observation involving an amount of Rs.5.05 lakh in one case and recovered the amount.

This was reported to Government in April 1999, their reply has not been received (October 1999).

## **2.14 Incorrect allowance of concessional rate of tax**

As per entry 10 of Notification dated 31st March 1993 issued under Section 49(2) of the Gujarat Sales Tax Act, 1969, tax is leviable at a concessional rate of 3 per cent on the sales of granules or resins of PVC, HDPE, LDPE and LLDPE made by a registered dealer. Further, tax on various goods is leviable at the rate prescribed in the Schedules to the Act. However where goods are not covered under any of the Schedules general rate of tax applicable from time to time is leviable.

(i) During test check of records of 6 # Sales Tax Offices it was noticed (between January 1998 and November 1998) in the assessment of 9 dealers for the periods between 1993-94 and 1995-96 (finalised between May 1996 and December 1997) that sales of Poly Propylene Granules, PVC Compound and reprocessed plastic granules valued at Rs.99.49 lakh were allowed at concessional rate of 3 per cent although these items are not covered by the above notification. This resulted in short levy of tax of Rs.21.50 lakh including interest and penalty.

*Incorrect application  
of concessional rate  
resulted in short levy  
of Rs. 21.50 lakh*

The above cases were pointed out to the department between March 1998 and December 1998. The department stated that these items were manufactured from plastic waste which also contains elements of HDPE, LDPE, etc. Department's reply is not acceptable as the notification specifically mentions the items which are eligible for concessional rate of tax and these items are not mentioned in the notification.

# Valsad, Dist. Division I, II and Division IX of Ahmedabad, Bharuch and Godhra



This was reported to Government in March 1999; their reply has not been received ( October 1999).

(ii) During test check of records of 5 Sales Tax Offices<sup>@</sup> it was noticed (between July 1994 and November 1998) in the assessment of 5 dealers for the periods between November 1986 and 1995-96 (finalised between February 1994 and March 1998) that in 4 cases tax was levied at the incorrect rate on sales valued at Rs.1220.75 lakh and in one case tax was levied at concessional rate on purchases against Form 20 though the dealer was not a specified manufacturer. This resulted in short levy of tax of Rs.5.80 lakh.

The above cases were pointed out to the department between July 1994 and November 1998. The department accepted the audit observation involving an amount of Rs.2.53 lakh in three cases and recovered Rs.0.68 lakh in one case. Further details of recovery and reply in the remaining cases have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

## **2.15 Other irregularities**

(A) Under the Act, every dealer liable to pay tax under the Act is required to maintain complete books of accounts of his business.

During test check of records of Assistant Commissioner (Enforcement) Bhavnagar, it was noticed (January 1998) in the assessment of a dealer (manufacturer of oil and de-oiled cakes) for the period 1993-94 (finalised in December 1996) that purchases of oil cakes valued at Rs.222.87 lakh were claimed as purchases from agencies outside the State. On investigation by Enforcement Officer these dealers were not found in existence, and purchases were treated as purchases from URD<sup>#</sup> and assessed accordingly. As the value of taxable goods sold or purchased in a year by a dealer should not exceed Rs.5000 to remain as an un-registered dealer purchases of oil cakes valued at Rs.222.87 lakh could be possible not from one dealer but from a minimum of 4458 URD which did not appear to be practical. Further, oil cakes could be produced only by an oil miller during extraction of oil, purchases of oil cakes in such huge quantity could not have been made from any where else i.e. other than an oil miller. Since the dealer himself is a manufacturer of oil, the oil cakes must have been produced by himself i.e. the dealer had concealed purchases and sales of oil seeds

*Tax of Rs.164.58 lakh was evaded by an oil miller on purchases of oil seeds and oil extracted by declaring oil cakes as purchases from outside the State from a non-existing dealer*

<sup>@</sup> Bhuj, Surat, Ahmedabad, Rajkot and Navsari

<sup>#</sup> URD (Un-registered dealer)

and oil extracted respectively to evade the tax. The entire quantity of oil cakes, therefore, should have been treated as manufactured by the dealer himself and tax should have been levied on the ground nut used and oil extracted. On the basis of quantity of oil cakes found with the dealer, the possible tax evasion on the oil seeds consumed and oil extracted and sold by the oil miller amounted to Rs.164.58 lakh.

This was pointed out to the department in February 1998 and to the Government in May 1999; their replies have not been received.

(B) Under the Act, a dealer engaged in works contract is permitted to pay, a lumpsum by way of composition, tax at the rate fixed by Government from time to time on the total value of the contract. The option to pay the lumpsum tax is required to be exercised within a period of 30 days from the date of beginning of the contract. The rate of lumpsum tax was 2 per cent upto 31 March 1993 and was revised from April 1993 prescribing different rates for different types of works contract taking into account the type of materials used.

During test check of records of 5<sup>#</sup> Sales Tax Offices it was noticed (between May 1994 and June 1998) in the assessment of 6 dealers for the periods between January 1988 and March 1997 (finalised between February 1994 and December 1997) that in 2 cases, instead of levying tax at the rate of 2 per cent on the entire value of the contract, tax was levied after deducting labour charges in one case and resale in other case. In another 2 cases though the dealers had not exercised any valid options, their cases were regulated by charging composite tax at 2 per cent. In 2 cases sales of cement poles were incorrectly treated as works contract instead of treating it as sale as held by Tribunal\*. This resulted in short levy of tax of Rs.48.04 lakh.

*Incorrect application of  
rate in works contracts  
resulted in short levy of  
Rs.48.04 lakh*

This was pointed out to the department between April 1996 and December 1998 and reported to Government in May 1999; their replies have not been received (October 1999).

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<sup>#</sup> Rajkot, Baroda, Valsad, Ahmedabad and Vyara

\* SA 193 and 233/88 decided on 31-5-95 in the case of G.P. Prestressed concrete works



## Chapter - III

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Land Revenue





### LAND REVENUE

#### 3.1 Results of Audit

Test check of records in the offices of the District Development Officers, Taluka Development Officers, District Inspectors of Land records and City Survey Superintendents conducted in audit during the year 1998-99, disclosed non/short recovery and losses of revenue amounting to Rs.7890.65 lakh in 187 cases. These cases broadly fall under the following categories :

Sl. No.	Categories	Number of cases	Amount (Rs. in lakh)
1.	Non/short recovery of conversion tax	38	97.40
2.	Non-raising of demand for non-agricultural assessment	99	48.45
3.	Non/short levy of occupancy price	4	42.61
4.	Other irregularities	46	226.85
5.	Review on assessment and collection of land revenue		7475.34
	Total	187	7890.65

During the year 1998-99, the department accepted under assessment, etc. of Rs.6256.07 lakh in 85 cases and recovered Rs.23.41 lakh in 81 cases. Out of these, one case amounting to Rs.0.21 lakh was pointed out during the year 1998-99 and the rest in earlier years. The results of a review on "Assessment and Collection of Land Revenue" and a few illustrative cases highlighting important audit observations involving Rs.8144.37 lakh are given in the following paragraphs.

#### 3.2 Assessment and Collection of Land Revenue

##### 3.2.1 Introductory

Under the Bombay Land Revenue Code, 1879 (as applicable to Gujarat), land revenue is leviable on all lands. Agricultural assessment fixed by Government during revenue settlement, is leviable on land for agricultural use. The non-agricultural assessment is levied depending upon the population of habitation/village and the mode of use of land viz. residential, industrial, commercial. The demands of land revenue including occupancy price, premia on sales of land, fine *etc.*, are watched at village and taluka level through various records/forms as prescribed in Revenue Accounts Manual.

Under Section 152 of the Code, a notice of demand is to be issued to the defaulter for recovery of arrears of revenue, while under Section 154 and 155 the Collector may also cause sale of the defaulter's movable/ immovable properties for recovery of arrears of land revenue.

### **3.2.2 Organisational set-up**

At State level, Revenue Department is the controlling department. Initial accounts of land revenue are maintained by Talatis. Consolidation of accounts and control over demand and collection of land revenue are dealt with by District Development Officers in respect of rural areas and by Collectors in respect of urban areas.

### **3.2.3 Scope of Audit**

With a view to ascertain the correctness of assessments and collection of land revenue alongwith the reasons for its accumulation and the effectiveness of the department in ensuring its recovery, records of 13 \* out of 25 districts and 47 out of 223 talukas for the years 1994-95 to 1997-98 were test checked between November 1998 and June 1999. Results of the review are given in the subsequent paragraphs.

### **3.2.4 Highlights**

(1) Due to ineffective action for recovery, the arrears of land revenue increased from Rs.45.58 crore in 1993-94 to Rs.54.05 crore in 1996-97.

(Para 3.2.5(ii))

(2) Grant of exemption from payment of land revenue to agriculturist in respect of agricultural land by Government without approval of legislature resulted in loss of revenue of Rs.31.19 crore.

(Para 3.2.6)

(3) Transfer of land granted on lease to a trust without permission of Government and without payment of premium resulted in loss of revenue of Rs.16.04 crore.

(Para 3.2.7(i))

(4) Non-agricultural assessment and local fund cess were levied at incorrect rates resulting in short levy of land revenue of Rs.9.69 crore.

(Para 3.2.8)

(5) Occupancy price amounting to Rs.9.33crore including interest of Rs.3.14 crore was not recovered.

(Para 3.2.9)

(6) Demands for conversion tax, NAA and penalty of Rs.5.22 crore including interest of Rs.10.01 lakh were not raised through taluka forms.

(Para 3.2.10)

(7) Non -utilisation of land allotted as revenue free to a trust resulted in loss of revenue of Rs.1.02 crore on account of occupancy price, premium and conversion tax.

(Para 3.2.12)

(8) Local fund cess amounting to Rs.24.19 lakh was not levied.

(Para 3.2.14)

\* Ahmedabad, Baroda, Surat, Rajkot, Jamnagar, Junagadh, Bharuch, Valsad, Kheda, Mehsana, Amreli, Porbandar and Gandhinagar.



### 3.2.5(i) Trend of revenue

The position of budget estimates and actuals relating to collection of land revenue of the State for the period from 1994-95 to 1997-98 was as under:

Sr. no.	Year	Budget estimates	Actuals	Variations (+)excess (-)shortfall	Percentage of variation
<----- (Rupees in crore) ----->					
1.	1994-95	55.50	60.75	(+) 5.25	09
2.	1995-96	66.80	77.48	(+)10.68	16
3.	1996-97	83.70	87.58	(+) 3.88	05
4.	1997-98	73.00	75.13	(+) 2.13	03

The decrease in the budget estimates as well as actuals in 1997-98 was due to exemption of agricultural land from revenue with effect from 1 August 1997.

### (ii) Analysis of demands, collection and arrears

The year-wise position of demands, collection, balance and percentage of recovery from 1994-95 to 1997-98 was as follows:

Year to which revenue relates	Demands		Collection		Outstanding		Percentage of collection to demand	
	Previous Years	Current Year	Previous Years	Current Year	Previous Years	Current Year	Previous Years	Current Year
<----- (Rupees in crore) ----->								
1994-95	45.58	33.77	10.49	19.52	35.09	14.25	23	58
1995-96	49.34	30.76	12.11	19.27	37.23	11.49	25	63
1996-97	53.87x *	33.41	12.42	20.81	41.45	12.60	23	62
1997-98	54.05		Figures awaited					

It would be seen that the percentage of collection of demands of previous years was less as compared to that of current year. Effective measures need to be taken by the department for collection of outstanding demands of the previous years.

### 3.2.6 Incorrect exemptions of land revenue on agricultural lands

Government of Gujarat exempted land revenue on agricultural lands belonging to cultivators with effect from 1 August 1997 without the approval of the legislature. Considering that the land revenue can be exempted by the Government through an act of legislature as required under Section 45 of the Code, action of the Government in exempting land revenue was irregular. The Government intimated that the expected

\* The opening balance of demands of previous year does not agree with the closing balance of 1995-96. No satisfactory explanation was given by the department for the same.

loss of land revenue on account of the exemption was estimated to be Rs.31.19 crore for the year 1997-98. The actual figures are yet to be finalised (July 1999).

### **3.2.7 Transfer of land without permission and without payment of premium**

Under Section 73B of the Code, read with Section 43 of the Bombay Tenancy and Agricultural Lands Act, 1948 (as applicable to Gujarat) and Resolution (May 1980) of the Government when Government land is leased to any tenant, it cannot be sold or sub-leased to any other tenant or sub-lessee without the prior permission of the Government and without payment of premium at 50 *per cent* of the differential amount of market value and occupancy price paid, if any.

(i) Test check of records maintained by the Collector, Junagadh and Taluka Development Officer, Veraval, it was noticed (May 1999) that Government land measuring 509 acres (20.60 lakh square metres) of various survey numbers of Veraval, Patan and other villages was leased (June 1955) for 999 years to a Trust for carrying out trust activities at Somnath (Veraval) by the erstwhile Saurashtra Government. The trust obtained the permission (October 1968) for non-agricultural use of 720130 sq. mts. of land and sold the land to various parties for residential purpose. Further, the trust had sub leased (August 1979) the land measuring 8735 sq.mts., which was further sub-leased to another party by the sub-lessee (June 1997). For violation of the condition of allotment of land, the Collector/ Department should have recovered the premium.

Failure on the part of the Collector to recover the premium on the misused land of 728865 sq. mts. (value Rs.3207.04 lakh) by the trust resulted in non levy of premium of Rs.1603.52 lakh.

(ii) Government decided (July 1983) to permit the land holders, holding the land under the new and restricted tenure under Bombay Tenancy and Agricultural Lands Act, 1948, to sell/transfer their land subject to payment of premium computed on the difference between the estimated sale price and the occupancy price recovered at the time of allotment of land (difference on actual sale price to be made later). The rate of premium recoverable was based on the period for which the land was held and the purpose for which the same was used.

It was observed that land measuring 14873 square metres was held by eight persons in various survey numbers under new and restricted tenure at Nadiad. These persons approached the Collector and obtained permission (1991) for conversion of this land into old tenure and also obtained permission for non-agriculture use. This land was later sold to different parties without payment of any premium. Though, before issue of orders converting the land held under new and restricted tenure into old tenure premium at the rate of 70 per cent of market price was recoverable from the land holder, no premium was recovered by the Collector. This resulted in non levy of premium of Rs.20.82 lakh.



### 3 2.8 Short recovery of land revenue due to levy of non-agricultural assessment at pre-revised rates/incorrect rates

Under the Gujarat Land Revenue Rules, 1972, the Collectors by issue of notification from time to time classify/re-classify the cities, towns and villages into 5 categories (A to E) for the purpose of determining the rates of non-agricultural assessment. These rates were revised from 1 August, 1976 by the Government and were further revised from 1 August 1989 by a notification issued in April 1992. In addition to land revenue, local fund cess and education cess at the prescribed rates are also leviable.

It was observed that though some cities, towns and villages were re-classified but the non-agricultural assessment continued to be levied at the pre-revised rates/ on the basis of old classification which resulted in short recovery of revenue amounting to Rs.969.29 lakh in 70 cases from 1969-70 to 1997-98.

Sr. no.	Name of office/unit No. of cases	Area of land (sq. metres in lakh)	Period	Amount of short recovery (Rs.in lakh)
1.	DDO Jamnagar (Mithapur) (1 case)	220.18	1-8-89 to 31-7-98	132.81
2.	DDO Valsad (Atul) (1 case)	26.26	1-8-76 to 31-7-98	44.66 35.21
3.	11 districts (31 cases)	N.A.	1976-77 to 1997-98	574.11
4.	6 districts (33 cases)	184.58	1969-70 to 1997-98	166.01
5.	DDO Jamnagar and Surat (2 cases)	17.73	1991-92 to 1997-98	7.09
6.	Collector Mehsana, Mamlatdar Kadi (Kadi and Visnagar Towns)(2 cases)	23.57	1-8-91 to 31-7-98	9.40
		Total		969.29

The cases were reported to the department (between November, 1998 and June, 1999) and to the Government (July 1999). Their replies have not been received (July 1999).

### 3.2.9 Non-raising of demand for occupancy price and interest

Under the Code and Rules made thereunder, Government can dispose off available land to needy persons subject to payment of occupancy price and on terms and conditions as may be specified by the Government.

(a) Land measuring 402375 square metres of Jambudia village (Morbi Taluka) was allotted (October, 1993) to a Government company with effect from 1 October 1993. The occupancy price of Rs.189.12 lakh was fixed (January 1997) at Rs.47 per square

metre by the Collector, Rajkot, which was recoverable within 30 days. As per sanction order interest at the rate of 15 per cent per annum on occupancy price was recoverable from October 1993 to the date of payment of the occupancy price. The company had however not paid the occupancy price so far (July 1999). This resulted in non-recovery of land revenue of Rs.189.12 lakh and interest of Rs. 165.48 lakh (up to July 1999).

(b) Government allotted (February 1998) land measuring 4.32 lakh square metres at Koba village of Gandhinagar taluka to Indian Air Force for which the occupancy price of Rs.323.63 lakh was recoverable. Further, cost of 26700 trees amounting to Rs.8.01 lakh was also recoverable. No demands for recovery of occupancy price and cost of trees were raised resulting in non-recovery of Rs.331.64 lakh. Besides, non-agricultural assessment and other cesses leviable worked out to Rs.0.65 lakh.

(c) (i) Land measuring 67140 square metres of old tenure and 49043 square metres of new and restricted tenure# were acquired and allotted to a co-operative housing society in 1984-85 for non-agricultural purpose. The occupancy price amounting to Rs.23.24 lakh was not recovered on this land.

(ii) Land measuring 2.68 lakh square metres of old tenure and 105737 square metres of new and restricted tenure were acquired and allotted in 1987-88 to the Ahmedabad Urban Development Authority for development for non-agricultural purpose. The occupancy price amounting to Rs.74.65 lakh was not recovered.

(iii) The Government decided (March 1997) that the amount of land revenue outstanding as on 31 July 1996 against Gujarat Industrial Development Corporation would be treated as loan recoverable in 10 equal instalments alongwith eighteen per cent interest.

In the offices of the Collectors and District Development Officers, interest on land revenue amounting to Rs.274.83 lakh outstanding as on 31 July 1996 and treated as loan was not levied. This resulted in non-levy of interest of Rs. 148.41 lakh for the period 1996-97 to 1998-99.

(d) Under the Code, Government can dispose off available lands to needy persons for cultivation and for any other purpose, on payment of occupancy price subject to such terms and conditions as may be specified.

During test check of the records of Taluka Development Office, Rajkot it was noticed (October 1998) that land measuring 80557 sq. mtrs at Mota Mahuva village, was allotted to RUDA\* in August 1988 subject to payment of occupancy price of Rs.28.19 lakh in five annual instalments commencing from December 1992. Interest at the rate of 5 per cent per annum was chargeable for delayed/non payment. Neither

*No demand was raised either for recovery of occupancy price or for interest resulting in non-recovery of Rs.36.65 lakh*

# Under new and restricted tenure land can not be transferred by sale, gift, exchange, mortgage, lease, assignment or partition without previous sanction of Collector and without payment of premium to Government.

\* Rajkot Urban Development Authority



the RUDA paid the amount nor the demand was raised either for occupancy price or for interest. This resulted in non recovery of occupancy price amounting to Rs.36.65 lakh including interest for the period from December 1992 to December 1998.

This was pointed out to the department in October 1998, and to Government in March 1999, their replies have not been received ( October 1999).

### 3.2.10 Non-inclusion of demands in revenue accounts

Under the Gujarat Land Revenue Rules, 1972, the Talatis are required to maintain village records to raise the demands of land revenue as determined by the Collector and to recover the same.

It was seen that in the following cases demands of land revenue were not included by the concerned officials in the respective records. Consequently the demand amounting to Rs. 521.77 lakh could not be raised resulting in non recovery of the revenue.

Sr. no.	Name of the office/unit (period of demand)	Area of land (sq. metres in lakh)	Nature of demand	Amount (Rs. in lakh)
1.	Deputy Collector (NA)  Ahmedabad (Upto 31st July 1998)	N.A.	Conversion tax and penalty	241.00
2.	Collector, Ahmedabad  (December 1997 to July 1998)	2.20	Occupancy price and interest	153.01
3.	Talati/City Survey Superintendent Jamnagar (1997-98)	N.A.	N.A.A. / Local fund cess and arrears	40.00
4.	TDO Rajula (1997-98)	34.99	Lease rent N.A.A. and Local fund cess	12.31
5.	TDO Lakhpat (Between 1972-73 and 1997-98)	178.89	N.A.A and other dues	69.25
6.	Talati Bhestan (Surat District) Anandpur (Rajkot District)	2.65	N.A.A.	6.20
Total				521.77

The above cases were pointed out to the department between November 1988 and June 1999. The department accepted the audit observation involving an amount of Rs. 521.77 lakh. Recovery details have not been received ( October 1999).

This was reported to Government in July 1999; their reply has not been received ( October 1999).

### **3.2.11 Non-finalisation of encroachment cases**

When Government land is encroached upon and the Collector decides to grant the land to the encroacher, the occupancy price recoverable shall be two and half times of the normal occupancy price fixed by the Collector in accordance with the Government Resolution dated 1 March 1960, as amended in November 1966.

(a) Land measuring 47854 square metres of survey no.44 of Navagadh, Taluka Jetpur, was encroached upon by 366 persons in 1984. The department had not finalised these cases so far. The failure of department to finalise these cases resulted in non-recovery of occupancy price of Rs.149.54 lakh.

(b) From the records of various offices of the Collector and District Development Officer selected for audit, it was noticed that as on 31 July 1998, 53175 cases of encroachment on Government land were outstanding for finalisation. The department did not have full details of these cases so as to work out the amount recoverable on account of occupancy price. Effective steps have not been taken for finalisation of these outstanding cases.

### **3.2.12 Loss of revenue on account of idle and encroached land**

Under the Code, Government can dispose off available land to needy persons for cultivation and for any other purposes on payment of occupancy price subject to such terms and conditions as may be specified by the Government.

Land measuring 1.22 lakh square metres in village Nadiad was acquired and allotted to a trust (Sardar Vallabhbhai Samaj Seva Trust) for carrying out trust activities during 1975-76. A portion of land measuring 53216 sq. mts. is lying idle from the beginning (part of the land is in occupation of unauthorised persons). In October 1988, land measuring 38345 square metres (value Rs.19.54 lakh) was taken back by Government and allotted to Gujarat Slum Clearance Board, leaving 83163 square metres of land with the trust. Since the trust is utilising only a portion of the land (28733 sq.mts.) granted to it, the Government should have taken back the remaining portion of land lying idle with the trust (unutilised for the purpose for which it was granted) and allotted to needy persons. Had the Government taken the proper action Government would have earned a revenue of Rs. 101.70 lakh on account of occupancy price, premium and conversion tax in addition to land revenue every year.

### **3.2.13 Short levy of conversion tax and non-agricultural assessment**

Under the Code, the conversion tax is payable on change in mode of use of the land from agricultural to non-agricultural purposes or from one non-agricultural purpose to another in respect of land situated in a city/ town including its peripheral areas falling within five/one kilometres. Different rates of conversion tax are prescribed for residential, industrial and commercial/other uses depending upon the population of the city or town.



(a) It was seen from the records of the District Development Officer, Baroda that a film producer purchased (July 1997) agricultural land measuring 1.20 lakh square metres in Sayajipura village of Baroda taluka for building a film studio and applied for non agricultural permission for the entire land. Since the Vadodara Urban Development Authority had given permission for construction in a built up area of 5843.86 sq. mts. viz. 5 per cent of total land, the District Development Officer gave permission (June 1998) for non agricultural use only in respect of 5843.86 sq. mts. of land and recovered conversion tax accordingly. Though construction of film studio was restricted within the built up area of 5843.86 sq. mts., the entire land was to be utilised by the film producer for other non agricultural activities viz. swimming pool, open air theatre, mini theatre, fountain and other activities connected with film production, entire land should have been converted into non agricultural land and conversion tax recovered accordingly. This resulted in short levy of conversion tax and non-agricultural assessment to the extent of Rs.16.88 lakh.

(b) On scrutiny of the records of District Development Officer, Amreli, Collector, Mehsana and four Taluka Development Officers, it was seen that in six cases on 12.34 lakh square metres of land converted for non-agricultural purposes during the period between 1988-89 and 1997-98 the conversion tax was levied at incorrect rates. This resulted in short levy of conversion tax of Rs.15.44 lakh.

### **3.2.14 Non-levy of local fund cess**

Under Section 169 of the Gujarat Panchayat Act, 1961 local fund cess at the prescribed rate is leviable on all the amounts of land revenue levied.

It was seen from the records of District Development Officer, Baroda that the Gujarat State Fertilizers Corporation held land in Dasrath village which falls under the peripheral area of Baroda city. Hence, on the annual non-agricultural assessment of Rs. 1.15 lakh, the local fund cess at 300 per cent for the period from 1991-92 to 1997-98 amounting to Rs. 24.19 lakh was leviable but not levied.

The above points were brought to the notice of the department (between November 1998 and June 1999) and to the Government in July 1999; their replies have not been received (October 1999).

### **3.3 Non-recovery of premium and fine for breach of conditions**

(A) Under the Bombay Tenancy and Agricultural Lands Act, 1948 as applicable to Gujarat land held under new and restricted tenure cannot be transferred, sold or used for non agricultural purposes without prior permission of the Collector/District Development Officer (D.D.O.). The Collector/D.D.O. may give such permission after charging premium price, calculated at the rates prescribed by the Government. As per the Government notification of December 1976 read with notification of January 1984 for the purpose of fixing the premium amount the market price fixed with reference to valuation done older than six months should not be adopted. A vigil on unauthorised



conversion of land is required to be kept by the revenue officials. Further, fine to the extent of forty times of non-agricultural assessment is also leviable in case of unauthorised use of land and breach of conditions of allotment of land.

(i) During test check of records of the District Development Officer, Surat it was noticed (January 1998) that while investigating the complaint received in February 1997 regarding unauthorised use of land admeasuring 925 sq.ft. as theatre, another unauthorised transfer of land admeasuring 32780 sq.mts. (new and restricted tenure) to different persons during 1991 came to the notice of the department. These lands were converted into housing units by the purchasers. Though the D.D.O. ordered to clear the land in respect of land measuring 925 sq.ft. no action either for clearance of unauthorised construction or for the regularisation after recovering the premium price was taken in respect of the remaining portion of the land. This resulted in non recovery of Rs. 1.15 crore as premium price. Revenue officials posted in field areas did not notice these developments over a period of time till a complaint from a private person brought out these irregularities.

*Non clearance of unauthorised transfer of land of 32780 sq.mts. resulted in non recovery of Rs.1.15 crore*

This was brought to the notice of the department in August 1998 and Government in March 1999; their replies have not been received ( October 1999).

(ii) During test check of records of Taluka Development Offices, Rajkot it was noticed (October 1998) that the Collector had allotted land admeasuring 3.86 lakh sq.mts. to RUDA\* for commercial purposes with the condition that land should not be transferred by sale, change or any other type of transfer without the prior permission of the Collector. The amount of premium fixed by the Collector or the profit gained should be recovered when such permission is granted. The RUDA had committed breach of the condition by transferring the land admeasuring 1.84 lakh sq.mts. to Indian Oil Corporation without obtaining any permission from the Collector and also without payment of any premium. For breach of the condition the RUDA was liable to pay fine extending forty times of non-agricultural assessment amounting to Rs.24.73 lakh..

*Penalty of Rs.24.73 lakh for breach of condition was not levied*

This was pointed out to the department in December 1998 and reported to Government in March 1999; their replies have not been received ( October 1999).

(iii) During test check of records of the Collector (Non Agricultural) Vadodara and Taluka Development Office Kalol (Mehsana) it was noticed (December 1997 and September 1998) that in 2 cases land admeasuring 14306 sq.mts. held under new and restricted tenure was permitted to be converted into old tenure after payment of premium price. In case of Kalol, premium as per Collector's order was required to be

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\* Rajkot Urban Development Authority



recovered at the time of conversion of land for NA \* purpose. Though the land was sold and the purchaser had constructed an industrial complex on this land without obtaining N.A. permission, no action was taken for the recovery of premium. In the case of Vadodara the party was allowed in December 1996 to pay the premium of Rs.9.23 lakh as fixed in February 1994 with reference to market value prevailing at that time instead of fixing premium afresh. This resulted in non/short levy of premium price amounting to Rs.7.27 lakh.

This was pointed out to the department in (October and December 1998). In case of land at Vadodara, the department/Government stated (December 1998) that the Government had allowed to pay old premium price fixed by the Collector considering farmer's poor economic condition. The Government's argument was not tenable as a person who was holding 5,387 sq. mts. of land converted into residential plots and who could afford to pay an amount of Rs.9.23 lakh as premium cannot be termed as a poor farmer.

This was reported to Government in March 1999; their reply has not been received ( October 1999).

**(B)** Under the Code, a person unauthorisedly occupying any land may be summarily evicted by the Collector/Mamlatdar and any crops raised on the land shall be liable to forfeiture. In addition, fine as determined by the Collector/Mamlatdar is also leviable.

During test check of records of Taluka Development Officer Jam Jodhpur it was noticed (January 1998) that 25 cases of unauthorised cultivation by encroachment on the dam site land of Diminsar dam in Satapur village were decided (November 1996) by the Mamlatdar who ordered their eviction and recovery of Rs.250 as penalty (at the rate of Rs.10 per case) alongwith the value of the crops cultivated amounting to Rs.16.86 lakh. However this amount was neither noted in the relevant register to watch the recovery nor any action was taken either to evict the unauthorised occupants or to recover the amount ordered by the Mamlatdar. This resulted in non recovery of Rs.16.86 lakh.

This was pointed out to the department in February 1998. The department stated (September 1998) that action was required to be taken by the Irrigation department. The Irrigation department when contacted replied (February 1999) that their department is concerned with the recovery of irrigation dues only and the dues for unauthorised occupancy are required to be recovered only by the Revenue Department. In the meanwhile, the Mamlatdar revised without competence (October 1998) his earlier order of November 1996 omitting the recovery of Rs.16.86 lakh.

This was reported to Government in March 1999; their reply has not been received ( October 1999).

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\* Non-Agricultural



### 3.4 Short levy of non agricultural assessment due to application of incorrect rates

Under the Code, cities, towns and villages in Gujarat are divided in to five classes 'A' to 'E' according to population of the areas for the purpose of determining the rates of N.A.A. \*. Different rates depending on use of land are prescribed for each class of city/town/village. Peripheral areas falling within five kilometres of class 'A' city and one kilometre of class 'B' and 'C' town/village are classified alongwith respective cities and towns. Certain industrial and allied areas which are notified by the Government are also classified as class 'B' areas irrespective of their population.

(i) During test check of records of 4 Taluka Development Offices # it was noticed (between November 1997 and November 1998) that 9 villages falling within industrial and allied areas were notified by the Government for the purpose of recovery of non agricultural assessment at the rates prescribed for such areas. However, recovery of N.A.A. in respect of these villages continued to be made at the rates applicable to their earlier classification. This resulted in short levy of N.A.A. amounting to Rs.171.31 lakh including local fund cess and education cess.

***N.A.A. of Rs.171.31 lakh  
was recovered short due to  
application of incorrect rate***

This was pointed out to the department (between April and December 1998). The department accepted the audit observation amounting to Rs.97.38 lakh in respect of 8 villages. Recovery details and reply in respect of remaining one village have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

(ii) During test check of records of 6 Taluka Development Offices \* it was noticed (between October 1997 and September 1998) that non agricultural assessment was not levied for the periods between 1989-90 and 1997-98 in 133 cases at the appropriate rate according to use of land, classification of land, etc. This resulted in short levy of non-agricultural assessment amounting to Rs.11.69 lakh including local fund cess and education cess.

This was pointed out to the department between October 1997 and September 1998. The department accepted the audit observation amounting to Rs.3.93 lakh in 104 cases. Recovery details and reply in respect of remaining cases have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received.

\* Non Agricultural Assessment

# Jhagadia, Kalol (Mehsana), Choryasi and Vadodara

\* Sanand, Anand, Viramgam, Kankrej, Khambhat and Nadiad



### 3.5 Loss of revenue due to correction of records of rights without registered documents

Under the Code, the Talati of a village is authorised to correct the village records changing the ownership of the property on receipt of an intimation in writing from any persons within 3 months of acquiring a property. Section 17 of the Registration Act, 1908 provides that registration of every document of sale, mortgage or lease of the property of the value of Rs.100 or more is compulsory.

During test check of records of Taluka Development Office Kalol and Prantij it was noticed in 13 # cases that transfer of properties valued at Rs.533.02 lakh was carried out by the talaties in the village records of rights by transferring in favour of persons/societies on the basis of the intimations received from them though no deeds were executed and registered for such transfers.

*Correction of records of rights without registered documents resulted in loss of revenue of Rs.81.78 lakh*

Non-inclusion of corresponding provision in Land Revenue Code making the production of registered document as compulsory for carrying out corrections in the village records (though provision existed in Registration Act for compulsory registration of such documents) resulted in loss of revenue in the form of stamp duty and registration fee amounting to Rs.81.78 lakh.

This was pointed out to the department in October 1998 and January 1999, and to Government in March 1999, their replies have not been received (October 1999).

### 3.6 Non/short recovery of conversion tax

Under the Code, Conversion tax is payable on change in use of the land from agricultural to non-agricultural purposes or from one non-agricultural purpose to another in respect of land situated in a city or town including its peripheral areas falling within one to five kilometres thereof. Different rates of conversion tax are prescribed for residential, industrial, commercial/other uses depending upon the population of the city or town.

During test check of revenue records of 17 Taluka Development Offices and one each of District Development and Collector Offices it was noticed (between January and November 1998) that in 53 cases conversion tax was not levied or levied at incorrect rate on 31.27 lakh sq.mts. of land for change in use. This resulted in non/short recovery of conversion tax amounting to Rs.59.30 lakh.

*In 53 cases conversion tax of Rs.59.30 lakh though leviable was either not levied or levied at incorrect rate*

# 7 cases of sale of land by Ahmedabad Urban Development Authority, 4 cases of gift and 2 cases of partition.



The above cases were pointed out to the department between January and November 1998. The department accepted the audit observation and recovered an amount of Rs.0.76 lakh in one case. Reply in respect of remaining cases has not been received.

This was reported to Government in March 1999; their reply has not been received ( October 1999).

### **3.7 Non/short recovery of non-agricultural assessment**

Under Code and Rules made thereunder, Land Revenue is payable at the prescribed rates on all lands unless specifically exempted from payment. Land revenue is to be assessed with reference to the purpose for which the land is used, such as agricultural, residential, commercial and industrial.

During test check of records of 17 Taluka Offices of 10 districts <sup>#</sup> it was noticed (between February 1995 and November 1998) that in 36 cases land measuring 167.46 lakh sq. mts. was acquired and handed over/ allotted to Gujarat Industrial Development Corporation, Gujarat Electricity Board, Oil and Natural Gas Co. Ltd, Sardar Sarovar Narmada Nigam Ltd., Municipality, Urban Development Authority and to 16 other individuals for non-agricultural use like industrial, commercial, residential purposes. The non-agricultural assessment was not levied in 30 cases in respect of 100.68 lakh sq.mts. of land and in another 6 cases it was levied at incorrect rates in respect of 66.78 lakh sq.mts. of land during the periods between 1985-86 and 1997-98. This resulted in non/short levy of non-agricultural assessment amounting to Rs.76.99 lakh including local fund cess and education cess.

*Non agricultural assessment  
was not recovered in 30  
cases and recovered at the  
incorrect rate in 6 cases  
resulting in non/short  
recovery of Rs.76.99 lakh*

The above cases were pointed out to the department (between March 1996 and November 1998) and to Government (March 1999); their replies have not been received ( October 1999).

### **3.8 Short levy of NAA due to non upgradation of village/towns**

Under the Code, and the Rules made thereunder cities, towns and villages in Gujarat are divided into five classes 'A' to 'E' for the purpose of determining the rates of non agricultural assessment (NAA). This classification is done by the Collector in respect of urban areas and by the District Development Officer (D.D.O.) in respect of other areas on the basis of population as figured in the latest census. A fresh notification upgrading the villages, cities, towns, etc. is required to be issued immediately on

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<sup>#</sup> Ahmedabad, Baroda, Bhuj, Bharuch, Kheda, Junagadh, Mehsana, Rajkot, Surat, Palanpur



publication of census results and the revised rates of NAA come into effect only after the issue of such notification. Results of census of 1991 of different towns/villages were published in March 1993.

During test check of records of 3 Taluka Development Offices @ it was noticed (between December 1997 and September 1998) that although 6 villages/towns were required to be upgraded according to population figures of census of 1991, concerned D.D.O./Collector had not yet issued the revised notification upgrading these villages/towns. As such non agricultural assessment was continued to be levied at lower rates in 97 cases for the period from 1991-92 to August 1998. This resulted in short levy amounting to Rs.67.45 lakh including local fund cess and education cess.

*There was short recovery of Rs.67.45 lakh due to non-upgradation of villages*

This was pointed out to the Department, between April 1998 and December 1998 and to Government in March 1999; their replies have not been received (October 1999).

@ Choryasi, Viramgam and Visnagar





## Chapter - IV

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Taxes on Vehicles





### TAXES ON VEHICLES

#### 4.1 Results of Audit

Test check of records of the office of the Commissioner of Transport, Regional Transport officers, Assistant Regional Transport Offices in the State, conducted in audit during 1998-99 disclosed under assessment, etc. amounting to Rs.1724.76 lakh in 109 cases. These cases broadly fall under the following categories:

Sl. No.	Categories	Number of cases	Amount (Rs. in lakh)
1.	Short/nort levy of Motor Vehicles Tax	67	123.49
2.	Short/non levy of composite tax	31	557.21
3.	Other irregularities	11	1044.06
	Total	109	1724.76

During the year 1998-99, the department recovered Rs.45.92 lakh in 63 cases. Out of these, 4 cases involving Rs.1.62 lakh were pointed out during 1998-99 and the rest in earlier years. A few illustrative cases involving revenue of Rs. 1611.62 lakh highlighting important observations are given in the following paragraphs.

#### 4.2 Short levy of passenger tax and interest

Under the Bombay Motor Vehicles Tax Act, 1958 (Act) and Rules made thereunder, as applicable to Gujarat a fleet owner is required to file a declaration (in form "IT") to the taxation authority indicating the number of motor vehicles held, used and kept under non-use during the year for which tax is payable. The taxation authority, thereupon, will verify the declaration and determine the amount of tax leviable at the prevailing rate of tax and communicate the same to them by issuance of certificate of final assessment of tax for the year. Further, a fleet owner is required to make payment of passenger tax before the end of the month immediately succeeding the month to which it relates. Failure to pay the tax in time attracts simple interest at the rate of 12 *per cent* per annum on the outstanding amount of the tax for the period of default. Besides penalty is also leviable for non/delayed payments.

(i) During test check of records of the Office of the Commissioner of Transport, it was noticed (July 1998) that GSRTC\* had paid only an amount of Rs.3133.70 lakh as against the dues of Rs.26,520.73 lakh for the period 1997-98. Though interest was leviable on the balance amount no demand for interest was raised. This resulted in non-levy of interest amounting to Rs.1,032.96 lakh (upto June 1998), besides penalty.

This was pointed out to the department in September 1998; and to Government in March 1999; their replies have not been received ( October 1999).

\* Gujarat State Road Transport Corporation



(ii) During test check of records of Commissioner of Transport, Ahmedabad, it was noticed (July 1998) that in the case of vehicles owned by GSRTC and AMTS #, though the provisional assessment for the year 1997-98 was made (April 1997) the tax of Rs.18.52 lakh remained to be recovered due to non completion of final assessment. This resulted in non recovery of Rs.18.52 lakh.

The above cases were pointed out to the department in September 1998. The department accepted the audit observation and raised the additional demand and recovered Rs.16.14 lakh from GSRTC and stated (August 1999) that recovery could not be effected from AMTS due to their present financial position.

This was reported to Government in March 1999, their reply has not been received ( October 1999).

### **4.3 Non/short levy of composite tax**

Under the Act, an additional tax commonly known as Composite Tax is leviable in lieu of passenger tax with effect from 1 May 1982 on all omnibuses/luxury buses exclusively used or kept for use as contract carriage in the State. According to the Rules made under the Act, if a non-use declaration is filed by the operator in advance and is accepted by the taxation authority no tax is payable for the period of non-use. However, if omnibuses are used exclusively for the purpose of transporting students of educational institution in the State in connection with any of the activities of such educational institution, tax is leviable at lower rate.

(i) During test check of records of 17 @ taxation authorities, it was noticed (between January 1997 and 1999) that operators of 565 omnibuses who exclusively kept them for use as contract carriages had neither paid tax nor filed non-use declaration for various periods between July 1997 and October 1998 and in respect of another 175 vehicles tax was paid at incorrect rate. The tax recoverable in these cases amounted to Rs.455.55 lakh.

*In 17 different Regional Transport Offices composite tax of Rs.455.55 lakh was either not recovered or recovered at incorrect rate from the operators of 740 omnibuses*

The above cases were pointed out to the department (between August 1997 and January 1999). The department accepted the audit observations involving an amount of Rs.455.55 lakh in 740 cases and issued demand notices and recovered an amount of Rs.56.01 lakh in respect of 470 vehicles. Details of recoveries and reply in the remaining cases have not been received ( October 1999).

This was reported to Government in March 1999 their reply has not been received ( October 1999).

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# Ahmedabad Municipal Transport Service

@ Ahmedabad, Amreli, Bharuch, Baroda, Bardoli, Bhuj, Dahod, Godhra, Gandhinagar, Junagadh, Jamnagar, Mehsana, Himatnagar, Nadiad, Surat, Rajkot and Bhilad



(ii) During test check of records of Regional Transport Office, Vadodara, it was noticed (August 1996 and April 1997) that 41 omni buses contracted by different educational institutions and parents for transportation of students were also used as contract carriage for intermittent periods between 1991-92 and 1996-97. As these omni buses were not used exclusively for transportation of students composite tax was leviable at normal rates. However tax was levied at lower rates resulting in short realisation of composite tax of Rs.41.04 lakh.

*Composite tax of Rs.41.04 lakh was not levied though omnibuses were not exclusively used for transporting students*

This was pointed out to the department (between February and August 1997) and to Government (March 1999); their replies have not been received (October 1999).

#### **4.4 Non-recovery of motor vehicles tax and goods tax**

Under the Act, tax is levied and collected on all the motor vehicles used or kept for use in the State. The owner of a motor vehicle, who does not intend to use the vehicle or keeps it for use in the State but desires to avail of exemption from payment of tax, has to make declaration accordingly within the period for which tax has been paid. Such a declaration is valid only till the end of the financial year in which it is made. The declaration of non-use of vehicle are noted in the tax-index-cards and registration records after their acceptance by taxation authorities. In addition to motor vehicles tax goods tax is also leviable on goods vehicles under the Gujarat Carriage of Goods Taxation Act, 1962. For non-payment of tax in time, penalty not exceeding 25 per cent thereof is also leviable besides interest.

During test check of records of 15 Regional Transport Offices/ Assistant Regional Transport Offices<sup>\$</sup>, it was noticed (between February 1998 and November 1998) that in 405 cases, motor vehicles tax and goods tax were not levied for the years 1996-97 and 1997-98 despite absence of any declaration regarding non-use of the vehicles. Non-levy of motor vehicles tax and goods tax in respect of these vehicles amounted to Rs.38.58 lakh.

*Motor vehicles tax and goods tax of Rs.38.58 lakh was not recovered from the operators of 405 vehicles*

This was pointed out to the department (between March 1998 and January 1999). The department accepted the audit observation and recovered an amount of Rs.12.16 lakh in 141 cases. Recovery details in respect of remaining cases have not been received (October 1999).

This was reported to Government in March 1999; their reply has not been received (October 1999).

<sup>\$</sup> Ahmedabad, Bardoli, Bhavnagar, Bharuch, Bhuj, Gandhinagar, Himatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Palanpur, Rajkot, Surat and Valsad

#### **4.5 Non/short levy of motor vehicles tax on non-transport vehicles**

Under the Act, with effect from 1987 the State Government specified rates of one time (Lump Sum) motor vehicles tax leviable on all non-transport vehicles used or kept for use in the State whose unladen weight does not exceed 2250 kgs. From 1 August, 1995, the State Government specified rates of annual motor vehicles tax leviable on all non transport vehicles fitted with equipments such as rigs, cranes, compressors, etc. whose unladen weight exceeds 2250 kgs.

(i) During test check of records of 6 # taxation authorities, it was noticed (between February and November 1998) that in respect of 58 non-transport vehicles one-time-tax was not levied at correct rate. This resulted in short levy of motor vehicles tax of Rs.6.46 lakh.

*Lump sum tax of Rs.15.89 lakh was short levied due to application of incorrect rate of tax in respect of 58 non transport vehicles and 28 vehicles fitted with rigs/cranes/ compressors etc*

The above cases were pointed out to the department between May 1998 and January 1999. The department accepted the audit observations involving Rs.6.46 lakh in 58 cases and recovered an amount of Rs.3.22 lakh in 24 cases. Recovery details in the remaining cases have not been received ( October 1999).

This was reported to Government (March 1999); their reply has not been received ( October 1999).

(ii) During test check of records of 4 taxation authorities\* it was noticed (between May and November 1998) that in respect of 28 vehicles fitted with equipments such as rigs/cranes/compressors, etc. motor vehicles tax was not levied at correct rate based on the unladen weight of the vehicles. This resulted in short levy of motor vehicles tax of Rs.9.43 lakh.

The above cases were pointed out to the department between July and November 1998. The department accepted the audit observations in all the cases and recovered an amount of Rs. 0.92 lakh. Recovery details in the remaining cases have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

# Ahmedabad, Baroda, Bhavnagar, Gandhinagar, Himatnagar and Nadiad

\* Ahmedabad, Vadodara, Himatnagar and Surat



#### **4.6 Incorrect grant of exemption**

Under the Act, tax is levied and collected on all motor vehicles used or kept for use in the State unless specifically exempted from payment. Tractor cum trailers belonging to agriculturists and used solely for agricultural purposes and vehicles belonging to State Government are exempted from payment of tax. However, tractor cum trailers belonging to non-agriculturists and vehicles owned by Central Government, Corporations, Boards, Government Companies, Societies, etc. are not exempted.

During test check of records of seven Regional Transport Authorities and Assistant Regional Transport Authorities \* it was noticed (between March 1997 and August 1998) that in 54 cases exemption from payment of tax was granted for the periods between 1994-95 and 1997-98 either to tractor cum trailers belonging to non-agriculturists or vehicles belonging to Central Government, Government Undertakings, Societies, etc. The incorrect grant of exemption resulted in non-levy of motor vehicles tax of Rs.9.08 lakh.

The above cases were pointed out to the department (between March 1997 and September 1998). The department accepted the audit observation involving an amount of Rs.9.08 lakh in 54 cases and issued demand notices and recovered Rs.4.96 lakh in 20 cases. Recovery details in the remaining cases have not been received ( October 1999).

This was reported to Government in March 1999; their reply has not been received ( October 1999).

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\* Nadiad, Bardoli, Godhra, Gandhinagar, Ahmedabad, Valsad and Himatnagar





## Chapter - V

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## Chapter - V

### STAMP DUTY AND REGISTRATION FEES

#### 5.1 Results of Audit

Test check of records in the registration offices and offices of the Collectors of Stamp duty (Valuation of Properties) in the State conducted in audit during the year 1998-99 disclosed short realisation of stamp duty and registration fees amounting to Rs.3391.13 lakh in 236 cases, which broadly fall under the following categories.

Sl. No.	Categories	Number of cases	Amount (Rs. in lakh)
1.	Incorrect grant of exemption	16	308.56
2.	Misclassification of documents	90	233.25
3.	Under assessment of stamp duty on instruments of mortgage	26	91.01
4.	Under valuation of properties	16	15.04
5.	Other irregularities	88	2743.27
	Total	236	3391.13

During the year 1998-99, the department accepted under assessment of Rs.26.69 lakh in 57 cases and recovered Rs.8.64 lakh in 36 cases, of which one case amounting to Rs.0.60 lakh was pointed out during the year 1998-99 and the rest in earlier years. A few illustrative cases involving Rs. 3134.84 lakh highlighting important audit observations are given in the following paragraphs.

#### 5.2 Short levy of stamp duty due to incorrect application of concessional rate

(A) By a notification issued in April 1992 under the Bombay Stamp Act, 1958 (Act) as applicable to Gujarat, Government reduced the rate of stamp duty to one per cent on mortgage deeds executed by any industrial undertaking in favour of certain financial institutions for loans upto Rs.15 lakh and two per cent for loans exceeding Rs.15 lakh. From November 1994, maximum duty in such cases was restricted to Rs.2 lakh per deed. The reduced rate was applicable only to the loans which were granted by the Financial Institutions mentioned in the above notification.

During test check of records of Sub-Registrar Wagra (Bharuch) and Narol (Ahmedabad) it was noticed (January and July 1998) in one document registered in 1996 that the IFCI \* had given a loan of Rs.40 crore to an industrial undertaking. In addition to this loan the industrial undertaking had also obtained a loan of US \$ 4.285 million (equivalent to Rs.15 crore) from a foreign bank, not included in the list of eligible financial institutions, by mortgaging the properties in favour of IFCI as a security agent of foreign bank. In another document registered in 1997 it was noticed that out of the loan of Rs.75 crore borrowed by an

*Stamp duty and registration fees of Rs.218.16 lakh were short levied due to incorrect application of concessional rate*

\* Industrial Financial Corporation of India

industrial undertaking Rs.15 crore were borrowed from two financial institutions not included in the list of eligible financial institutions. The benefit of reduced rate of stamp duty and registration fee was not admissible in respect of both the above cases. Incorrect application of reduced rate of duty resulted in short levy of stamp duty and registration fee of Rs.1.62 crore.

This was pointed out to the department between July 1998 and January 1999 and reported to Government in March 1999; their replies have not been received (October 1999).

(B) As per Section 3 of the Act every instrument mentioned in Schedule-I executed in the State shall be chargeable with duty at the rates as indicated in the Schedule.

During test check of records of 9 Sub-Registrar Offices, it was noticed (between December 1995 and September 1998) that 166 documents registered between 1994 and 1997 were levied to duty at incorrect rate resulting in short levy of stamp duty of Rs56.16 lakh as detailed below :

Sr. no.	Location (no. of offices)	No. of documents	Consideration involved (Rs. in lakh)	Short levy	Nature of irregularity
1.	Ahmedabad (4)	94	1753.32	46.67	Conveyance deeds of premises of Housing Co-operative Societies sold by its members to Non-Trading Corporations were levied to duty at concessional rate instead of normal rates.
2.	Bharuch and Gandhinagar (2)	3	76.76	4.23	Though, instruments of allotment of plots and sheds by GIDC to industrialists for setting up industrial units were only exempted from duty, transfer of properties belonging to GIDC meant for housing and commercial purposes/ transfer of lease by assignment to other persons by the allottees of the GIDC were incorrectly exempted instead of levying duty @ 8 per cent.
3.	Ahmedabad (1)	46	115.72	2.91	Document of housing properties purchased from Gujarat Housing Board sold to other persons by the allottees were levied at concessional rate though leviable at normal rates.
4.	Jamnagar and Rajkot(2)	12	36.56	1.30	Though, minimum 11 members are required to form a Gujarat Ownership flat under the Act and flats constructed for residential purpose only were eligible for concessional rate, documents of conveyance of premises of buildings having less than 11 flats and conveyance deeds of properties for commercial purposes were levied at concessional rate instead of levying duty at normal rate.
5.	Ahmedabad (1)	11	84.65	1.05	Conveyance in favour of Public Charitable Trusts was levied @ 3 per cent instead of levying @ 4 per cent.
Total		166	2067.01	56.16	



This was pointed out to the department between June 1996 and December 1998. The department accepted the audit observation involving an amount of Rs.3.06 lakh in one case. Further details of recovery and reply in the remaining cases have not been received (October 1999).

This was pointed out to Government in March 1999; their reply has not been received (October 1999).

### **5.3 Incorrect reduction of stamp duty and registration fees**

The Act empowers the Government to reduce or remit the duty leviable on any instruments or any class of instruments or on documents executed in favour of any class of persons or in favour of any member of such class in the whole or any part of the State. This power vested under Section 9 of the Act cannot be invoked by the Government to extend the benefit exclusively to an isolated individual/unit.

During test check of records of Additional Superintendent of Stamps Gandhinagar and Sub-Registrar Kalol (Mehsana) it was noticed (August and September 1998) that an undertaking obtained loan aggregating US \$ 75 million (equivalent to Rs.270 crore) from a foreign bank and a document of mortgage deed was executed in favour of Industrial Credit and Investment Corporation of India Ltd. who acted as a security agent and trustee in India on behalf of foreign bank. This document was levied to stamp duty of Rs.2 lakh, quoting Government notification of October 1997, though it was correctly leviable at the rate of 3 per cent on Rs.270 crore. A scrutiny of Government file however revealed that based on the request received from the industrial unit, Government issued a special notification taking recourse to Section 9 of the Act reducing the stamp duty leviable on this document to 2 per cent subject to maximum of Rs.2 lakh, although Government is not competent to invoke the power vested in them under Section 9 of the Act to cover an individual executant. This resulted in loss of revenue of Rs.16.17 crore to the exchequer.

*Power vested under Section 9 of the Act was invoked by the Government to benefit a single industrial unit resulting in loss of revenue of Rs.16.17 crore*

This was reported to Government in March 1999; their reply has not been received (October 1999).

### **5.4 Short levy of stamp duty and registration fees due to mis-classification of documents**

Under Section 3 of the Act, every instrument mentioned in Schedule-I shall be chargeable with duty at rates as indicated in the Schedule. For the purpose of levy of

stamp duty an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

During test check of records of 37 Sub Registrar Offices it was noticed (between November 1993 and December 1998) that 684 documents registered between 1992 and 1997 in 38 offices were classified on the basis of their titles and stamp duty was levied accordingly. Scrutiny of the recitals of these documents however revealed that these documents were mis-classified. This resulted in short levy of stamp duty and registration fees of Rs.892.31 lakh as detailed below.

***Mis-classification of  
684 documents  
resulted in short levy  
of Rs.892.31 lakh***

Sr. no.	No. of offices	No. of documents	Value of the property	Short levy	Nature of irregularity
1.	12	240	2720.86	400.30	These documents were mis-classified as 'agreement' though as per the recitals of the documents possession of the property had been handed over/full rights to develop and market the properties and also right and interest were transferred to the purchasers. Hence these documents were required to be classified as conveyance deeds.
2.	1	5	25028.11	321.48	These documents were mis-classified as mortgage deeds though recitals of the documents did not indicate any charge on the property, these documents were therefore required to be classified as deposit of title deeds.
3.	16	262 (loan amount)	1624.24	75.92	These documents were mis-classified as deposit of title deeds, though as per the recitals, right or interest in the property were created in favour of the mortgagees by executing separate loan agreement, handing over demand promissory notes/ giving power of attorney, etc. These documents were therefore classifiable as mortgage deeds.
4.	9	121	302.61	34.88	These documents were mis-classified as release deeds though as per the amended Act these documents were classifiable as conveyance.



5.	1	1	237.60	27.92	Property purchased in individual capacity was transferred to a company through a deed of confirmation stating that the individual was holding the property as fiduciary of the company. As the company was not in existence when the original conveyance deed was executed the document classifiable as conveyance, was mis-classified as deed of confirmation.
6.	7	20	210.69	15.80	The documents were mis-classified as agreements though recitals of the documents indicated that payment of Government subsidy to new industrial units was subject to fulfilment of certain conditions and in case of breach of any of the conditions subsidy amount was liable to be recovered. These documents were therefore classifiable as bond.
7.	6	22	86.93	8.36	By executing correction deeds immovable properties were transferred to individuals or housing societies by changing the name of the person/ adding or deleting names/ increasing the area of the properties, etc. Hence these documents were classifiable as conveyance.
8.	4	13	60.04	7.65	Properties purchased earlier were reconveyed to the sellers through cancellation deed, though property once passed on to the purchaser cannot be re-transferred through a cancellation deed.
Total			684	30271.08	892.31

This was pointed out to the department between September 1996 and February 1999. The department accepted the audit observation involving an amount of Rs.28.95 lakh in 72 cases. Further details of recovery and reply in the remaining cases have not been received (October 1999).

This was reported to Government in March 1999; their reply has not been received (October 1999).

### 5.5 Short levy of stamp duty and registration fees on instruments comprising several distinct matters

The Act provides that any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties for which such separate instrument would be chargeable under the Act.

(i) During test check of records of 21 Sub-Registrar Offices # it was noticed (between November 1995 and September 1998) that 179 documents styled as agreement to sell between Gujarat State Financial Corporation and various entrepreneurs were registered between 1996 and 1999 and duty was levied accordingly. The recitals of these documents, however, revealed that Gujarat State Financial Corporation took over possession of the properties of industrial concerns who had defaulted on repayment of loans and disposed these off by auction to different industrial units. Part of the sale price was collected in cash and the balance treated as loan to be paid in instalments with interest. Since the property was transferred with possession to the purchaser, the documents were required to be classified as conveyance. Further, since the documents contained provisions creating by its own force a right or interest in the property to secure repayment of loan the documents were also classifiable as mortgage deeds. As these documents contained two distinct matters viz. (i) mortgage and (ii) conveyance, aggregate stamp duty and registration fees applicable to mortgage and conveyance was leviable. The incorrect categorisation for registration resulted in short levy of stamp duty and registration fees amounting to Rs.201.47 lakh.

*Non levy of aggregate rate on documents containing more than one matter viz. mortgage and conveyance, partition and conveyance, lease and mortgage etc. resulted in short levy of Rs.248.36 lakh*

The above cases were pointed out to the department between June 1997 and November 1998 and to Government in March 1999; their replies have not been received (October 1999).

(ii) During test check of records of 6 Sub-Registrar Offices @ it was noticed (between January 1996 and October 1997) that 45 documents consisting of 30 conveyance deeds and 15 agreements were registered between 1994 and 1996. The recitals of these documents however revealed that 40 documents also contained the details of partitions made earlier which were not registered. In 4 documents of agreement the sellers had also given power of attorney with consideration and in the remaining one document of conveyance, the owner of the property had given a portion of money realised from the conveyance to a person having no interest in the property. These documents were therefore chargeable to duty with the aggregate amount of duty viz.

# 6 of Mehsana, 3 each of Ahmedabad and Bharuch, 2 each of Surat, Vadodara and Sabarkantha and 1 each of Gandhinagar, Valsad and Kheda

@ 3 Zonal Offices at Ahmedabad and 1 at Vadodara, Olpad and Unjha



conveyance and partition, agreement and partition, agreement and power of attorney with consideration and conveyance and gift respectively. This resulted in short levy of stamp duty and registration fees of Rs.27.75 lakh.

This was pointed out to the department (between June 1997 and November 1997). The department accepted the audit observation involving an amount of Rs.2.05 lakh in 8 cases. Recovery details and reply in the remaining cases have not been received.

This was reported to Government in March 1999; their reply has not been received (October 1999).

(iii) During test check of records of Sub-Registrar Ahmedabad (Odhav) and Vadodara (Akota) it was noticed (July 1996 and 1997) that 4 documents styled as lease deeds were registered during 1995 and 1996. The recitals of the documents in one case revealed that a plot of land measuring 3000 sq. mtrs. was given on lease by Ahmedabad Municipal Corporation (AMC) to a trust on payment of a premium amount of Rs.26.89 lakh and AMC purchased a plot measuring 1065 sq.mtrs. from the same trust for a consideration of Rs.40 lakh and paid the net amount of Rs.13.11 lakh after adjusting the premium amount recoverable from the trust. The recitals of other 3 documents revealed that these lease deeds were executed by 3 industrialists with Gujarat Industrial Development Corporation and part amounts of rent and premium were paid in cash and the balance amounts were paid after obtaining loan from Gujarat State Financial Corporation by mortgaging their properties in favour of the financial institution. As these documents contained two distinct matters aggregate duty on lease and conveyance in the first case and lease and mortgage in the remaining 3 cases was leviable. Registering these documents as lease deeds resulted in short levy of stamp duty and registration fees of Rs.19.14 lakh.

The above cases were pointed out to the department between June 1996 and November 1998 and to Government in March 1999; their replies have not been received (October 1999).

## **5.6 Loss of revenue due to non-registration of documents**

Under the Registration Act, 1908 any instrument, which creates, whether in present or in future any right, title or interest in immovable property, is compulsorily registerable.

During test check of records of 3 Sub-Registrar Offices # (between June 1997 and September 1997) it was noticed in 3 documents registered in 1996 that there was a mention in recitals of each document regarding earlier transaction of the properties for which no registration was made. As per recitals of these documents, rights over these properties were

*Non-registration of documents of transfer of immovable properties resulted in loss of revenue of Rs.58.05 lakh*

# SR VI Naroda (Ahmedabad), SR I Vadodara and Kalol (Mehsana)



earlier received by the purchasers without executing a registered document. Now by these registered documents, these purchasers are selling these properties to other persons. Non-registration of instruments of transfer of immovable properties on earlier occasions, though compulsorily registerable, resulted in loss of revenue amounting to Rs.58.05 lakh.

This was pointed out to the department between October 1997 and December 1997 and reported to Government in March 1999; their replies have not been received (October 1999).

### **5.7 Short levy of stamp duty and registration fees on documents of dissolution of partnership**

The Act provides that, where any immovable property is taken as his share on dissolution of partnership by a partner who had initially brought that property as his share of contribution to partnership, stamp duty at a fixed rate of Rs.200 is leviable and in all other cases stamp duty at the basic rate of 8 per cent on the market value of the property is leviable. It has been judicially held @ that the documents whereby property purchased out of firms capital is taken by its partners on dissolution as their share are also required to be assessed at the basic rate of 8 per cent as applicable to conveyance deeds.

During test check of records of Sub-Registrar, Wadaj (Ahmedabad) and Rajkot, it was noticed (between August 1996 and June 1998) that 4 documents styled as “dissolution of partnership” were registered between 1995 and 1997. The recitals of these documents, however revealed that immovable properties valued at Rs.170.51 lakh purchased/constructed by the partnership firm were taken away by 3 partners. In another case property valued at Rs.4.78 lakh brought by one partner as his share in the partnership was taken away by a different partner on dissolution of the firm. As the said immovable properties were not initially brought by these partners, these documents were required to be levied to stamp duty as applicable to conveyance deeds. However these documents were levied to stamp duty at fixed rate of Rs.200 per document instead of at the rate of 8 per cent of market value of the property. This resulted in short levy of stamp duty and registration fees of Rs.20.07 lakh.

*Non levy of duty at conveyance rate on transfer of immovable properties on dissolution of partnership resulted in short levy of Rs.20.07 lakh*

This was pointed out to the department between April 1997 and November 1998 and reported to Government in March 1999; their replies have not been received (October 1999).

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@ Stamp reference No.2 of 1991 of Gujarat High Court CCRA Gujarat State vs. Arvind Metal Industries



## **5.8 Non levy of additional duty**

Under Section 3(B) of the Act, additional duty at the rate of 50 per cent of the basic stamp duty is leviable on instrument of conveyance, exchange, gift, lease, etc. of vacant land situated in urban areas (other than vacant land of less than 100 sq. mts.), intended for residential purpose. Additional duty at the rate of 25 per cent is also leviable on non-agricultural land exceeding 100 sq. mts. situated in rural areas.

During test check of records of 9# Sub-Registrars and 1 Dy. Collector it was noticed (between April 1996 and July 1998) that in 94 deeds of vacant land situated in urban areas/rural areas registered between 1994 and 1997, additional duty leviable at the rate of 50/25 per cent was not levied. This resulted in short levy of stamp duty amounting to Rs.21.31 lakh.

*Additional duty of  
Rs.21.31 lakh, though  
leviable on transfer  
of land was not levied*

The above cases were pointed out to the department between July 1996 and December 1998. The department accepted the audit observation in respect of 7 documents amounting to Rs.5.63 lakh. Recovery details and reply in remaining cases have not been received (October 1999).

This was reported to Government in March 1999; their reply has not been received (October 1999).

## **5.9 Short levy of stamp duty and registration fees on instruments falling within several descriptions**

The Act provides that an instrument falling within two or more of the descriptions of Schedule-I shall, where duty chargeable thereunder are different be charged only with the highest of such duties. Accordingly if an instrument is so framed that it contains descriptions relating to deposit of title deed and also of a bond, it is to be charged as bond as rate of stamp duty on bond is higher than that on Deposit of title deeds.

During test check of records of 5 Sub-Registrars @ it was noticed (between July 1997 and August 1998) in 30 documents registered during 1996 and 1997 that the mortgagors had obliged to pay money to Banks for loan granted to other persons. These documents were attested by a witness and were not payable to order or bearer. Though these documents were of deposit of title deeds, it also fulfilled the criteria of a bond. The stamp duty and registration fees were levied at lower rate applicable to deposit of title deeds instead of at higher rate applicable to bonds. This resulted in short levy of stamp duty and registration fees amounting to Rs.9.26 lakh.

# 5 of Ahmedabad and 1 each of Panchmahal, Nadiad, Mehsana Surat and Gandhinagar

@ Naroda (Ahmedabad), Unjha, Vadodara, Odhav (Ahmedabad) and Kapadwanj



This was pointed out to the department between November 1997 and December 1998 and reported to Government in March 1999; their replies have not been received (October 1999).

### **5.10 Short levy of stamp duty and registration fees due to incorrect computation of consideration**

The Act provides that, "Conveyance" includes a conveyance on sale and every instrument by which property movable or immovable is transferred. Thus when property is sold or transferred the total value of such property is to be taken as consideration for the purpose of levy of stamp duty and registration fees. In the case of lease the premium or money advance in addition to annual lease money is also to be considered for arriving at the consideration for levy of stamp duty.

During test check of records of 8 Sub-Registrar Offices \$ it was noticed (between April 1996 and September 1998) in 15 documents registered during 1995, 1996 and 1997 that 8 documents were of conveyance deeds and 7 of transfer of lease hold rights. Although these documents were registered as conveyance deeds the value of the properties were not determined properly for levy of stamp duty. In respect of conveyance deeds the liabilities of the sellers in the property settled by the purchaser, part amount of consideration treated as loan and in respect of lease deeds the premium paid, rent deposited in advance, cost of shed etc. were not considered for levy of stamp duty. This resulted in short levy of stamp duty and registration fees amounting to Rs.9.08 lakh.

The above cases were pointed out to the department between September 1996 and January 1999. The department accepted the audit observation amounting to Rs.4.36 lakh in respect of 7 documents. Recovery details and reply in the remaining cases have not been received (October 1999).

This was reported to Government in March 1999; their reply has not been received (October 1999).

### **5.11 Short levy of stamp duty due to incorrect adjustment of duty**

The Act provides that an irrevocable power of attorney given for the transfer of any immovable property is leviable to stamp duty as a conveyance. The duty is allowed to be adjusted against the duty payable on the conveyance deed if any, executed subsequently by the vendor in favour of power of attorney holder. The benefit of adjustment of stamp duty is not available in case of conveyance of property by the power of attorney holder to another purchaser.

During test check of records of Sub-Registrar, Gandhinagar it was noticed (May 1997) in 2 documents registered in 1996 that the vendors had transferred the properties

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\$ 3 of Ahmedabad, 2 of Mehsana and 1 each of Bharuch, Anand and Gandhinagar



after giving irrevocable power of attorney to the purchasers after receiving full consideration of the properties amounting to Rs.65.20 lakh. These documents were levied to stamp duty at appropriate rate as applicable to conveyance deeds. However, when these power of attorney holders subsequently conveyed these properties to other persons, adjustment of stamp duty paid earlier on power of attorney was allowed. As conveyance deeds were not between vendors and power of attorney holders, adjustment allowed was incorrect. This resulted in short levy of stamp duty of Rs.8.35 lakh.

This was pointed out to the department in August 1997 and reported to Government in March 1999; their replies have not been received (October 1999).

### **5.12 Short levy of registration fees**

According to the provisions of the Bombay Registration Manual on a deed of cancellation of "Agreement to Sell", registration fee is chargeable on advalorem scale on consideration fixed for agreed sale provided the deed of cancellation is executed by the claimant and executant under the original agreement to sell.

During test check of records of 7 Sub-Registrar # it was noticed (between December 1996 and June 1998) in 44 deeds of cancellation registered between 1995 and 1997, that registration fee was levied at fixed rate of Rs.30 per document instead of levying on an advalorem scale on the consideration fixed for the agreed sale. In another two documents of mortgage registration fees were levied at fixed rate of Rs.300 instead of levying on advalorem scale. This resulted in short levy of registration fees amounting to Rs.5.43 lakh.

This was pointed out to the department (between May 1997 and December 1998). The department accepted the audit observation in 12 cases amounting to Rs.0.73 lakh. Further details of recovery and reply in respect of remaining cases have not been received (October 1999).

The above cases were reported to Government in March 1999; their reply has not been received (October 1999).

### **5.13 Short levy of stamp duty due to under valuation of properties**

The Act provides that, if the Officer registering the instrument has reasons to believe that the consideration set forth in the document presented for registration does not approximate to the market value of the property, he may, either before or after registering the instrument refer the document to the Collector for determining the true market value of the property. The market value of the property is to be determined in accordance with the principles laid down under the provisions of Bombay Stamp (Determination of Market Value of the Property) Rules 1984 and instructions issued

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# 3 of Ahmedabad and 1 each of Vadodara, Wagra, Kalol (Mehsana) and Anand



by Government from time to time. Further, the Government by issue of various notifications have exempted some classes of instruments from the purview of this provision.

(i) During test check of records of 7 Dy. Collectors (valuation of properties) \$ 5 Sub-Registrars # it was noticed (between March 1996 and September 1998) that 63 documents of conveyance deeds of immovable properties were presented before them for registration during 1994 to 1997.

Though, the consideration shown in the documents were much less than the market value of the properties as per schedule of rates available with Sub Registrars, these documents were not referred to the Collector for valuation. In another 49 documents, which were referred to the Collector (Valuation) by the respective Sub-Registrars, market value of these properties was determined less disregarding the valuation reports of Sub-Registrars, Rules and instructions issued by the Government, etc. In these cases valuation was done by the Dy. Collector based only on the representations made by the executors without reference to the principle of valuation contained in Bombay Stamp (Determination of Market Value of the Property) Rules, 1984. This resulted in under valuation of the properties and consequent short levy of stamp duty and registration fees of Rs.22.05 lakh.

*Under valuation of properties due to non-determination of market value as per laid down principles and exempting the documents from valuation though not eligible resulted in short levy of Rs.27.46 lakh*

The above cases were pointed out to the department between July 1996 and December 1998 and reported to Government in March 1999; their replies have not been received (October 1999).

(ii) During test check of records of 5 Deputy Collector \*(Valuation) it was noticed (between May 1996 and December 1997) that 28 deeds executed for transfer of properties, which were referred to the Collector for determination of market value, were returned by the Collector without determining the market value treating them as exempted from valuation. The recitals of documents however revealed that these documents were not eligible for exemption from valuation. This resulted in short levy of stamp duty and registration fees of Rs.5.41 lakh.

This was pointed out to the department between September 1996 and July 1998 and reported to Government in March 1999; their replies have not been received (October 1999).

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\$ Valsad, Rajkot, Ahmedabad, Junagadh, Jamnagar, Surendranagar and Bhuj

# Gondal, Kalol, Palanpur, Modasa, Mehsana

\* Rajkot, Surat, Amreli, Surendranagar, Bhavnagar



## Chapter - VI

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Other Tax Receipts





## Chapter- VI

### OTHER TAX RECEIPTS

#### 6.1 Results of Audit

Test check of records in various departmental offices relating to the following receipts conducted in audit during the year 1998-99 revealed under assessment etc. of Rs.1778.80 lakh in 156 cases as detailed below :

Sl. No.	Categories	Number of cases	Amount (Rs. in lakh)
1.	Entertainments Tax	120	1681.75
2.	Electricity duty	22	79.85
3.	Luxury tax	14	17.20
	Total	156	1778.80

During the year 1998-99, the department accepted underassessment amounting to Rs.211.35 lakh in 150 cases and recovered Rs.210.80 lakh in 149 cases, of which 25 cases involving an amount of Rs.79.65 lakh were pointed out during the year 1998-99 and the rest in earlier years. A few illustrative cases highlighting important audit observations involving Rs.1666.68 lakh are given in the following paragraphs.

#### (A) ENTERTAINMENTS TAX

##### 6.2 Incorrect grant of exemption

Under the Gujarat Entertainments Tax Act, 1977 (Act), the Government may by notification in the Official Gazette, exempt either wholly or partly any entertainment or class of entertainments from payment of tax subject to such condition as may be specified therein. Every notification is required to be laid before the State Legislature as soon as possible after its issue.

During test check of records of Commissioner of Entertainments Tax, Gandhinagar, revealed that the Government by a notification issued in June 1981, exempted from payment of tax the films in Gujarati language produced with the equipment of recognised studios located in Gujarat subject to fulfilment of certain conditions. Various conditions included in the notification were subsequently relaxed through different Government Resolutions issued from time to time. Since the changes made in the original notification were neither notified in the official gazette nor placed before the State Legislature, the exemptions granted were incorrect. The internal audit wing of the department also failed to point out this irregularity. This resulted in loss of revenue of Rs.15.19 crore in respect of exemptions granted to 179 films between 1988-89 and 1997-98.

*Incorrect grant of exemption resulted in loss of revenue of Rs.15.19 crore*

This was pointed out to the department in January 1999 and to Government in May 1999; their replies have not been received (October 1999).

### **6.3 Non recovery of entertainments tax from cable operators**

Under the Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. Every proprietor shall pay the tax in advance in quarterly instalments at the rate of Rs.600 per month for first 100 connections plus Rs.300 for every additional 50 connections or part thereof in urban areas and at half of such rate for other areas. For non payment of tax amount of security deposit can be forfeited to Government against the tax dues.

During test check of records of 21 taxation authorities in 10 districts, it was noticed (between December 1997 and 1998) that 212 cable operators having 16317 cable connections did not pay the entertainments tax between the periods 1996-97 and 1997-98. The entertainments tax recoverable amounted to Rs.21.33 lakh. No action was taken by the department to recover the tax/forfeit the security deposit.

*Entertainments tax of Rs.21.33 lakh was not recovered from 212 cable operators*

This was pointed out to the department between May 1998 and January 1999. The department accepted the audit observation involving an amount of Rs.21.33 lakh and recovered Rs.2.70 lakh in 33 cases. The details of recovery in the remaining cases have not been received (October 1999).

This was reported to Government in May 1999, their reply has not been received (October 1999).

### **6.4 Non/short levy of entertainments tax and interest**

Under the Act and the Rules made thereunder, entertainments tax shall be paid by the proprietor of a cinema house weekly within 14 days of the end of the week and by the proprietor of a video parlour in advance every month by 15th day of the month preceding the month to which tax relates. If the payment of tax is delayed, simple interest at the rate of twenty four per cent per annum is chargeable on the unpaid amount of tax for the periods of delay.

During test check of records of 3 # Collector's (ET) and 2 Mamlatdar's Offices (Vijapur and Prantij) it was noticed (between April 1995 and December 1998) that out of 27 operators (7 of cinema houses and 20 of video parlours) two operators did not pay the tax during 1997-98 and one operator of Janata Cinema paid the tax at flat rate instead of 25 per cent of the tax collection. The remaining 24 operators did not pay the tax within the stipulated period (the delay ranging from 6 days to 320 days). The Entertainments tax and interest recoverable in these cases worked out to Rs.20.43 lakh.

*Non recovery of entertainments tax from the operators, cinema houses and video parlours amounted to Rs.20.43 lakh*

# Ahmedabad, Baroda and Surat



The above cases were pointed out to the department (between April 1996 and January 1999). The department accepted the audit observation and recovered Rs. 1.10 lakh in five cases. The details of recovery and replies in the remaining cases have not been received (October 1999).

This was reported to Government in May 1999; their reply has not been received (October 1999).

## **(B) LUXURY TAX**

### **6.5 Non/short levy of luxury tax**

Under the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, and Rules made thereunder, the proprietor of a hotel is required to pay tax within five days and file returns within eight days after the expiry of the month to which tax collected/return relates. Where any proprietor liable to pay tax fails without sufficient cause or neglects to file returns or to pay tax within the stipulated period, the Collector may impose, by way of penalty, a sum not exceeding one and half times of the amount of tax.

During test check of records of 4 \* Collector's Offices it was noticed (between May 1995 and July 1998) that proprietors of 22 hotels either did not pay the tax or paid after the stipulated period. This resulted in short recovery of tax amounting to Rs. 21.35 lakh including interest for the period between 1981-82 and 1997-98.

*Non recovery of tax  
and interest from  
the proprietors of  
22 hotels amounted  
to Rs. 21.35 lakh*

This was pointed out to the department between June 1995 and September 1998. The department accepted the audit observation in 21 cases amounting to Rs. 14.16 lakh and recovered Rs. 4.41 lakh in 7 cases. Further details of recovery and reply in the remaining cases have not been received (October 1999).

This was reported to Government in May 1999; their reply has not been received (October 1999).

## **(C) ELECTRICITY DUTY**

### **6.6 Non/short recovery of electricity duty**

Under the Bombay Electricity Duty Act, 1958, as applicable to Gujarat, electricity duty is leviable at the rates specified in Schedule-I to the Act on the units of electricity consumed. For energy consumed in respect of any premises not falling under items 1 to 6 of the Schedule, the rate of duty is 60 per cent of consumption charges. Further,

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# Vadodara, Surat, Ahmedabad, and Bhavnagar

new industrial undertakings are eligible for exemption from payment of electricity duty for the period mentioned in the eligibility certificate under different incentive schemes.

During test check of records of 8 @ O & M divisions of Gujarat Electricity Board, it was noticed (between April 1998 and March 1999) in 21 cases that exemption was incorrectly continued beyond the date prescribed in the eligibility certificate in 6 cases, duty was levied at incorrect rate in 8 cases, duty was not levied in 6 cases and levied short in one case. This resulted in non/short realisation of electricity duty of Rs.77.82 lakh.

*Short levy of electricity duty due to application of incorrect rate and allowing exemption beyond the permissible limit amounted to Rs.77.82 lakh*

The above cases were pointed out to the department between July 1998 and March 1999. The department accepted the audit observation involving an amount of Rs.76.35 lakh in 19 cases and recovered the amount. Reply in respect of remaining 2 cases has not been received (October 1999).

This was reported to Government in May 1999, their reply has not been received (October 1999).

## **(D) EXCISE DUTY**

### **6.7 Short levy of excise duty**

(i) Under the Medicinal and Toilet preparations (Excise Duty) Act, 1955, excise duty on toilet preparation is leviable at 100 per cent ad valorem. Value of such items is to be determined in accordance with the provisions of the Central Excise & Salt Act, 1944. Accordingly expenditure towards labour charges, factory overheads, etc. is required to be added to arrive at the cost of the product.

During test check of records of Superintendent (Prohibition & Excise) Valsad, it was noticed (December 1997) that 4 units had paid less excise duty, due to (i) non inclusion of labour and factory overhead charges (ii) cost of excess quantity of the product filled in bottles than declared while determining the cost of the product and (iii) under valuation of cost price of raw material. This resulted in short levy of excise duty of Rs.5.21 lakh.

This was pointed out to the department in January 1998 and reported to Government in May 1999; their replies have not been received (October 1999).<sup>\*</sup>

(ii) Under the provisions of Bombay Prohibition Act, 1949, as applicable to Gujarat, manufacturing operation of spirit and its transportation is to be done only under the

<sup>\*</sup> @ Godhra, Kalol, Bharuch, Halol, Surat, Vadodara, Jambuva and Talod



supervision of excise officials. Supervision charges in respect of the staff deployed for such supervision are required to be recovered from the manufacturers of spirit at the rate fixed by the department.

During test check of records of Superintendent (Prohibition & Excise) Surat and Vadodara, it was noticed (August 1997) that supervision charges were recovered at pre-revised rates for the period from 1994-95 to 1996-97 in respect of 8 units resulting in short recovery of Rs.1.54 lakh.

This was pointed out to the department between September 1997 and January 1998. The department accepted the audit observation and recovered Rs.1.54 lakh.

This was reported to Government in May 1999; their reply has not been received (October 1999).





## Chapter - VII

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## Non Tax Receipts





### NON TAX RECEIPTS

#### 7.1 Results of Audit

Test check of records in various departmental offices relating to the following receipts conducted during 1998-99 revealed non/short recovery of receipts amounting to Rs.3988.34 lakh in 132 cases as detailed below.

Sl. No.	Categories	Number of cases	Amount (Rs. in lakh)
1.	Geology and Mining	63	3931.46
2.	Forest Receipts	69	56.88
	Total	132	3988.34

During the year 1998-99, the departments accepted audit observations amounting to Rs.444.60 lakh in 54 cases and recovered Rs.303.19 lakh in 24 cases pertaining to earlier years. A few illustrative cases involving revenue of Rs. 16287.83 lakh highlighting important observations are given in the following paragraphs.

#### (A) INTEREST RECEIPTS

#### 7.2 Non-recovery of interest/penal interest

During test check of loan records of the Health and Family Welfare Department, it was noticed (August and September 1994) that loans amounting to Rs. 109.89 crore were granted by the department to the GWSSB # during the period from 1982-83 to 1992-93 for further disbursement as loans to different local bodies for implementing various World Bank assisted water supply and sewerage projects with the condition to repay the loan and interest to Government after recovering from the concerned local bodies. The Board however, had paid neither the principal amount nor the interest. Non-payment of instalments of loan and interest on due dates resulted in non-recovery of interest of Rs.12803.86 lakh (including penal interest amounting to Rs.1399.36 lakh) for the period 1986-87 to 1998-99. Further, no action was taken by the department to adjust the outstanding amount of loan of Rs.124 crore against the grants payable to the Board though terms and conditions of the loan stipulated for such adjustment.

This was pointed out to the department in April 1995 and November 1997 and reported to Government in May 1999; their replies have not been received (October 1999).

*Interest recoverable from Gujarat Water Supply and Sewerage Board amounted to Rs.12803.86 lakh besides principal amount of loan of Rs.124 crore outstanding from 1986-87 onwards*

# Gujarat Water Supply and Sewerage Board

## (B) MINING RECEIPTS

### 7.3 Short levy of royalty on oil and natural gas

Under Petroleum and Natural Gas Rules, 1959, royalty is to be levied on total quantity of natural resources extracted from the well-head of the area leased, at the rate fixed by the Government of India. However, royalty is not payable on crude oil or gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production. The inquiry officer appointed (May 1993) by the Government gave his findings in his report submitted in March 1995 in respect of "flared up gas" that as there were proven means to avoid flaring of natural gas, any loss due to flaring did not fall within the scope of "unavoidably lost." The royalty was therefore leviable on the flared up gas also.

During test check of records of the Assistant Geologist, Vadodara, it was noticed (August 1997 and May 1998), that the royalty was recovered from the ONGC\* on 54.88 lakh MT of crude oil and 2533 million cubic metres of natural gas. However, as per the Annual Report (Western Region Business Centre Vadodara) the actual production of crude oil and natural gas was 59.15 lakh MT and 3321 million cubic metres respectively. In two other cases, royalty was recovered at pre-revised rates of Rs.481 and Rs.528 in respect of 5887 MT of crude oil despatched during 1996-97 to 1997-98 instead of at the correct rate of Rs.578 per MT applicable from April 1996. This resulted in short levy of royalty amounting to Rs.3186.42 lakh.

*There was short levy of royalty of Rs.3186.42 lakh due to non-levy on total quantity of natural gas and oil extracted including flared up gas and incorrect application of rate*

This was pointed out to the department between November 1997 and December 1998. The department accepted the audit observation amounting to Rs.5.44 lakh in two cases. Recovery particulars and reply in the remaining cases have not been received (October 1999).

This was reported to Government in May 1999; their reply has not been received (October 1999).

### 7.4 Non/short levy of royalty and dead rent

Under the Mines and Minerals (Regulation and Development) Act, 1957 and the Gujarat Minor Mineral Rules, 1966, a lessee is liable to pay, in respect of each lease for major/minor mineral, dead rent or royalty whichever is higher. The rent is payable at the rate of 50 per cent of the dead rent if land granted on lease is less than a hectare. If payment of royalty or dead rent is not made within the date prescribed by the Government, interest at the rate of twenty four per cent per annum is chargeable for the period of delay.

\* Oil and Natural Gas Commission Ltd.



(i) During test check of records of 3<sup>\$</sup> Assistant Geologist Offices, it was noticed (June and July 1998) that in 13 cases, the lease holders extracted major minerals (sand, limestone, dolomite and bauxite) between 1994-95 and 1997-98 and in another 11 cases the lease holders did not extract any minerals during 1997-98. Though royalty and dead rent respectively were recoverable from the lease holders, no demand for payment of royalty and dead rent was raised. This resulted in non levy of royalty and dead rent of Rs.217.82 lakh including interest.

*Non raising of demand for royalty, dead rent and interest resulted in short levy of Rs.217.82 lakh*

This was pointed out to the department between October 1998 and January 1999. The department accepted the audit observation amounting to Rs.0.51 lakh in 2 cases. Recovery particulars and reply in the remaining cases have not been received (October 1999).

This was reported to Government in May 1999; their reply has not been received (October 1999).

(ii) During test check of records of 8<sup>\*</sup> Geologist/Assistant Geologist Offices, it was noticed (between April 1994 and September 1998) that in 104 cases, though the lease holders extracted minor minerals between the period 1992-93 and 1997-98, demand for payment of royalty was yet to be raised. Further, in cases where the royalty paid for the mineral extracted was less than the dead rent payable for that period, no demand for payment of difference was raised. This resulted in non/short levy of royalty and dead rent of Rs.39.22 lakh including interest.

*Non raising of demand for royalty and for difference of dead rent where royalty paid was less, amounted to Rs.39.22 lakh*

This was pointed out to the department between January 1997 and 1999. The department accepted the audit observation involving an amount of Rs.21.46 lakh in 56 cases and recovered Rs.2.03 lakh in ten cases. Recovery particulars and reply in the remaining cases have not been received (October 1999).

(iii) Government by issue of a Notification in July 1991 fixed a lumpsum rate for the payment of royalty, on the basis of quantity of bricks manufactured.

During test check of records of 3<sup>#</sup> Assistant Geologists, it was noticed (between September 1997 and January 1999) that 110 brick manufacturers either did not pay the royalty or paid short for the period 1996-97 and 1997-98. This resulted in non/short levy of royalty of Rs.9.80 lakh including interest.

This was pointed out to the department between October 1997 and January 1999. The department accepted the audit observation involving an amount of Rs.2 lakh in

\$ Jamnagar, Vadodara and Kheda

\* Surat, Vadodara, Surendranagar, Kheda, Rajkot, Junagadh, Bhuj and Palanpur

# Kheda, Mehsana & Bharuch

11 cases and recovered the amount. Reply in respect of remaining cases has not been received (October 1999).

This was reported to Government in May 1999; their reply has not been received (October 1999).

## **(C) FOREST RECEIPTS**

### **7.5 Loss of revenue due to non revision of Licence fee**

Under the Bombay Forest Rules, 1942, as applicable to Gujarat licence fee, at the rate fixed by Government, is recoverable from every saw mill to cover the administrative expenses incurred by the forest department in connection with the employment of forest guards and checking/ supervising the saw mills. As per norms, services of one guard are required for checking/ supervising 18 saw mills. The annual rate of Licence fee recoverable from the saw mills was fixed by the Government as Rs.25 in July 1964, which was not revised thereafter.

During test check of records of Dy. Conservator of Forest, Vyara, it was noticed (February 1995) that due to enormous increase in salary of guards and other administrative expenses a proposal to revise the licence fee (fixed in 1964 as Rs.25) to Rs.1000 was mooted by the Surat circle in January 1987 to partially offset the expenditure. Another detailed proposal was sent to Principal Chief Conservator of Forest in October 1991. Had the licence fee been revised the Government would have earned additional licence fee of Rs.25.10 lakh for the period from 1989 to 1999 in respect of 234 guards of Vyara division alone.

*Government is incurring recurring loss of revenue of Rs.25.10 lakh due to non revision of annual rate of licence fee of Rs.25 fixed in 1964*

This was pointed out to the department in June 1996 and reported to Government in May 1999; their replies have not been received (October 1999).

## **(D) PUBLIC WORKS**

### **7.6 Non/short levy of sales tax on works contracts**

According to departmental instructions (May 1997) sales tax at 2 per cent was leviable under the provision of Sales Tax Act, 1969 on the payments made to the contractors in respect of works contracts exceeding Rs.10 lakh after deducting labour components therefrom subject to maximum of 7.5 per cent. This provision was made applicable from April 1997.

During test check of records of 4# Public Works Divisional Offices it was noticed (between September and December 1998) that in 4 cases though the value of the contracts

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# Capital Project (Gandhinagar), Sipu Project (Palanpur), Express way (Vadodara) and Electrical Division (Rajkot)



exceeded Rs.10 lakh, sales tax was either not levied or levied short, which amounted to Rs.5.61 lakh.

This was pointed out to the department in January and February 1999. The department accepted the audit observations involving an amount of Rs.0.99 lakh in one case. Recovery details and reply in the remaining cases have not been received (October 1999).

This was reported to Government in May 1999, their reply has not been received (October 1999).

Ahmedabad

The

27 JAN 2000



(RAGHUBIR SINGH)

Principal Accountant General (Audit) Gujarat

Countersigned

New Delhi

The

8 FEB 2000



(V.K. SHUNGLU)

Comptroller and Auditor General of India

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