

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

For the year ended 31 March 1995

**No.2
(Revenue Receipts)**

GOVERNMENT OF KARNATAKA

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PREFATORY REMARKS

This Report for the year ended 31 March 1995 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1994-95 as well as those noticed in earlier years but could not be included in previous Reports.

OVERVIEW

This report contains 42 paragraphs including 2 reviews relating to non-levy/short levy of taxes, duties, interest, penalty, etc., involving Rs.45.78 crores. Some of the major findings are mentioned below:

1. General

(i) The revenue realised by the State Government during 1994-95 amounted to Rs.5,136.98 crores comprising tax revenue of Rs.4,289.31 crores and non-tax revenue of Rs.847.67 crores. A sum of Rs.1,135.93 crores was received from Government of India as the State's share of divisible Union taxes and Rs.695.48 crores as grants-in-aid. Sales tax (Rs.2,505.76 crores) formed a major portion (58 per cent) of the tax revenue of the State. Interest receipts (Rs.402.64 crores) accounted for 48 per cent of the non-tax revenue.

[Paragraph 1.1]

(ii) Test check of the records of Sales Tax, State Excise, Motor vehicles, Land Revenue, Forest and other departmental offices conducted during the year 1994-95 revealed under-assessments, short levy, loss of revenue, etc., amounting to Rs.107.09 crores in 2062 cases. The concerned departments accepted under-assessments, short levy, etc., of Rs.12.28 crores, of which Rs.11.01 lakhs had been pointed out in 1994-95. Departments recovered Rs.29.93 lakhs at the instance of audit.

[Paragraph 1.10]

(iii) 2703 inspection reports issued up to December 1994) containing 8,019 observations involving revenue of Rs.315.19 crores were pending settlement at the end of June 1995.

[Paragraph 1.12]

2. Sales Tax

(i) Application of incorrect rate of tax in 19 cases and incorrect classification of goods in 7 cases resulted in short levy of tax amounting to Rs.40.72 lakhs.

[Paragraphs 2.2 and 2.3]

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(ii) In 26 cases, incorrect determination of taxable turnover resulted in short levy of tax amounting to Rs.44.59 lakhs.

[Paragraph 2.4]

(iii) Incorrect grant of exemption in 29 cases resulted in short levy of tax aggregating Rs.71.72 lakhs.

[Paragraph 2.5]

(iv) In 48 cases, turnover tax not levied or levied short amounted to Rs.55.70 lakhs.

[Paragraph 2.10]

(v) In 7 cases, excess collection of tax amounting to Rs.96.14 lakhs made by dealers was not demanded and penalty levied as required.

[Paragraph 2.11(iii)]

3. State Excise

(i) A review on 'Collection of excise revenue' disclosed the following:

(a) The department did not have firm sets of figures of arrears of excise revenue and the arrears as reflected in the records of department did not include certain components forming part of excise revenue.

[Paragraph 3.2.5]

(b) Though conditions of stay granted by Courts against collection of enhanced licence fees were not honoured by the licensees, the department did not take steps to settle the cases and as a result, arrears of Rs.677.13 lakhs remained uncollected.

[Paragraph 3.2.7 (ii) and (iii)]

(c) In Kolar district a registered contractor actually turned out to be a worker under a defaulting contractor who was prevented from participating in the auction. This person also failed to pay the rental amounting Rs.69.74 lakhs indicating inadequate verification of person's eligibility to bid.

[Paragraph 3.2.8 (i) (a)]

(d) Allowing an ineligible contractor to participate in excise auction for the disposal of right of retail vend of arrack in Hassan district for 1990-91 and acceptance of his offer led to arrears of Rs.112 lakhs.

[Paragraph 3.2.8 (i) (b)]

(e) Failure on the part of department to initiate timely action to cancel the right of lease and to take effective follow up steps for collection of arrears resulted in non-collection of excise revenue of Rs.692 lakhs in a single case in Dakshina Kannada district.

[Paragraph 3.2.8 (i) (c)]

(ii) In the cases of transport of spirit, of maturation of compounded spirit and of manufacture of Indian liquor in three distilleries in Bangalore (Rural) district, the wastage claimed and allowed during 1993-94 exceeded the maximum wastage allowable, resulting in loss of revenue of Rs.64.96 lakhs.

[Paragraph 3.5]

(iii) In 4 cases, loss of revenue of Rs.1,872.51 lakhs (including interest on belated payment of rent) due to reauction and departmental and interim arrangements made consequent upon the default of contractors who were originally entrusted with the retail vend of arrack, was not recovered from the defaulting contractors.

[Paragraph 3.9]

(iv) Application of incorrect rate and failure to apply revised rate of excise duty in 4 cases resulted in short levy of duty amounting to Rs.59.69 lakhs.

[Paragraph 3.10]

(v) Application of incorrect rate of tax on the sale of arrack and in computation of tax on the enhanced rate of excise duty in the case of arrack processing units resulted in short levy of sales tax of Rs.54.47 lakhs

[Paragraph 3.13(i)]

(vi) Interest amounting to Rs.25.44 lakhs due on belated payment of rent by arrack contractors in 3 districts during the year 1993-94 was not recovered.

[Paragraph 3.14]

4. Taxes on Motor Vehicles

Composite fees amounting to Rs.6.88 lakhs were either not collected or short collected for the period from July 1993 to August 1994 on 351 vehicles.

[Paragraph 4.4(i) and (ii)]

5. Taxes on Agricultural Income

(i) Interest of Rs.12.86 lakhs leviable on belated payment of tax was not levied in 6 cases for the years 1987-88 to 1992-93.

[Paragraph 5.5]

(ii) In 18 cases, penalty aggregating Rs.8.28 lakhs leviable due to short payment of advance tax and on account of non-payment of the tax demanded by the due dates, was not levied.

[Paragraphs 5.6(i) and (ii)]

6. Land Revenue

(i) In 11 taluks, demands for water rate aggregating Rs.30.11 lakhs received from the Irrigation Officers were not raised by Revenue Department.

[Paragraph 6.2]

(ii) Non-booking and non-collection of penal water rate in 3 taluks amounted to Rs.128.66 lakhs.

[Paragraph 6.3]

(iii) Non-levy and short levy of maintenance cess in 12 taluks amounted to Rs.23.81 lakhs.

[Paragraph 6.4]

7. Other tax receipts

A review of 'Survey, registration, assessment and collection of entry tax' disclosed the following:

(a) There was a shortfall of Rs.3,232 lakhs in collection of estimated entry tax during 1993-94, for which no reasons had been furnished by the department.

[Paragraph 7.4.6]

(b) There were delays ranging from 2 to 53 months in disposal of applications for registration by dealers.

[Paragraphs 7.4.8 (i) and (iii)]

(c) More than 50 per cent of the cases due for assessment in a year during 1991-92 to 1993-94 had not been assessed during the same year resulting in postponement of revenue realisation.

[Paragraph 7.4.9 (i)]

(d) Incorrect assessment led to non/short collection of entry tax of Rs.45.48 lakhs in 18 cases in 4 city/districts.

[Paragraph 7.4.9(iv) (a) and (b)]

(e) The arrears of tax at the end of 1993-94 amounted to Rs.3,041 lakhs. There were instances of not taking demands in the Register of Demand, Collection and Balance and of delays ranging from one month to 20 months in taking demands to the Register.

[Paragraphs 7.4.10(i) and (ii)]

8. Non-tax receipts

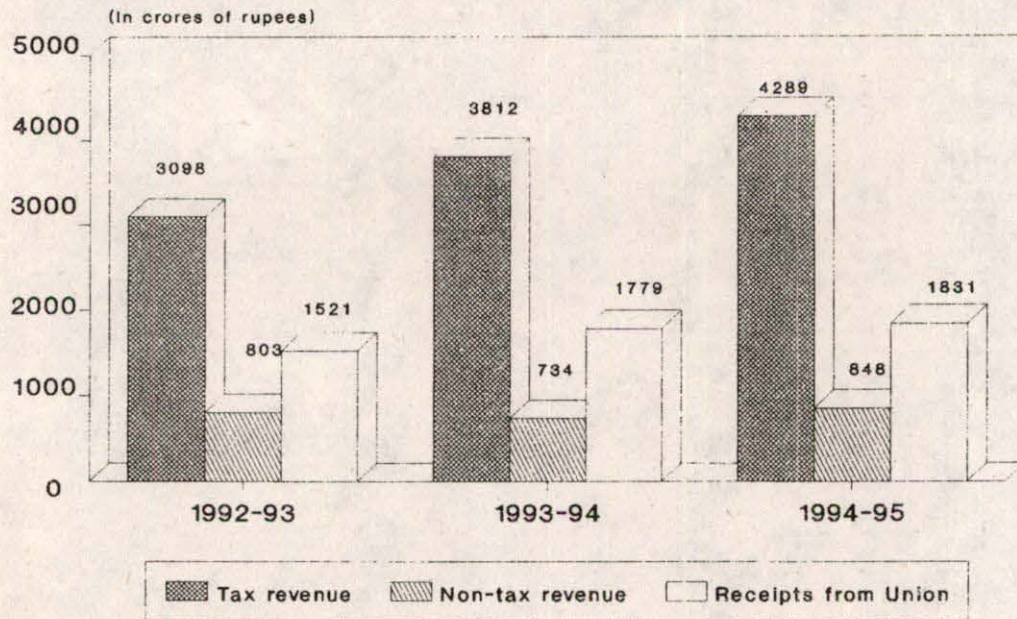
Sale of teak poles through auction at less than the seigniorage rates fixed resulted in loss of revenue of Rs.157 lakhs in Madikeri division between June 1993 and January 1994.

[Paragraph 8.2]

Chart - I.

TOTAL RECEIPTS OF THE STATE

(Refer Paragraph 1.1)



CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Karnataka during the year 1994-95, the State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below and also exhibited in Chart I:

		1992-93	1993-94	1994-95
		(in crores of rupees)		
(1)	(2)	(3)	(4)	(5)
I. Revenue raised by State Government				
(a)	Tax revenue	3,097.81	3,812.34	4,289.31
(b)	Non-tax revenue	802.54	733.57	847.67
	Total	3,900.35	4,545.91	5,136.98
II. Receipts from Government of India				
(a)	State's share of divisible Union taxes	931.97	1,017.41	*1,135.93
(b)	Grants-in-aid	589.34	761.33	695.48
	Total	1,521.31	1,778.74	1,831.41

* For details, please see 'Statement No.11 - Detailed Account of Revenue Receipts and Capital Receipts by Minor Heads' in the Finance Accounts of Government of Karnataka for the year 1994-95. Figures under the head '0021 - Taxes on Income Other than Corporation Tax - Share of net proceeds assigned to States' booked in the Finance Accounts under 'A - Tax Revenue' have been excluded from Revenue raised by the State and included in the State's share of divisible Union Taxes in this Statement.

(1)	(2)	(3)	(4)	(5)
III. Total receipts of State Government				
		5,421.66	6,324.65	6,968.39
IV. Percentage of I to III				
		72	72	74

(i) The details of tax revenue raised during the year 1994-95 and for the preceding two years are given below and also exhibited in Chart - II:

Revenue heads	1992-93	1993-94	1994-95	Percentage of increase (+) decrease (-) in 1994-95 over 1993-94
	(in crores of rupees)			
(1)	(2)	(3)	(4)	(5)
1. Sales tax	1,775.80	2,277.90	2,505.76	(+) 10
2. State Excise	515.33	639.07	713.47	(+) 12
3. Stamps and Registration Fees	224.38	240.85	372.49	(+) 55
4. Taxes on vehicles	220.51	259.78	290.99	(+) 12
5. Taxes on Goods and Passengers	109.84	132.68	117.00	(-) 12
6. Other taxes on Income and Expenditure	61.07	77.98	92.40	(+) 18
7. Other taxes and Duties on Commodities and Services	77.39	88.31	90.91	(+) 3
8. Land Revenue	16.78	16.07	19.78	(+) 23
9. Taxes on Agricul- tural Income	10.86	9.01	16.82	(+) 87

Chart - II

GROWTH OF TAX REVENUE (Refer Paragraph 1.1(i))

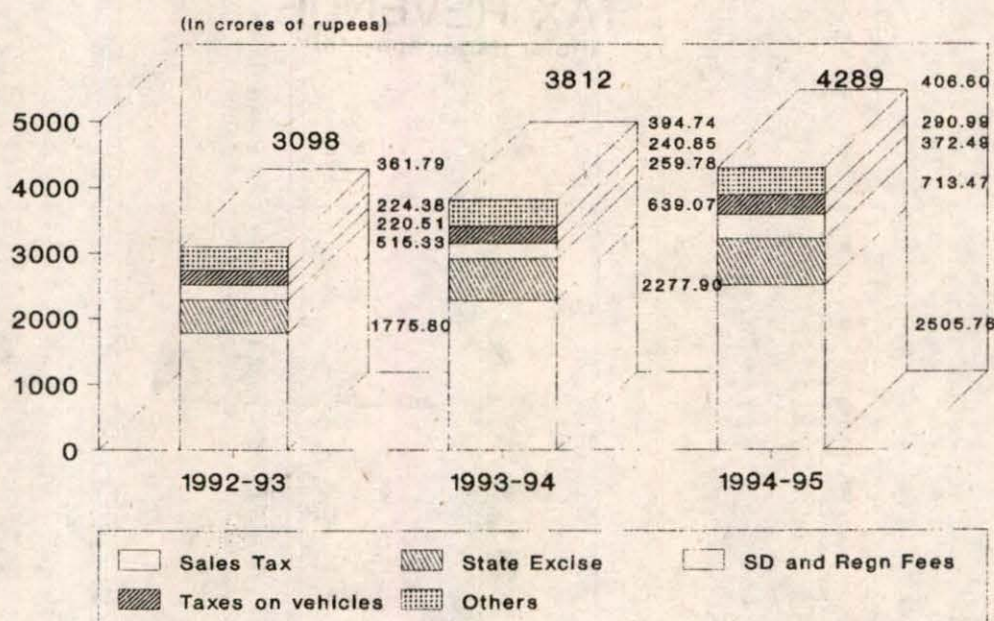
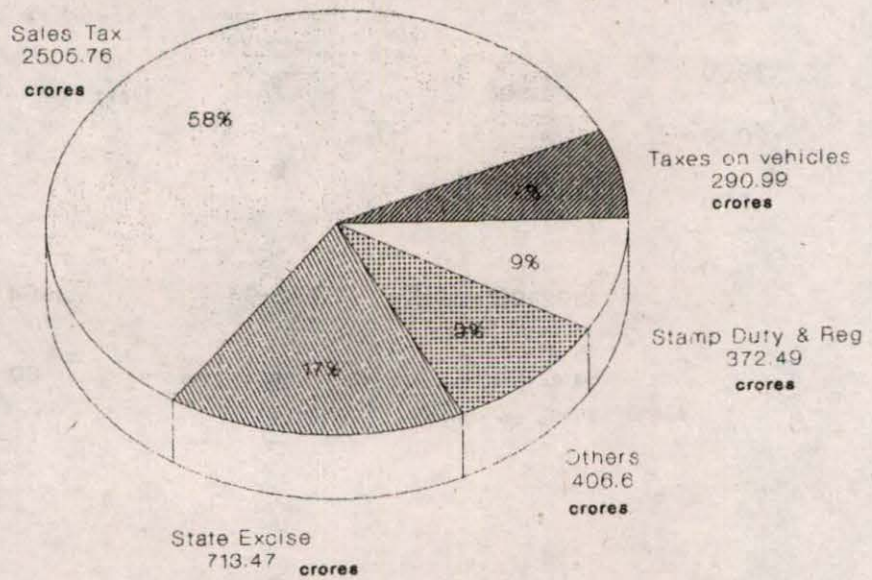


Chart - III

TAX REVENUE

(Refer Paragraph 1.1(i))



	(1)	(2)	(3)	(4)	(5)
10. Taxes and Duties on Electricity		85.85	70.69	69.69	(-) 1
Total		3097.81	3812.34	4,289.31	(+) 13

Sales Tax accounted for 58 **per cent** of total tax revenue collected during 1994-95. State Excise constituted 17 **per cent**. The details are exhibited in Chart-III.

Reasons reported by departments for variations in receipts under six heads of revenue during 1994-95 as compared to 1993-94 were as under;

(a) Sales Tax - The increase (10 **per cent**) was on account of normal growth rate of revenue.

(b) State Excise - The increase (12 **per cent**) was mainly due to prompt levy and collection of interest on belated payment of rent and also due to increase in consumption of liquor and realisation of more revenue on raids.

(c) Taxes on Vehicles - The increase (12 **per cent**) was attributed to the growth of vehicles and additional resource mobilisation measures.

(d) Taxes on Goods and Passengers - The decrease (12 **per cent**) was mainly due to abolition of tax on 71 goods.

(e) Other taxes on Income and Expenditure - The increase (18 **per cent**) was on account of widening of tax base.

(f) Taxes on Agricultural Income - The increase (87 **per cent**) was attributed to good crop of coffee and also on account of change in the procedure for trade and procurement of coffee seeds from Coffee Board and the increased additional payments by Coffee Board.

Reasons for variations in respect of Stamps and Registration Fees and Land Revenue though called for (May 1995) from the departments, have not been received (September 1995).

(ii) The details of non-tax revenue realised during the year 1994-95, along with figures for the two

preceding years are given below and also exhibited in Chart-IV:

Revenue heads	1992-93	1993-94	1994-95	Percentage of increase (+) or decrease (-) in 1994-95 over 1993-94
(In crores of rupees)				
1. Forestry and Wild Life	69.09	91.98	95.08	(+) 3
2. Non-ferrous Mining and Metallurgical Industries	36.38	41.19	61.45	(+) 49
3. Miscellaneous General Services	126.57	27.63	42.58	(+) 54
4. Village and Small Industries	21.35	21.59	32.65	(+) 51
5. Medical and Public Health	11.24	22.37	22.81	(+) 2
6. Interest Receipts	356.94	337.77	402.64	(+) 19
7. Education, Sports, Art and Culture	18.52	17.67	15.79	(-) 11
8. Major and Medium Irrigation	16.45	13.55	13.19	(-) 3
9. Co-operation	8.43	9.95	11.13	(+) 12
10. Industries	4.73	9.06	17.46	(+) 93
11. Others	132.84	140.81	132.89	(-) 6
Total	802.54	733.57	847.67	(+) 16

Major portion of non-tax revenue collected during 1994-95 was from Interest Receipts (48 **per cent**). Receipt under Forestry and wild Life formed 11 **per cent**. The details are exhibited in Chart V.

Reasons reported by departments for variations in receipts under two heads of revenue during 1994-95 as compared to 1993-94 were as under;

(a) Non-ferrous Mining and Metallurgical Industries - The increase (49 **per cent**) was due to

Chart - IV

GROWTH OF NON-TAX REVENUE (Refer Paragraph 1.1(ii))

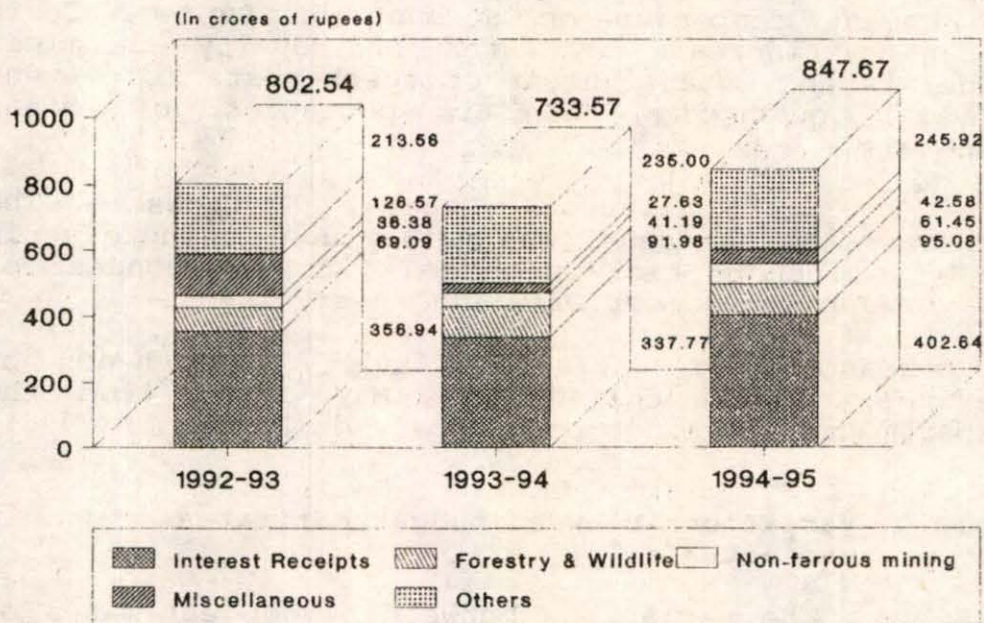
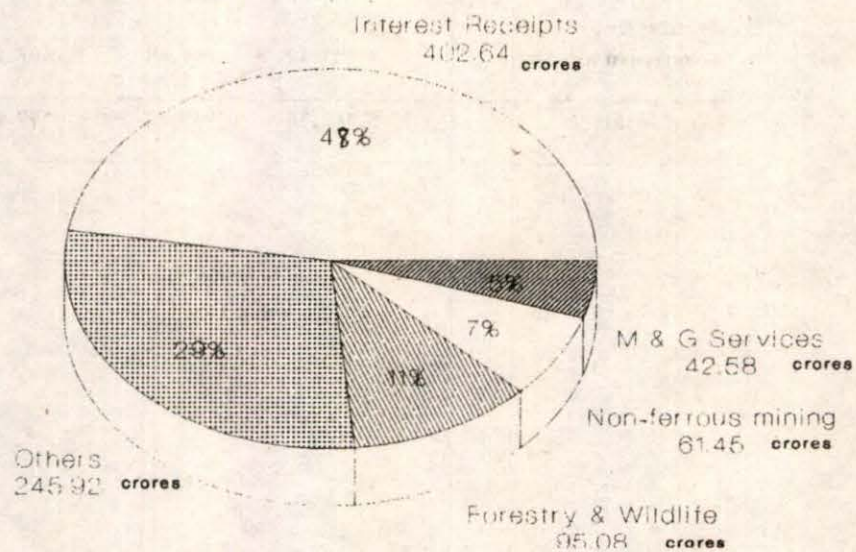


Chart - V

NON-TAX REVENUE (Refer Paragraph 1.1(ii))



payment of arrears of royalty on limestone and others by Cement companies on account of Supreme Court decision, increase in rates of royalty on minor minerals and establishment of check posts to prevent illegal quarrying and transportation of minor minerals.

(b) Miscellaneous General Services - The increase (54 **per cent**) was mainly due to increase in sale of lottery tickets and also due to conduct of Silver Jubilee Bumper Draw in January 1995.

Reasons for variations under other heads of revenue, though called for (May 1995) from the departments, have not been received (September 1995).

1.2. Variations between budget estimates and actuals

1.2.1. The variations between budget estimates of revenue for the year 1994-95 and the actual receipts are given below:

	Budget estimates	Actuals	Variation Excess (+)/ shortfall(-)	Percentage of variation
(in crores of rupees)				
1. Tax revenue	4,882.13	4,289.31	(-) 592.82	(-) 12
2. Non-tax revenue	1,067.74	847.67	(-) 220.07	(-) 21
3. States' share of divisible Union taxes	1,115.07	1,135.93	(+) 20.86	(+) 2
4. Grants-in-aid from Government of India	1,103.42	695.48	(-) 407.94	(-) 37
Total	8,168.36	6,968.39	(-) 1,199.97	(-) 15

1.2.2. The major variations between Budget estimates of revenue and actual receipts under the principal heads of revenue for the year 1994-95 are shown below:

Revenue heads	Budget estimates	Actual receipts	Variation Excess (+) Shortfall (-)	Percentage of variation
(in crores of rupees)				
(A) TAX REVENUE				
1. Sales Tax	2,875.00	2,505.76	(-) 369.24	(-) 13
2. State Excise	806.92	713.47	(-) 93.45	(-) 12
3. Stamps and Registration Fees	330.00	372.49	(+) 42.49	(+) 13
4. Taxes on Vehicles	330.00	290.99	(-) 39.01	(-) 12
5. Taxes on Goods and Passengers	204.00	117.00	(-) 87.00	(-) 43
6. Other Taxes on Income and Expenditure	110.00	92.40	(-) 17.60	(-) 16
7. Other Taxes and Duties on Commodities and Services	106.21	90.91	(-) 15.30	(-) 14
8. Taxes on Agricultural Income	15.00	16.82	(+) 1.82	(+) 12
9. Taxes and Duties on Electricity	85.00	69.69	(-) 15.31	(-) 18
(B) NON-TAX REVENUE				
1. Interest Receipts	526.20	402.64	(-) 123.56	(-) 23
2. Non-ferrous Mining and Metallurgical Industries	41.91	61.45	(+) 19.54	(+) 47
3. Medical and Public Health	15.97	22.81	(+) 6.84	(+) 43
4. Education, Sports, Art and Culture	23.64	15.79	(-) 7.85	(-) 33
5. Major and Medium Irrigation	40.00	13.19	(-) 26.81	(-) 67
6. Industries	10.73	17.46	(+) 6.73	(+) 63

The reasons for variations between the budget estimates of revenue and the actuals in the case of nine heads of revenue as reported by the concerned departments were as under:

(a) Sales Tax - Shortfall of 13 **per cent** was mainly due to exemption from tax and reduction in rate of tax on certain goods.

(b) State Excise - Shortfall of 12 **per cent** was attributed to fall in rentals and to losses of rental revenue on account of terminating of original leases and consequent departmental vending/interim arrangements.

(c) Stamps and Registration Fees - The increase of 13 **per cent** was on account of increase in market valuation rates of properties and escalation in cost of properties.

(d) Taxes on vehicles - Shortfall of 12 **per cent** was attributed to short payment of tax by the Karnataka State Road Transport Corporation.

(e) Taxes on Goods and Passenger - Shortfall of 43 **per cent** was due to abolition of tax on 71 goods.

(f) Other Taxes on Income and Expenditure - Shortfall of 16 **per cent** was due to non-realisation of expected revenue.

(g) Other Taxes and Duties on Commodities and Services - Shortfall of 14 **per cent** was due to introduction of slab system for Entertainment Tax.

(h) Taxes on Agricultural Income - Increase of 12 **per cent** was due to change in the procedure for trade and procurement of coffee seeds from Coffee Board and the increased additional payments made by Coffee Board.

(i) Non-ferrous Mining and Metallurgical Industries - Increase of 47 **per cent** was due to upward revision in the rate of royalty on minor minerals (from May 1994) which was not taken into account in the Budget estimates.

Reasons for variations under other heads of revenue, though called for (May 1995) from the departments, have not been received (September 1995).

1.3. New taxation measures

The particulars of changes in the existing pattern of taxation and anticipated increase in revenue along with actual realisation during the year 1994-95, in respect of Commercial Taxes and Motor Vehicles Department are given below :

Measures	Net Additional resources		Percentage of Excess (+) Shortfall (-)	Remarks
	Proposed	Realised		
	(in lakhs of rupees)			
(a) Sales Tax : Increase in the rates of tax on certain commodities	720	884.78	(+) 23	Excess was due to increase in turnover and rationalisation of tax structure.
(b) Professions Tax : Increase in the rates of tax in respect of certain classes of persons and addition of certain classes of persons assessable to tax	211	235.86	(+) 35	No reason had been furnished by the department.
(c) Betting Tax : Increase in the rate of tax	300	267.01	(-) 11	No reason had been furnished by the department.
(d) Entry Tax : Imposition of entry tax on Aviation Turbine Fuel	160	142.63	(-) 11	No reason had been furnished by the department.
(e) Motor Vehicles Tax : Rationalisation of the motor vehicles taxation structure, withdrawal of tax concession allowed on certain goods vehicles and enhancement of tax on motor cars and other similar categories of vehicles.	522	629	(+) 20	Excess was attributed to better administrative efforts.

1.4. Cost of collection

The gross collection under major revenue receipts, expenditure incurred in their collection and the percentage of such expenditure to gross collections during the years 1992-93, 1993-94 and 1994-95 along with the relevant all-India average percentage of expenditure on collection to gross collection for 1993-94 are given below:

Revenue heads	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the year
(in crores of rupees)					1993-94
1. Sales Tax	1992-93	1,775.80	21.26	1.2	
	1993-94	2,277.90	24.06	1.1	1.3
	1994-95	2,505.76	25.79	1.0	
2. State Excise	1992-93	515.33	13.48	2.6	
	1993-94	639.07	17.17	2.7	2.7
	1994-95	713.47	19.85	2.8	
3. Taxes on Vehicles	1992-93	220.51	6.37	2.9	
	1993-94	259.78	7.59	2.9	2.6
	1994-95	290.99	8.11	2.8	
4. Stamps and Registration Fees	1992-93	224.38	9.33	4.2	
	1993-94	240.85	12.12	5.0	4.8
	1994-95	372.49	11.10	3.0	

1.5. Arrears of revenue

As on 31 March 1995, arrears in collection of principal heads of revenue, as reported by the departments concerned are given below :

Head of Revenue	Amount of arrears as on 31 March 1995	Arrears more than 5 years old	Remarks
(in crores of rupees)			
(1)	(2)	(3)	(4)
1. Sales Tax	487.53	*	Out of 487.53 crores, Rs.18.34 crores had been certified for recovery as arrears of land revenue, recovery of Rs.177.89 crores had been

(1)	(2)	(3)	(4)
			stayed by the courts, Rs.7.58 crores likely to be written off and the balance of Rs.283.72 crores was under various stages of action.
2.State Excise	179.60	50.15	Out of Rs.179.60 crores, recovery of Rs.54.49 crores had been stayed by the courts and the balance of Rs.125.11 crores was under various stages of action.
3.Entry Tax	37.31	*	Of the arrears of Rs.37.31 crores, Rs.0.29 crore had been certified for recovery as arrears of land revenue, recovery of Rs.15.02 crores had been stayed by courts and arrears of Rs.21.82 crores were under various stages of action.
4.Professions Tax	11.02	*	Out of Rs.11.02 crores, Rs.0.34 crore had been certified for recovery as arrears of land revenue and the balance of Rs.10.68 crores was under various stages of action.
5.Taxes on Agricultural Income	6.09	*	Out of Rs.6.09 crores, Rs.0.37 crore had been certified for recovery as arrears of land revenue, recovery of Rs.3.70 crores had been stayed by courts and Rs.2.02 crores under various stages of action.
6.Entertainments Tax	1.95	*	Out of Rs.1.95 crores, recovery of Rs.0.21 crore had been stayed by courts and Rs.1.74 crores were under various stages of action.

* Details called for from the department in May 1995 have not been received (October 1995).

(1)	(2)	(3)	(4)
7. Motor Vehicles Tax	4.31	0.69	The department had not furnished the details of stages of action, though called for (May 1995).

1.6. Arrears in assessment

The details of assessments relating to Sales Tax, Agricultural Income-tax, Entertainment Tax, Taxes on Goods and Passengers, etc., pending at the beginning of the year, cases which became due for assessment during the year, cases disposed of during the year and cases pending finalisation at the end of each year during 1992-93, 1993-94 and 1994-95 are given below:

Year	Opening balance	Fresh cases which became due for assessment during the year	Total	Cases disposed of during the year	Cases pending at the end of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1992-93	9,36,368	6,01,009	15,37,377	4,60,575	10,76,802	30
1993-94	10,76,802	6,32,351	17,09,153	5,86,202	11,22,951	34
1994-95	11,22,951	7,00,297	18,23,248	6,11,766	12,11,482	34

1.7. Arrears in appeals

According to the information furnished (October 1995) by the Commercial Taxes Department, the number of appeals filed under Sales Tax, Entry Tax, Entertainments Tax, Taxes on Agricultural Income etc., number of appeals disposed of and number of cases pending with the appellate authorities at

the end of 1994-95 were as under :

Head of Revenue	Opening Balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to total number of cases
Sales Tax	7,209	10,118	17,327	10,213	7,114	59
Entry Tax	780	1,367	2,147	1,270	877	59
Entertainment Tax	818	413	1,231	554	677	45
Taxes on Agricultural Income	872	310	1,182	635	547	54
Professions Tax	51	64	115	89	26	77
Total	9,730	12,272	22,002	12,761	9,241	58

1.8. Remissions and write-off of revenue

Details of arrears of revenue written off during the year 1994-95, though called for (May 1995) from the departments, have not been received (September 1995).

1.9. Refunds

During the year 1994-95 revenue to the extent of Rs.1,601.31 lakhs was refunded under five major revenue heads (State Excise - Rs.65.16 lakhs, Sales Tax - Rs.1,164.03, Stamp Duty and Registration Fees - Rs.324.71 lakhs, Taxes on vehicles - Rs.33.65 lakhs and Land Revenue - Rs.13.76 lakhs).

1.10. Results of audit

Test check of the records of Sales Tax, Agricultural Income-tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 1994-95 revealed under-assessments/short levy/loss of revenue, failure to raise demands, etc., amounting to Rs.107.09 crores in

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2062 cases. During the course of the year 1994-95, the concerned departments accepted under-assessments, short demands, etc., of Rs.12.28 crores in 738 cases, of which 16 cases involving Rs.11.01 lakhs were pointed out in audit during 1994-95 and the rest in earlier years. A sum of Rs.29.93 lakhs relating to 32 audit observations was recovered at the instance of audit.

This report contains 42 paragraphs including 2 reviews involving financial effect of Rs.4,578.33 lakhs. The departments/Government have accepted audit observations involving Rs.232.62 lakhs, of which Rs.13.96 lakhs have been recovered up to September 1995. Audit observations with a total revenue effect of Rs.4.40 lakhs in 4 cases have not been accepted by the departments/Governments; but their contentions have been found at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (September 1995).

1.11. Internal Audit

State Excise department

Internal audit wing has been functioning in the State Excise department since April 1990. It is headed by a Deputy Commissioner of Excise (Audit and Inspection) who is assisted by an Internal Audit Officer, 2 Assistant Audit Officers and 2 Senior Auditors.

Out of 170 offices to be covered by internal audit, only 147 offices were audited during 1994-95. No specific reasons were given by the department for the shortfall.

Commercial Taxes department

Internal audit wing has been functioning in the Commercial Taxes department since October 1970. Out of 338 offices to be covered by internal audit, only 97 offices were audited during 1994-95. The shortfall was due to shortage of staff.

Motor Vehicles Department

Internal audit wing has been functioning since 1960. During the year 1994-95, all the 61 offices which were identified as units requiring internal audit were audited.

Forest Department

Internal audit wing has been functioning since 1962. Details of the number of offices required to be audited by internal audit wing, number of offices actually audited, observations made and their clearance, though called for, have not been furnished by the department.

The details of observations made by internal audit and their clearance up to the end of 1994-95, in respect of State Excise, Commercial Taxes and Motor Vehicles Taxes departments are given below :

(Amount in lakhs of rupees)								
Name of Department	Year	Observations made		Observations settled upto the end of 1994-95		Observations pending as at the end of 1994-95		Percentage of clearance of cases
		Number	Amount	Number	Amount	Number	Amount	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.State	upto							
Excise	1992-93	618	4,404.44	436	2,180.83	182	2,223.61	
	1993-94	385	7,017.98	144	1,387.86	241	5,630.12	
	1994-95	342	6,303.53	38	344.90	304	5,958.54	
Total		1,345	17,725.95	618	3,913.68	727	13,812.27	46
2.Sales	upto							
Tax	1992-93	5,424	676.71	736	58.50	4,688	618.21	
	1993-94	1,548	286.60	532	32.12	1,016	254.48	
	1994-95	1,170	213.29	65	40.02	1,105	173.27	
Total		8,142	1,176.60	1,333	130.64	6,809	1,045.96	16
3.Motor	upto							
Vehicles	1992-93	2,732	245.99	573	37.86	2,159	208.13	
	1993-94	304	27.10	271	23.61	33	3.49	
	1994-95	274	45.21	165	10.83	109	34.38	
Total		3,310	318.30	1,009	72.30	2,301	246.00	30

1.12. Outstanding inspection reports and audit observations

Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc., as well as under assessments, non-levy or irregularities and deficiencies in initial records of assessments noticed during local audit and which are not settled on the spot, are communicated to heads of offices and to higher authorities through inspection reports for settlement. The more important irregularities are also brought/reported to the notice of heads of departments and Government for taking prompt corrective measures. In addition, statements indicating the number of observations outstanding for over six months are also sent to Government for expediting their replies. Government have prescribed a time limit of one month for furnishing replies to audit observations.

At the end of June 1995, 2,703 inspection reports containing 8,019 audit observations having money value of Rs.315.19 crores, issued up to end of December 1994, were pending settlement by the departments as shown below along with the corresponding figures for the two preceding years.

	At the end of		
	June 1993	June 1994	June 1995
Number of outstanding inspection reports	2,318	2,291	2,703
Number of outstanding audit observations	6,452	7,200	8,019
Amount involved (in crores of rupees)	282.64	245.58	315.19

Year-wise details of the outstanding inspection reports, audit observations and amount involved as at the end of June 1995 are given below:

Year	Number of out-standing inspection reports	Number of audit observations	Amount of receipts involved (in crores of rupees)
Upto			
1990-91	763	2,161	69.41
1991-92	323	718	22.85
1992-93	433	1,427	62.28
1993-94	685	1,961	77.44
1994-95	499	1,752	83.21
Total	2,703	8,019	315.19

Out of 2,703 inspection reports which were pending settlement as on June 1995, even the first reply had not been received (June 1995) in respect of 274 inspection reports containing 998 audit observations involving an amount of Rs.19.83 crores. The pendency of these reports was reported to Government during August and September 1995.

Receipt-wise break up of outstanding inspection reports, audit observations and amount involved therein as on 30 June 1995 are indicated below:

Department	Receipts	Number of outstanding inspection reports	Number of outstanding audit observations	Amount of receipts involved (in crores of rupees)
(1)	(2)	(3)	(4)	(5)
1. Finance	(i) Sales Tax, Entertainments Tax, Entry Tax, Luxury Tax and Professions Tax	1,477	5,445	54.52
	(ii) Agricultural Income-tax	68	231	3.66
	(iii) State Excise Duty	319	699	140.70

(1)	(2)	(3)	(4)	(5)
2. Revenue	(i) Land Revenue	297	620	62.52
	(ii) Stamp Duty and Registration Fees	284	360	1.78
3. Forest, Environment and Ecology	Forest Receipts	139	275	35.07
4. Home and Transport	Motor Vehicles Tax	119	389	14.94
	Total	2,703	8,019	315.19

CHAPTER 2

SALES TAX

2.1. Results of audit

Test check of records in Sales Tax offices, conducted in audit during the year 1994-95, disclosed under-assessments of tax, non-levy of penalty, etc., amounting to Rs.1,112.64 lakhs in 1,210 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-levy/short levy of tax	407	435.33
2. Incorrect grant of exemption from tax	112	104.67
3. Short levy due to incorrect classification of goods	50	142.02
4. Non-levy/short levy of turnover tax	307	136.26
5. Non-levy/short levy due to turnover escaping tax	46	19.76
6. Non-levy of penalty	177	144.82
7. Sale of assets not brought to tax	3	1.34
8. Other irregularities	108	128.44
Total	1,210	1,112.64

During the course of the year 1994-95, the concerned department accepted under assessments of Rs.121.01 lakhs involved in 498 cases, all of which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.334.12 lakhs are given in the following paragraphs.

2.2. Application of incorrect rate of tax

(i) Under the Sales tax Laws in Karnataka, rate of tax depends *inter-alia* on the nature of

sale/purchase of goods, sales to registered dealers, inter-State sales covered by valid declarations and also the nature of commodities.

In 11 cases of 7 districts/city due to application of incorrect rate of tax on sales within the State and on inter-State sales made by various dealers during the years 1989-90 to 1992-93, tax amounting to Rs.7.20 lakhs was levied short as detailed below:

Sl. No.	City/district	Period	Goods	Shortfall in the rate of tax percentage (applicable-applied)	Total	
					Turnover (in lakhs of rupees)	Tax levied short
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Dharwad district	1989-90 and 1990-91	Wheat products	1 (3-2)	130.67	1.30
2.	Raichur district	1991-92	Til and karadi seeds	1 (4-3) 2 (8-6)	82.30 18.34	1.19
3.	Bangalore city	1991-92	Diesel engine oil compressor	3 (13-10)	32.87	0.99
4.	Bangalore district	1989-90	Fibre glass	6 (13-7)	10.66	0.64
5.	Bangalore district	1989-90	Non-edible oil	4 (7-3) 7 (10-3)	2.62 6.71	0.57
6.	Belgaum district	1989-90	Motor car	1 (6-5)	46.94	0.47
7.	Chitradurga district	1992-93	Soyabean	1 (4-3)	47.35	0.47
8.	Bangalore district	1991-92	Sugarcane	2 (8-6)	21.77	0.44

(1)	(2)	(3)	(4)	(5)	(6)	(7)
9.	Bangalore city	1990-91	Pollution control equipment	3 (13-10)	13.64	0.41
10.	Tumkur district	1992-93	Sunflower seeds	3 (3-0)	7.68 }	0.41
				3 (6-3)	5.85 }	
11.	Bangalore city	1990-91	Tipper (Lorry)	4 (10-6)	7.87	0.31
Total						7.20

On these being pointed out in audit (between September 1993 and October 1994), the department raised additional demand of Rs.0.46 lakh in one case (Sl.No.2) after revising the assessment taking into account the declarations furnished subsequently and in 5 cases (Sl.Nos. 1,3,7,8 and 9), the department initiated action to revise the assessments. Further report in these cases and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between July 1994 and June 1995; their reply has not been received (September 1995).

(ii) (a) Under the Karnataka Sales Tax Act, 1957, in the case of dealers liable to pay tax in respect of works contract and who opt for payment of tax by way of composition, the composition tax is leviable at the rates specified in the Act.

In the case of following dealers who were engaged in the execution of works contracts and who opted for payment of tax by way of composition, the composition tax on the taxable turnovers was levied at incorrect rates resulting in tax being levied

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short by Rs.3.45 lakhs.

Sl. No.	City/district	Works contract executed	Period	Shortfall in rate of tax percentage (applicable-applied)	Total	
					Turnover	Tax levied short (in lakhs of rupees)
1.	Bangalore city	Fabrication and installation of plant and machinery	1992-93	6 (10-4)	28.46	1.71
2.	Bangalore city	Interior decoration	1992-93	8 (10-2)	13.21	1.06
3.	Bangalore city	Painting works	1990-91	2 (4-2)	15.84	0.32
4.	Bangalore district	Supplying and fixing of mosaic tiles	1992-93	6 (10-4)	6.06	0.36
Total						3.45

On these being pointed out in audit (between November 1993 and February 1995), the department revised the assessment by levying additional tax of Rs.31,761 in one case (Sl.No.3) and initiated action to revise the assessments in two other cases (Sl.Nos.1 and 2). Further report in these cases and reply in the remaining case have not been received (September 1995).

The above cases were referred to Government between April 1994 and June 1995; their replies have not been received (September 1995).

(b) The facility of composition was not to be extended to dealers who furnished declarations prescribed under the Central Sales Tax Act for goods purchased by them for the purposes of using them in the execution of works contracts.

In four cases, though the dealers had either used the goods purchased from outside the State on furnishing prescribed declarations in execution of works contracts or had not opted for payment of tax by way of composition, tax had been levied at the rates applicable for composition instead of at the rates specified in the relevant Schedule, resulting

in short levy of tax aggregating Rs.5.52 lakhs as detailed below:

Sl. No.	City/ district	Number of asse- sseees	Works contract executed	Period	Shortfall in rate of tax (per- centage applica- ble-applied)	Total Turnover Tax levied short (including Turnover tax)	
(in lakhs of rupees)							
1.	Bangalore city	1	Supply and installa- tion of air conditioners	1989-90	11 (15-4)	7.75	0.95
2.	Bangalore city	2	Processing and supply- ing of photographs, photo prints and photo negatives	1989-90 to 1991-92	4 (6-2) 2 (6-4)	25.90 } 70.07 }	3.65
3.	Gulbarga district	1	-do-	1991-92	2 (6-4)	10.45	0.33
4.	Dakshina Kannada district	1	Supply and installation of water treatment plant	1992-93	9 (13-4)	5.78	0.59
Total							5.52

On these being pointed out in audit (between August 1993 and October 1994), the department initiated action to revise the assessments in 2 cases (Sl.No.2). Further report in these cases and reply in the other cases have not been received (September 1995).

The cases were referred to Government between June 1994 and March 1995; their reply has not been received (September 1995).

2.3. Short levy due to incorrect classification of goods

Under the Karnataka Sales Tax Act, 1957, on goods mentioned in the Second Schedule, tax is leviable at the rates specified therein at the point of first or the earliest of successive sales within the State. On goods not included in any of the Schedule to the Act, tax is leviable at **7 per cent** from 1 April 1986, at all points of sale.

Under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) not covered by valid declarations, tax is leviable at the rate of **10 per cent** or at the rate applicable to the sale or purchase of such goods inside the State under the State Act, whichever is higher.

In 7 cases of 3 districts/city, on taxable sales during 1989-90 to 1992-93 made by various dealers, tax was levied at lower rates due to misclassification of goods, instead of at the correct rates applicable to the relevant goods from time to time, resulting in short levy of tax by Rs.24.55 lakhs as detailed below:

Sl. No.	City/district	Period	Goods sold and rate of tax applicable (percentage)	Incorrect classification of goods adopted and rate of tax applied (percentage)	Total Turnover	Tax levied short (including Turnover tax)	Remarks (Reference to clarification issued by the short CCT in the matter)
(in lakhs of rupees)							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Bangalore city	1989-90 and 1990-91	Ragi flour (7)	Ragi (Nil)	8.74	0.72	CLR.CR. 841/89-90 dated 16.3.1990
2.	Bangalore city	1989-90 and 1990-91	Vicco tooth paste and powder and vanishing cream (13) (15)	Medicines (10)	67.92	2.80	MSR.CR. 70/89-90 dated 11.12.1985 CLR.CR. 101/85-86 dated 10.2.1986

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
3.	Bangalore city	1992-93	Coal ash (7)	Coal (4)	179.92	9.90	CLR.CR. 711/89-90 dated 16.6.1989
4.	Bangalore city	1990-91 and 1991-92	Brass bath- room fit- tings (13)	Brass items (10)	15.50	0.47	CLR.CR. 111/89-90 dated 13.7.1989
5.	Bangalore city	1990-91 and 1991-92	Mosquito destroyer (10)	Insec- ticide (3)	37.83	2.65	CLR.CR. 938/86-87 dated 12.7.1989
6.	Belgaum district	1988-89 and 1990-91 to 1991-92	Calendar (10)	Books (Nil)	72.48	7.25	CLR.CR. 199/88-89 dated 16.5.1987
7.	Dharwad district	Between 1989-90 and 1990-91	Bone meal (3)	Bone (Nil)	Inter- State sales- Rs.21.78 and Rs.2.60 local sales	0.76	CLR.CR. 656/90-91 dated 19.2.1991
Total					24.55		

On these being pointed out in audit (between May 1994 and January 1995), the department initiated action to revise the assessments in 3 cases (Sl.Nos. 1, 3 and 4). Further report in these cases and reply in the other cases have not been received (September 1995).

The cases were referred to Government between December 1994 and April 1995; their reply has not been received (September 1995).

2.4. Incorrect determination of taxable turnover

(i) Under the Karnataka Sales Tax Act, 1957, every dealer shall pay for each year, tax on his taxable turnover of sales (other than the last sale in the State) relating to all kinds of alcoholic liquors for human consumption (other than toddy,

arrack, fenny and wine) at the rate of 35 **per cent** of such turnover up to 31 March 1990 and at 45 **per cent** from 1 April 1990, provided that at any point of sale other than the first and last points of sale, the taxable turnover shall be arrived at by deducting the turnover of such goods on which tax has been levied at the immediately preceding point of sale. Under the Act, on sale of beer, tax is leviable at 35 **per cent** up to March 1990 at the point of first sale and at 45 **per cent** as in the case of other liquors thereafter.

The Commissioner of Commercial Taxes clarified (August 1988) that tax at the second point of sale is payable not only on the 'mark up'* value but also on the sales tax amount paid at the previous stage.

The Supreme Court in its decision@ held in 1985 that State excise duty is includible in the turnover, even if it is paid by the purchaser.

In 12 cases of 5 districts/city, omission to include sales tax amount, excise duty paid by the dealer and to include opening balance of stock of beer in the taxable turnover, resulted in under-assessment of tax amounting to Rs.9.20 lakhs during the period between March 1990 and March 1992, as detailed below:

(Amount in lakhs of rupees)								
Sl. No.	City/district	Number of dealers	Period	Amount of turnover			Rate of tax applicable (percentage)	Amount of short levy of tax (including Turn-over tax)
				Determined	Actual	Escaped		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Bangalore city	4	1989-90	-	-	4.59	35	}
			Between					}
			1.7.1990					}
			and					}
			31.3.1991	-	-	0.87	45	}
			1990-91					}
			and					}
			1991-92	15.65	16.42	0.77	45	}

* Mark-up value is the difference between the sale price and cost price.

@ McDowell & Co., Vs.CTO(1985) 59 STC 277(SC) AIR 1986.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2.	Belgaum district	2	1989-90	9.83	14.45	4.62	35	1.62
3.	Dakshina Kannada district	4	Between 1990-91 and 1991-92	-	-	8.44	45	3.86
4.	Dharwad district	1	1988-89	5.35	6.95	1.60	35	0.56
5.	Mysore district	1	1988-89	3.94	6.11	2.17	35	0.76
Total								9.20

On these being pointed out in audit (between May 1993 and December 1994), the department revised the assessments in 3 cases (1 in Sl.No.2 and 2 in Sl.No.3). Further report regarding recovery in these cases and replies in the other cases have not been received (September 1995).

The cases were referred to Government between May 1994 and May 1995; their reply has not been received (September 1995).

(ii) Under the Karnataka Sales Tax Act, 1957, on goods mentioned in the Second Schedule to the Act, tax is leviable on the taxable turnover at the rates specified therein at the point of first or the earliest of successive sales within the State.

In 6 cases of two districts/city, the taxable turnovers were incorrectly determined resulting in

short levy of tax aggregating Rs.9.25 lakhs as detailed below:

(Amount in lakhs of rupees)							
Sl. No.	City/district	Goods sold	Period	Amount of Turnover	Rate of tax applicable (percentage)	Amount of short levy of tax (including Turnover tax)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Bangalore city	Timber	1989-90	a) - b) - c) 20.43	13	2.66	Sales returns of timber valued at Rs.20.43 lakhs though taken to stock for 1990-91 were not accounted for in the years 1991-92, 1992-93, and 1993-94. The firm closed business from 1 April 1994.
2.	Bangalore city	Fabricated items	1990-91	a) 94.73 b) 112.76 c) 18.03	7	1.49	Turnover of fabricated items has been arrived at by taking into account stock, purchases and consumption of raw materials.
3.	Bangalore city	Silpaulin	1988-89 to 1990-91	a) 4.01 b) 11.71 c) 7.70	10	0.87	Turnover has been arrived at by taking into account purchases (Rs.10.64 lakhs) and gross profit of 10 per cent thereon.
4.	Bangalore city	Ceramic and glazed floor and wall tiles	1987-88 to 1988-89	a) 4.89 b) 12.15 c) 7.26	13	1.09	Turnover has been arrived at by taking into account opening stock (Rs.2.37 lakhs), purchases (Rs.13.08 lakhs) and gross profit of 15 per cent and closing stock (Rs.4.89 lakhs)
5.	Bangalore city	Timber logs	1991-92	a) Nil b) 7.51 c) 7.51	13	1.07	Turnover has been arrived at by taking into account inter-State purchases (Rs.6.83 lakhs) and gross profit of 10 per cent thereon.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
6. Mysore	Tamar-	1986-87	a) -	2,4,5	2.07		Turnover has been
	ind,loba		b) -	and 8			arrived at by taking into
	and		c) 33.92				account purchases and
	horse-						closing stock.
	gram						
			Total		9.25		

On these being pointed out in audit (between May 1991 and November 1994), the department initiated action to revise the assessment in one case (Sl.No.2). In one case (Sl.No.6), the department has intimated in May 1992 that the revised assessment made in October 1991 has been set aside by the Appellate Authority and that the case was referred to the Commissioner of Commercial Taxes in July 1992. Further report in these cases and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between April 1992 and March 1995; their reply has not been received (September 1995).

(iii) Under the Karnataka Sales Tax Act, 1957, every dealer shall pay for each year, a tax on his taxable turnover of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts at the rates specified in the relevant Schedule.

While determining the taxable turnover, labour charges, amounts for which any goods are sold or purchased when such sales or purchases are specifically exempted from tax under any provisions of the Act, amounts for which any goods included in the Second Schedule to the Act are purchased from registered dealers and other charges not involving any transfer of property in goods actually incurred in connection with the execution of works contracts, are deductible. The taxable turnover of works contract for supplying and fixing of furniture and fixtures, partitions including contracts for interior decorations, is to be determined by deducting only amounts for which furniture and fixtures, partitions, etc., are purchased from registered dealers.

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Further, if a dealer liable to pay tax in respect of works contracts opts for payment of tax by way of composition in any year, the tax so payable shall be on the total turnover involved in the execution of such works contracts and no deductions are allowable.

In the following cases, the taxable turnovers of dealers who executed works contracts were incorrectly determined resulting in short levy of tax aggregating Rs.26.14 lakhs.

(Amount in lakhs of rupees)							
Sl. No.	City/district	Works contract executed	Period	Amount of deduction allowed	Rate of tax (per centage) incor-rectly	Amount of short levy of tax(in-cluding Turnover	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Belgaum district	Civil works	1986-87 to 1988-89	10.55	5	0.65	Value of goods purchased from unregistered dealers and transportation charges incurred thereon were deducted and turnover was determined
2.	Dharwad district	Civil works	1990-91 to 1992-93	7.52	8	0.63	-do-
3.	Dharwad district	Civil works	1988-89 and 1989-90	11.31 and 8.62	5 } 8 }	1.50	Taxable turnovers were determined after deducting Rs.19.93 lakhs towards repairs and maintenance charges of vehicles and machinery and profit on labour charges.
4.	Chitradurga district	Civil works	1989-90 and 1990-91	23.85	8	2.21	Taxable turnovers were determined after allowing excess deduction towards labour charges.
5.	Bangalore city	Supply and erection of lifts	1991-92 and 1992-93	2.76 and 7.99	4 } 12 }	1.07	The assessee had opted for composition tax. Tax collected in the sale bills for Rs.10.75 lakhs has been allowed as deduction from taxable turnover.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
6.	Bangalore Civil city works	1991-92	485.45	2	9.71	Turnover of Rs.485.45 lakhs was not included in the taxable turnover.	
7.	Bangalore Civil city works	1988-89 to 1990-91	263.61	2	5.27	Taxable turnover was deter- mined after allowing deduc- tion of Rs.263.61 lakhs towards labour charges and tax deducted at source.	
8.	Bangalore Interior city decora- tions	1989-90 to 1991-92	55.13	8	5.10	Taxable turnover was determined after allowing deduction of Rs.55.13 lakhs relating to value of raw materials.	
Total					26.14		

These cases were pointed out to the department between July 1993 and September 1994 and referred to Government between July 1994 and January 1995; their replies have not been received (September 1995).

2.5. Incorrect grant of exemption

(i) Under the Karnataka Sales tax Act, 1957, on goods not included in any of the Schedules to the Act, tax is leviable at the rate of 7 **per cent** with effect from 1 April 1986, at all points of sale within the State. Medical bio-chemistry kit is one such goods.

The High Court of Karnataka held* that import replenishment licences (REP licences) are goods within the meaning of the Karnataka Sales Tax Act, 1957. Further, the Commissioner of Commercial Taxes (CCT) clarified (January 1991 and July 1992) that transfers of import licences and exim scrips are taxable at 7 **per cent** at all points of sale within the State.

In the cases mentioned below, sales turnovers of medical bio-chemistry kits and REP licences or exim scrips, taxable at the rate of 7 **per cent** as aforesaid and also in terms of clarifications issued

* M/s.Bharat Fritzwners Ltd., Vs Commisioner of Commercial Taxes [1992(36) STC 170 (Kar)].

by CCT, were incorrectly exempted resulting in non-levy of tax of Rs.9.97 lakhs.

Sl. No.	City/ district	Goods	Number of assesseees	Period	Total	
					Turn- over	Non-levy of tax (including Turnover tax)
(in lakhs of rupees)						
1.	Mangalore city	REP licen- ces and exim scrips	9	Between 1991-92 and 1992-93	100.75	8.92
2.	Dakshina Kannada district	REP licen- ces and exim scrips	1	1992-93	5.11	0.42
3.	Mangalore city	Medical bio-chemistry kits	1	-do-	8.98	0.63
Total						9.97

On these being pointed out in audit (between May 1994 and January 1995), the department revised the assessment in 1 case (in Sl.No. 1) raising additional demand of Rs.1.18 lakhs and initiated action to revise the assessments in 7 cases (6 of those in Sl.No.1, and Sl.No.3). Further report in these cases and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between September 1994 and May 1995; their reply has not been received (September 1995).

(ii) Under the Karnataka Sales Tax Act, 1957, with effect from 1 April 1986, a dealer shall pay for each year, tax at the specified rate on his taxable turnover of the transfer of the right to use any goods mentioned in the Seventh Schedule to the Act, for any purpose (whether or not for a specified period).

In 4 cases 2 each of Bangalore district and Bangalore city the turnovers relating to the transfer of rights to use the goods included in the Seventh Schedule to the KST Act, were incorrectly exempted

resulting in non-levy of tax of Rs.6.06 lakhs as detailed below:

(Amount in lakhs of rupees)

Sl. No.	City/ district	Period	Goods the right of use of which was transferred	Amount of turnover liable to be taxed	Rate of tax (per centage)	Amount of tax not levied (including Turnover tax)
1.	Bangalore city	1990-91 to 1992-93	Computers	43.56	5	2.72
2.	Bangalore city	1989-90	Computers	17.04	5	1.11
3.	Bangalore district	1988-89 to 1991-92	Diesel power generators	24.52	5	1.53
4.	Bangalore district	1989-90 and 1990-91	Machinery and motor vehicles	11.16	5	0.70
Total						6.06

On these being pointed out in audit (between August 1993 and January 1995), the department initiated action to revise the assessment in one case (Sl.No.1). In another case (Sl.No.3), the department held that no tax was leviable in accordance with a clarification issued by the Commissioner of Commercial Taxes in 1987. This contention is not tenable as subsequent notification issued by Government in March 1991 exempted the tax payable by a dealer only on sale of diesel captive generator units to industrial units located in the State of Karnataka. Further report in these cases and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between August 1994 and June 1995; their reply has not been received (September 1995).

(iii) Under the Karnataka Sales Tax Act, 1957, every dealer shall pay for each year, tax on his taxable turnover of property in goods (whether as goods or in some other form) involved in the execution of works contracts at the rates specified in the relevant Schedule.

In the cases mentioned below, the taxable turnovers relating to works contracts included in the Sixth Schedule to the Act and taxable according to clarifications issued by the Commissioner of Commercial Taxes (CCT), were incorrectly exempted resulting in non-levy of tax of Rs.21.89 lakhs.

Sl. No.	City/ district	Works contract executed	Period	Rate of tax app- licable (per- centage)	Total	
					Turn- over	Non-levy of tax (including Turnover tax)
(in lakhs of rupees)						
1.	Bangalore city	Full service and mainte- nance of computers	1990-91 and 1991-92	10	19.79	2.23
2.	Bangalore city	Painting and polishing	1990-91	12	7.86	1.04
3.	Bangalore city	Computer software developments	1989-90	6	7.79	0.58
4.	Gulbarga district	Construction of embankment works for canals	1992-93	8	181.81	18.04
Total						21.89

On these being pointed out in audit (between August 1993 and August 1994), the department revised the assessment raising additional demand of Rs.2.23 lakhs in one case (Sl.No.1). Further report regarding recovery in this case and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between April 1994 and May 1995; their reply has not been received (September 1995).

(iv) By separate notifications issued under the Karnataka Sales Tax Act, 1957, and the Central Sales Tax Act, 1956, the tax payable in respect of goods manufactured and sold by Small Scale Industrial (SSI) units located in specified areas has been exempted to the extent of 50 **per cent** of the value of their fixed

assets as on dates of commencement of their commercial production for a period of 5/7 years from the dates of commencement of their commercial production.

In the case of 2 SSI units (Raichur and Belgaum districts) having fixed assets of Rs.4.80 lakhs in plant and machinery and land, tax exemption for the period between 1989-90 and 1991-92 aggregating Rs.5.60 lakhs had been allowed instead of restricting the same to Rs.2.40 lakhs (50 **per cent** of the value of fixed assets in plant and machinery and land). This resulted in short levy of tax of Rs.3.20 lakhs.

On this being pointed out in audit (between October 1993 and August 1994), the department recovered Rs.25,653 (between July and August 1994) in the case relating to Belgaum district. Further report regarding recovery of the balance amount in this case and reply in the remaining case have not been received (September 1995).

The case was referred to Government between January 1991 and May 1995; their reply has not been received (September 1995).

(v) According to the provisions of the Central Sales Tax Act, 1956, where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish a declaration in prescribed form.

Under the Central Sales Tax Act, 1956, on inter-State sales of cashew kernel and pesticides not covered by valid declarations, tax is leviable at the rate of 10 **per cent** and 3 **per cent** respectively.

In Bangalore city and Dakshina Kannada district, while finalising the assessments of 2 dealers for the period between 1989-90 and 1991-92, exemption from tax had been allowed on the sales turnover of pesticides and cashew kernel aggregating Rs.138.67 lakhs treating the same as consignment sales even though no valid prescribed declarations were furnished. Incorrect grant of exemption resulted in short levy of tax of Rs.4.60 lakhs.

On these being pointed out in audit (between April 1993 and October 1994), the department revised the assessment in one case and issued notice in the other case. Further report in these cases have not been received (September 1995).

The cases were referred to Government between January and March 1995; their reply has not been received (September 1995).

(vi) According to the Karnataka Sales Tax Act, 1957, on sale of goods in containers, sales tax was leviable at the rates applicable from time to time on the sale price, which included cost of packing and containers. Surcharge at the rate of 10 **per cent** of such tax was leviable for the period from 31 March 1979 to 31 July 1985, besides turnover tax at rates prescribed.

The Supreme Court held* (October 1992) that packing is an integral element of transaction of sale and packing charges are integral part of the sale price and as such, packing charges and excise duty thereon should also be included in arriving at the taxable turnover for purpose of State Sales Tax.

In Bijapur district, while finalising the assessments (between April 1993 and March 1994) for the years 1981-82, 1985-86 and 1990-91 of 3 companies dealing in cement, packing charges amounting to Rs.128.17 lakhs were incorrectly exempted from tax even though includible in the taxable sales turnover of cement as aforesaid. This resulted in short levy of tax of Rs.22.60 lakhs (including surcharge and turnover tax).

The cases were pointed out to the department in September 1994 and referred to Government in May 1995; replies have not been received (September 1995).

(vii) Under the Karnataka Sales Tax Act, 1957, tax leviable on the first sales turnover of rice bran is 3 **per cent** from 1 April 1988. According to the provisions of the Central Sales Tax Act, 1956, when the sale or purchase of any goods (other than declared goods) under the sales tax law of the appropriate State is exempt from tax generally or is subject to tax generally at a rate which is lower

* M/s. Ramco Cement Distribution Co. (P) Ltd., Vs. State of Tamilnadu (1993) 88 STC (SC) - Page 151.

than 4 **per cent**, on sale of such goods in the course of inter-State trade or commerce, tax would be exempted or levied at such lower rate, as the case may be. The Commissioner of Commercial Taxes has clarified (December 1991) that inter-State sale of rice bran is taxable at 3 **per cent** with or without declarations irrespective of whether they have been subjected to tax under Karnataka Sales Tax Act or not.

In Dharwad district, while finalising the assessments for the years 1989-90 to 1991-92 of a dealer in rice bran, inter-State sales turnover of rice bran amounting to Rs. 53.84 lakhs was incorrectly exempted instead of levying tax as aforesaid. This resulted in non-levy of tax of Rs. 1.62 lakhs.

On this being pointed out in audit (December 1993), the department raised additional demand for equal amount (September 1994). Further report regarding recovery has not been received (September 1995).

This was referred to Government in April 1994.

(viii) By separate notifications issued under the Karnataka Sales Tax Act, 1957 and the Central Sales Tax Act, 1956, with effect from 19 June 1991, the tax payable under these Acts is exempted in respect of goods manufactured and sold by all khadi and village industries whose investment in fixed assets has taken place on or before 1 October 1990.

Under the Karnataka Sales Tax Act, 1957, tax at 8 **per cent** was leviable on the first sale of agarbathi, during the period from April 1988 to March 1992. Under the Central Sales Tax Act, 1956, on inter-State sales of agarbathies not covered by declarations, tax is leviable at 10 **per cent**.

In Bangalore city, in the case of an agarbathi manufacturing unit which has invested in plant and machinery prior to October 1990, for the assessment years 1990-91 and 1991-92, turnover on local and inter-State sales of agarbathies valued at Rs.13.27 lakhs was erroneously exempted from levy of sales tax. This resulted in non levy of tax of Rs.1.28 lakhs.

This was pointed out to the department in November 1993 and referred to Government in August 1994; their replies have not been received (September 1995).

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(ix) Under the Karnataka Sales Tax Act, 1957, on sale of all kinds of pens whose selling price is Rs.10 or more per piece, tax is leviable at 8 **per cent** from April 1988 to March 1992 and at 4 **per cent** thereafter.

In Bangalore city, while finalising the assessments for the year 1991-92 of a dealer, turnover amounting to Rs.5.41 lakhs relating to sales of pens were exempted from levy of tax instead of levying tax at 10 **per cent** resulting in short levy of tax of Rs.50,002 (including turnover tax).

On this being pointed out in audit, (December 1994), the department initiated action to revise the assessment. Further report regarding recovery has not been received (September 1995).

The case was referred to Government in April 1995; their reply has not been received (September 1995).

2.6. Short levy due to incorrect grant of concession

By a issue of notification (October 1981) Government reduced the rates of sales tax by 50 **per cent** from 1 November 1981, on sales of manufactured goods by all new industrial units for a period of 5 years from the respective dates of commencement of their commercial production, subject to the condition that concession under the Karnataka Sales Tax Act, 1957 and the Central Sales Tax Act, 1956 available to a new industrial unit during each accounting year shall be restricted to 10 **per cent** of the total investment of the unit in plant and machinery at the time of commencement of its commercial production and that the total concession during the entire period of 5 years should not exceed 50 **per cent** of such total investment. Such unit is, however, allowed to carry forward the unavailed portion of the concession, if any, from year to year within the said period of 5 years.

In 3 cases, tax concession aggregating Rs.1.60 lakhs was incorrectly allowed to new small scale industrial units, even though the limit of five years from the dates of commencement of commercial production for availing the concession had expired as

Sl. No.	District	Date of commercial production	Period for which concession was incorrectly allowed	Short levy of tax due to incorrect grant of concession (in lakhs of rupees)
		<u>Date up to which concession admissible</u>		
1.	Dharwad	18.4.1975	1987-88	0.44
		<u>31.10.1986</u>	to 1989-90	
		(Five years from date of notification of October 1981)		
2.	Mysore	12.11.1986	Between	0.43
		<u>11.11.1991</u>	12.11.1991 and 31.3.1992	
3.	Bangalore	17.4.1985	Between	0.73
		<u>16.4.1990</u>	17.4.1990 and 31.3.1992	
		Total		<u>1.60</u>

On these being pointed out in audit (between April 1994 and January 1995), the department initiated action in one case (Sl.No. 2) to revise the assessment. Further report in this case and reply in the remaining cases have not been received (September 1995).

The cases were referred to Government between December 1994 and July 1995; their reply has not been received (September 1995).

2.7. Mistake in computation of tax

Test check of assessment records of different sales tax offices revealed short levy of tax amounting to Rs.4.50 lakhs due to mistake in

computation of tax as mentioned below:

Sl. City/ No. district	Period	Tax			Remarks
		Leviable (in lakhs of rupees)	Computed and levied	Short levied	
1. Dharwad district	1990-91	3.29	2.29	1.00	Error in compu- tation
2. Bangalore city	1992-93	0.68	0.06	0.62	-do-
3. Dharwad district	1991-92	76.90	74.02	2.88	Omission to incl- ude the tax on purchase of fire- wood
Total				4.50	

On these being pointed out in audit (between May and October 1994), the department recovered Rs.2.56 lakhs, (January 1995) in one case (Sl.No.3) and initiated action to revise the assessment in another case (Sl.No.2). Further report in these cases and replies in the remaining case have not been received (September 1995).

The cases were referred to Government between December 1994 and January 1995; their reply has not been received (September 1995).

2.8. Non-levy/short levy of tax

(i) Under the Karnataka Sales Act, 1957, in the case of sale of any of the goods mentioned in the Eighth Schedule to the Act, tax at the specified rate shall be levied at the point of last sale in the State.

Tax is leviable at the rate of 4 per cent with effect from 1 April 1992 on sugar candy at the point of sale by the first or the earliest of successive dealers in the State liable to pay tax under the Act. Under the Central Act, on inter-State sale of sugar candy not covered by valid declarations tax is leviable at 10 per cent.

On purchase of hides and skins whether in raw or dressed state, by the last dealer in the State, tax is leviable at 4 **per cent** from 15 March 1980.

In the following cases, tax on the first sales, last purchase and last sales in the State and on the inter-State sales leviable as aforesaid, was omitted to be levied resulting in non-levy of tax of Rs.2.61 lakhs.

Sl. No.	City/ district	Period	Goods	Rate of tax (percentage)	Total	
					Turnover	Non-levy of tax
				Point of levy of tax	(in lakhs of rupees)	
1.	Bangalore city	1992-93	Bearings	3 Last sale	12.96	0.39
2.	Chitra- durga district	1990-91 and 1991-92	Plastic goods	- do -	15.43	0.46
3.	Bangalore city	1992-93	Sugar candy	4 First sale	8.28	0.34
4.	Dakshina Kannada district	1992-93	Sugar candy	4 and 10 First sale/ inter-State	14.79 (EST) 1.56 (EST)	1.12
5.	Bangalore district	1991-92	Leather	4 Last purchase	7.58	2.30
			Total			2.61

On this being pointed out in audit (between October 1994 and January 1995), the department initiated action to revise the assessments in two cases (Sl.Nos 3 and 5). Further report in these cases and reply in the remaining cases have not been received (September 1995).

The cases were referred to Government between March and June 1995; their reply has not been received (September 1995).

(ii) Under the Karnataka Sales Tax Act, 1957, surcharge at the rate of 10 **per cent** of the sales tax or purchase tax, from 29 March 1979 to 31 July 1985 and rural development cess for the period from April 1984 to March 1986 at the rate of 30 **per cent** of the tax are leviable.

Under the Central Sales Tax Act, 1956, on inter-State sales of goods not covered by prescribed declarations (other than declared goods), tax is leviable at the rate of ten **per cent** or at the rate applicable to the sale or purchase of such goods inside the State under the State Act, whichever is higher. The Commissioner of Commercial Taxes reiterated in November 1992 that surcharge and cess should also be levied on inter-State sales of goods which attracted such levies under the State Act.

In 3 cases of 2 city/districts surcharge and rural development cess leviable on tax under the Karnataka Sales Tax Act, 1957 and the Central Sales Tax Act, 1956 was either omitted to be levied or levied short resulting in non-levy/short levy of tax of Rs.2.21 lakhs as detailed below:

(Amount in lakhs of rupees)								
Sl. No.	City/district	Number of assessments	Period	Goods sold	Amount of tax on which surcharge/cess leviable	Amount of surcharge/cess		
						Levi-able	Levi-ed	Not levied or short levied
1.	Bangalore city	1	1.7.1983 to 30.6.1984	Welding electrodes	4.57	0.46	0.05	0.41
2.	Bijapur district	2	1.7.1981 to 30.6.1982 and from October 1985 to March 1986	Cement	18.03	1.80	-	1.80
Total		3						2.21

On these being pointed out in audit (between September and November 1994), the department revised the assessment in one case (Sl.No. 1). Further report regarding recovery in this case and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between February and April 1995; their reply has not been received (September 1995).

2.9. Incorrect allowance of set-off

Under the Karnataka Sales Tax Act, 1957, where tax has been levied on any item of goods of iron and steel and sunflower seeds and out of the said goods any other items of goods are manufactured in Karnataka and sold, the tax on the sale of such manufactured goods should be reduced by the amount of tax already paid under the Act, on the relative items of goods used in its manufacture. The burden of proving that tax under the Act has already been paid and of establishing the exact quantum of tax so paid on such items shall be on the dealer claiming the reduction.

In the cases mentioned below, on the sales turnover of steel forgings and sunflower oil manufactured out of tax suffered iron rounds, billets, etc., and sunflower seeds respectively, set off of tax aggregating Rs.1.17 lakhs has been incorrectly allowed.

Sl. No.	City/ district	Period	Goods	Set off of tax			Remarks
				Allowed	Admissi- ble	Incorrect allowance	
<u>(in lakhs of rupees)</u>							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Shimoga district	1991-92	Steel forging	2.45	1.69	0.76	Set off of tax was admissible only to the extent of tax paid on the purchase value aggregating Rs.42.17 lakhs, of iron rounds, billets, etc., used in the manufacture of steel forgings sold.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2.	Banga-lore city	1990-91	Sunflower oil	1.66	1.25	0.41	Set off of tax was admissible to the extent of tax paid on the purchase value of sunflower seeds used in the manufacture of sunflower oil sold in the course of inter-State trade.
Total					1.17		

On these being pointed in audit (between July and September 1994), the department initiated action to revise the assessment in one case (Sl.No.1). Further report in this case and reply in the other case have not been received (September 1995).

The cases were referred to Government between November 1994 and March 1995; their reply has not been received (September 1995).

2.10. Non-levy/short levy of turnover tax

Under the provisions of the Karnataka Sales Tax Act, 1957, every dealer other than the Government of Karnataka, the Central Government or the State Government of any other State, whose total turnover in a year conforms to the prescribed monetary limits whether or not the whole or any portion of such turnover is liable to tax under any other provisions of the Act, shall be liable to pay turnover tax at the prescribed rate on his total turnover less such deductions as are admissible under the Act.

In 48 cases of 8 city/districts, turnover tax aggregating Rs.55.70 lakhs was either not levied or levied short due to omission to reckon certain amounts of turnover, incorrectly exempting turnover from levy of turnover tax, application of incorrect

rate of turnover tax, etc., for the period between January 1986 and March 1993 as detailed below:

Sl. City/ No. district	Number of cases invol- ved	Period	Turnover liable to turnover tax (in lakhs of rupees)	Turnover tax not levied or levied short	Remarks
1. Bangalore city	23	Between 1989-90 and 1992-93	2,908.29	32.78	Omission to include certain turnover to arrive at the total turnover, application of incorrect rate of tax and incorrect exemption of certain turnover from levy of turnover tax.
2. Bangalore district	6	Between 1989-90 and 1992-93	334.58	4.85	Omission to reckon certain turnover and incorrect exemption of turnover from levy of turnover tax.
3. Belgaum district	4	Between 1.1.1986 and 18.10.1991	190.02	2.23	Same as in Sl.No. 1.
4. Bellary district	3	Between 1.7.1990 and 31-3-1993	225.57	2.42	Non-levy of turnover tax on certain turnover and application of incorrect rate of turnover tax.
5. Chittra- durga district	2	1991-92	306.02	4.66	Non-levy of turnover tax on certain turnover and incor- rect computation of taxable turnover.
6. Dharwad district	7	Between 1988-89 and 1990-91	605.04	7.58	Non-levy of turnover tax on taxable turnover.
7. Kolar district	2	1991-92	66.03	0.83	Non-levy of turnover tax on taxable turnover.
8. Tumkur district	1	1990-91 and 1991-92	28.24	0.35	Non-levy of turnover tax on taxable turnover.
Total	48		4,663.79	55.70	

On these being pointed out in audit (between May 1994 and December 1994), the department

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revised the assessments in 2 cases (Sl.No. 1) and recovered Rs.0.97 lakh in one case (Sl.No.1). In 2 other cases (Sl.No.1), partial recovery of Rs. 6.54 lakhs was effected. The department also initiated action to revise the assessments in 12 cases (those in Sl.No.1, Sl.No.2, Sl.No.4, and in Sl.No.5). In other 3 cases (in Sl.No.1) relating to non-levy of turnover tax on the purchase turnover of raw silk during the period from 1 April 1991 to 27 August 1991, the department held that no turnover tax was leviable in terms of Government notification issued in August 1991. This contention is not tenable as the High Court of Karnataka held* that there was no provision in the Act which conferred power on the State Government to issue notification with retrospective effect. The replies in the remaining cases have not been received (September 1995).

The above cases were reported to Government between September 1994 and May 1995; their reply has not been received (September 1995).

2.11. Non-levy of penalty

(i) Under the provisions of the Karnataka Sales Tax Act, 1957, the tax payable by a registered dealer in respect of sale of any industrial inputs like component part or raw material or packing material of any other goods, to another registered dealer is liable to tax under the Act at the concessional rate of 4 **per cent** or the rate specified in the Act whichever is lower, on the turnover relating to such sale, on furnishing prescribed declarations. However, the concession is not admissible to consumable stores.

If any person sells or uses such inputs contrary to such declaration, the assessing authority shall impose upon him by way of penalty, a sum which shall not be less than twice the amount of tax leviable under the Act.

The Commissioner of Commercial Taxes clarified in January 1988 that sodium silicate did not go into manufacture of castings but is used only as moulds for making castings and it could not, therefore, be

* M/s. Ananda Soap Factory Vs. State of Karnataka
(1978) 42 STC 296

purchased on declarations prescribed to avail concessional rate of tax.

In 3 cases, penalty of Rs.5.69 lakhs though leviable for purchase of consumable stores, sodium silicate and ink at concessional rate of tax as applicable to inputs by furnishing declarations, was not levied and collected by the assessing authorities as detailed below:

Sl. No.	City/district	Period	Goods purchased	Purchase turnover (in lakhs of rupees)	Rate of tax under State Act (per-centage)	Penalty not levied (in lakhs of rupees)
1.	Bangalore city	1990-91 and 1991-92	Consumable stores	10.59	7	1.48
2.	Bangalore city	Between 1989-90 and 1991-92	Sodium silicate	17.58	7	2.46
3.	Bangalore district	1990-91	Ink	8.74	10	1.75
			Total			5.69

The above cases were pointed out to the department between May 1993 and January 1994 and reported to Government between July and August 1994; their replies have not been received (September 1995).

(ii) Under the Karnataka Sales Tax Act, 1957, tax or any other amount due under the Act shall be paid in such manner, in such instalments subject to such conditions, on payment of such interest and within such time, as may be prescribed. The time limit for making payment of tax in the case of final assessments is 21 days from the date of service of demand notice. If default is made in making payments, the person or persons liable to pay tax or any other amount due under the Act shall pay a penalty equal to 1.5 **per cent** of the amount of tax or any other amount due and remaining unpaid for each month for the first 3 months after the expiry of the time prescribed and at 2.5 **per cent** of such amount for each month subsequent to the first 3 months as aforesaid.

In 11 cases in 4 city/districts, though the dealers did not pay the sums specified in the demand notice within 21 days of service of demand notices, yet penalty of Rs.7.47 lakhs leviable was not levied and realised.

Sl. No.	City/ district	Year	Number of assessees	Penalty realisable (in lakhs of rupees)
1.	Bangalore city	Between 1986-87 and 1991-92	7	3.85
2.	Tumkur district	Between 1987-88 and 1990-91	2	2.19
3.	Shimoga district	Between 1985-86 and 1987-88	1	1.09
4.	Bellary district	1991-92	1	0.34
		Total	11	7.47

These cases were pointed out to the department between May 1993 and January 1995 and referred to Government between November 1994 and May 1995; their replies have not been received (September 1995).

(iii) Under the Karnataka Sales Tax Act, 1957, a registered dealer shall not collect any amount by way of tax or purporting to be by way of tax at a rate or rates exceeding the rate or rates specified in the Act or in respect of sales of any goods on which no tax is leviable under the Act. From April 1992, the dealer shall pay to the assessing authority the entire amount of tax collected in excess in contravention of the provisions of the Act within 20 days after the close of the month in which such amount was collected. In 7 cases in 3 districts, the assessments of which were finalised after April 1992, though tax amounting to Rs.96.14 lakhs was collected in excess by assesseees,

yet no action was taken by the department to recover the excess tax collected, as detailed below:

Sl. No.	City/ district	Number of asse- sses	Year to which excess collec- tion related	Amount collected in excess (in lakhs of rupees)	Remarks
1.	Bangalore city	4	Between 1986-87 and 1991-92	89.76	On this being pointed out in audit (between June and September 1994), the department initiated action to revise the assessments in 2 cases. Futher report in these cases and replies in the other cases have not been received (September 1995).
2.	Dharwad	2	Between 1990-91 and 1991-92	5.73	The cases were pointed out to the department in September 1994; their reply has not been received (September 1995).
3.	Bellary	1	1992-93	0.65	The case was pointed out to department in August 1994; their reply has not been received (September 1995).
Total		7		96.14	

The above cases were referred to Government between August 1994 and February 1995; their reply has not been received (September 1995).

CHAPTER 3

STATE EXCISE

3.1. Results of audit

Test check of records of the Excise Department, conducted in audit during the year 1994-95, disclosed short levy of duty and licence fee amounting to Rs.4,002.27 lakhs in 263 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-recovery/short recovery of rent and interest	21	2,236.47
2. Non-recovery/short recovery of licence fee, litre fee, etc.	62	160.38
3. Errors in computation of duty	18	246.42
4. Production losses/wastages	17	143.76
5. Other irregularities	145	1,215.24
Total	263	4,002.27

During the course of the year 1994-95, the concerned department accepted under-assessments and other irregularities involving Rs.342.45 lakhs in 60 cases, of which 14 cases involving Rs.10.86 lakhs had been pointed out in audit during 1994-95 and the rest in earlier years. A few illustrative cases and results of a review on 'Collection of arrears of excise revenue' involving Rs.3,790.35 lakhs are given in the following paragraphs.

3.2. Collection of arrears of excise revenue

3.2.1. Introduction

The excise revenue comprises mainly duty, licence fees, rent on lease of retail vend of arrack, interest, fines, and penalties. The levy and collection of excise revenue are governed by the provisions of the Karnataka Excise Act, 1965 (the Act) and the Rules framed thereunder. Duty on

excisable articles is payable at the time of their removal from the distillery, brewery or warehouse, as the case may be. Similarly, permit fee or licence fee is payable in advance at the time of submitting application for permit or licence. However, in respect of sale of right of retail vend of toddy and arrack effected through auctions for each excise year, the contractors are required to make a cash deposit equal to one month's rent soon after the provisional acceptance of the bid and to furnish security for an amount equal to three and one tenths of the monthly rent within fifteen days from the date of communication of final confirmation. They are required to pay the rentals monthly not later than the 10th of the month to which the rental relates. This time limit can be extended up to the end of the next month with the specific permission of the Deputy Commissioner concerned/Excise Commissioner, subject to payment of interest for the extended period. All the above dues payable to Government if not paid, are recoverable as arrears of land revenue from the persons primarily liable to pay the same or from their sureties.

3.2.2. Organisational set up

The Excise Commissioner is the chief controlling authority in all matters connected with the administration of the Act. At the district level, he is assisted by a Deputy Commissioner of Excise, who is also responsible for collection of excise revenue. The Deputy Commissioners of Excise are assisted by Superintendents of Excise and Inspectors of Excise.

3.2.3. Scope of Audit

A review of the position of arrears of excise revenue and action taken by department for its collection during the excise years (July to June of next calendar year) from 1989-90 to 1993-94 was conducted by Audit during August 1994 to May 1995, by undertaking a test check of relevant records in 10 districts* out of the total of 20 districts, supplemented by a general review of records in the office of the Excise Commissioner. Important points noticed are narrated in the succeeding paragraphs.

* Bangalore (Urban), Bangalore (Rural), Kolar, Bellary, Raichur, Mysore, Mandya, Hassan, Bijapur and Gulbarga

3.2.4. Highlights

(i) The arrears in excise revenue increased by 181 **per cent** during the period from 1989-90 to 1993-94 as against increase of 95 **per cent** in actual collection of excise revenue of State. The department did not have firm sets of figures of arrears of excise revenue and the arrears as reflected in records of department did not include certain components forming part of excise revenue.

[Paragraph 3.2.5]

(ii) Though the conditions of stay granted by Courts against collection of enhanced licence fees were not honoured by licensees, the department had not taken steps to settle the cases as a result of which, arrears of Rs.677.13 lakhs remained uncollected.

[Paragraphs 3.2.7(ii) and (iii)]

(iii) Inadequate verification carried out by the department before registering an excise contractor in Kolar district resulted in accumulation of arrears of Rs.69.74 lakhs.

[Paragraph 3.2.8(i)(a)]

(iv) Allowing an ineligible contractor in Hassan district to participate in excise auctions for the disposal of right of lease of retail vend of arrack and acceptance of his offer led to arrears of Rs.112 lakhs.

[Paragraph 3.2.8(i)(b)]

(v) Failure on the part of department to initiate timely action to cancel the right of lease and to take effective follow up steps for collection of arrears resulted in non-collection of excise revenue of Rs.692 lakhs in a single case in Dakshina Kannada district.

[Paragraph 3.2.8(i)(c)]

3.2.5. Arrear position

(i) Extent of excise arrears

The excise revenue outstanding for the period of five years ending 31 March 1994 as reported by the Excise Department was as under:-

Year	Total excise revenue	Arrears of excise revenue at the end of year
	(in crores of rupees)	
1989-90	327.57	64.89
1990-91	429.69	121.60
1991-92	510.32	119.41
1992-93	515.33	175.76
1993-94	639.07	182.32

From the above it would be seen that while the excise revenue collected during the period 1989-90 to 1993-94 increased by 95 **per cent**, the arrears rose by 181 **per cent**.

The department did not have firm sets of figures of arrears of excise revenue as on March 1994. While furnishing the yearwise break-up of the arrears, the department indicated (September 1994) the arrears of excise revenue as on 31 March 1994, as Rs.186.19 crores. Again, while furnishing the details of stage of pendency of arrears, the department intimated (September 1994) that as on March 1994 the arrears of Rs.244.50 crores were in the process of recovery through Courts (Rs.139.06 crores) departmental proceedings (Rs.73.31 crores) and Revenue Department (Rs.32.13 crores).

Thus the department did not maintain records showing the correct position of arrears. No reasons were furnished by department for the variations in figures.

(ii) **Correctness of arrears**

It was noticed in audit that the arrears as reflected in the books of department did not include

(a) interest at 18 **per cent** on arrears of rent on lease of retail vend of arrack;

(b) licence fee, duty, etc., recoverable from distilleries and breweries; and

(c) fines and penalties levied and compounded by department for offences under the Act.

3.2.6. **Demands covered under revenue recovery certificates**

(1) According to Section 63 of the Karnataka Excise Act, all amounts on account of any contract relating to the excise revenue may be recovered from the person primarily liable to pay the same or from his surety, if any, as if they are arrears of land revenue.

The yearwise details of such arrears of excise revenue up to the year 1993-94 and referred to Revenue Department for recovery as arrears of land revenue, as seen from the records of Excise Department are furnished below:

Year	No. of cases	Nature of arrears		Total
		Lease rent (in lakhs of rupees)	Interest	
(1)	(2)	(3)	(4)	(5)
Up to				
1986-87	500	1,046.97	1,571.80	2,618.77
1987-88	6	0.73	4.69	5.42
1988-89	13	8.05	7.93	15.98
1989-90	9	0.88	0.60	1.48
1990-91	5	22.64	34.29	56.93
1991-92	2	389.29	124.68	513.97

(1)	(2)	(3)	(4)	(5)
1992-93 to 1993-94			- No cases -	
Total	535	1,468.56	1,743.99	3,212.55

The age, the number and the substantial amounts involved in these cases are indicative of the fact that effective follow-up action had not been taken to ensure speedy recovery.

(ii) As against arrears of Rs.3,212.55 lakhs shown by Excise Department as referred to Revenue Department, the records of the latter reflected only Rs.503 lakhs as having been referred to them by the former. The difference, as could be seen from the records of Revenue Department in districts test checked, was mainly due to non-accountal of demands in Demand, Collection and Balance Statements of Revenue Department and reduction of arrears without assigning reasons. Test check in six offices of Revenue Department in four districts (Hassan, Mysore, Mandya & Raichur) disclosed that a total demand of Rs.368.58 lakhs raised by Excise Department was not booked by Revenue Department which also reduced Rs.135.14 lakhs without assigning reasons. This shows that close contacts are not made by the Officers of Excise Department with those of Revenue Department to watch the progress made in recovery.

3.2.7. Recovery stayed by the High court and other judicial authorities

(i) As of 1994, a total of 5,265 cases involving excise revenue arrears of Rs.13,905.76 lakhs relating to the period up to 1993-94 were pending in Courts. Of these, cases involving nearly 38 **per cent** of the total monetary value of all cases related to 1986-87 and prior indicating that department had not taken adequate action to get the stays vacated. The yearwise details of lease rent outstanding and the interest due thereon as reported

by the Department are furnished below:

Year	Number of cases	Arrears		Total
		Lease rent (in lakhs of rupees)	Interest	
Up to 1986-87	191	2,312.08	2,924.00	5,236.08
1987-88	6	105.30	121.03	226.33
1990-91	26	2,328.24	584.81	2,913.05
1991-92	2,306	1,212.05	243.06	1,455.11
1992-93	2,708	2,081.41	210.01	2,291.42
1993-94	28	1,734.41	49.36	1,783.77
Total	5,265	9,773.49	4,132.27	13,905.76

The noticeable increase in the number of cases and the amount involved therein during 1991-92 and 1992-93 was due to many licensees approaching Courts against enhancement of licence fees payable for certain categories of licences for manufacture and sale of Indian liquor from July 1991.

(ii) The annual licence fee payable for certain categories of licences for the vend of Indian liquor and/or foreign liquor was enhanced by Government in February 1992 with retrospective effect from July 1991. The enhancement was, however, stayed by Courts, based on writs filed by licensees. The department, however, had not taken action to get the stay vacated in the case nor were the arrears watched through DCB Statements. In 2 districts, dues on account of enhancement of licence fee amounted to Rs.6.51 crores and they remained uncollected (May 1995).

(iii) In Raichur and Gulbarga districts, 105 licensees were granted stay in March 1992 against payment of enhanced licence fee on the condition that 50 **per cent** of enhanced licence fee be paid by them within eight weeks. The licensees did not, however, make payments as ordered by Courts. The department also did not take further action either to get the stay vacated or to implement the courts' order to realise the 50 per cent of enhanced licence

fee with the result arrears of Rs.26.13 lakhs remained uncollected as at the end of March 1994.

(iv) 3 licensees in Bangalore (Urban) district included their names in the stay granted in the case of 30 other licensees by Court against payment of enhanced licence fee. The department did not verify the original stay order issued by Court and this resulted in non-payment of enhanced licence fee of Rs.1.90 lakhs.

3.2.8. Other interesting cases

(i) The lease of right of retail vend of arrack is being entrusted through public auctions for each excise year, in accordance with the provisions contained in Karnataka Excise (Lease of Right of Retail Vend of Liquors) Rules, 1969. Test check revealed that there were cases of award and continuance of the right in disregard to the provisions of these Rules, leading to increase in arrears of excise revenue as detailed below:

(a) Before registering a person as contractor eligible to offer bids for obtaining rights of lease of retail vend of arrack, the department is expected to consider the solvency. For this purpose, solvency certificates issued by Banks in prescribed forms have to be furnished. The status, antecedents, past experience, etc., are also to be considered. The solvency certificate prescribed as well as the certificate issued by the Banks did not provide for any financial commitment on the part of banks, in cases of default of contractors. In one such case in Kolar district, arrears of Rs.69.74 lakhs relating to 1990-91 remained uncollected (April 1995) from a registered contractor, who actually turned out to be a worker under a defaulting contractor who was prevented from participating in auction. Evidently, the verification carried out by the department before registering the contractor in this case was inadequate, as the person to whom the vend was allotted failed to pay the rentals.

(b) Registered contractors are permitted to participate in the auction or tender for the right of retail vend of liquors to the specified extent of financial solvency. In one case in Hassan district, the contractor who was eligible to participate in auction involving bids up to Rs.12 lakhs based on the extent of financial solvency produced was allowed to offer bid to the extent of Rs.33.80 lakhs for 1990-91. Acceptance of the offer of the

contractor whose financial solvency was not adequate resulted in irregular payment of lease rent and led to substantial accumulation of arrears of Rs.112 lakhs.

(c) On account of non-production of required bank guarantee and non-payment of monthly rent regularly, the lease of right of retail vend of a contractor in Dakshina Kannada district for 1992-93 was ordered by Government on 19 September 1992 to be cancelled. Against requirement of payment of 3 and 1/10th of monthly rentals as security deposit within 15 days of confirmation of bid, the contractor was allowed to furnish bank guarantees on different banks for the required amount, in instalments, up to middle of October 1992, when the Deputy Commissioner of Excise sought fresh orders of the Excise Commissioner for cancellation of lease. The lease was, however, not cancelled and the contract was continued, even though delays and default in the payment of rent persisted. As a result, arrears of lease rent recoverable accumulated to Rs.692 lakhs for 1992-93.

The points brought out in the review were brought to the notice of department between August 1994 and May 1995 and referred to Government in June 1995; reply has not been received as of September 1995.

3.3. Non-collection/ short collection of licence fee

The annual licence fees chargeable under the Karnataka (Sale of Indian and Foreign Liquors) Rules, 1968, as amended in February 1992, for different kinds of licence such as wholesale licence, retail shop licence, hotel and boarding house licence, refreshment room (bar) licence, etc., for vend of liquors were enhanced with effect from 1 July 1991. By notification issued in April 1993, the annual licence fees chargeable for different kinds of licence were revised with effect from 1 July 1993.

According to the provisions of these rules, the rate of licence fee leviable is based on the kind of licence and the area in which the licensed premises is located. In terms of Government notification of April 1991, the population of the place as brought out in the immediately preceding census including the projected annual growth in years subsequent to that of census shall be the basis for the

classification of area. The Excise Commissioner clarified (July 1993) that places with population of 20,000 and above were municipal areas.

Under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, the licensees selling foreign liquor are liable to pay an additional licence fee equivalent to ten **per cent** of fee prescribed for grant of such licences.

In Mysore district, licence fees for the years 1992-93 and 1993-94 due from 19 licensees (5 retail shops and 14 bars) were collected either at the pre-revised rate or at incorrect rates due to misclassification of the areas (as other areas) of the licensed premises resulting in short collection of licence fee amounting to Rs.3.80 lakhs.

On this being pointed out in audit (between July and September 1994), the department stated that the difference would be recovered. Further reports regarding recovery have not been received (September 1995).

The case was referred to Government between February and March 1995; their reply has not been received (September 1995).

3.4. Short collection of lease amount

The lease amount payable under the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976, as amended in February 1992, for retail vend of bulk beer was revised to Rs.10,000 per annum, from July 1990. The lease amount for vending bulk beer by holder of bar licence was fixed as Rs.5,000 per annum.

In Bangalore city, lease amount due for the period between 1990-91 and 1993-94 from 30 licensees possessing the right of retail vend of bulk beer and who were not holding bar licence was collected at the rate of Rs.5,000 from each instead of at Rs.10,000 resulting in short collection of lease amount of Rs.1.53 lakhs.

This was pointed out to the department between July and September 1994 and referred to Government in March 1995; their replies have not been received (September 1995).

3.5. Loss of revenue due to excess allowance of wastage of spirit/ Indian liquor

The Government by issue of a notification (May 1980) fixed the maximum wastage allowable in the cases of transport of spirit from distillery to other processing places, maturation of compounded spirit and of manufacture of Indian liquor including bottling, handling, etc.,

In 3 distilleries in Bangalore (Rural) district, in the cases of transport of spirit, of maturation of compounded spirit and of manufacture of Indian liquor, the wastage claimed and allowed during the year 1993-94 exceeded the maximum wastage allowable by 1,07,620 proof litres of spirit and 8,942 bulk litres of Indian liquor. The excess wastage allowed resulted in loss of revenue of Rs.64.96 lakhs by way of duty on Indian liquor that would have been manufactured. The details are given below :

Sl. No.	Process involved	Excess wastage allowed	Indian liquor that could have been manufactured	Amount of duty realisable
	Wastage prescribed (percentage)	Spirit (in proof litres)	Indian liquor (in bulk litres)	(in lakhs of rupees)
1.	Transport of spirit from 0.75 to 1	545	698	0.31
2.	Maturation of compounded spirit from 2.5 to 22	1,07,075	1,34,730	60.63
3.	Manufacture of Indian liquor	-	8,942	4.02
5				
	Total	1,07,620	1,44,370	64.96

The cases were pointed out to the department between September 1994 and January 1995 and referred to Government between March and May 1995; their replies have not been received (September 1995).

3.6. Loss of revenue due to short production of Indian liquor

Under the Karnataka Excise (Excise Duties and Fee) Rules, 1968, excise duty at the rate of Rs.42

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per bulk litre up to 5 January 1994 and at the rate of Rs.45 per bulk litre thereafter is leviable on Indian liquor issued. According to the Karnataka Excise (Bottling of Liquor) Rules, 1967, no spirit of strength lower than 25 degree under proof in the case of potable spirit or lower than such strength as may be fixed by Excise Commissioner from time to time for such spirit shall be bottled. However, a tolerance limit of 0.5 degree variation in strength is permissible as prescribed by Government in May 1980. Any reduction in strength should result in corresponding increase in production of Indian liquor.

In a distillery in Bangalore (Urban) district, the strength of Indian liquor manufactured in 20 batches during 1993-94 was more than 25 degree under proof or below the prescribed strength of 75 degree proof. However, even after allowing the tolerance of 0.5 degree variation, there was no corresponding increase in the production of Indian liquor to the extent of 2,066.481 bulk litres, resulting in loss of revenue of Rs. 89,986 by way of duty thereon.

This was pointed out to the department in December 1994 and referred to Government in March 1995; their replies have not been received (September 1995).

3.7. Non-levy /short levy of litre fee

Under the Karnataks Excise (Excise Duties and Fee) Rules, 1968, litre fee was leviable up to 31 March 1993, at Rs.7 per bulk litre on spirit liquor, at Re.1 per bulk litre on beer, at Re.0.65 per bulk litre on wine containing up to and inclusive of 14 **per cent** volume by volume (V/V) alcohol and Rs.2.25 per bulk litre on wine containing above 14 **per cent** V/V alcohol, when sold by licensees. The levy of litre fee as aforesaid was, however, discontinued and the rates of excise duties were enhanced with effect from 1 April 1993. It was clarified by Government in December 1993 that litre fee at the specified rates as it stood prior to 1 April 1993 shall be payable on such excisable articles imported, transported or manufactured prior to 1 April 1993 and subjected to excise duty at the lower rates which were held in stock on or after 1 April 1993.

In Bangalore city and Bijapur, Bidar, Gulbarga and Raichur districts, as against litre fee aggregating Rs.12.80 lakhs leviable as aforesaid on 1,53,414.015 bulk litres of Indian liquor,

1,92,411.050 bulk litres of beer and 8,252.640 bulk litres of wine purchased, imported or transported prior to 1 April 1993 (subjected to excise duty at lower rates) and held in stock on or after 1 April 1993, litre fee of Rs.9.33 lakhs only was levied and collected resulting in short levy of litre fee of Rs.3.47 lakhs.

On this being pointed out in audit (between May and December 1994), the department stated in February 1995 that the wholesale dealer in one case (Bangalore city) was not in existence and that the matter would be taken up with higher authorities. Further report in this case and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between February and May 1995; their reply has not been received (September 1995).

3.8. Short recovery of duty on wine

According to the Karnataka Excise (Duties and Fee) Rules, 1968, as amended in August 1990, the rate of duty leviable from 28 August 1990 on wine of strength up to and inclusive of 14 **per cent** was fixed at Rs.1.35 per bulk litre and at Rs.5 per bulk litre on wine of strength above 14 **per cent** but not exceeding 24 **per cent**.

In Bangalore (Urban) district, on 25,542 bulk litres of wine of strength above 14 **per cent**, imported during the period from December 1990 to September 1992, duty at the pre-revised rate applicable to wine of strength up to and inclusive of 14 **per cent**, amounting to Rs.19,645 only was levied and collected as against Rs.1.28 lakhs leviable at the enhanced rate applicable to wine of strength above 14 **per cent**, resulting in short recovery of duty of Rs.1.08 lakhs.

This was pointed out to the department in June 1994 and referred to Government in February 1995; their replies have not been received (September 1995).

3.9. Loss of revenue in retail vend of arrack

Under the Karnataka Excise (Lease of Right of Retail Vend of Liquors) Rules, 1969, the person who is granted the right of retail vend of liquors shall, within fifteen days from the date of communication of the order, furnish security for an

amount equal to $3 \frac{1}{10}$ of the monthly rent, in the form of cash deposit, Government securities or other securities recognised by Government or an irrevocable guarantee given by a Scheduled Bank. Further, the rent payable to Government for a month shall be paid before 10th day of that month.

In case of failure to comply with the aforesaid provisions, the lease shall be terminated, licence cancelled and the right to vend liquor decided afresh. The loss, if any, sustained by Government on account of termination is recoverable from the defaulting bidder.

In 4 districts (Mandya, Bangalore(Urban), Dharwad and Dakshina Kannada), the successful bidders who were granted the right of retail vend of arrack for the year 1993-94 had failed to furnish the required security within the prescribed time and/or defaulted in making payment of monthly rents. The licences were, therefore, cancelled and the leases terminated by fixing reauctions and departmental arrangements. The aggregate revenue realised in these districts for the year 1993-94 in the vend of arrack was Rs.6,862.92 lakhs as against the revenue of Rs.8,691.17 lakhs in terms of the original lease rents. The loss of revenue of Rs.1,872.51 lakhs (including interest of Rs.44.26 lakhs on belated payment of rent and delay in realisation of Bank guarantees) consequent upon the departmental and interim arrangements was not recovered from the defaulting bidders as detailed below:

Sl. No.	District	Revenue in terms of original rent	Revenue realised	Loss of revenue
----- (in lakhs of rupees) ----				
1.	Mandya	122.33	83.11	39.22
		#Demand of Rs.31.65 lakhs was raised in April 1994)		
2.	Bangalore (Urban)	7,524.00	5,796.01	1,727.99
3.	Dharwad	53.04	34.75	18.29
4.	Dakshina Kannada	991.80	949.05	87.01
		(including interest of Rs.44.26 lakhs on belated payment of rent and delay in adjustment of Bank guarantees)		
	Total	8,691.17	6,862.92	1,872.51

The cases were pointed out to the department in audit between September and December 1994 and referred to Government between March and May 1995; their replies have not been received (September 1995).

3.10. Short levy of excise duty on arrack

By a Government notification issued in January 1994 under the Karnataka Excise (Excise Duties and Fees) Rules, 1968, duty leviable on arrack was enhanced from Rs.7.00 to Rs.9.00 per bulk litre with effect from 6 January 1994.

In 4 cases in three districts, excise duty on arrack aggregating Rs.59.69 lakhs was short levied and collected due to application of incorrect rate of duty as detailed below:

Sl. No.	District	Period	Quantity of arrack issued (in lakh of bulk litres)	Total		
				<u>Duty</u>		
				leviable	levied	levied short
<u>(in lakhs of rupees)</u>						
1.	Belgaum	Between 6 January and 31 January 1994	1.13	10.17	8.90	1.27
2.	Bidar	Between 6 January and 30 June 1994	1.32	11.91	9.26	2.65
3.	Bangalore (Rural)	Between 6 January and 28 Feb- ruary 1994	19.44	581.97	527.21	54.76
4.	Bangalore (Rural)	Between 6 January and 31 March 1994	0.51	4.55	3.54	1.01
Total			22.40	608.60	548.91	59.69

The cases were pointed out to the department between July and February 1995 and referred to Government between March and May 1995; their replies have not been received (September 1995).

3.11. Non-recovery of penalty on unmatured arrack

According to Government order of May 1992 and instructions issued by the Excise Commissioner in July 1992, the prescribed period of maturation of arrack is 15 days. If the arrack is matured for 15 days or more, the bottler shall be entitled for full blending charges. In case the arrack is matured for less than 15 days but more than 7 days, penalty amounting to 2 **per cent** of the blending charges and if the arrack is matured for 7 days or less, penalty amounting to 5 **per cent** of the blending charges shall be payable by the bottler to Government. The rate of blending charges is 66 paise per bulk litre.

In 7 cases, penalty payable for failure to mature arrack for the prescribed period of 15 days (during 1993-94) was either not levied or levied short to the extent of Rs.11.57 lakhs as detailed below:

Sl. No.	District	Period for which arrack was matured	Quantity of arrack involved (in lakh of bulk litres)	Penalty		
				Leviable	Levied	Non-levy or short levy
				(in lakhs of rupees)		
1.	Hassan	less than 7 days	36.95	1.22	0.10	1.12
2.	Bangalore (Urban)	-do-	179.96	5.94	-	5.94
3.	Bidar	7 days or less	18.80	0.62	-	0.62
4.	Belgaum	-do-	33.92	1.12	-	1.12
5.	Gulbarga	-do-	31.01	1.02	-	1.02
6.	Belgaum	7 days or less	35.74	1.18	-	1.18
		more than 7 days but less than 15 days	14.88	0.20	-	0.20
7.	Kolar	less than 7 days	43.41	1.43	1.06	0.37
Total				12.73	1.16	11.57

On these being pointed out in audit (between July 1994 and February 1995), the department stated that the matter in one case (Sl.No.3) was pending with the Excise Commissioner. Further report in this case and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between February and May 1995; their reply has not been received (September 1995).

3.12. **Non-recovery/short recovery of value of confiscated goods when released**

Under the Karnataka Excise (Confiscated Articles Disposal) Rules 1967, confiscated potable liquor, if it is in sealed bottles, shall be disposed off by public auction among the licensees under the Karnataka Excise Act, at a price not less than **75 per cent** of the ordinary local price of such liquor excluding duty and taxes. Excise duty and sales tax are leviable at the rates prevailing on the date of disposal.

Confiscated rectified spirit is to be sent to the Excise Commissioner for redistillation or such other disposal as he may deem fit.

Under the Karnataka Excise (Excise Duties and Fees) Rules, 1968, duty at the rate of Rs.45 per bulk litre is leviable from 6 January 1994 on Indian liquor.

Under the Karnataka Sales Tax Act, 1957, on Indian liquor, tax at **50 per cent** and surcharge of **15 per cent** on tax are leviable from 1 April 1994 at all points of sale (other than the last sale in the State).

In the cases mentioned below, on the disposal of the confiscated Indian liquor, beer and rectified spirit, price aggregating Rs.2.55 lakhs has been recovered short for reasons such as non-collection

of prescribed value and short collection of duty and sales tax:

Sl. No.	District	Period of disposal of goods	Goods disposed	Quantity (in bulk litres)	Value of goods		
					Recoverable	Recovered	Non-recovered or short recovered
(in lakhs of rupees)							
1.	Bangalore (Urban)	April 1994	Indian liquor	1,698.120	1.39	1.07	0.32
2.	Dharwad	Between April and June 1994	Indian liquor/Beer	5,987.490 } 1,428.700 }	2.36	1.90	0.46
3.	Dakshina Kannada	March 1994	Indian liquor	393.330	0.37	-	0.37
4.	Dakshina Kannada	January 1995	Rectified spirit	9,000.000	1.40	-	1.40
Total					5.52	2.97	2.55

The cases were pointed out to the department between September and December 1994 and referred to Government between March and April 1995; their replies have not been received (September 1995).

3.13. Short levy of sales tax on sale of arrack/Indian liquors

(i) Under the Karnataka Sales Tax Act, 1957, on arrack, sales tax is leviable at the rate of 20 per cent from April 1990 to March 1994 and at the rate of 25 per cent thereafter.

The rate of duty leviable on arrack was enhanced from Rs.7 to Rs.9 per bulk litre, from 6 January 1994 in terms of amendments of January 1994 to the Karnataka Excise (Excise Duties and Fees) Rules, 1968.

In the case of 7 arrack processing units located in Bangalore (Rural), Bangalore (Urban), Belgaum, Bidar, Chitradurga and Kodagu districts, sales tax aggregating Rs.54.47 lakhs has been levied short on the sale of 149.48 lakh bulk litres of arrack made during the period between July 1993 and June 1994, due to application of incorrect rate of sales tax for the period prior to 6 January 1994 and

also on account of omission to compute sales tax on the enhanced rate of excise duty.

The cases were pointed out to the department between July 1994 and February 1995 and referred to Government between April and May 1995; their replies have not been received (September 1995).

(ii) By a notification issued in January 1994 under the Karnataka Excise (Excise Duties and Fees) Rules, 1968, excise duty leviable on Indian liquor was enhanced from Rs.42 to Rs.45 bulk litre from 6 January 1994. It has been judicially held* that excise duty is includible in the taxable turnover.

Under the Karnataka Sales Tax Act, 1957, every dealer shall pay for each year, tax on his taxable turnover of sales (other than the last sale in the State) relating to all kinds of alcoholic liquors for human consumption (other than toddy, arrack, fenny and wine), at the rate of 45 **per cent** from 1 April 1990 to 31 March 1994 of such turnover.

In Bangalore city, on 34,705.32 bulk litres of Indian liquor removed on sale by a distillery during 6 to 10 January 1994, excise duty was levied initially at Rs.42 per bulk litre instead of at Rs.45 per bulk litre. Though the differentials in excise duty were recovered, the turnover of sales was not revised for determining sales tax payable, resulting in short levy of sales tax of Rs.46,852.

This was pointed out to the department in December 1994 and referred to Government in March 1995; their replies have not been received (September 1995).

3.14. Non-recovery/short recovery of interest

According to the Karnataka Excise Licences (General Conditions) Rules, 1967, the rent payable to Government in respect of licensed shop for each month shall be credited by the licensee into the treasury on or before the tenth day of that month. Interest at the rate of 18 **per cent** per annum shall be charged from the eleventh day of that month on the outstanding amount as long as it remains unpaid.

In Dakshina Kannada, Dharwad and Tumkur districts, though there were delays ranging from

* M/s.McDowell & Co.,Ltd., Vs Commercial Tax Officer
(1985) 59 STC 277 (SC) AIR 1986 SC 649

5 to 469 days in payment of rent of arrack shops, by contractors, during the year 1993-94, interest aggregating Rs.25.44 lakhs leviable for the delay in payments was either not recovered or recovered short.

On these being pointed out in audit (between October and December 1994), the department recovered Rs.30,981 in the case relating to Dharwad district. Further report regarding recovery of the balance amount in this case and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between March and April 1995; their reply has not been received (September 1995).

CHAPTER 4

TAXES ON MOTOR VEHICLES

4.1. Results of audit

Test check of records in the Motor Vehicles Department, conducted in audit during the year 1994-95, disclosed under-assessments of tax amounting to Rs.2,480.21 lakhs in 134 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-levy/short levy of tax	37	1,978.05
2. Non-levy/non-collection of penalty/fees	30	21.60
3. Other irregularities	67	480.56
Total	134	2,480.21

During the course of the year 1994-95, the concerned department accepted under-assessments of Rs.677.16 lakhs involved in 37 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.8.93 lakhs are given in the following paragraphs.

4.2. Short levy due to incorrect determination of laden weight

Under the Karnataka Motor Vehicles Taxation Act, 1957, tax on articulated vehicle (a motor vehicle to which a semi-trailor is attached) is payable with reference to the permitted registered unladen weight of the tractor (prime mover) together with maximum laden weight of the largest number of trailers proposed to be drawn. Government enhanced in September 1982, the permissible gross laden weight of articulated vehicles to 25.4 tonnes, which was further enhanced to 35.2 tonnes in March 1991.

In Mangalore region, on 13 articulated vehicles (tractors of 1978 to 1983 models) initially

registered in other States and migrated to Karnataka between February 1987 and January 1989, tax was levied on the maximum laden weight of the trailers alone without adding the unladen weight of the tractors (prime movers). This resulted in tax being levied short by Rs.1.65 lakhs (calculated on the basis of information available for one vehicle) for the period from February 1987 to January 1995.

This was pointed out to the department in November/December 1994 and referred to Government in February 1995; their replies have not been received (September 1995).

4.3. Short levy due to non-enhancement of registered laden weight

Under the Karnataka Motor Vehicles Taxation Act, 1957, tax on a goods vehicle is levied with reference to its registered laden weight. According to Government notification issued in June 1987, on goods vehicles registered prior to 31 March 1983 (including those initially registered in other States and then migrated to Karnataka), tax has to be levied by enhancing the registered laden weight by 25 **per cent** over and above the weight certified by the manufacturer.

In Bangalore (South) region, on 6 heavy goods vehicles (1970 to 1976 models) initially registered prior to 31 March 1983 in other States and migrated to Karnataka between 1984 and 1992, tax was levied and collected on the laden weight (11,500 Kgs) as certified by the manufacturer as against the enhanced registered laden weight (14,375 Kgs). This resulted in tax being levied short by Rs.40,405 for the period from August 1984 to July 1994.

On this being pointed out in audit (May/June 1994), the department issued notices in all the cases. Further report has not been received (September 1995). The case was referred to Government in July 1994; their reply has not been received (September 1995).

4.4. Non-collection or short collection of composite fee

(i) Under the Motor Vehicles Act, 1988 (Central Act), the holder of a national permit under the National Permit Scheme in force from 26 September 1975, is authorised to ply a goods

carriage throughout the territory of India or in such contiguous States not being less than four in number including the home State in which the permit is issued. The permit holder, in addition to the motor vehicles tax and annual authorisation fee payable to the home State, is required to pay a composite fee for each State/Union Territory opted for operation at the rate of Rs. 1,500 per annum up to 31 August 1993. The composite fee was enhanced in January 1994 to Rs.3000 or Rs.5000 per annum with effect from 1 September 1993 depending upon the State in which the vehicle is registered. The composite fee is payable in one or two instalments on or before 15 March and 15 September each year and if the permit holder applies for authorisation during March for the ensuing financial year, he has to pay the annual tax irrespective of the fact whether he operates or not in the second half year. The Commissioner for Transport of the home State is required to collect the composite fee due to other States/Union Territories in the form of demand drafts and send the same to the States concerned.

It was observed (December 1994 to February 1995) in audit that instalments of composite fee relating to the period July 1993 to May 1994 aggregating Rs.3.62 lakhs in respect of 137 vehicles registered in 2 States (Madhya Pradesh-37 and Haryana -100) had not been collected and passed on to the Commissioner of Transport, Bangalore.

(ii) Further, it was also observed (December 1994 to February 1995) in audit that the difference of composite fee due from September 1993 to August 1994 aggregating Rs.3.26 lakhs in respect of 214 vehicles registered in 2 States (Madhya Pradesh-157 and Haryana-57) had not been collected (February 1995).

These omissions were pointed out to the department (between December 1994 and February 1995) and referred to Government in May 1995; their replies have not been received (September 1995).

CHAPTER 5

TAXES ON AGRICULTURAL INCOME

5.1. Results of audit

Test check of records in Agricultural Income-tax offices, conducted in audit during the year 1994-95 disclosed under-assessments of tax amounting to Rs.46.67 lakhs in 47 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-levy of interest and penalty	26	24.45
2. Irregular allowance of expenditure	8	12.59
3. Income escaping assessment	1	0.15
4. Errors in computation of income	7	6.30
5. Other irregularities	5	3.18
Total	47	46.67

During the course of the year 1994-95, the concerned department accepted under-assessments of Rs.39.07 lakhs in 60 cases, which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.28.98 lakhs are given in the following paragraphs.

5.2. Incorrect determination of taxable income

Under the Karnataka Agricultural Income-tax Act, 1957, if in any year, expenditure is incurred by a person exclusively on new cultivation of land for growing areca, cardamom, coconut, coffee, orange or rubber plants and also on maintenance of immature plants of these crops, ten **per cent** of such expenditure may be allowed as deduction in computing the taxable agricultural income of such person.

However, no such deduction shall be allowed in the case of pepper plantation.

In Hassan district, while determining the taxable agricultural income of an assessee firm, the entire expenditure of Rs.2.45 lakhs incurred during the previous year relevant to the assessment year 1990-91, towards new cultivation of land for growing and also on maintenance of immature plants of coffee (Rs.1.52 lakhs) cardamom (Rs. 0.27 lakh) and pepper (Rs.0.66 lakh) was allowed as deduction in full without restricting it to 10 **per cent** of expenditure incurred on coffee and cardamom plantation only and without disallowing expenditure incurred on pepper plants. This resulted in short determination of income by Rs.2.28 lakhs and consequent short levy of tax by Rs.1.31 lakhs.

This was pointed out to the department in July 1994 and referred to Government in September 1994; their replies have not been received (September 1995).

5.3. Short levy due to incorrect computation of taxable income

Under the Karnataka Agricultural Income-tax Act, 1957, agricultural income tax shall be levied on the total agricultural income of the previous year of every person, at the rate or rates specified in the Schedule to the Act. Any expenditure (not being in the nature of capital expenditure) laid out or expended in the previous year wholly and exclusively for the purpose of deriving the agricultural income alone is allowable as deduction in computing the agricultural income. As expenditure incurred in the extraction of timber is not for the purpose of deriving agricultural income, such expenditure, if shown as deduction in the accounts of an assessee, has to be added back.

(i) In Kodagu district, while computing the taxable agricultural income of an assessee company for the assessment year 1991-92, though the proceeds from the sale of timber amounting to Rs.5.14 lakhs were not considered as taxable income, expenditure of Rs.73,106 incurred towards extraction of timber and shown as deduction in the accounts of the assessee was not added back as income. This resulted in short computation of income and consequent short levy of tax amounting to Rs. 47,519.

This was pointed out to the department in November 1994 and referred to Government in

March 1995; their replies have not been received (September 1995).

(ii) In the case of another assessee company in the same district, for the assessment year 1990-91, the assessing officer allowed expenditure of Rs.9.00 lakhs as head office expenditure as against the actual expenditure of Rs.8.35 lakhs claimed by the assessee company. This resulted in short computation of income by Rs.64,637 and consequent short levy of tax amounting to Rs.42,014.

This was pointed out to the department in November 1994 and referred to Government in March 1995; their replies have not been received (September 1995).

(iii) While finalising the assessment of yet another assessee company in the same district, for the assessment year 1990-91, the income of Rs.1.24 lakhs derived from coffee and included in the return as miscellaneous income, was excluded from computation of agricultural income, resulting in short levy of tax of Rs.80,713.

This was pointed out to the department in November 1994 and referred to Government in March 1995; their replies have not been received (September 1995).

(iv) The income from pepper was being computed by another assessee company of the same district, by adding receipts from sale during a year to the value of closing stock and deducting the value of opening stock for the purpose of agricultural income tax. This practice was followed for the years prior to and after the assessment year 1990-91. However, while finalising the assessment (January 1992) of the company for the assessment year 1990-91, the receipt of Rs.15.91 lakhs from sale of pepper during the previous year was considered without adding the value of closing stock (Rs.9.48 lakhs) and deducting the value of the opening stock (Rs.8.53 lakhs). This resulted in short computation of income by Rs.94,691 and consequent short levy of tax amounting to Rs.61,549.

This was pointed out to the department in November 1994 and referred to Government in March 1995; their replies have not been received (September 1995).

(v) In Chikkamagalur district, while finalising (March 1994) the assessment of an assessee company

which had an agricultural income of Rs.104.84 lakhs and a deductible expenditure of Rs.84.47 lakhs, the taxable income for the assessment year 1989-90 was wrongly computed as Rs.17.50 lakhs as against Rs.20.37 lakhs, resulting in short levy of tax of Rs.1.41 lakhs.

On this being pointed out in audit (October 1994), the department issued a notice to the assessee. Further report has not been received (September 1995).

The case was referred to Government in February 1995; their reply has not been received (September 1995).

5.4. Excess exemption

According to the Karnataka Agricultural Income-tax Act, 1957 and the Rules made thereunder, agricultural income tax shall not be payable on that part of the total agricultural income of a person, which represents any sums paid by such person as donations to any institution or fund, which is established for charitable purposes and is approved by the State Government, subject to the condition that such donation shall not exceed ten **per cent** of the taxable agricultural income or rupees one hundred thousand, whichever is less.

In Hassan district, while computing the deductions on account of donations (Rs.9.6 lakhs) paid by 3 assesseees during the years 1 July 1987 to 31 March 1989 and 1 April 1990 to 31 March 1991 relevant to the assessment years 1989-90 and 1991-92 respectively, the assessing officer did not restrict the donations to ten **per cent** of the taxable agricultural income. This resulted in tax being levied short by Rs.2.79 lakhs.

On this being pointed out in audit in July 1994, the department stated that notices would be issued in all these cases. Further report has not been received (September 1995).

The case was referred to Government in September 1994; their reply has not been received (September 1995).

5.5. Non-levy of interest on belated payment of tax

Under the Karnataka Agricultural Income-tax Act, 1957, a person with taxable agricultural income in

any previous year, is required to submit to the assessing authority, within four months from the end of the previous year, an annual return of income in the prescribed form, setting forth his total agricultural income during the previous year. He is also required to pay in advance the full amount of tax payable by him on the basis of such return and furnish along with the return, satisfactory proof of the payment of such tax. The assessing authority is, however, empowered to grant extension of time to any assessee to file the return and to pay tax after the due date subject to the payment of interest at the rate charged by Scheduled Banks for unsecured loans, on the tax due from the due date up to the date of actual payment of such tax.

In the cases mentioned below, on belated payment of tax, interest (at 18 **per cent** up to March 1991 and at 24 **per cent** thereafter) aggregating Rs.12.86 lakhs, though leviable, was not levied:

(Amount in lakhs of rupees)						
Sl. No.	Office of	Assessment year and due date for filing return of advance tax	Date of filing return and amount	Date of payment of advance tax	Amount of advance tax paid	Non-levy/short levy of interest
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Assistant Commissioner of Agricultural Income Tax (ACAIT) 1987 Hassan	1987-88 31.10. 1986 1988-89 31.10. 1987	2.6.1987 36.44 30.5.1988 51.29	27.3.1987 29.5.1987 29.3.1988 30.5.1988	5.00 31.44 5.00 46.29	3.63
2.	ACAIT I Circle, Chikka-magalur	1992-93 31.7.1992	18.1.1993 6.40	3.9.1992 23.11.1992 20.2.1993	2.00 2.00 2.40	0.51
3.	ACAIT I Circle, Chikka-magalur	1988-89 31.7.1988 1989-90 31.7.1989	Return not filed 0.85 Return not filed	18.3.1992 23.1.1993 Adjusted out of excess tax	0.51 0.34 0.30 1.25	0.67

(1)	(2)	(3)	(4)	(5)	(6)	(7)
			1.55	paid for earlier years 9.1.1993		
4.	ACAIT	1989-90	Firm	28.11.1990	1.63	0.39
	I Circle,	31.7.1989	24.11.1990			
	Chikka-		1.63			
	magalur		Partners	4.3.1992	0.30	0.46
			16.3.1992	6.3.1992	0.20	
			0.89	11.3.1992	0.29	
				13.3.1992	0.10	
5.	ACAIT	1989-90	6.9.1992	31.5.1994	0.71	0.75
	III Circle,	31.7.1989	0.71			
	Chikka-					
	magalur					
6.	ACAIT	1991-92	4.5.1993	30.4.1993	0.81	0.34
	III Circle,	31.7.1991	0.81			
	Chikka-					
	magalur					
Total					12.86	

Note: Up to assessment year 1987-88 (from 1 April 1987), previous year reckoned as revenue year from July to June.

On these being pointed out in audit (between June and October 1994), in 5 cases (of those Sl.Nos. 1, 2 and 4), the department issued notices (between July and October 1994). Replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between September 1994 and February 1995; their reply has not been received (September 1995).

5.6. Non-levy of penalty

(i) Under the Karnataka Agricultural Income-tax Act, 1957, if an assessee fails to pay the tax demanded from him within the time mentioned in the demand notice and if a time is not so mentioned, then on or before the first day of the second month following the date of serving notice, he shall pay penalty at the rate of 1.5 per cent per month of the amount of tax remaining unpaid for the first three months after the expiry of the time allowed and at 2.5 per cent per month for each subsequent month, so long as the default continues.

In Chikkamagalur and Kodagu districts, although 7 assesseees failed to make payment of agricultural income tax (Rs.12.40 lakhs) for the assessment years 1987-88 to 1992-93 by the due dates, the assessing officer did not levy penalty amounting to Rs.96,789.

On these being pointed out in audit (between September and November 1994), the department issued notices in three cases (Chikkamagalur district). Replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between February and March 1995; their reply has not been received (September 1995).

(ii) Under the Karnataka Agricultural Income-tax Act, 1957, if after the final assessment, the advance tax paid by the assessee is found to be less than the tax payable by more than 25 **per cent**, the assessing authority may direct the assessee to pay, in addition to the tax, by way of penalty a sum calculated at 10 **per cent** of the amount so paid short.

In the cases mentioned below, penalty aggregating Rs.7.31 lakhs leviable due to short payment of advance tax, was not levied.

Sl. No.	City/ district	Assess- ment year	Tax asses- sed	Advance tax paid	Balance tax due	Penalty not levied
-- (in lakhs of rupees) --						
1.	Chikka- magalur I Circle, 1993-94 (9 assesseees)	1985-86 to 1993-94	6.80	2.18	4.62	0.46
2.	Chikka- magalur II Circle, 1981-82 (one assessee company)	1978-79 to 1981-82	130.36	65.01	65.35	6.53
3.	Chikka- magalur III Circle, (8 partners of a firm)	1992-93	3.22	-	3.22	0.32
Total			140.38	67.19	73.19	7.31

On these being pointed out in audit (between June and October 1994), the department issued demand notices in all cases in I Circle (Sl.No.1). Further report in these cases and replies in the remaining cases have not been received (September 1995).

The cases were referred to Government between October 1994 and February 1995; their reply has not been received (September 1995).

CHAPTER 6

LAND REVENUE

6.1. Results of audit

Test check of records in taluk and district offices relating to land revenue, conducted in audit during the year 1994-95, disclosed short levy of land revenue, water rate, maintenance cess, etc., amounting to Rs.1,945.51 lakhs in 117 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-levy/short levy of water rate	29	1,610.59
2. Non-levy/short levy of maintenance cess	26	41.14
3. Non-levy/short levy of conversion fine	9	1.61
4. Non-levy/short levy of fine for unauthorised occupation of Government land	20	83.39
5. Other irregularities	33	208.78
Total	117	1,945.51

During the course of the year 1994-95, the concerned department accepted under-assessments of Rs.36.49 lakhs involved in 17 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.191.57 lakhs are given in the following paragraphs.

6.2. Failure to raise demands of water rate

Under the Karnataka Irrigation (Levy of Water Rates) Rules, 1965, in respect of each crop or revenue year, as the case may be, two officers, one each of the Revenue Department and Irrigation Department jointly inspect and prepare a statement of

survey numbers of lands to which water was supplied, made available or used for irrigation and the crops raised therein. On the basis of this statement, the Irrigation Officer prepares a statement of water rate payable by each land holder and sends it to the Tahsildar concerned for collection.

In 11 taluks of 7 districts, omission to book and raise demands for water rate aggregating Rs.30.11 lakhs by the Revenue Department even after receipt of demand statements from Irrigation Officer was noticed as indicated below:

Sl. No.	Taluk (and district)	Period	Demand for water rate not raised (in lakhs of rupees)
(1)	(2)	(3)	(4)
1.	Periyapatna (Mysore)	1991-92 and 1992-93	9.06
2.	Yelandur (Mysore)	1990-91 and 1991-92	4.05
3.	Magadi (Bangalore Rural)	1992-93 and 1993-94	1.85
4.	Hagaribommanahalli (Bellary)	1992-93 and 1993-94	1.24
5.	Jagalur (Chitradurga)	1991-92	0.34
6.	Harihar (Chitradurga)	1992-93 and 1993-94	8.74
7.	Bijapur (Bijapur)	1993-94	0.40
8.	Badami (Bijapur)	1992-93 and 1993-94	0.33
9.	Bilagi (Bijapur)	1993-94	2.17

(1)	(2)	(3)	(4)
10. Bhalki (Bidar)		1992-93 and 1993-94	1.09
11. Chincholi (Gulbarga)		1991-92 and 1993-94	0.84
		Total	30.11

On these omissions being pointed out (between March and September 1994) in audit, the department stated (July 1995) that in 2 taluks (Sl.Nos. 10 & 11), demand for water rate amounting to Rs.3.01 lakhs had been booked and recovery action initiated. The Government to whom the matter was referred between May and November 1994 stated (between April 1994 and May 1995) that in 6 taluks (Sl.Nos. 1,4,5,6,7 & 8), demand for water rate amounting to Rs.20.11 lakhs had been raised and recovery action initiated. Reply in the remaining cases has not been received (September 1995).

6.3. Non-recovery of penal water rate

Under the Karnataka Irrigation Act, 1965, and the Rules made thereunder, the Irrigation Officer is required to notify the kinds of crops to be grown on lands to which water is supplied from irrigation works and the period of sowing such crops. According to Government notification of July 1985, for violation of the prescribed cropping pattern and for unauthorised use of water, penal water rate is leviable at 10 and 15 times the normal water rate, respectively.

In 3 taluks of 3 districts, demand statements of penal water rate for the period 1992-93 to 1993-94 received from the Irrigation Officers were not booked and collected by the Tahsildars concerned resulting in non-collection of penal water rate to the tune of

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Rs.128.66 lakhs as detailed below:

Sl. No.	Taluk (and district)	Period	Amount of penal water rate not booked (in lakhs of rupees)
1.	Harihar (Chitradurga)	1992-93 and 1993-94	110.80
2.	T.Narasipura (Mysore)	1992-93	17.01
3.	Bilagi (Bijapur)	1993-94	0.85
Total			128.66

On these being pointed out (between June and August 1994), the department stated (July 1995) that in one taluk (Sl.No.3), demand for penal water rate amounting to Rs.84,660 had been booked and recovery action initiated. The Government to whom the matter was referred between August and September 1994 stated (February 1995) that in Harihar taluk (Sl.No.1), demand for penal water rate amounting to Rs.110.80 lakhs had been booked and recovery action initiated. Reply in remaining case has not been received (September 1995).

6.4. Non-levy/short levy of maintenance cess

Under the Karnataka Irrigation Act, 1965, an annual maintenance cess of Rs.4 per acre of land in the area benefited by any irrigation work maintained by Government is to be levied. However, where water is not made available for the use of any land for a period of not less than 2 consecutive years, maintenance cess is not leviable in respect of such land during the said period. Further, according to the Karnataka Irrigation Rules, 1965, the Tahsildar concerned is the authority responsible for determining and levying maintenance cess.

In 12 taluks of 10 districts, in respect of 5.72 lakh acres of land benefited by irrigation works maintained by Government, maintenance cess amounting to Rs.23.81 lakhs was either not levied or levied short for the years between 1990-91 and 1993-94, as detailed below:

Sl. No.	Taluku (and distri cts)	Area of land benefi- ted (in acres)	Period	Maintenance Cess		
				Leviable	Levied	Not levied/ levied short
(in lakhs of rupees)						
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Shahapur (Gulburga)	93,920	1992-93 and 1993-94	7.51	1.73	5.78
2.	Manvi (Raichur)	2,22,866	1991-92 to 1993-94	26.74	21.22	5.52
3.	Gangavati (Raichur)	80,815	1990-91 to 1993-94	12.93	11.16	1.77
4.	Basavana Bagewadi (Bijapur)	5,932	1991-92 to 1993-94	0.71	0.12	0.59
5.	Badami (Bijapur)	7,927	1993-94	0.32	-	0.32
6.	Harihar (Chitradurga)	62,090	1992-93 and 1993-94	4.97	-	4.97
7.	Dodda- ballapur (Bangalore Rural)	10,475	1992-93	0.42	-	0.42
8.	Chama- rajanagar (Mysore)	15,842	1992-93 and 1993-94	1.27	-	1.27
9.	Arasikere (Hassan)	6,782	1992-93 and 1993-94	0.54	-	0.54

(1)	(2)	(3)	(4)	(5)	(6)	(7)
10.	Tarikere (chikka- magalur)	22,385	1993-94	0.90	0.01	0.89
11.	Gouribi- danur (Kolar)	21,114	1992-93 and 1993-94	1.69	0.84	0.85
12.	Shikari- pura (Shimoga)	22,337	1992-93	0.89	-	0.89
Total		5,72,485		58.89	35.08	23.81

On these cases being pointed out (between September 1993 and September 1994) in audit the department stated (between October 1994 and July 1995) that in 6 taluks (Sl.Nos.1, 2, 3, 4, 5 and 8), maintenance cess amounting to Rs.15.25 lakhs had been booked and recovery action initiated. The Government to whom the matter was referred between December 1993 and December 1994 stated (between December 1994 and July 1995) that in 5 taluks (Sl.Nos. 6,9,10,11 and 12), maintenance cess amounting to Rs.8.14 lakhs had been booked and recovery action initiated. Reply in remaining case has not been received (September 1995).

6.5. Short levy of cesses

Under the Karnataka Village Panchayats and Local Boards Act, 1959, as amended in 1978, with effect from the revenue year 1979-80, a local cess is leviable at the rate of 50 paise per rupee of land revenue. Further, under the Karnataka Compulsory Primary Education Act, 1961, and the Karnataka Health Cess Act, 1969, education cess at 10 paise per rupee and health cess at 15 paise per rupee respectively are leviable on the demands of land revenue, from 1 July 1976.

In Tiptur taluk of Tumkur district, on land revenue of Rs.8.82 lakhs demanded for the years 1991-92 and 1992-93, cesses amounting to Rs.4.67 lakhs were levied instead of Rs.6.60 lakhs leviable resulting in short levy of cesses amounting to Rs.1.93 lakhs.

This was pointed out to the department in March 1994 and referred to Government in May 1994; their replies have not been received as of September 1995.

6.6. Non-levy/short levy of penalty for unauthorised occupation of Government land

Under the Karnataka Land Revenue Act, 1964 and the Rules framed thereunder, when Government land unauthorisedly used or occupied by any person is regularised in his/her favour by the Taluk Level Committee, the following amounts shall be recovered from such person before issuing Saguvali Chits*.

(i) Land revenue at twice the amount of assessment, for every year of unauthorised use or occupation; and

(ii) Cost of land at two hundred times the land revenue payable for such land for persons not belonging to Scheduled Caste (SC)/Scheduled Tribe (ST) and free of cost to persons belonging to SC/ST.

In 4 taluks of 2 districts, though Saguvali Chits were issued on regularisation of 4,580 acres of Government land unauthorisedly used or occupied by persons belonging and not belonging to SC/ST for periods between 3 and 20 years, an amount of Rs.7.06 lakhs was either not levied or levied short towards aforesaid dues as detailed below:

Sl. No.	Taluk (and district)	Period of unauthorised occupation	Extent of Government land regularised (in acres)	Amount (Land Revenue + Cost of land)		
				Levi-able	Levied	Not levied or levied short
(in lakhs of rupees)						
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Humnabad (Bidar)	1989-90 to 1993-94	240	1.06	-	1.06

* Saguvali Chit means title to cultivate the land.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2.	Aurad (Bidar)	1987-88 to 1993-94	1,608	2.06	-	2.06
3.	Shahapur (Gulbarga)	1974-75 to 1993-94	338	1.59	-	1.59
4.	Gulbarga (Gulbarga)	1991-92 to 1993-94	2,394	3.96	1.61*	2.35
Total			4,580	8.67	1.61	7.06

* includes fine + land revenue assessment and land cost

These cases were pointed out to the department between June and October 1994 and referred to Government between July 1994 and January 1995; their replies have not been received (September 1995).

CHAPTER 7

OTHER TAX RECEIPTS

A. STAMP DUTY AND REGISTRATION FEES

7.1. Results of audit

Test check of documents registered in the offices of the Registrars and Sub-Registrars, conducted in audit during the year 1994-95, disclosed under-assessments of stamp duty and registration fees amounting to Rs.46.97 lakhs in 70 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Incorrect grant of exemption/concession	12	9.64
2. Non-levy/short levy of stamp duty and registration fee	48	10.50
3. Other irregularities	10	26.83
Total	70	46.97

During the course of the year 1994-95, the concerned department accepted under-assessments of Rs.2.67 lakhs involved in 29 cases which were pointed out in audit in earlier years. Two illustrative cases involving Rs.64,945 are given in the following paragraphs.

7.2. Short levy of stamp duty and registration fee

(i) Under the Karnataka Stamp Act, 1957, any instrument of conveyance presented for registration shall fully and truly set forth the market value of the property and the stamp duty shall be levied on the market value of the property so set forth in the instrument as prescribed under the Schedule to the Act. Conveyance for this purpose includes a conveyance on sale.

In the Sub-registry at Gadag in Dharwad district, two sale deeds for purchase of land by a Co-operative industrial estate from two private partners for market values of Rs.4.19 lakhs and Rs.2.40 lakhs respectively were registered in 1993-94. Though registration fee was levied for the correct market values, stamp duty of Rs.25,175 and Rs.19,210 respectively only were levied as against Rs.46,090 and Rs.31,200 actually leviable. This resulted in short levy of stamp duty aggregating Rs.32,905.

On this being pointed in Audit (April 1994), the department stated (November 1994) that the case had been referred to the District Registrar for initiating action for recovery of the stamp duty short levied. Further report has not been received (September 1995).

The case was referred to Government in September 1994; their reply has not been received (September 1995).

(ii) Under the Karnataka Registration Rules, 1965 in the case of documents purporting to effect a contract for the sale of immovable property and containing a recital that the possession of the property has been delivered to the person contracting to buy, an **ad valorem** fee at the rate of Rs.20 per every Rs.1000 or part thereof on the amount or value of the purchase money if such value/amount is in excess of Rs.5000 shall be charged on the document.

In the Sub-registry at Yelahanka in Bangalore (Rural) district, on two lease-cum-sale agreements executed by the beneficiaries during 1992-93 in favour of the Karnataka Housing Board, while registering the documents, the registration fee had been levied only on the amount initially paid by the beneficiaries instead of on the full value of the property set forth in the documents. This resulted in short levy of registration fee of Rs.32,040.

This was pointed out to the department in January 1994 and referred to Government in August 1994; their replies have not been received (September 1995).

B. ENTRY TAX

7.3. Results of audit

Test check of records in Entry Tax offices, conducted in audit during the year 1994-95 disclosed under-assessments of tax amounting to Rs.109.38 lakhs in 74 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-levy/short levy of tax	56	11.83
2. Incorrect grant of exemption	11	95.87
3. Other irregularities	7	1.68
Total	74	109.38

During the course of the year 1994-95, the concerned department accepted under-assessments of Rs.1.58 lakhs involved in 7 cases which had been pointed out in audit in earlier years. A few illustrative cases and results of a review on "Survey, registration, assessment and collection of entry tax" involving Rs.63.45 lakhs are given in the following paragraphs.

7.4. Survey, registration, assessment and collection of entry tax

7.4.1. Introduction

With a view to compensating the local bodies for the loss due to abolition (April 1979) of octroi duty levied by them, a legislation called the 'Karnataka Tax on Entry of Goods into Local Areas for Consumption, Use and Sale Therein Act, 1979' (KTEG Act) was introduced by Government in June 1979. The KTEG Act sought to levy tax on entry of scheduled goods into a local area for use/consumption/sale. The procedure for assessment and collection of entry tax is laid down in the 'Karnataka Tax on Entry of Goods into Local Areas for Consumption, Use and Sale Therein Rules, 1979' and the Departmental Manual, besides the KTEG Act.

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7.4.2. Organisational set up

The Commercial Tax Department is empowered to administer the KTEG Act. At the State level, the Department is headed by a Commissioner of Commercial Taxes (CCT). He is assisted by five Additional Commissioners of Commercial Taxes at headquarters in Bangalore and twelve Joint Commissioners of Commercial Taxes at the divisional level. The Joint Commissioners are assisted by Deputy Commissioners, Assistant Commissioners and Commercial Tax Officers.

7.4.3. Scope of audit

A review of general efficacy and effectiveness of administration of various provisions of the KTEG Act and Rules relating to survey, registration, assessment and collection of entry tax during the period from 1989-90 to 1993-94 was conducted between February and June 1995 by undertaking a test check of relevant records in 5* out of 12 divisional offices and 30 out of 365 assessment offices. The important points noticed in the review and in earlier audits are narrated in the succeeding paragraphs.

7.4.4. Highlights

(i) There was a short-fall of Rs.3,232 lakhs in collection of estimated entry tax during 1993-94, for which no reason had been furnished by department.

[Paragraph 7.4.6]

(ii) Surveys had not been conducted regularly for registration of dealers.

[Paragraph 7.4.7]

(iii) Details of registration of dealers for the the State as a whole had not been made available; there were delays ranging from 2 to 53 months in disposal of applications for registration of dealers.

[Paragraphs 7.4.8(i) and (iii)]

* 1. and 2. Bangalore city Divisions I and II;
3. Dharwad; 4. Belgaum and 5. Mysore.

(iv) More than 50 per cent of the cases due for assessment in a year during 1991-92 to 1993-94 had not been assessed during the same year resulting in postponement of revenue realisation.

[Paragraph 7.4.9(i)]

(v) Incorrect assessments led to non/short collection of entry tax of Rs.45.48 lakhs in 18 cases in 4 city/districts.

[Paragraphs 7.4.9(iv)(a) and (b)]

(vi) The assesseees were required to pay entry tax within 21 days of raising demand by department; nevertheless, there were delays ranging from 20 to more than 240 days in raising demands.

[Paragraph 7.4.9(v)]

(vii) For belated payment of entry tax demanded, penalty of Rs.9.46 lakhs which could have been levied had not been levied.

[Paragraph 7.4.9(vi)(a)]

(viii) The receipt of prescribed returns which formed the basis for assessment was not watched properly. Penalty of Rs.8.51 lakhs leviable for delay in filing return/non payment of tax reflected in returns was not levied.

[Paragraphs 7.4.9(vi)(b)]

(ix) There were arrears of Rs.3,041 lakhs in collection of entry tax as of March 1994; nevertheless, there were instances of not taking demands in the Register of Demand, Collection and Balance and of delays ranging from one month to 20 months in taking demands to the register.

[Paragraphs 7.4.10(i) and (ii)]

7.4.5. Trend in collection of entry tax

The yearwise break up of total revenue raised, entry tax collected and the percentage of entry tax to the total revenue during the years 1990-91 to 1993-94 as reported by the department is detailed below:

Year	Total revenue raised by State Government (in crores of rupees)	Entry Tax collected	Percentage of entry Tax collected to total revenue
1990-91	2,849.32	65.49	2
1991-92	3,521.48	82.06	2
1992-93	3,900.35	109.84	3
1993-94	4,545.91	132.68	3

The above table shows that while the total revenue raised by the State increased by about 60 **per cent** from Rs.2849.32 lakhs in 1990-91 to Rs.4,545.91 lakhs in 1993-94, the entry tax collected rose by about 103 **per cent** during the same period. The percentage of entry tax collected to total revenue raised by State Government rose marginally from 2 to 3 from 1991-92 to 1993-94.

7.4.6. Revenue estimates and actuals

The anticipated revenue and actual collection of entry tax during the years from 1990-91 to 1993-94 are given below:-

Year	Revenue		Variations
	Estimated	Collected	(+) Excess collection (-) Short collection
	(in lakhs of rupees)		
1990-91	5,800.00	6,549.00	(+) 749.00
1991-92	7,200.00	8,206.09	(+) 1,006.09
1992-93	10,300.00	10,984.27	(+) 684.27
1993-94	16,500.00	13,268.00	(-) 3,232.00

Reasons for short collection during 1993-94 have not been furnished by department.

7.4.7. Survey

The assessing authorities are required to conduct survey in their jurisdiction and to prepare a list of dealers in scheduled goods.

Test check of records relating to survey in 22 offices disclosed that in 7 offices, the survey was not conducted at all during 1989-90 to 1993-94. During the period 1989-94 in 3 offices, the survey was not conducted for four years and in 9 other offices the survey was conducted only for two years.

7.4.8. Registration

Every dealer who buys or receives scheduled goods and who is doing business in a local area and whose total turnover under the Karnataka Sales Tax Act, 1957 or in the case of person executing works contracts, the gross receipts therefrom or the aggregate of both, as the case may, during the year is not less than Rs.1 lakh up to September 1992 and Rs.2 lakhs from October 1992 shall get himself registered.

(i) The year wise details of registration of dealers made and registrations cancelled in the State during the years from 1989-90 to 1993-94, though called for (March 1985) were not furnished by the department (July 1995).

(ii) The yearwise details of registered dealers at the commencement of the year, number of registrations made, dealers whose registration was cancelled and the number of dealers at the close of the year as worked out by audit in 22 offices test checked, are given below.

Year	Dealers at the commencement of year	Number of fresh registrations	Dealers whose registration was cancelled	Dealers at the close of the year
1989-90	2,506	543	114	2,935
1990-91	2,935	454	284	3,105
1991-92	3,105	502	92	3,515
1992-93	3,515	1694	169	5,040
1993-94	5,040	694	267	5,467

The number of registered dealers increased by 118 per cent from 2,506 at the commencement of 1989-90 to 5,467 at the close of 1993-94.

(iii) Delay in registration of dealers

The CCT had issued instructions that registration certificate may be issued within 15 days from the date of receipt of applications in general and 30 days in special cases.

Test check of records in audit of 14 offices disclosed that out of 689 registration certificates issued during 1992-93 and 1993-94, 61 certificates were issued involving delays up to 6 months, 12 certificates were issued after delays ranging from 7 to 12 months and 5 certificates were issued after delays ranging from 13 to 53 months. In five offices*, in 19 cases where applications for registration were received between January 1989 and December 1993, registration certificates had not been issued till date (June 1995).

7.4.9. Assessment

(i) Arrears in assessment

The details of assessment cases pending at the beginning, cases becoming due for assessment, cases disposed of and the number of cases pending finalisation at the end of each year during 1991-92 to 1993-94 as furnished by the department are given below:

Year	Number of assessments				Percentage of assessments not completed
	Pending at commencement	Fresh cases	Total	Concluded	Pending at the close of the year
1991-92	35,396	30,329	65,725	31,896	33,829
1992-93	33,829	33,806	67,635	32,801	34,834
1993-94	34,834	50,875	85,709	41,754	43,955

* Bangalore City, Mysore, Hubli and Nippani.

The above table would show that more than 50 **per cent** of the total number of cases that had become due for assessment during the three years from 1991-92 to 1993-94 had not been assessed.

(ii) Delay in assessments

Under the provisions of the KTEG Act, where an assessment is not concluded within the specified period of 3 years, the total turnover and the taxable turnover declared by a dealer in his annual return shall be deemed to have been assessed for that year on the basis of the said return and the provisions of the KTEG Act relating to assessment of the escaped turnover, payment and recovery, appeal and revisions shall **mutatis mutandis** apply to such deemed assessment.

Test check of records of 5 divisions revealed in audit that 761 pending cases pertained to 1989-90 and prior periods. The assessment in these cases might not be possible as KTEG Act provided that no assessment should be made three years after the date of filing returns. In 21,443 pending cases 15,129 of 1992-93, 4,784 of 1991-92 and 1,530 of 1990-91, the delay in assessment had resulted in postponement of receipt of dues to Government. In 30 offices, it was noticed that in 213 assessments concluded in the second year, entry tax of Rs.108.03 lakhs was demanded and in 140 assessments concluded in third year, demand of Rs.179.60 lakhs was raised towards entry tax. In 37 assessments concluded in 11 offices during fourth year and beyond, demand of Rs.141.16 lakhs was raised.

(iii) Correctness of exemptions claimed

The KTEG Act provides that the burden of proving that any transaction of any dealer in any of the scheduled goods is not liable to tax shall lie on the dealer. To ensure correctness of information furnished by dealers, the CCT issued instructions in August 1993 for carrying out cross verification, by maintaining registers with suitable columns. Test check of records in audit, however, revealed that the required registers were not maintained in 12 offices and that 23 cases of exemptions relating to the year 1993-94 on total turnover of Rs.302.88 lakhs were not cross verified in seven offices.

(iv) Incorrect assessment

(a) In four city/districts, test check disclosed that in twelve cases there had been non-levy/short levy of entry tax of Rs.44.49 lakhs on account of incorrect assessments as detailed below:

Sl. No.	City/district	Number of assessments	Goods	Period	Rate of tax (Percentage) applicable	Turnover liable to tax (in lakhs of rupees)	Non/levy short levy of tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Belgaum	2	Processed cloth	Between 1989-90 and 1991-92	2 ----- nil	381.78	7.64
2.	Bangalore	2	Carbide cutting tools	May 1992 to March 1993	2 ----- nil	41.30	0.83
3.	Bangalore	2	Raw materials (cotton canvas)	1988-89	2 ----- nil	31.45	0.63
4.	Bangalore city	1	Electric/Electronic component parts	1987-88	2 ----- nil	90.02	0.90
5.	Bangalore city	1	Generator spare parts	1990-91	2 ----- nil	146.18	2.92
6.	Bangalore city	1	Beedies	1990-91	2 ----- nil	1247.93	24.96
7.	Bangalore city	1	Labels and craft paper for packing beedies	1983-84 to 1988-89	2 ----- nil	18.43 } and } 31.41 }	0.68
					1 ----- nil		

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
8.	Belgaum	1	Cigarettes	May 1992 to March 1993	5 ----- nil 2.5 ----- nil	4.30 } and } 8.59 }	0.43
9.	Dakshin a Kannada	2	Beedi leaves	1989-90	2 ----- nil	81.43	1.63
10.	Bangalo re city	2	Photogra- phic colour paper, che- micals and plastic goods	1992-93	2 ----- nil	25.64	0.51
11.	Belgaum	1	Beedi leaves	1989-90	2 ----- nil	34.18	0.68
12.	Bangalo re (Urban)	1	Electric raw materials and	1990-91 and 1991-92	2 ----- nil	133.97	2.68
Total		17				44.49	

(b) Under the KTEG Act, on entry of all raw materials, component parts and inputs which are used in the manufacture of an intermediate or finished products, i) when brought into local area by an industrial unit or ii) when brought into local area by any dealer who, after having so brought, sells or supplies the same to an industrial unit located either within the same local area or outside, tax is leviable at the rate of 2 **per cent** with effect from 1 April 1987.

The Karnataka Appellate Tribunal in its decision (July 1991)* held that the value of imported raw materials would include customs duty paid in relation to such import.

In Bangalore city, while finalising the assessment (September 1993) for the year 1988-89 of an assessee engaged in the manufacture of HDPE woven

* Messrs. Monotype India Ltd., Vs State of Karnataka 1991 (35) KLJ (TRI) (DB) in 2 assessments relating to the years 1983-84 and 1984-85

sacks, the taxable turnover of imported plastic granules was incorrectly determined at Rs.29.05 lakhs without including the customs duty of Rs.34.99 lakhs paid on their import and tax incorrectly levied at 1 **per cent** instead of at 2 **per cent** resulting in short levy of tax aggregating Rs.99,031.

(v) Delay in raising demand

After conclusion of assessment, if it is found that any amount is due from an assessee, a demand notice has to be served for payment of dues within 21 days of service of demand. However, no time limit has been fixed for serving demand notices. It was noticed in audit that in 616 cases, the demand notices for Rs.159.96 lakhs were served involving delays ranging from 20 to 90 days after conclusion of assessments in 519 cases, from 91 to 180 days in 65 cases, from 181 to 240 days in 8 cases and beyond 240 days in 24 cases. The delay in service of demand notice postponed the revenue realisation.

(vi) Non-levy of penalty

(a) Delay in payment of assessed tax

The provisions of the KTEG Act provide that when an assessee fails to pay the tax demanded from him within twenty one days from the date of issue of demand, he is liable to pay penalty at the rate of one **per cent** of the tax remaining unpaid for each month for the first three months and at two and a half **per cent** per month thereafter till date of payment.

During test check of records it was noticed that in 50 cases in 4 city/districts*, for assessments in 1992-93 to 1993-94, penalty of Rs.9.46 lakhs on belated payments, which could have been levied was not imposed by the assessing authority.

(b) Delay in submission of return

Every registered dealer or every dealer liable to get himself registered under KTEG Act is required to submit an annual return within 30 days after the close of the year showing the actual and taxable

* Bangalore(City), Bangalore, Mysore and Dharwad.

turnover. The assessing authority is to assess the tax liability of the dealer based on these returns, if found correct. Failure to submit returns/provide correct information in returns entails penalty. However, no watch register had been prescribed for ensuring timely submission of returns.

Test check of assessments made during 1989-90 to 1993-94 in 30 offices disclosed the following:

(i) In 612 out of 5,318 assessments test checked, even though there was delay of up to 71 months in submission of returns, no penalty was levied. The maximum penalty leviable was Rs.6.12 lakhs.

(ii) In 36 cases, where entry tax aggregating Rs.5.40 lakhs shown in the returns pertaining to assessment years 1985-86 to 1992-93 had not been paid, the assessing authorities did not issue demand notices for the tax dues and hence penalty of Rs.2.39 lakhs could not be levied.

(iii) Besides the annual return, a monthly return showing particulars of taxable turnover during the preceding month had to be submitted by dealers within 20 days after close of the month, alongwith proof of payment of advance tax. However, test check of 5,318 assessments disclosed that in 193 cases though there were delays of up to 546 days in filing the returns, no penalty by way of composition of offence was levied. In 372 cases, though monthly returns were not filed, no provisional assessments were concluded, as required. In 12 out of 30 offices test checked, prescribed registers for watching filing of returns were not maintained at all.

7.4.10. Collection

(i) Position of demand collection and balance of entry tax

The yearwise details of entry tax demanded, collected during the year and balance outstanding at the end of the year for the period from 1991-92 to

1993-94, as reported by department are given below:

Year	Demand		Collection		Balance	
	(i)	(ii)	(i)	(ii)	(i)	(ii)
	(in lakhs of rupees)					
1991-92	1,033	9,147	82	8,029	951	1,118
1992-93	1,423*	11,564	304	10,601	1,119	903
1993-94	1,493**	14,749	148	13,053	1,345	1,696

* Including reduction of Rs.646 lakhs due to reconciliation

** Including reduction of Rs.529 lakhs due to reconciliation

(i) Arrears

(ii) Current

The above table shows that the arrears in collection of entry tax demanded during the period 1991-94 rose by about 194 **per cent** from Rs.1,033 lakhs in 1991-92 to Rs.3,041 lakhs as at the end of 1993-94. The percentage of collection of arrears relating to previous years ranged between 8 and 21 during the period 1991-94.

(ii) Register of Demand, Collection and Balance

Test check of the Register of Demand Collection and Balance disclosed the following:

(a) In 11 offices, in 59 cases, demands of tax aggregating Rs.3.85 lakhs relating to the years 1989-90 to 1993-94 had not been noted in the register.

(b) In 213 cases pertaining to 20 offices, delays ranging from one month to 20 months were noticed in noting demands totalling Rs.140.15 lakhs for the years 1989-90 to 1993-94.

(iii) Register of cheques

With a view to watching the receipt, remittance and realisation of cheques presented towards payment of entry tax, a register of daily cheque collection is to be maintained. In seven offices test checked, no records showing details of unrealised cheques and reasons therefor were maintained. In 21 offices, delays ranging from 8 to 166 days were noticed in

remittance of cheques for Rs.278.15 lakhs received during 1989-90 to 1993-94. In seven offices, delays ranging from 17 to 236 days were noticed in realisation of cheques for Rs.183.02 lakhs presented during 1989-90 to 1993-94.

(iv) To ensure proper payment of tax by assesseees, the KTEG Act provides for obtaining security equivalent to one half of the tax anticipated to be payable by an assessee for a year. Additional security could also be obtained, at any time, if the assessing authority has reason to believe that security fixed was too low. However, in none of the offices test checked, security was obtained even though huge arrears of tax remained uncollected for long periods.

The above points were referred to the department during February and June 1995 and to Government in July 1995; their replies have not been received (September 1995).

C. ENTERTAINMENTS TAX

7.5. Results of audit

Test check of records in Entertainments Tax offices, conducted in audit during the year 1994-95, disclosed under-assessments of tax amounting to Rs.6.82 lakhs in 27 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Short levy of tax on cinematograph shows	21	4.46
2. Other irregularities	6	2.36
Total	27	6.82

During the course of the year 1994-95, the concerned department accepted under-assessments of Rs.2.77 lakhs involved in 12 cases which had been pointed out in audit in earlier years. Two illustrative cases involving Rs.81,686 are given in the following paragraphs.

7.6. Application of incorrect rate of show tax

Under the Karnataka Entertainments Tax Act, 1958, tax at the rate of Rs.25 and Rs.80 per show of Kannada and non-Kannada films respectively shall be levied on cinematograph shows held by cinema theatres where the rate of admission to the highest class of accommodation (excluding entertainments tax and surcharge) exceeds Rs.2.50.

In Bangalore district, in the case of a cinema theatre where the rate of admission to the highest class of accommodation (excluding entertainments tax and surcharge) was Rs.2.80, tax on 144 shows of Kannada films and 925 shows of non-Kannada films held during the period from January to March 1993, was levied at Rs.15 and Rs.50 per show instead of at the aforesaid rates, resulting in short levy of Rs.33,569 (including health cess at 15 **per cent** of show tax).

This was pointed out to the department in May 1994 and referred to Government in April 1995; their replies have not been received (September 1995).

7.7. Non-levy of penalty

Under the Karnataka Entertainments Tax Act, 1958, the tax including surcharge due under the Act shall be paid within a week from the date of service of demand notice. If default is made in making payment, the person liable to pay tax under the Act shall pay a penalty equal to 1 **per cent** of the amount due but remaining unpaid for each month for the first three months after the expiry of the time prescribed and 2.5 **per cent** of such amount for each month subsequent to the first 3 months as aforesaid.

In Uttara Kannada district, though the proprietor of a theatre did not pay the entertainments tax of Rs.1.01 lakhs demanded on 12 July 1991 within one week of service of demand notice, but paid it only in instalments involving delay of up to about 20 months, penalty of Rs.48,117 leviable had not been levied and realised.

The case was pointed out to the department in June 1994 and referred to Government in December 1994; their replies have not been received (September 1995).

CHAPTER 8

NON-TAX RECEIPTS

FOREST RECEIPTS

8.1. Results of audit

Test check of accounts of the Forest Department, conducted in audit during the year 1994-95, disclosed non-recovery and short recovery of forest receipts amounting to Rs.958.06 lakhs in 120 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-recovery of royalty	48	777.92
2. Short collection of lease amount	8	29.21
3. Non-recovery or short recovery of taxes	23	6.75
4. Non-recovery or short recovery of fees	17	4.39
5. Other irregularities	24	139.79
Total	120	958.06

During the course of the year 1994-95, the concerned department accepted under-assessments of Rs.4.98 lakhs involved in 18 cases of which 2 cases involving Rs.14,573 had been pointed out in 1994-95 and the rest in earlier years. A few illustrative cases involving Rs.159.46 lakhs are given in the following paragraphs.

8.2. Loss due to disposal of teak poles at less than the seigniorage rate

Teak poles are classified into 6 categories, based on their length and girth at the butt-end. The seigniorage* rates fixed by the Principal Chief Conservator of Forests, for these categories of poles with effect from 5 August 1992 were Rs.500, Rs.350, Rs.320, Rs.130, Rs.130 and Rs.65.

In Madikeri Division, the upset prices fixed for sale of teak poles through auctions held between June 1993 and January 1994 were less than even the seigniorage value of the poles. Sale of 78,445 teak poles of various categories in these auction sales at rates less than the seigniorage rates resulted in loss of revenue of Rs.157 lakhs.

This was pointed out to the department in April-May 1994 and referred to Government in July 1994; their replies have not been received (September 1995).

8.3. Non-recovery of interest on belated payments

According to orders of Government issued from time to time, interest at 9 **per cent** for the first 90 days and penal interest at 18 **per cent** beyond 90 days are required to be levied and collected in respect of all revenue dues to Government remaining unpaid.

In Haliyal Forest Division, a private limited company was permitted to use water of Kali river on payment of water charges in advance on or before 15th January of each year in terms of the agreement entered into by the company in August 1955. Though there were delays in payment of water charges ranging from 96 to 969 days for the years 1986 to 1990, interest and penal interest amounting to Rs.2.46 lakhs leviable were not levied and collected.

* Value of poles excluding working cost.

This was pointed out to the department in December 1993 and referred to Government in April 1994; their replies have not been received (September 1995).

h. Sankar

(U. SANKAR)

Accountant General (Audit) II
Karnataka

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The 4 JAN 1996

Countersigned

C.G. Somiah

(C.G. SOMIAH)

Comptroller and Auditor General
of India

New Delhi

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7 JAN 1996

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