



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

**FOR THE YEAR ENDED**  
**31 MARCH 1992**

**No. 2**

**(REVENUE RECEIPTS)**

**GOVERNMENT OF GUJARAT**



## TABLE OF CONTENTS

	Reference to	
	Paragraph	Page
Prefatory remarks		(v)
Overview		(vii)
<b>CHAPTER 1</b>		
<b>GENERAL</b>		
Trend of revenue receipts	1.1	1
Analysis of revenue raised by the State Government	1.2	2
New taxation measures	1.3	6
Variations between Budget estimates and actuals	1.4	8
Cost of collection	1.5	9
Uncollected revenue	1.6	10
Arrears in sales tax assessments	1.7	12
Evasion of sales tax and entertainment tax	1.8	13
Refunds	1.9	13
Internal Audit	1.10	14
Results of audit	1.11	14
Outstanding inspection reports and objections	1.12	15
<b>CHAPTER 2</b>		
<b>SALES TAX</b>		
Results of audit	2.1	19
Incorrect grant of concessional rate of tax	2.2	20
Non-levy/short levy of interest	2.3	21
Incorrect exemption	2.4	23
Irregular deferment of tax	2.5	29
Irregular grant of set-off	2.6	31

	Reference to	
	Paragraph	Page
Short levy of Central sales tax	2.7	33
Incorrect classification of goods	2.8	34
Non-levy of tax on specified sale	2.9	36
Non-levy of turnover tax	2.10	37
Under-assessment due to incorrect allowance of resales	2.11	38
Application of incorrect rate of tax	2.12	39
Non-levy of purchase tax	2.13	40
Irregular reopening of assessment	2.14	41
Short levy of additional tax	2.15	42

### CHAPTER 3

#### LAND REVENUE

Results of audit	3.1	43
Application of incorrect rates of non-agricultural assessment	3.2	44
Non-levy/short levy of land revenue on lands used for non-agricultural purpose	3.3	46
Non-levy of non-agricultural assessment on lands belonging to ex-ruler	3.4	51
Non-agricultural assessment not levied for unauthorised use of land	3.5	52
Demand of occupancy price not raised	3.6	53
Conversion tax not levied	3.7	54

### CHAPTER 4

#### TAXES ON VEHICLES

Results of audit	4.1	55
Non-recovery/short recovery of motor vehicles tax and/or goods tax	4.2	56
Non-recovery/short recovery of additional tax	4.3	58



	Reference to	
	Paragraph	Page
Irregular grant of exemption	4.4	61
Non-recovery of goods tax	4.5	63

## CHAPTER 5

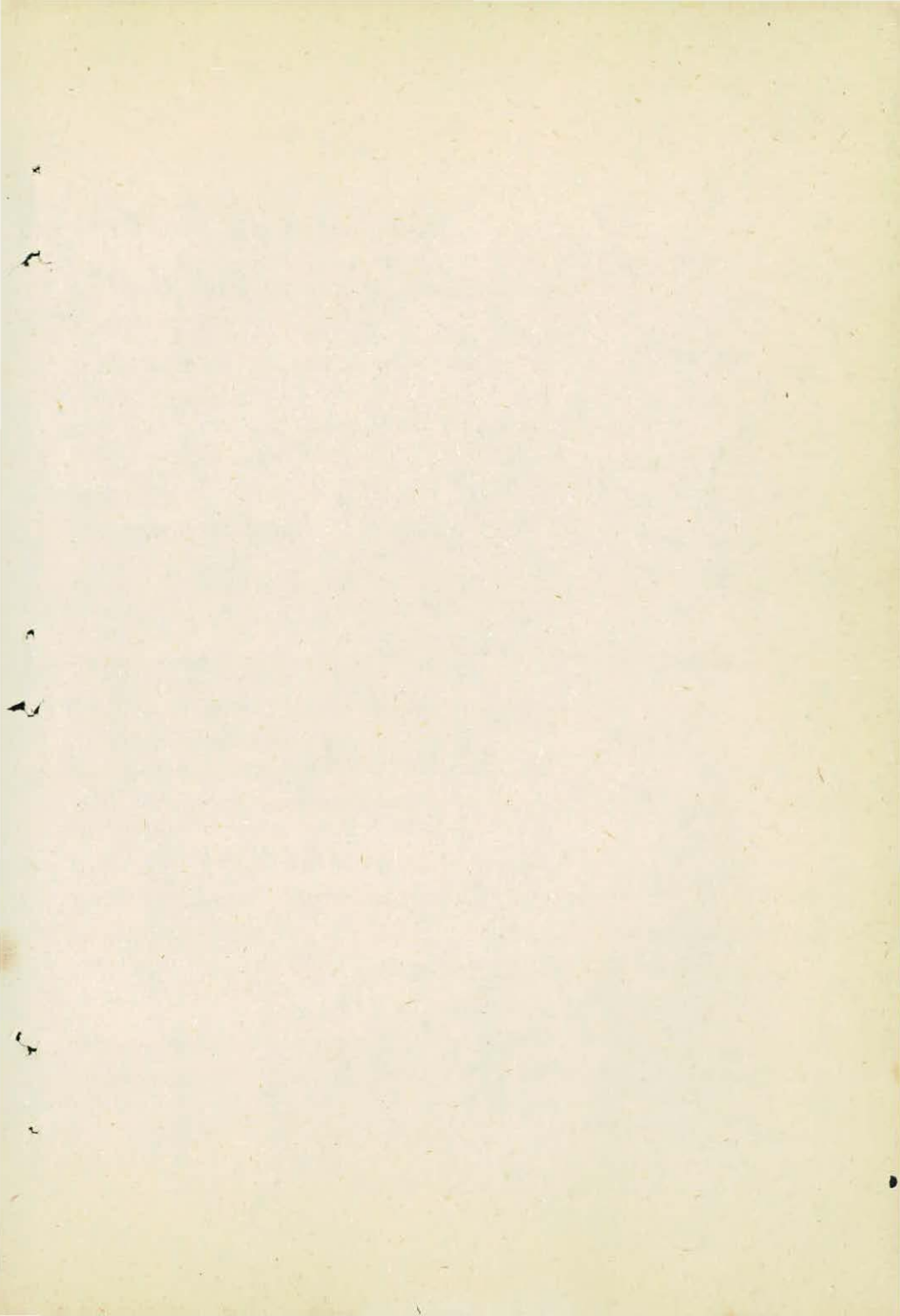
### STAMP DUTY AND REGISTRATION FEES

Results of audit	5.1	65
Concessions and exemptions under Stamp Act	5.2	66
Short levy due to misclassification of documents	5.3	75
Short levy on lease deed due to incorrect computation of premium price	5.4	84
Short levy of stamp duty due to incorrect application of rates	5.5	86
Short levy due to incorrect computation of consideration	5.6	87

## CHAPTER 6

### OTHER TAX RECEIPTS

Results of audit	6.1	89
<b>I-Entertainment Tax</b>		
Non-recovery/short recovery of entertainment tax and interest	6.2	90
Non-levy of interest on belated payment of entertainment tax	6.3	94
Irregular grant of exemption	6.4	95
<b>II-Electricity Duty</b>		
Non-recovery of interest on belated payment of electricity duty	6.5	95
Non-realisation of inspection fee	6.6	96

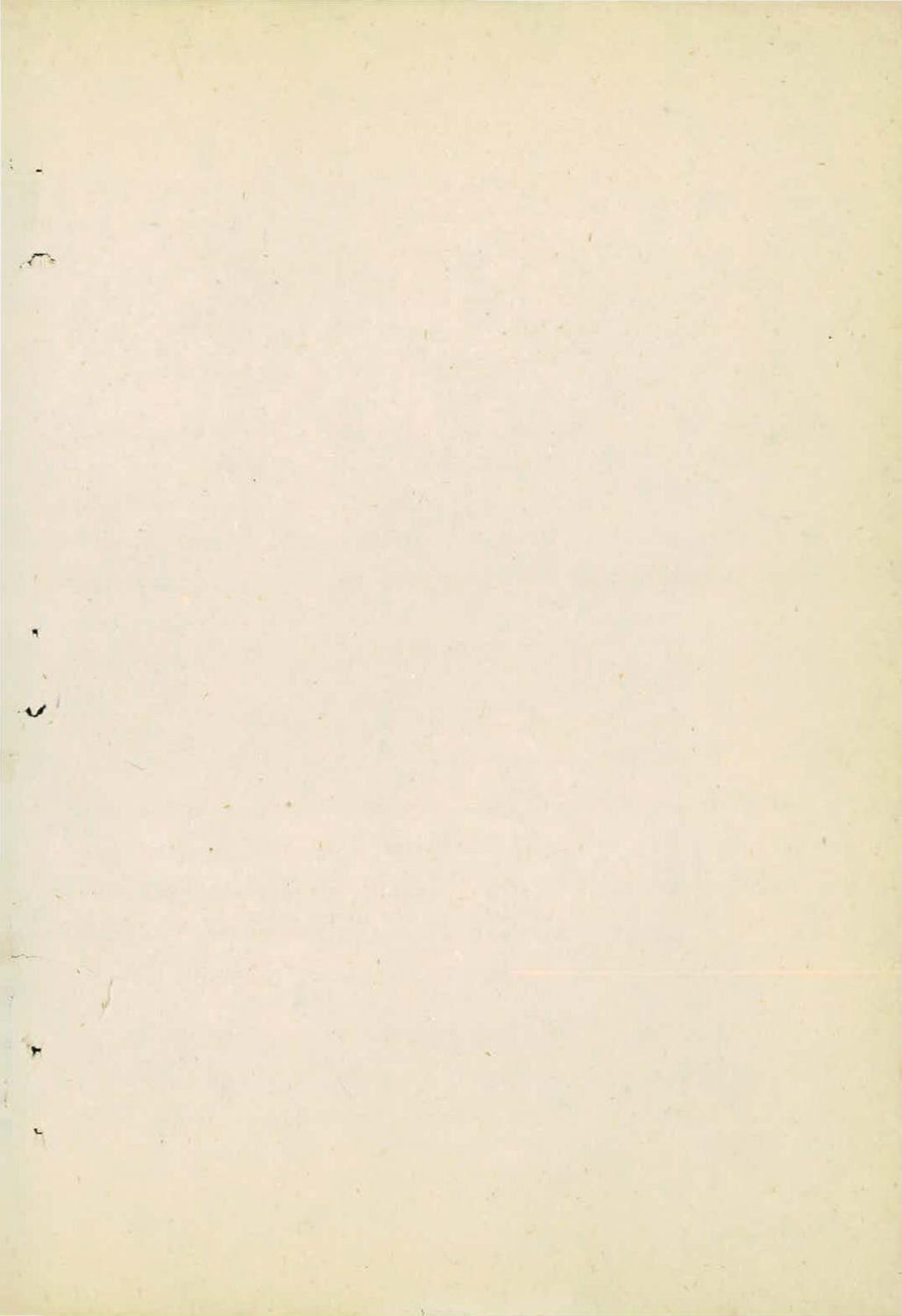


## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Gujarat for the year 1991-92 is presented in this separate volume. The Report has been arranged in the following order:-

(i) Chapter 1 deals with the analysis of the trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue, the variations between Budget estimates and the actual receipts under principal heads of revenue, the arrears in collection of revenue and the details of audit inspection reports etc., awaiting settlement.

(ii) Some of the important matters noticed in audit during test check of records relating to Sales Tax, Land Revenue, Taxes on Vehicles, Stamp Duty and Registration Fees and Other Tax and Non-Tax Receipts are mentioned in Chapter 2 to 6. A review on concessions and exemptions in stamp duty is included in Chapter 5.





## OVERVIEW

### 1. General

(i) The total revenue receipts of the Government of Gujarat in 1991-92 were Rs. 5017.56 crores as against Rs. 4035.22 crores during 1990-91. The revenue raised by the State from taxes during 1991-92 was Rs. 2893.44 crores and from non-tax revenue was Rs. 1133.85 crores. Receipts from the Government of India as State's share of divisible Union taxes and grants-in-aid were Rs. 593.19 crores and Rs. 397.08 crores respectively. The main source of tax revenue during 1991-92 was Sales Tax (Rs. 2010.53 crores). The receipts under non-tax revenue were mainly from Interest Receipts (Rs. 502.49 crores) and Non-ferrous Mining and Metallurgical Industries (Rs. 419.24 crores)

(Paragraph 1.1)

(ii) The total revenue raised by the State increased by 42 per cent in 1991-92 compared to the total revenue receipts in 1989-90. The receipts from the Government of India increased by 43 per cent during this period.

During 1991-92, the increase in tax revenue and non-tax revenue over 1990-91 was 21 per cent and 41 per cent respectively. In case of major sources of tax revenue, growth rates were noticed during the year 1991-92 under Sales Tax (16 per cent), Taxes and Duties on Electricity (101 per cent), Stamps and Registration Fees (33 per cent) and Taxes on Vehicles (18 per

cent) and negative growth rate was noticed in Taxes on Goods and Passengers (28 per cent).

(Paragraph 1.2)

(iii) Revenue of Rs.507.38 crores remained uncollected at the end of 1991-92, of which Sales Tax and Electricity Duty accounted for Rs. 284.54 crores and Rs. 202.34 crores respectively. The uncollected revenue represents 13 per cent of the total collection of tax and non-tax revenue during the year.

(Paragraph 1.6)

(iv) Cases pending for assessment under Sales Tax Act increased from 14,90,011 as on 31st March 1991 to 16,15,090 as on 31st March 1992. Out of these, 24 per cent cases are more than 3 years old and 24,440 cases are having turnover of Rs.1 crore and above in each case.

(Paragraph 1.7)

(v) As a result of test check conducted during 1991-92, under-assessments and losses of revenue of Rs.222.36 crores were noticed in 3,228 cases. These relate to Sales Tax (Rs.3.23 crores), Land Revenue (Rs. 1.38 crores), Taxes on Vehicles (Rs.1.48 crores), Stamp Duty and Registration Fees (Rs.9.81 crores) and Other Tax Receipts (Rs.206.46 crores). The concerned departments accepted under assessments etc., of Rs. 5.59 crores in 1,003 cases, of which 307 cases involving Rs. 0.34 crore, were pointed out during 1991-92 and the rest in earlier years.



121 draft paragraphs and 2 reviews involving Rs. 147.24 crores and relating to system appraisals and important mistakes/irregularities noticed during 1991-92 and earlier years, which were identified for possible mention in the Audit Report, were issued to Government, of which 71 cases involving Rs. 0.93 crore were accepted by Government/departments. Recovery made in these cases amounted to Rs. 0.30 crore up to November 1992. This report includes 105 selected draft paragraphs and findings of one review involving financial effect of Rs.145.27 crores which illustrate some of the major irregularities noticed in audit. Government/departments have so far accepted/partially accepted the audit observations in 60 cases involving a revenue effect of Rs.0.83 crore. Audit observation involving revenue effect of Rs. 0.95 lakh in one case which has not been accepted by the department but where their contention has been found at variance with the facts or legal position, has been appropriately commented upon in the relevant paragraph. Reply/ final reply has not been recieved in the remaining cases.

(Paragraph 1.11)

(vi) 1,656 audit inspection reports containing 5,679 objections with money value of Rs.207.97 crores issued up to December 1991 were not settled till 30th June 1992.

(Paragraph 1.12)

## 2. Sales Tax

(i) Central sales tax (including penalty) of Rs.1.25 crores was short levied as concessional rate of tax was incorrectly applied in case of 44 dealers though they had not furnished the prescribed declarations.

(Paragraph 2.2)

(ii) In 25 cases, interest of Rs.20.41 lakhs was not levied though leviable, for non-payment/short payment of tax within the prescribed time.

(Paragraph 2.3)

(iii) On manufactured goods sold against declarations and transferred outside the State by 14 exemption certificate holders, tax at the prescribed rates was not adjusted resulting in short realisation of Rs.12.63 lakhs.

(Paragraph 2.4 (A) and (B))

(iv) Set-off of Rs.4.82 lakhs was irregularly granted as reduction of 2 per cent of purchase price was not effected (2 cases) and set-off was granted on prohibited goods (2 cases).

(Paragraph 2.6)

## 3. Land Revenue

(i) In 20 cases at Vadodara and Jamnagar, application of incorrect rate resulted in short levy of non-agricultural assessment of Rs.11.78 lakhs.

(Paragraph 3.2)



# E R R A T A

<u>S.No.</u>	<u>Chapter</u>	<u>Page No.</u>	<u>Para No.</u>	<u>Line No.</u>	<u>For</u>	<u>Read</u>
1.	Overview	(ix)	1(v)	9th line	145.27 crores	145.29 crores
2.	-do-	(xii)	5(iii)	Last line	-	Insert (Paragraph 5.5)
3.	-do-	(xiii)	5(iii)	1st line	(Paragraph 5.5)	omit
4.	2	30	2.5(i)	13th line	Progres	Progress



(ii) Non-agricultural assessment of Rs.4.50 lakhs was not recovered for 9 years (1980-81 to 1989-90) though it was recoverable from the date of handing over of possession of the land to a statutory body for non-agricultural purpose.

(Paragraph 3.3(i))

(iii) Sale of land for residential and commercial purposes by an ex-ruler was not noted in the land records and, consequently, non-agricultural assessment of Rs.5.07 lakhs was not levied.

(Paragraph 3.4)

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

(i) Motor vehicles tax and goods tax amounting to Rs.4.24 lakhs were not recovered though the declarations of non-use of the vehicles were not furnished by the owners.

(Paragraph 4.2(i))

(ii) Though the owners did not file declarations of non-use, additional tax of Rs.3.73 lakhs was not levied in the case of 46 omnibuses which were exclusively kept for contract carriages.

(Paragraph 4.3.(i))

(iii) Exemption from payment of motor vehicles tax and goods tax was wrongly continued in case of 37 vehicles of a Government company (an erstwhile Government department) from September 1988 and, consequently, motor vehicles tax and goods tax of Rs.7.51 lakhs was short levied.

(Paragraph 4.4.(i))

## 5. Stamp Duty and Registration Fees

(i) A review on "Concessions and exemptions under Stamp Act" disclosed the following:

(a) Concession allowable on mortgage deeds were incorrectly granted to documents of further charge resulting in loss of revenue of Rs.142.35 crores.

(Paragraph 5.2.8)

(b) Stamp duty and registration fees are exempted on mortgage deeds for dwelling houses in the case of Government employees. In 27 cases, exemption of Rs.2.32 lakhs was allowed for such mortgage deeds to the employees of an autonomous body.

(Paragraph 5.2.9)

(c) Exemption from payment of stamp duty amounting to Rs.4.39 lakhs was granted to three Public Trusts though they were not eligible for such exemption.

(Paragraph 5.2.11)

(ii) Stamp duty of Rs.3.01 lakhs was short levied due to incorrect computation of premium price in a lease deed.

(Paragraph 5.4(ii))

(iii) In respect of five mortgage deeds, rates were incorrectly applied and as a result stamp duty of Rs.3.32 lakhs was short levied.



(Paragraph 5.5)

## 6. Other Tax Receipts

(i) Entertainment tax and interest thereof aggregating Rs.4.72 lakhs were not recovered in respect of four cinema houses in Ahmedabad.

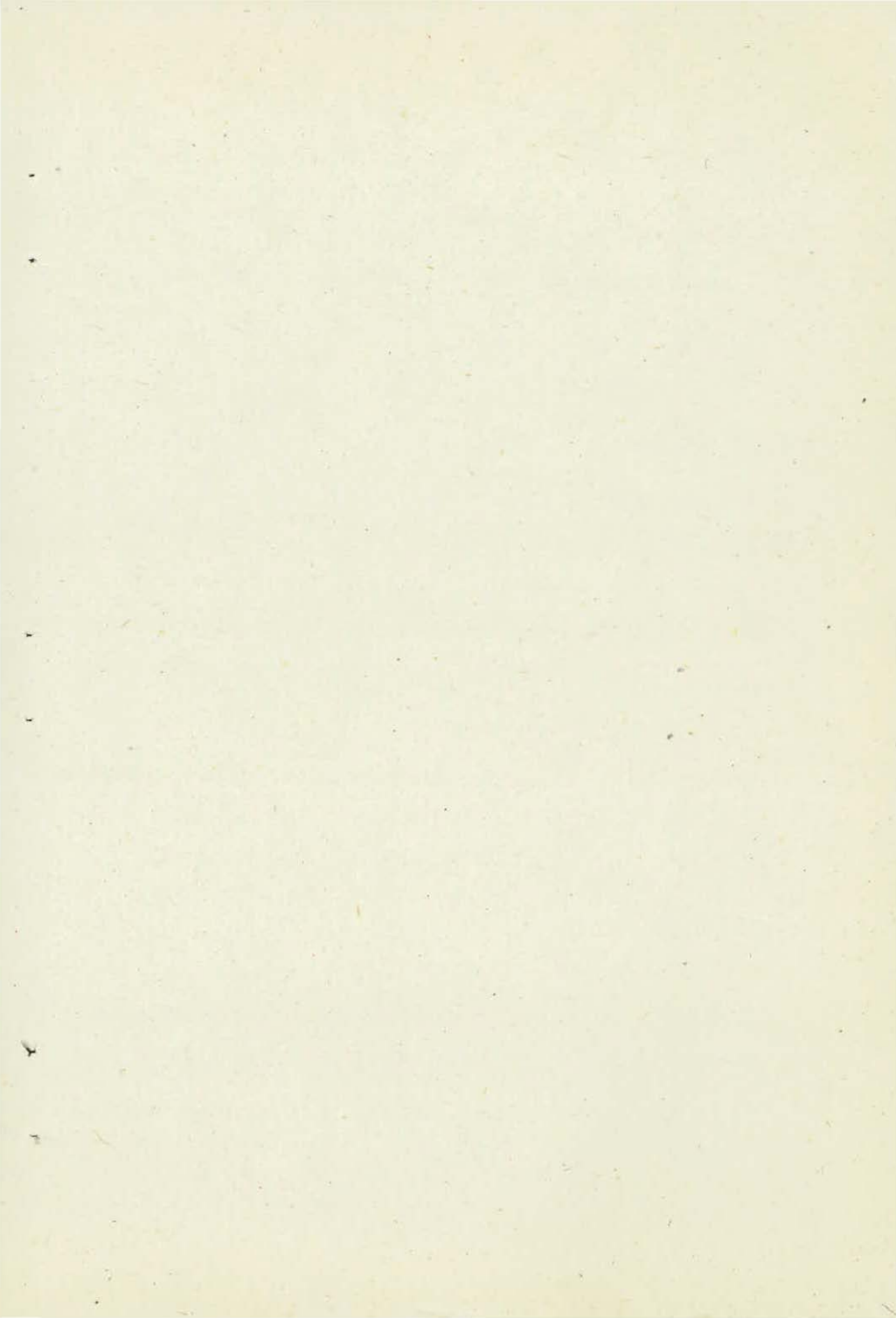
(Paragraph 6.2(ii))

(ii) Interest of Rs. 14.42 lakhs leviabale on the delayed payment of electricity duty was not charged, which was recovered at the instance of Audit.

(Paragraph 6.5)

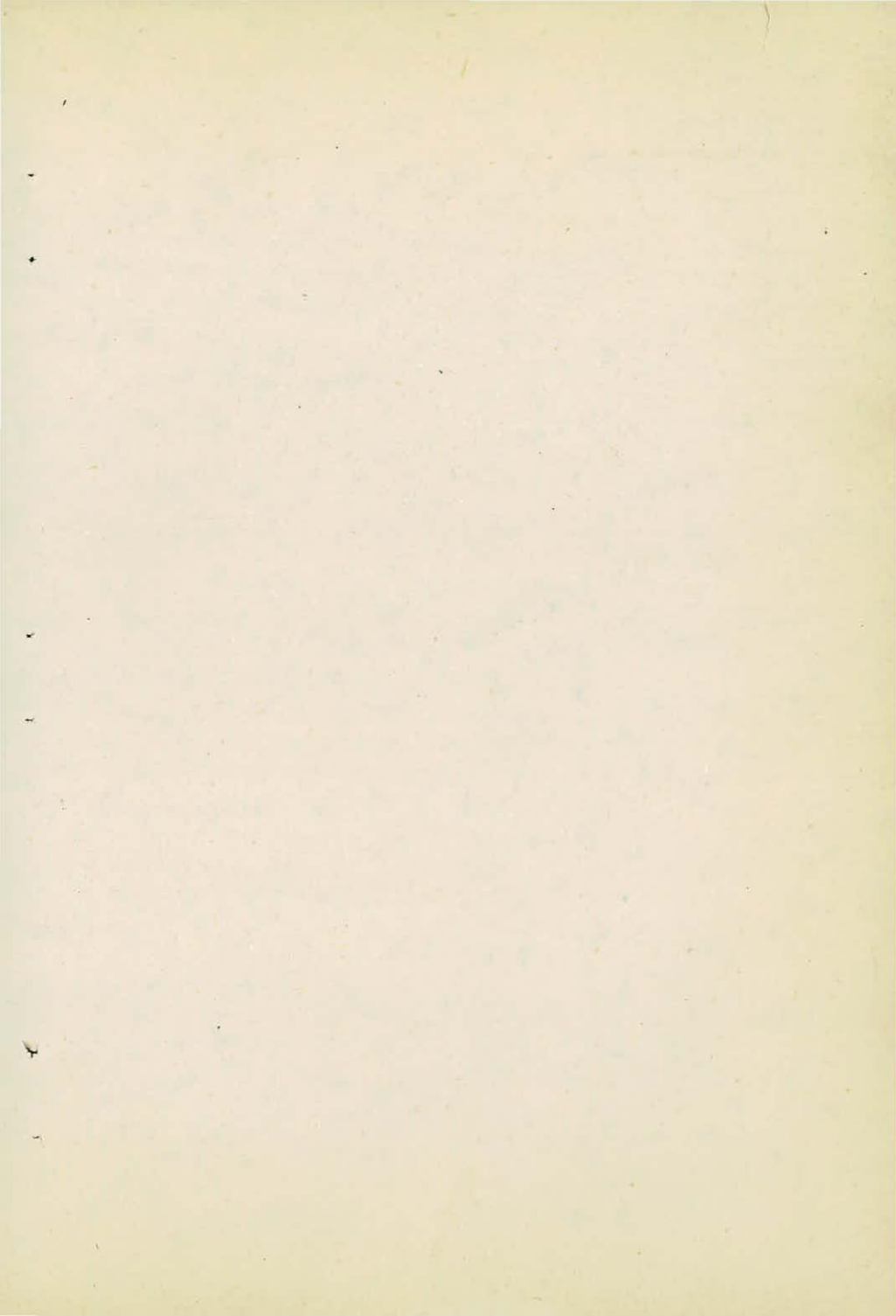
(iii) Inspection fee amounting to Rs.2.88 lakhs was not collected in respect of 14 electrical installations inspected during 1989-90. Of this, Rs.1.66 lakhs was recovered at the instance of Audit.

(Paragraph 6.6)



# **CHAPTER 1**

**GENERAL**





# CHAPTER - I

## GENERAL

### 1.1. Trend of revenue receipts

During 1991-92, the total revenue receipts of the Government of Gujarat was Rs. 5017.56 crores. Out of these receipts, Rs. 4027.29 crores (80 per cent) were raised from tax and non-tax sectors and Rs. 990.27 crores (20 per cent) were received from the Government of India as State's share of the divisible Union taxes and grants-in-aid. While the total receipts of the Government from the tax and non-tax sectors increased by 42 per cent during 1989-90 to 1991-92, the receipts from the Government of India during this period increased by 43 per cent. There was no appreciable change in the share of State's own resources and the Central Government's contribution in the total revenue receipts of the State Government during these three years.

The tax and non-tax revenue of the State and the share of the divisible Union taxes and grants-in-aid received from the Government of India during 1989-90 to 1991-92 are shown in the following table:

	1989-90	1990-91	1991-92
	<i>(Rupees in crores)</i>		
I. Revenue raised by State Government			
(a) Tax revenue	2159.73	2399.83	2893.44
(b) Non-Tax revenue	683.39	806.83	1133.85
Total	2843.12	3206.66	4027.29
II. Receipt from Government of India			
(a) State's share of divisible Union taxes	428.69	456.83	593.19
(b) Grants-in-aid	265.39	371.73	397.08
Total	694.08	828.56	990.27

	1989-90	1990-91	1991-92
III. Total receipts of the State			
Government (Revenue Account)	3537.20	4035.22	5017.56*
Percentage of I to III	80	79	80

## 1.2. Analysis of revenue raised by the State Government

(i) Tax and non-tax revenue raised by the State Government during 1989-90 to 1991-92 is given below:-

Year	Tax Revenue	Non-Tax Revenue	Total	Percentage of increase over preceding year
(Rupees in crores)				
1989-90	2159.73	683.39	2843.12	16
1990-91	2399.83	806.83	3206.66	13
1991-92	2893.44	1133.85	4027.29	26

Growth rate of tax revenue and non-tax revenue during 1989-90 to 1991-92 was as mentioned below:-

Year	Rate of growth of tax revenue over previous year	Rate of growth of non-tax revenue over previous year
1989-90	15 per cent	19 per cent
1990-91	11 per cent	18 per cent
1991-92	21 per cent	41 per cent

### (ii) Tax revenue

During the year 1991-92, the major contribution to the State's own taxes came from Sales Tax (69 per cent) followed by Taxes and Duties on Electricity (13 per cent), Stamps and

\* For details, please see Statement no. 11 - "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Gujarat for the year 1991-92.

- Registration Fees (6 per cent), Taxes on Vehicles (4 per cent) and Taxes on Goods and Passengers (3 per cent).

The share of sales tax and the remaining other taxes in the tax revenue of the State during 1989-90 to 1991-92 were as follows:

	Share of sales tax in the total tax receipts (in per cent)	Share of other taxes in the total tax receipts (in per cent)
1989-90	71	29
1990-91	73	27
1991-92	69	31

The proportion of contribution of sales tax and other taxes during these three years have not undergone any substantial change. An analysis of the rate of growth of the taxes indicate that receipts from the sales tax grew at the rate of 19, 13 and 16 per cent over the preceding years during 1989-90, 1990-91 and 1991-92 respectively and the average growth rate of sales tax receipts during these periods was 16 per cent per annum. In case of major sources of tax revenue during 1991-92, negative growth rate was noticed in case of taxes on goods and passengers (28 per cent) while high positive growth rates were noticed in case of taxes and duties on electricity (101 per cent), stamps and registration fees (33 per cent) and taxes on vehicles (18 per cent).

The details of tax revenue raised during 1991-92 and the preceding two years are given below:

	1989-90	1990-91	1991-92	Percentage of increase (+) or decrease (-) in 1991-92 over 1990-91
<i>(In crores of rupees)</i>				
1. Sales Tax	1534.57	1739.98	2010.53	(+) 16



	1989-90	1990-91	1991-92	Percentage of increase (+) or decrease (-) in 1991-92 over 1990-91	
2. Taxes and Duties on Electricity	180.97	187.39	376.33	(+)	101
3. Stamps and Registration Fees	110.14	125.26	166.94	(+)	33
4. Taxes on Vehicles	87.09	95.75	113.01	(+)	18
5. Taxes on Goods and Passengers	93.35	105.51	75.55	(-)	28
6. Other Taxes on Income and Expenditure	44.74	38.06	38.93	(+)	2
7. Land Revenue	30.62	34.19	36.61	(+)	7
8. State Excise	13.29	12.00	13.08	(+)	9
9. Taxes on Immovable Property other than Agricultural Land	0.24	0.21	0.28	(+)	33
10. Other Taxes and Duties on Commodities and Services	64.72	61.48	62.18	(+)	1
Total	2159.73	2399.83	2893.44	(+)	21

Reasons for increase/decrease in receipts for 1991-92 over 1990-91 called for in April 1992 have not been received from Government (November 1992).

### (iii) Non-Tax revenue

During the year 1991-92, non-tax revenue contributed 23 per cent to the total receipts of the State Government. The increase in 1991-92 in non-tax revenue over the preceding year was 41 per cent. The highest contribution to the non-tax revenue of the State

was from interest receipts. Other major receipts was from non-ferrous mining and metallurgical industries.

The details of major sources of non-tax revenue during the year 1991-92 and the two preceding years are given below:

	1989-90	1990-91	1991-92	Percentage of increase (+) or decrease (-) in 1991-92 over 1990-91	
<i>(In crores of rupees)</i>					
1. Interest Receipts	338.23	312.71	502.49	(+)	61
2. Non-ferrous Mining and Metallurgical Industries	183.93	156.06	419.24	(+)	169
3. Medical and Public Health	18.19	20.92	31.09	(+)	49
4. Major and Medium Irrigation	17.05	20.01	22.77	(+)	14
5. Forestry and Wild Life	15.89	13.42	17.77	(+)	32
6. Education, Sports, Arts and Culture	10.16	11.61	13.80	(+)	19
7. Police	7.69	10.86	10.12	(-)	7
8. Public Works	5.40	6.02	8.92	(+)	48
9. Miscellaneous General Services	5.51	171.54	4.44	(-)	97
10. Others	81.34	83.68	103.21	(+)	23
Total	683.39	806.83	1133.85	(+)	41

Reasons for increase/decrease in receipts for 1991-92 over 1990-91 in respect of the above heads, called for in April 1992, have not been received from Government (November 1992).

#### (iv) Trend of receipts from the Government of India

Receipts on State's share of divisible Union taxes and Grants-in-aid from the Government of India during 1989-90 to



1991-92 is given below:-

Year	State's share of divisible Union taxes	Grants- in-aid	Total	Percentage of increase/ decrease over preceding year	Percentage of receipts from Government of India to total receipts of the State Government
<i>(In crores of rupees)</i>					
1989-90	428.69	265.39	694.08	(-) 12	20
1990-91	456.83	371.73	828.56	(+) 19	21
1991-92	593.19	397.08	990.27	(+) 20	20

Chart on page 7 shows analysis of the total revenue receipts, tax revenue and non-tax revenue realised by the State during 1991-92.

### 1.3. New taxation measures

Certain existing rates of sales tax were enhanced to raise additional revenue of Rs. 5 crores.

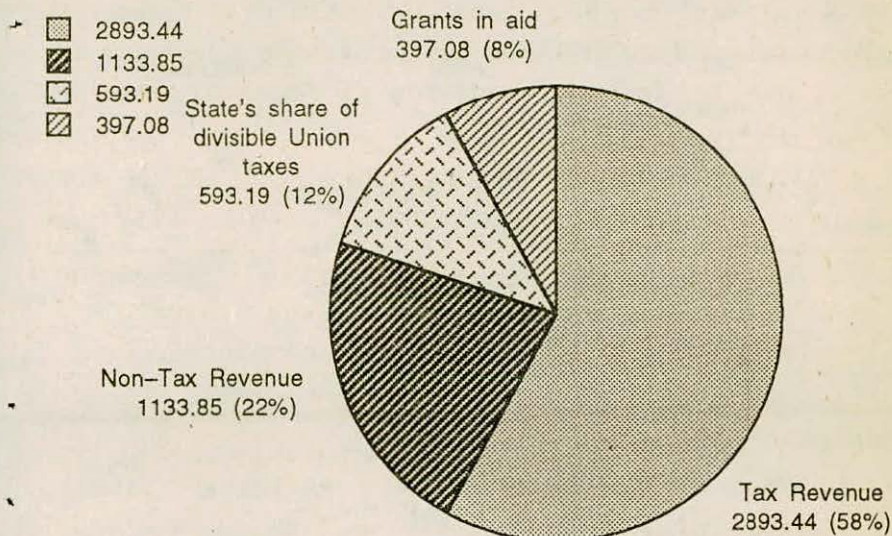
Government also introduced certain concessions and rationalisation of sales tax, electricity duty and luxury tax. These measures were expected to reduce the revenue by Rs. 17.15 crores as shown below:

Nature of tax	Expected reduction of revenue
<i>(In crores of rupees)</i>	
Sales tax	11.00
Electricity duty	4.50
Luxury tax	1.65
Total	17.15

The actual receipts or reduction in revenue due to these measures were not available as no information was collected by Government to examine the effect of these increase in rates and reliefs/rationalisations.

# ANALYSIS OF REVENUE RECEIPTS FOR 1991-92

Total Revenue Receipts (Rs. in crores)



Non-Tax Revenue  
(Rupees in crores)

Tax Revenue  
(Rupees in crores)

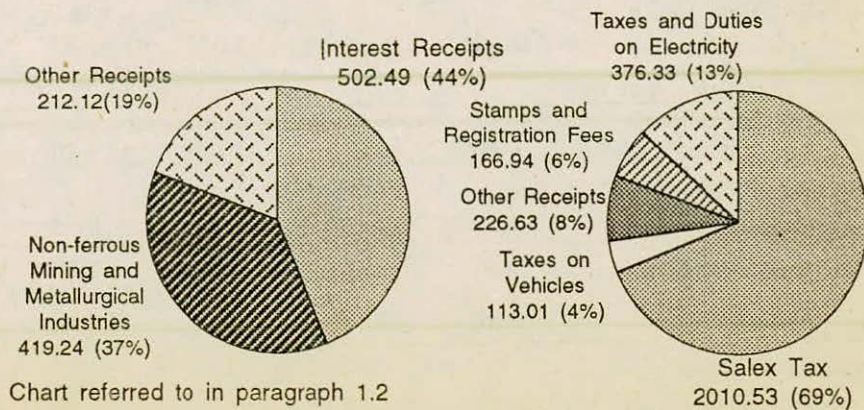


Chart referred to in paragraph 1.2

#### 1.4. Variations between Budget estimates and actuals

The Budget estimates projected an increase of 18 per cent and 9 per cent in the tax receipts and non-tax receipts respectively during 1991-92. As against this the actual increase was 21 per cent in tax receipts and 41 per cent in non-tax receipts.

The variations between Budget estimates and actuals of some major revenue receipts for the year 1991-92 are given below :

Head of Revenue	Budget estimates	Actuals	Variation Increase (+) Decrease (-)	Percentage of variation
-----------------	------------------	---------	---	----------------------------

*(In crores of rupees)*

##### Tax revenue

1. Sales Tax	1876.00	2010.53	(+)134.53	(+) 7
2. Taxes and Duties on Electricity	226.26	376.33	(+)150.07	(+) 66
3. Stamps and Registration Fees	124.30	166.94	(+) 42.64	(+) 34
4. Taxes on Vehicles	102.17	113.01	(+) 10.84	(+) 11
5. Taxes on Goods and Passengers	120.62	75.55	(-) 45.07	(-) 37
6. Other Taxes and Duties on Commodities and Services	73.89	62.18	(-) 11.71	(-) 16
7. Other Taxes on Income and Expenditure	40.87	38.93	(-) 1.94	(-) 5
8. Land Revenue	30.00	36.61	(+) 6.61	(+) 22
9. State Excise	16.97	13.08	(-) 3.89	(-) 23

##### Non-tax revenue

10. Interest Receipts	282.21	502.49	(+) 220.28	(+) 78
-----------------------	--------	--------	------------	--------



Head of Revenue	Budget estimates	Actuals	Variation Increase (+) Decrease (-)	Percentage of variation
11. Non-ferrous Mining and Metallurgical Industries	404.15	419.24	(+) 15.09	(+) 4
12. Major and Medium Irrigation	18.53	22.77	(+) 4.24	(+) 23
13. Forestry and Wild Life	17.85	17.77	(-) 0.08	(Negligible)
14. Miscellaneous General Services	6.22	4.44	(-) 1.78	(-) 29

Reasons for variations called for in September 1992 have not been received from Government (November 1992).

### 1.5. Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1991-92 and the preceding two years is given below:

Heads of Revenue	Year	Collection	Expenditure on collection	Percentage of expenditure on collection	All India average (Percentage)
<i>(In crores of rupees)</i>					
1. Sales Tax	1989-90	1534.57	16.01	1	
	1990-91	1739.98	19.11	1	
	1991-92	2010.53	24.42	1	2
2. Stamps and Registration Fees	1989-90	110.14	4.88	4	
	1990-91	125.26	5.92	5	
	1991-92	166.94	6.17	4	4
3. Taxes on Vehicles	1989-90	87.09	4.27	5	
	1990-91	95.75	4.55	5	
	1991-92	113.01	1.31	1	3



### 1.6. Uncollected revenue

The total revenue collected and the arrears of revenue (excluding interest on loans), at the end of the years 1989-90 to 1991-92, as reported by the departments, were as under:

Year	Total revenue collected	Amount pending collection as at the end of March 1992*	Percentage of arrears to total revenue collected during the year
<i>(Rupees in crores)</i>			
1989-90	2843.12	406.65	14
1990-91	3206.66	475.87	15
1991-92	4028.56	507.88	13

The table below indicates the arrears of revenue in respect of major receipts at the end of the year 1991-92 along with the corresponding figures at the end of the year 1990-91:

\* Does not include arrears pertaining to the departments of Revenue, Industries and Mines, Narmada and Water Resources, Roads and Buildings etc, Details from these departments called for in April 1992 were not furnished (November 1992).

Nature of receipts	Arrears pending collection as on 31st March 1991	Arrears pending collection as on 31st March 1992	Arrears outstanding for more than five years as on 31st March 1992	Remarks
	(Rupees in crores)			
1. Sales tax	197.69	284.54	45.97	Recoveries amounting to Rs.8.35 crores had been stayed by the courts and other judicial authorities and Rs.2.90 crores had been stayed by Government. Recoveries of Rs.8.01 crores and Rs.8.28 crores had been held up due to non-finalisation of rectification/review applications and insolvency of dealers respectively. Recovery of Rs.0.81 crore is likely to be written off. The remaining recovery of Rs.256.19 crores account for recoveries held up under deferment scheme and for other reasons.
2. Professions, trades, callings and employments tax	3.68	4.19	0.95	
3. Electricity duty	175.88	202.34	N.A.	
4. Goods and passengers tax	N.A.	3.23	0.55	
5. Motor vehicles tax	N.A.	10.18	1.36	

### 1.7. Arrears in sales tax assessments

The number of sales tax assessments due for completion including arrears pertaining to previous assessment years, assessments actually completed and the number of assessments pending finalisation as at the end of March 1992 are given below:

	Number of assessments due for completion during 1991-92	Number of assessments completed during 1991-92	Number of assessment cases pending finalisation at the end of 1991-92	Percentage of clearance
Arrear cases	14,90,011	3,55,318	11,34,693	24
Current cases	5,60,646	80,289	4,80,357	14
Remand cases	872	832	40	95
Total	20,51,529	4,36,439	16,15,090	21

24 per cent of the arrear assessments as on 31st March 1992 were more than three years old. Of the arrear cases, 89,350 cases involve turnover of Rs. 50 lakhs and above in each case and, 24,440 cases out of these involve turnover of Rs. 1 crore and above in each case. The pending assessment cases (16,15,090) at the end of 1991-92 has registered increase by 1,25,079 cases over that at the beginning of the year.

The Sales Tax Study Team (Subba Rao Committee - October 1990) had suggested, inter alia, the following measures for speedy disposal of the assessments which were estimated to be having three years backlog as on October 1990:

1. System of Deemed Assessments
2. A target for the completion of assessments within one year of the closure of the accounting year to which they relate

Government issued orders in November 1991 introducing the system of deemed assessments. The recommendations regarding the targets for clearing the pending assessments within one year of the



closure of the accounting year are yet to be implemented (March 1992).

### 1.8. Evasion of sales tax and entertainment tax

The table below indicates the position of cases of evasion of sales tax and entertainment tax detected and finalised by the concerned departments during the year 1991-92 :

	Sales tax	Entertainment tax
(Amount in rupees in lakhs in brackets)		
1. Number of cases pending at the beginning of the year	1,688 (911.86)	60 (27.90)
2. Number of cases detected during the year	1,376 (1961.06)	94 (6.14)
3. Total	3,064 (2872.92)	154 (34.04)
4. Number of cases finalised during the year	1,505	100
5. Demand raised in finalised cases	(3771.96)	(24.26)
6. Percentage of (4) to (3)	49	65

### 1.9. Refunds

The following table indicates the position of refund cases received in respect of sales tax, professions, trades, callings and employments tax, motor vehicles tax and forest receipts and finalised by the concerned departments during the year 1991-92 :

	Sales tax	Professions, trades, callings and employments tax	Motor vehicles tax	Forest receipts
(Amount in rupees in lakhs in brackets)				
1. Number of cases pending at the beginning of the year	548 (34.63)	1,443 (3.60)	434 (2.31)	631 (33.92)
2. Number of cases received during the year	11,385 (770.80)	1,661 (7.53)	2,069 (24.91)	723 (56.83)



	Sales tax	Professions, trades, callings and employments tax	Motor vehicles tax	Forest receipts
3. Total number of cases due for finalisation during the year	11,933 (805.43)	3,104 (11.13)	2,503 (27.22)	1,354 (90.75)
4. Number of cases finalised during the year	10,815 (744.35)	2,845 (10.21)	1,733 (19.15)	651 (32.32)
5. Percentage of (4) to (3)	91	92	69	48

### 1.10. Internal Audit

#### (i) Sales Tax Department

The Internal Audit Wing consists of ten Assistant Commissioners and fifty-six Sales Tax Inspectors. During 1991-92 assessments of 1,909 cases were revised. The additional demand created in these cases was Rs. 86.95 lakhs.

(ii) No internal audit system has been introduced by Government in respect of Land Revenue, Taxes on Vehicles, Electricity Duty, etc..

### 1.11. Results of audit

(i) Test check of the records of Sales Tax, State Excise, Motor Vehicles and other Departmental offices conducted during the year 1991-92 revealed under-assessments/short levy/loss of revenue aggregating Rs. 222.36 crores in 3,228 cases. During the course of the year 1991-92, the concerned Departments accepted under-assessments etc. of Rs. 558.89 lakhs pertaining to 1,003 cases, of which 307 cases involving Rs. 34.06 lakhs had been pointed out in audit during 1991-92 and the rest in earlier years.

(ii) 121 draft paragraphs and two reviews involving an amount of Rs. 14724.35 lakhs and relating to important mistakes/irregularities noticed during 1991-92 and earlier years, for possible mention in the Audit Reports, were issued to Government. Out of

them, 71 cases involving Rs. 92.56 lakhs were accepted by Government/department. Recovery made in these cases amounted to Rs. 29.80 lakhs up to November 1992. This Report includes 105 selected paragraphs and one review on "Concessions and exemptions under Stamp Act" involving financial effect of Rs. 14528.78 lakhs which illustrate some of the major points noticed in audit. The Government/department has so far accepted the audit observations fully or partly in 60 paras/review included in the Report involving Rs. 83.30 lakhs. Audit observation with revenue effect of Rs. 0.95 lakh in one case which has not been accepted by the department but where their contention has been found to be at variance with the facts or legal position, has been appropriately commented upon in the relevant paragraph. No reply/final reply has been received in the remaining cases.

#### **1.12. Outstanding inspection reports and audit objections**

(i) Audit observations on assessments, collection and accounting of receipts and defects noticed during local audit which are not settled during the course of inspection are communicated to the head of offices and the departmental authorities through audit inspection reports. More important irregularities are also reported to the heads of departments and Government in the form of 'Statement of Facts'. The Government has prescribed that first replies to the inspection reports should be sent within one month.

In order to expedite the settlement of outstanding inspection reports and audit observations, Government issued instructions for constitution of Audit Committees and reiterated in April 1991. Audit Committees were formed for six departments up to June 1991. Though the Audit Committees were formed, none of the departments held any meeting during the year 1991-92 although the matter was regularly pursued with the respective departments. Thus, an important mechanism for settlement of outstanding Inspection Reports and paras etc., was not put into operation.



The number of inspection reports and audit objections issued up to December 1991 (as also amount of receipts involved) but were pending settlement at the end of June 1992 are given below along with the position of the preceding two years:

	As at the end of June		
	1990	1991	1992
Number of outstanding inspection reports	2,833	2,404	1,656
Number of outstanding audit objections	7,757	7,284	5,679
Amount of receipts involved (In crores of rupees)	43.91	45.93	207.97

Of the 1,656 inspection reports pending as on 30th June 1992, first reply had not been received in respect of 160 inspection reports.

The above position was brought to notice of Secretaries to Government in concerned department in July/August 1992.

Year-wise breakup of the number of inspection reports and audit objections outstanding as on 30th June 1992 together with the amount of receipts involved, are given below:

Year	Number of inspection reports	Number of audit objections	Amount of receipts involved (In crores of rupees)
Up to 1987-88	551	1,405	6.22
1988-89	259	972	4.80
1989-90	291	1,046	13.60
1990-91	296	1,214	138.86
1991-92	259	1,042	44.49
Total	1,656	5,679	207.97

Department-wise and tax-wise breakup of the inspection reports and audit objections outstanding as on 30th June 1992, together with the amount of receipts involved, are given below:-

Name of department	Nature of receipt	Number of outstanding			Year to which earliest report
		Inspection reports	Audit objections	Receipts involved (In crores relates of rupees)	
Finance	(a) Sales tax	556	3,088	11.56	1981-82
	(b) Profession tax	111	431	0.34	1982-83
Revenue	(a) Land revenue	496	943	5.85	1980-81
	(b) Stamp duty and registration fees	262	570	149.01	1983-84
Home	Motor vehicles tax	92	402	3.73	1982-83
Information, Broadcasting and Tourism	Entertainment tax	58	88	0.54	1986-87
Forest and Environment	Forest receipts	54	106	0.31	1980-81
Social Welfare	State excise duty	9	11	0.05	1988-89
Energy and Petrochemicals	Electricity duty	18	40	36.58	1987-88
	Total	1,656	5,679	207.97	



A review of the pending Inspection Reports and Paras of the Motor Vehicles Department showed that 92 inspection reports and 402 paras involving an amount of Rs. 372.58 lakhs were outstanding at the end of June 1992 as shown in the table below:

Year	Inspection Reports	Paras	Amount (In lakhs of rupees)
Up to 1987-88	31	112	55.46
1988-89	19	33	8.10
1989-90	16	96	66.18
1990-91	13	99	90.82
1991-92	13	62	152.02
	<hr/> 92	<hr/> 402	<hr/> 372.58

More than 50 per cent of the outstanding paras pertained to the office of the Director of Transport, Ahmedabad and Regional Transport officers at Baroda, Surat and Nadiad. One Joint Director at the Directorate of Transport is entrusted with the monitoring of the settlement of outstanding objections. However, in the Regional Offices no officer has been nominated for dealing with the outstanding objections.

In order to expedite the settlement of outstanding inspection reports/ paras, Government formed Audit Committee for Transport Department in September 1990. During the period of two years ending in September 1992, the Committee held only one meeting in January 1991 when 5 outstanding paras were settled. Thus, the functioning of the Audit Committee in the Department did not have any appreciable impact on the clearance of pending audit inspection reports and paras.

## CHAPTER 2

SALES TAX





## CHAPTER 2

### SALES TAX

#### 2.1. Results of audit

Test check of assessment records in various sales tax offices, conducted in audit during the year 1991-92, revealed under-assessments of Rs. 323.37 lakhs in 1,262 cases, which broadly fall under the following categories:

	Number of cases	Amount (Rupees in lakhs)
1. Application of incorrect rate and mistake in computation	207	73.40
2. Non-levy/short levy of penalty and interest	735	112.84
3. Irregular exemptions and concessions	65	73.19
4. Irregular set-off	134	9.15
5. Other irregularities	121	54.79
Total	1,262	323.37

During 1991-92, the Department accepted under-assessment etc., of Rs. 40.33 lakhs involved in 299 cases, of which 267 cases involving Rs. 11.30 lakhs were pointed out during 1991-92 and the rest in earlier years. Fifty-five draft paragraphs and one review bringing out major points and involving financial effect of Rs. 197.91 lakhs noticed during the year of Report or earlier years were issued to the Government for their comments. The

Government/department accepted the observations fully or partly in 22 cases involving Rs. 29.03 lakhs, of which Rs. 5.80 lakhs have been recovered up to November 1992. A few illustrative cases are mentioned in the following paragraphs.

## **2.2. Incorrect grant of concessional rate of tax**

Under the Central Sales Tax Act, 1956, tax is leviable at the concessional rate of 4 per cent on inter-State sales of goods, when a declaration in Form 'C' is furnished. In respect of such sales, if 'C' form is not produced, tax is to be levied at twice the rate applicable as per local Act in the case of declared goods and at the rate of 10 per cent or at the locally applicable rate, whichever is higher, in the case of goods other than declared goods.

Government is empowered to reduce the rate of tax leviable on inter-State sales of goods. By a notification issued on 16th December 1981, Government reduced the rate of tax leviable on inter-State sale by a registered dealer of raydo, sarsav, til and variali supported by 'C' form to 4 per cent although such sales supported by 'C' form were leviable to tax at the rate of 4 per cent. This notification was, therefore, amended by another notification on 3rd January 1983, which reduced the rate of tax on inter-State sale by any dealer of the above-mentioned goods to 4 per cent without filing declaration in Form 'C'. Thus, till the issue of the notification on 3rd January 1983, inter-State sales not supported by Form 'C' were chargeable to tax at the rates as aforesaid.

Penalty is leviable for default in payment of tax under the Central Act as per the provisions of the Gujarat Sales Tax Act, 1969.

In the assessment of 44 dealers (37 of Unjha, 6 of Patan and one of Mehsana) relating to periods from 22nd October 1979



to 4th November 1983 finalised between May 1983 and March 1985, on inter-State sales of raydo, sarsav and til (declared goods) valued at Rs. 18.23 crores and variali valued at Rs. 3.13 crores, tax was levied at the concessional rate of 4 per cent up to 2nd January 1983 even though 'C' forms were not produced before the concerned assessing officers. This resulted in under-assessment of Central sales tax of Rs. 1.25 crores including penalty of Rs. 32.95 lakhs.

This was pointed out to the department between June 1986 and February 1987 and reported to Government in May 1992 and followed up by reminder (August 1992); their replies have not been received (November 1992).

### **2.3. Non-levy/short levy of interest**

(i) Under the Gujarat Sales Tax Act, 1969, if a dealer does not pay the amount of tax within the time prescribed for its payment, simple interest at the rate of 24 per cent per annum is leviable on the amount of tax not so paid or any less amount thereof remaining unpaid for the period of default. This provision also applies to levy of interest in the case of assessments made under the Central Sales Tax Act, 1956. It has been judicially held\* that interest is ordinarily demanded from an assessee who has withheld payment of any tax payable by him and such interest is compensatory in character and not penal.

In 25 cases, interest of Rs. 20.41 lakhs was either not levied or levied short on the balance of tax remaining unpaid on finalisation of the assessments between January 1983 and December 1989.

---

\*\* Associated Cement Company Ltd. vs Commercial Tax Officer, Kota and others (1981) 48 STC 466 (S.C.).



The omissions were pointed out to the department and reported to Government in May and June 1992. They accepted (between April 1992 and November 1992) the audit observation in fifteen cases involving Rs. 12.91 lakhs and recovered Rs. 2.17 lakhs in five cases. Final reply has not been received in 10 cases involving Rs. 7.50 lakhs despite reminder issued in September 1992.

(ii) Under the Gujarat Sales Tax Act, 1969 and the Rules made thereunder, every dealer, whose total amount of tax payable in the previous year is not less than Rs. 25,000, is required to make monthly payments of tax for the first two months of every quarter in the current year. If the assessee fails to make monthly payments within the prescribed time, interest at the rate of 24 per cent per annum is to be levied on the amount of tax not so paid. As per Section 9(2) of the Central Sales Tax Act, 1956, provisions relating to advance payment of tax, levy of penalty and interest under the local Act are applicable to assessments under the Central Act as decided\* by the Gujarat Sales Tax Tribunal.

In the assessment of a reseller of cotton at Ahmedabad for the periods 1985-86 and 1986-87, finalised in May 1988, it was noticed (July 1990) that the tax paid by the dealer under the Central Act was above Rs. 25,000 but he did not make the monthly payments. For non-payment of tax in time, interest of Rs. 95,041, though chargeable, was not charged.

The omission was pointed out to the department in July 1990. The department did not accept the audit point and stated (February 1992) that liability to pay tax monthly in Central assessment arises only if tax paid by the assessee under the local

---

\* M/s. Shanti Moulding Works vs The State of Gujarat (GSTB-1985)

Act is not less than Rs. 25,000. They also argued that the quantum of tax payable under the local Act decides the tax liability and the tax payable under the Central Act is not relevant. The contention of the department runs counter to the aforesaid decision of the Gujarat Sales Tax Tribunal and Section 9(2) of the Central Sales Tax Act and is, therefore, not acceptable.

The matter was reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

#### **2.4. Incorrect exemption**

(A) According to the Sales Tax Exemption Scheme introduced in February 1981, a specified manufacturer and holder of an exemption certificate is exempted from payment of tax during the specified period from the date of starting production, on purchase/sale of goods subject to certain prescribed conditions and exemption limits. As per one of the conditions of the Scheme, sale of the manufactured goods is not to take place outside the State of Gujarat. In the event of breach of any condition of the scheme, the exemption certificate issued by the Commissioner of Sales Tax was liable to be cancelled.

The Commissioner of Sales Tax clarified through a Public Circular issued in March 1986 that in the event of consignment of manufactured goods to branches outside the State, exemption certificate need not be cancelled; instead 4 per cent or the rate of tax whichever is lower, of the sale value of manufactured goods consigned outside the State should be adjusted from the exemption limit of the dealer. Since the manufactured goods are exempted, no tax concession is available under the Act for sale of such goods against any prescribed declaration. The Commissioner of Sales Tax also clarified in February 1986 that the amount of



tax on sales made by the manufacturer against any form is required to be adjusted against the specified exemption limit.

As per a notification of March 1987 issued under the Gujarat Sales Tax Act, 1969 (amended in July 1988 and August 1988), tax is leviable on purchase/sale of staple fibre yarn, terylene fibre yarn, artificial silk yarn and all other synthetic yarn including waste thereof at the rate of 5 per cent from 1st April 1987 to 31st July 1988, 2 per cent from 1st August 1988 to 19th August 1988 and 1 per cent thereafter.

(i) At Vapi, in eleven assessments of eight dealers (finalised between July 1988 and March 1989) for the periods between January 1981 and November 1986, tax at the rate of 4 per cent was leviable on goods worth Rs. 122.73 lakhs and 2.2 per cent on goods worth Rs. 18.63 lakhs transferred to branches of the assessee situated outside the State. The tax liability was, however, not worked out and adjusted from the exemption limit though the assessments were completed after the issue of the said public circular. This resulted in incorrect grant of exemption of Rs. 5.32 lakhs.

The omission was pointed out to the department between October and December 1990. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in May 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

(ii) (a) In the case of assessment of 3 manufacturers in Ahmedabad, Unjha and Ankaleshwar, for the periods during November 1982 and June 1987 (finalised between October 1987 and November 1988), sales of manufactured goods valued at Rs. 23.11 lakhs made against declarations were erroneously deducted from the turnover of sales without computing tax. This



resulted in non-adjustment of tax of Rs. 1.98 lakhs against the exemption limit.

(b) In respect of a dealer at Unjha, 4 per cent of the value of the manufactured goods consigned outside Gujarat State (Rs. 5.61 lakhs) was not adjusted. This resulted in non-adjustment of tax of Rs. 22,435 against the exemption limit.

(c) In respect of a dealer at Ankleshwar, tax on sale of drugs valued at Rs. 1.08 crores was computed at 3.75 per cent against the correct rate of 4 per cent. This resulted in short adjustment of tax of Rs. 31,146 against the exemption limit.

Total under-assessment in these cases work out to Rs. 2.51 lakhs.

The omissions were reported to Government in July 1992. The Government stated (August 1992) that in case of the dealer of Unjha, *suo motu* revision order had been passed and the amount of tax adjusted from the exemption limit. Reply in respect of other cases has not been received (November 1992).

(iii) At Vapi, in the case of a manufacturer of twisted synthetic yarn, holding sales tax exemption certificate, in the assessment for the period from 1st April 1987 to 31st March 1989 (finalised on 30th September 1989), tax on purchase of yarn made against Form 1 valued at Rs. 78.43 lakhs was computed at the rate of 1 per cent as against 5 per cent (Rs. 34.53 lakhs), 2 per cent (Rs. 4.98 lakhs) and one per cent (Rs. 38.92 lakhs) leviable as aforesaid. This resulted in short adjustment of tax of Rs. 1.74 lakhs from the exemption limit.

(iv) Similarly, in the assessment of a manufacturer of texturised artificial silk yarn and holding sales tax exemption certificate, during the period from 1st April 1987 to 31st March 1989 (finalised on 31st March 1990), tax on purchases of yarn made against Form 1 valued at Rs. 30.45 lakhs made between

April 1987 and June 1988 was computed at the rate of 1 per cent against the correct rate of 5 per cent. This resulted in short adjustment of tax of Rs. 1.46 lakhs from the exemption limit granted to the manufacturer.

The irregularities were pointed out to the department in November 1990 and December 1990. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(B) According to the Sales Tax Exemption Scheme of December 1986, where a specified manufacturer holding exemption certificate transfers the manufactured goods to his branches outside the State, 4 per cent (or at such rate applicable under the Act if it is lower than 4 per cent) of the value of such goods is to be computed and reduced from the exemption limit granted to such manufacturer.

According to the Gujarat Sales Tax Act, 1969, where a dealer purchases taxable goods other than declared goods for use as raw or processing materials or consumable stores in the manufacture of taxable goods, purchase tax at 2 per cent (4 per cent from 5th August 1988) on such purchases is leviable and such tax is to be considered for arriving at the limit of tax exemption under the scheme. Under the Gujarat Sales Tax Rules, 1970, if sale of such goods manufactured are made within the State of Gujarat the dealer would be entitled to set-off of the purchase tax so levied.

At Vapi, in the assessment for the period from 29th August 1987 to 31st March 1988 (finalised in December 1989) of a specified manufacturer holding sales tax exemption certificate, though manufactured goods valued at Rs. 34.76 lakhs was



transferred to his branch outside Gujarat, 4 per cent of the value of such goods was not reduced from the ceiling limit. This resulted in short adjustment of tax of Rs. 1.39 lakhs.

Purchase tax of Rs. 20,498 leviable on purchases of Rs. 8.54 lakhs made within the State of Gujarat and used in the manufacture of goods transferred to branches outside Gujarat State was not levied and adjusted from the tax exemption limit. Thus the total amount required to be reduced from the exemption limit worked out to Rs. 1.60 lakhs.

The omissions were pointed out to the department in November 1990. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(C) With effect from 1st April 1986, sports goods as specified by a notification under the Gujarat Sales Tax Act, 1969 are exempted from payment of tax. Tennis balls were specified for exemption from payment of tax by a notification issued on 2nd April 1988.

At Vapi, in the assessment of two dealers (manufacturers cum resellers of sports goods) for the periods 5th December 1985 to 31st December 1986 and Samavat Year 2042 (13th November 1985 to 2nd November 1986) finalised in June 1988 and May 1989, sales of tennis balls valued at Rs. 8.21 lakhs and Rs. 5.40 lakhs respectively made after 1st April 1986 and prior to 2nd April 1988 were incorrectly exempted from payment of tax. This resulted in short realisation of tax of Rs. 2.47 lakhs including interest leviable for non-payment of tax.

The omission was pointed out to the department in October/December 1990. Final reply has not been received (November



1992) despite reminder issued in March 1992.

The matter was reported to Government in May 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

(D) As per entry 35 of Schedule I to the Gujarat Sales Tax Act, 1969, no tax is leviable on sales of product of village industries by a producer or a certified dealer of products of village industries, as defined in Khadi and Village Industries Commission Act, 1956. Cotton *puni* (a roll of cotton prepared for spinning thread) and cotton are not products of village industry.

In assessing a dealer of Ahmedabad in July 1984 for the year 1978-79, sales of cotton *puni* valued at Rs. 3.84 lakhs and cotton valued at Rs. 1.93 lakhs were exempted from payment of tax though the sales attracted levy of tax at the rate of 10 per cent and 4 per cent respectively. The mistake resulted in tax being levied short by Rs. 50,698 including additional tax. Penalty of Rs. 18,251 for non-payment of tax due was also leviable, but was not levied.

The mistake was pointed out in audit to the department in February 1988. Final reply has not been received (November 1992) despite reminder issued in February 1992.

The matter was reported to Government in May 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

(E) Under the Central Sales Tax Act, 1956, where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by transfer of documents of title to such goods, any subsequent sale during such movement effected by transfer of documents of title to such goods is exempted from

payment of tax provided such sale is supported by the prescribed certificate and declaration.

In the assessment of a dealer at Ahmedabad for the period 1985-86 (finalised in November 1986), though the certificate furnished to claim sale of Rs. 3.22 lakhs by transfer of documents was not pertaining to the transactions made during the assessment period, the certificate was accepted and tax was not levied on the sale. This resulted in short realisation of tax of Rs. 36,581 (including interest).

The omission was pointed out to the department in April 1988. Final reply has not been received (November 1992) despite reminder issued in February 1992.

The matter was reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

## **2.5. Irregular deferment of tax**

According to the Sales Tax Deferment Scheme of March 1982, a new industrial unit seeking tax deferment benefit is required to obtain an eligibility certificate from the Industries Department indicating the product of the industry and details of fixed capital invested in the unit's project. The benefit of the scheme is admissible for the particular product for which the unit obtains the eligibility certificate and not in respect of any other goods which are incidentally or otherwise produced by the unit. The eligible industrial units are entitled to postpone the payment of the tax payable by them only on the sales of finished product both under the Gujarat Sales Tax Act, 1969 and under the Central Sales Tax Act, 1956 for a period of 12 years as calculated from the date of starting the commercial production of goods by such units.



(i) At Godhra, it was noticed that the eligibility certificate for the benefit under this scheme was granted for manufacture of high pressure rubber hose pipes to a unit which also manufactures spare parts and accessories of machinery. In view of the specific certificate the tax deferment benefit of Rs. 1.32 lakhs granted to the unit on sale of machinery parts for the years 1982-83 to 1984-85 was irregular.

The omission was reported to Government in May 1992. The Government accepted the audit observations and stated (June 1992) that suo motu revision orders had been passed for 1982-83 and 1983-84 raising additional demand (including interest) of Rs. 2.85 lakhs and Rs. 43,922 respectively and suo motu revision proceedings for 1984-85 was in progress. Further report has not been received (November 1992).

(ii) At Baroda, in the case of a manufacturer of mosaic tiles, purchase tax of Rs. 1.36 lakhs levied in the assessments for the period from July 1983 to December 1987 (finalised in September 1988) was allowed to be deferred irregularly although the scheme envisaged the postponement of payment of sales tax and not purchase tax.

The omission was pointed out to the department in October 1990. Final reply has not been received despite reminder issued in April 1992.

The matter was reported to Government in May 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

(iii) At Godhra, in the assessment of a manufacturer of industrial springs holding tax deferment certificate for that product for the periods October 1982 to September 1983 and October 1983 to September 1984, tax of Rs. 8,936 and Rs. 21,333 on sale of iron strips worth Rs. 2.23 lakhs and Rs. 5.33 lakhs during these

years was allowed to be deferred. This resulted in irregular deferment of tax amounting to Rs. 41,106 including interest of Rs. 10,837.

The omission was reported to Government in July 1992. They accepted the audit observations and stated (August 1992) that re-assessment was done and the manufacturer had deposited the amount of tax and recovery proceedings in respect of interest was in progress.

(iv) At Bharuch, a manufacturer of high density polyethylene woven bags paid purchase tax of Rs. 1.50 lakhs against Rs. 1.89 lakhs payable as per the assessment order during the period from 1st April 1986 to 31st March 1987. The balance amount of purchase tax of Rs. 39,000 was irregularly allowed to be deferred although payment of only sales tax could be postponed under the aforesaid scheme.

The omission was pointed out to the department in October 1990. Final reply has not been received (November 1992) despite reminder issued in April 1992.

The matter was reported to Government in May 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

## **2.6. Irregular grant of set-off**

(A) Under the Gujarat Sales Tax Rules, 1970, a dealer, who has paid tax on raw material (other than prohibited goods) used in the manufacture of taxable goods, is allowed set-off from the tax payable on the sale of the manufactured goods of an amount based on the tax paid on raw materials. However, with effect from 2nd August 1985, two per cent of the purchase price of the goods considered for the grant of set-off is to be deducted from the gross amount of the admissible set-off.



At Vapi, in three assessments of two dealers engaged in the manufacture of machinery and its spares during July 1985 and June 1987 (assessments finalised between January and March 1989), statutory deduction of two per cent of the purchase price of Rs. 119.43 lakhs of machinery spares purchased after 21 August 1985 on which set-off was computed, was not made. This resulted in excess grant of set-off of Rs. 3.40 lakhs including interest leviable on short payment of tax.

The omission was pointed out to the department in October/November 1990. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

(B) Under the Gujarat Sales Tax Rules, 1970, set-off of tax paid on purchase of electric motors is admissible when the goods manufactured are machinery used in the manufacture of goods as specified in entry 16 of Schedule II Part A to the Gujarat Sales Tax Act, 1969.

(i) At Ahmedabad, in the assessment of a manufacturer of machinery parts for 1986-87 (finalised in February 1989), though the sales of machinery parts were not taxable at the rates specified in entry 16 *ibid*, set-off of Rs. 71,261 being tax paid on purchase of electric motors was irregularly granted. This resulted in short realisation of revenue of Rs. 1.02 lakhs including interest.

The omission was pointed out to the department in September 1990. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(ii) At Anand, in the case of a manufacturer of dust collecting machine, set-off of Rs. 23,846 being tax paid on purchase of electric motor was irregularly granted even though these electric motors were not used in manufacture of goods specified in entry 16 *ibid*. This resulted in short realisation of revenue of Rs. 40,406 including interest of Rs. 16,560.

The matter was reported to Government in May 1992. They accepted the audit observations and stated (June 1992) that *suo motu* revision proceedings had been initiated. Further report has not been received (November 1992).

## 2.7. Short levy of Central sales tax

According to the provisions of Section 8(2-A) of the Central Sales Tax Act, 1956, if the tax on sale of goods as per the Sales Tax Law of the appropriate State is less than 4 per cent, such rate of tax is also applicable on inter-State sales. The Gujarat High Court held\* that the rate of tax for the purpose of Section 8(2-A) of the Central Sales Tax Act will include additional tax. Under the Gujarat Sales Tax Act, 1969, sales of staple fibre and artificial silk yarn attract the concessional rate of tax of 1.98 per cent and 3.85 per cent respectively including additional tax.

(i) At Ahmedabad, in the assessment of a dealer for the periods 1st April 1985 to 31st March 1986 and 1st April 1986 to 31st March 1987 finalised in April 1989 and May 1989 respectively, tax on inter-State sales of staple fibre valued at Rs. 12.26 crores was levied at the rate of 1.80 per cent as against 1.98 per cent including additional tax. This resulted in short levy of tax of Rs. 3.18 lakhs including interest.

---

\* State of Gujarat vs Jayantilal Panachand, Rajkot-GSTB 1991 (H.C.)  
Volume II.



The omission was pointed out to the department in September 1990. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in May 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

(ii) At Billimora, in the case of a specified manufacturer holding exemption certificate during the assessment period 1985, tax on inter-State sales of artificial silk yarn worth Rs. 126.65 lakhs was levied at the incorrect rate of 3.50 per cent (excluding additional tax) instead of at the correct rate of 3.85 per cent (including additional tax) and adjusted against the tax exemption limit. This resulted in short adjustment of tax exemption benefit of Rs. 44,330.

The case was reported to Government in May 1989. The Government stated (November 1990) that *suo motu* revision proceedings though initiated, is kept in abeyance pending decision of the High Court on the same issue in another case.

Although the High Court held in June 1991 that rate of tax will include additional tax for the purpose of Central sales tax, the case was not re-opened (November 1992).

## **2.8. Incorrect classification of goods**

(i) As per entry 28-A of Schedule I to the Gujarat Sales Tax Act, 1969, sales of charts, maps, globes and geometrical instruments for educational use are exempt from levy of sales tax. Goods which are not specified in Schedules I and II or in entries 1 to 12 of Schedule III to the Act fall under the residuary entry 13 of Schedule III, attracting tax at the rate of 11 per cent from 1st April 1986 to 31st March 1987 and at 12 per cent thereafter.



The Gujarat Sales Tax Tribunal held\* that drawing boards are covered by the entry 13 *ibid*.

At Vapi, in the assessment of a manufacturer of drawing boards for the calendar year 1987 (finalised in May 1989), sale of drawing boards made of timber valued at Rs. 13.34 lakhs was allowed tax-free classifying the goods under entry 28-A of Schedule I to the Act. Since drawing boards are not geometrical instruments or charts, maps and globes, these were classifiable under the residuary entry 13 of Schedule III of the Act as was held by the Tribunal. Tax of Rs. 2.61 lakhs (including interest) thus remained unrealised due to the incorrect classification of the goods sold.

The omission was pointed out to the department in November 1990. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in May 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

(ii) As per entry 41 of Schedule II Part A to the Gujarat Sales Tax Act, 1969, tax was leviable on sale of electrical goods (other than domestic electrical appliances) at the rate of 10 per cent up to 5th August 1988. According to a decision\*\* of the Gujarat Sales Tax Tribunal, industrial air circulators would be covered by this entry.

At Ahmedabad, in case of a manufacturer of industrial fans

---

\* M/s. Arvind & Co. and M/s. Kores India Ltd vs The State of Gujarat (P-298 August 1983 Sales Tax Journal)

\*\* Revisional appeal no. 16 of 1983 in the case of M/s. Almonard Private Ltd v/s. the State of Gujarat decided on 1st February 1985.

and air conditioners, sale of industrial air circulators valued at Rs. 11.86 lakhs during 1st July 1985 to 30th June 1986 was incorrectly assessed to tax at 4 per cent applicable to machinery parts instead of at 10 per cent. The incorrect classification of goods resulted in short levy of tax of Rs. 1.06 lakhs including penalty for short payment of tax.

The omission was pointed out to the department in September 1989. They accepted the audit observations and stated (December 1991) that *suo motu* revision proceedings were being initiated. Further report has not been received (November 1992).

The matter was reported to Government in July 1992. They confirmed the reply of the department in October 1992.

## **2.9. Non-levy of tax on specified sale**

According to the Gujarat Sales Tax Act, 1969, 'specified sale' means the transfer of right to use any goods for any purpose for cash, deferred payment or valuable consideration, and every dealer, whose turnover exceeds the prescribed limit, is liable to pay tax on his turnover of 'specified sale' of the goods mentioned in Schedule IV to the Act. Electric meters are 'electrical goods' and tax is leviable on 'specified sale' of the same at the rate of 4 per cent with effect from 5th August 1985.

At Anand, in the case of a State Government undertaking engaged in distribution of electricity, tax was not levied on rent of Rs. 31.84 lakhs on electric meters recovered from the consumers during 1986-87 (assessment finalised in March 1990). This resulted in under-assessment of Rs. 2.38 lakhs including interest for non-payment of tax.

The matter was reported to Government in June 1992. They accepted the audit observations and stated (August 1992) that *suo*



*motu* revision proceedings had been initiated. Further report has not been received (November 1992).

### 3.10. Non-levy of turnover tax

Under the provision of Section 10-A of the Gujarat Sales Tax Act, 1969, with effect from 6th August 1988, where the turnover of either of all sales or of all purchases made by any dealer exceed Rs. 99,99,999 in any year, a turnover tax is to be levied on the total turnover of sales of goods specified in Schedules II and III to the Act after allowing permissible deductions. In case any dealer has changed the year by reference to which the accounts are ordinarily maintained in his books of accounts and adopted a transitional accounting year, for the transitional period of assessment involving period of more than 12 months, the liability to turnover tax was to be calculated on proportionate basis as provided in Section 41-A(4) of the Act.

(i) In the case of a dealer in tea in Jamnagar, total turnover for the transitional year of 17 months from Samvat Year 2044 (23rd October 1987 to 9th November 1988) to 31st March 1989, finalised in January 1990, was Rs. 1.54 crores. On a proportionate basis, the total turnover (Rs. 1.09 crores) for 12 months exceeded the specified amount of Rs. 99,99,999 and therefore, turnover tax was to be levied after 6th August 1988, on the taxable turnover of Rs. 71.11 lakhs. The amount of turnover tax including interest not levied amounted to Rs. 1.15 lakhs.

The matter was reported to Government in June 1992. They accepted the audit observations and stated (August 1992) that re-assessment order raising additional demand had been passed.

(ii) At Baroda, in the case of a reseller of oil engines, the assessment for the period from October 1987 to March 1989 was finalised in January 1991. The period being a transitional year



covering 18 months, the aforesaid provisions of the Act should have been followed for levy of turnover tax. This was not done resulting in non-levy of turnover tax of Rs. 63,815 leviable on turnover of sales of Rs. 63.81 lakhs. Interest payable by the dealer on the unpaid tax works out to Rs. 30,632.

This was pointed out to the department in June 1991. Final reply has not been received (November 1992) despite reminder issued in April 1992.

The matter was reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

## **2.11. Under-assessment due to incorrect allowance of resales**

(i) Under the Gujarat Sales Tax Act, 1969, when any entry in any Schedule is transposed to any other Schedule or any entry is transposed from Part A to Part B of Schedule II or *vice versa*, the goods held in stock on the date of transposition of the entry and falling within that entry would not qualify for deduction from the turnover of sales as resales of goods purchased from registered dealers. Liquified petroleum gas stoves and their combinations and spare parts/accessories thereof were classified under entry 4(A) of Schedule III prior to 1st April 1984 when a specific entry 115 was introduced in Part A of Schedule II to the Act making these goods liable to tax at the rate of 10 per cent.

At Ahmedabad, in the assessment of a reseller of liquified petroleum gas stoves and appliances for the period from 1st April 1984 to 31st March 1985 (finalised in December 1989), liquified petroleum gas stove components valued at Rs. 4.67 lakhs purchased from registered dealer and held in stock as on 31st March 1984 was deducted from the turnover of sales as resales though tax was leviable at the rate of 10 per cent. This resulted in short levy of tax of Rs. 98,488 (including interest).

The matter was reported to Government in July 1992. They accepted the audit observations and stated (October 1992) that *suo motu* revision proceedings had been initiated. Further report has not been received (November 1992).

(ii) Under the Gujarat Sales Tax Act, 1969, sales tax is leviable on the turnover of sales of a dealer after deducting resale of goods purchased by him from a registered dealer.

In the assessment of a dealer at Ahmedabad for the period from 1st May 1979 to 30th April 1980 finalised in January 1982, the deduction allowed on account of resales of goods purchased from registered dealers were more than such purchases by Rs. 5.69 lakhs. The deduction on account of resales allowed in excess resulted in non-levy of tax of Rs. 25,033.

The omission was pointed out to the department in December 1982. They accepted the audit observations and stated (August 1987) that *suo motu* revision order for an additional demand for Rs. 34,534 (including interest) had been passed against which the dealer had filed an appeal before the Gujarat Sales Tax Tribunal in January 1987. The Tribunal remanded the case to the department in June 1987 for re-assessment. Re-assessment order for an additional demand of Rs. 57,971 (including interest) was passed in July 1992.

The matter was reported to Government in July 1992.

## **2.12. Application of incorrect rate of tax**

According to a determination order issued in May 1988 under Section 62 of the Gujarat Sales Tax Act, 1969, 'insulators' are electrical goods and these were liable to tax at 10 per cent up to 5th August 1988.

At Baroda, in the case of a manufacturer of bushings and insulators for the year 1984 (assessment finalised in September



1987), tax was levied at the rate of 4 per cent instead of at 10 per cent on sale of insulators worth Rs. 6.85 lakhs. The application of incorrect rate resulted in short levy of tax of Rs. 1.13 lakhs including interest.

The omission was reported to Government in May 1992. They accepted the audit observation and stated (June 1992) that order raising additional dues had been passed.

### **2.13. Non-levy of purchase tax**

Under the Gujarat Sales Tax Act, 1969, where a dealer, who is liable to pay tax under the Act, purchases any taxable goods (not being declared goods) and uses them as raw or processing materials or consumable stores in the manufacture of taxable goods, purchase tax at the prescribed rates would be leviable in addition to any tax levied under other provisions of the Act. As per the Gujarat Sales Tax Rules, 1970, the purchase tax levied under the above provisions of the Act would be refunded subject to fulfillment of the conditions specified under the Rules. One of the conditions is that the goods so manufactured are to be sold by the assessee in the State of Gujarat.

(i) At Ahmedabad, in the case of a dealer manufacturing chemicals, for the period from May 1986 to April 1987 (assessment finalised in March 1990), purchase tax of Rs. 1.13 lakhs was levied on tax paid on purchases of Rs. 1.52 crores. This was incorrect as the dealer had transferred manufactured goods worth Rs. 1.39 crores to his branch outside the State and the set-off was admissible only on the purchases made for manufacture of goods sold in the State of Gujarat. Thus tax of Rs. 1.51 lakhs was leviable after allowing set-off of Rs. 1.83 lakhs being the amount of purchase tax on material used in the manufacture of goods sold within the State of Gujarat. This



resulted in short levy of tax of Rs. 64,375 including interest.

The omission was pointed out to the department in February 1991. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The matter was reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(ii) At Surendranagar, in the assessment of a manufacturer of mild steel ingots for the calendar year 1986 (finalised in October 1988), though purchase tax of Rs. 15,554 was leviable on purchases worth Rs. 29.19 lakhs after allowing set-off of purchase tax, no purchase tax was levied. The omission resulted in non-levy of tax of Rs. 35,740 including interest on the unpaid tax.

The omission was pointed out to the department in September 1989. They accepted the audit observations and stated (January 1992) that *suo motu* revision order had been passed raising additional demand of Rs. 35,740.

The matter was reported to Government in July 1992. They confirmed the reply of the department in October 1992.

#### **2.14. Irregular reopening of assessment**

Under the Gujarat Sales Tax Act, 1969, a dealer can make an application in the prescribed form to the Commissioner within thirty days from the date of service of order of assessment for reopening of the assessment on certain specified grounds.

At Ahmedabad, in the case of a dealer manufacturing mill machinery parts, assessment order was passed on 4th April 1987 for the Samvat Year 2040. The order was served on 30th April 1987. The dealer made an application on 4th July 1987 i.e. after 65 days for reopening the assessment. Based on this application a revised assessment order was passed on 14th October 1987 which

was again rectified in January 1988 and the demand was reduced by Rs. 63,881. Entertaining a time-barred application resulted in short recovery of tax amounting to Rs. 63,881.

The omission was pointed out to the department in August 1989. They stated (September 1991) that *suo motu* revision proceedings had been initiated. Further report has not been received (November 1992).

The matter was reported to Government in July 1992; their reply has not been received (November 1992).

### **2.15. Short levy of additional tax**

Under the Gujarat Sales Tax Act, 1969, additional tax is leviable at the prescribed rate on sales tax, general sales tax and purchase tax payable by a dealer. The rate of additional tax during the period 1st April 1979 to 31st March 1987 was 10 per cent of such tax.

At Ahmedabad, in the assessment of a dealer manufacturing groundnut oil, for the period Samvat Year 2037 to 25th March 1981 (finalised in March 1981), additional tax of Rs. 1,348 was levied on total tax of Rs. 1.35 lakhs which resulted in short levy of additional tax of Rs. 41,252 including interest of Rs. 29,119 leviable for short payment of additional tax.

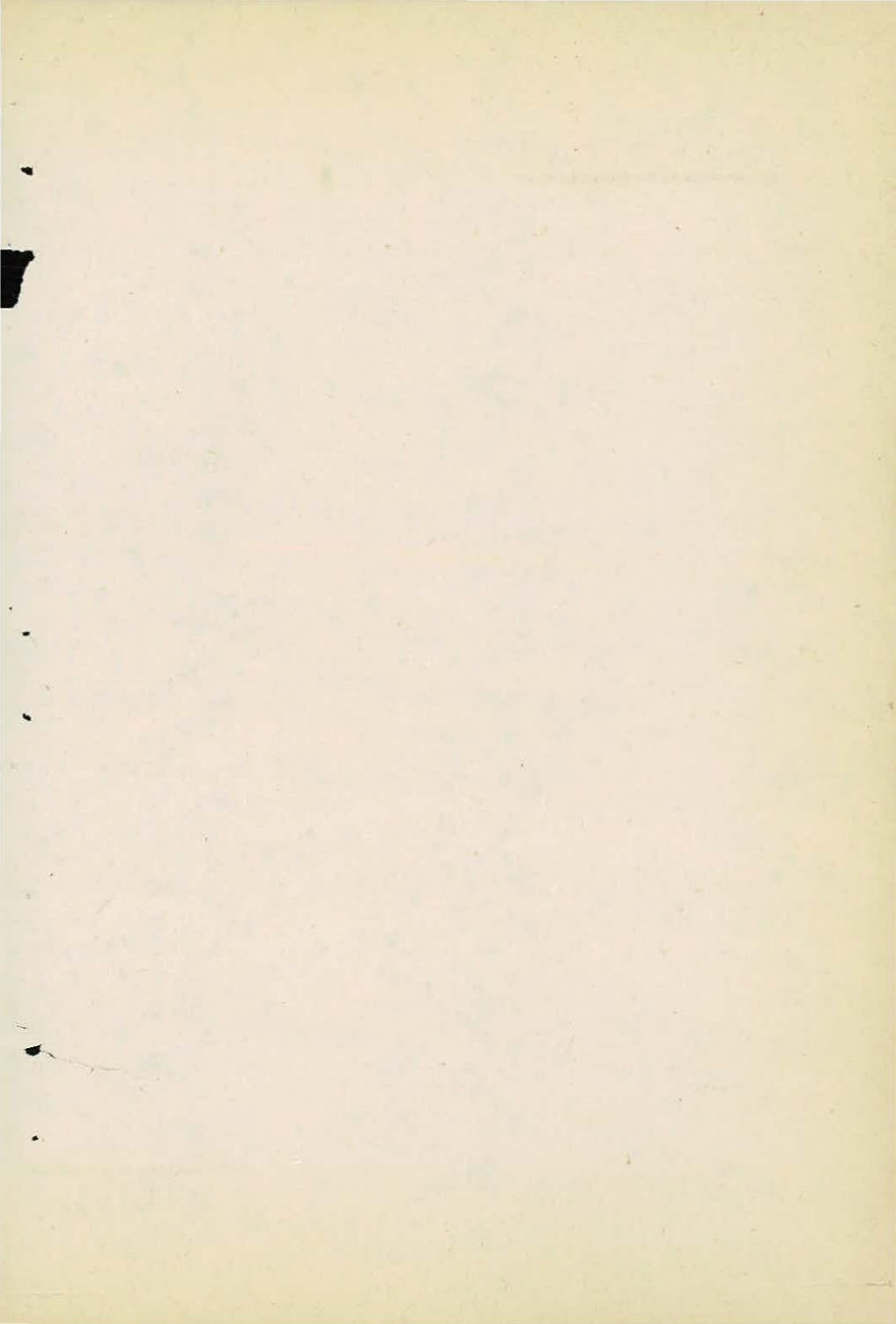
The omission was pointed out to the department in July 1991. They accepted the audit observation and stated (May 1992) that rectification order raising additional demand of Rs. 41,252 had been passed.

The matter was reported to Government in July 1992.

## CHAPTER 3

LAND REVENUE





## CHAPTER 3

### LAND REVENUE

#### 3.1. Results of audit

Test check of land revenue records in the offices of the District Development Officers, Taluka Development Officers and District Inspector of Land Records, conducted in audit during the year 1991-92, disclosed short recovery and losses of revenue amounting to Rs.137.64 lakhs in 151 cases. These cases broadly fall under the following categories:-

	Number of cases	Amount (In lakhs of rupees)
1. Non-raising of demand for land revenue on non-agricultural land	75	41.38
2. Non-recovery or short recovery of conversion tax	14	9.56
3. Non-recovery or short recovery of land revenue	15	3.41
4. Non-recovery or short recovery of occupancy price	4	1.97
5. Other irregularities	43	81.32
Total	151	137.64

During 1991-92, the Department accepted under-assessments etc. of Rs.103.75 lakhs involved in 419 cases. Out of these cases, 10 cases involving Rs.13.98 lakhs were pointed out during 1991-92 and the rest in earlier years. Eighteen draft paragraphs involving financial effect of Rs.30.71 lakhs and bringing out major points noticed during the year of Report or earlier years were issued to the Government for their comments. The Government/department

has accepted the observations in 11 cases involving Rs.13.32 lakhs. A few illustrative cases are given in the following paragraphs.

### **3.2. Application of incorrect rates of non-agricultural assessment**

Under the Gujarat Land Revenue Rules, 1972, cities, towns and villages are divided into five classes 'A' to 'E' for the purpose of determining the rates of non-agricultural assessment. The major cities fall in class 'A' and the remaining cities, towns and villages in classes 'B' to 'E' depending upon their population. Peripheral areas within five kilometres of the major cities falling in class 'A' and the areas falling within one kilometre of the cities and towns falling in classes 'B' and 'C' are classified along with respective cities and towns. The aforesaid classification of areas for the purpose of levy of non-agricultural assessment is done by Collector in respect of the urban areas under jurisdiction of municipalities and by the District Development Officer in respect of other areas under control of panchayats. Different rates of non-agricultural assessment are also fixed under the rules for different classes depending upon the use of the land. Government revised the rates of non-agricultural assessment with retrospective effect from 1st August 1976 by the notification dated 24th January 1978. In addition to land revenue, local fund cess and education cess at the prescribed rates are also leviable.

In the following cases of land situated within municipality limits/upgraded villages, non-agricultural assessment was assessed and recovered incorrectly at a lower rate resulting in short levy of Rs.11.78 lakhs.



District	Village	Number of cases	Area of land (In square metres)	Purpose	Rate of assessment applicable (per square metres per annum)	Period	Total short levy (In Lakhs of rupees)
					(paise)		
1. Vadodara	Tarsali	10	300030	Residential /Industrial	6/10	1976-77 to 1989-90	5.23
2. -do-	Gotri	1	165439	Commercial	15	-do-	3.04
3. Jamnagar	Dwarka	1	699076	Industrial	4	1981-82 to 1989-90	1.87
4. Vadodara	Subhanpura, Akota, Nizampura	8	316553	Residential/ Industrial/ Commercial	6/10/15	1976-77 to 1989-90	1.64
					Total		11.78

The omissions were pointed out to the department between January 1990 and January 1991. The department accepted the audit observations in respect of serial numbers 2 to 4. Report of recovery in these cases and final reply in respect of serial number 1 have not been received (November 1992).

The above cases were reported to Government between April and May 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

### **3.3. Non-levy/short levy of land revenue on lands used for non-agricultural purposes**

According to the Bombay Land Revenue Code, 1879 as applicable to Gujarat and the Rules made thereunder, land revenue is payable on all land unless specifically exempted from such payment. Land revenue is assessed with reference to the purpose of land use. Agricultural land can be used for non-agricultural purpose with prior permission of the Collector. With effect from 1st August 1976, non-agricultural assessment is leviable from the commencement of the revenue year in which the land is used for non-agricultural purpose whether prior permission of the Collector was obtained or not. As per executive instructions issued in 1967, separate permission for non-agricultural use is not necessary when land is acquired for non-agricultural purposes and handed over to user bodies and non-agricultural assessment is leviable with reference to the date of such handing over. For the purpose of determining the rates of non-agricultural assessment, cities, towns and villages are divided into 5 classes 'A' to 'E'.

Where land held free of assessment for use of any specified purpose is at any time used for any other purpose, it would be assessed for land revenue with reference to the actual use of the land. In addition to land revenue, local fund cess and education cess at the prescribed rates are also leviable.

(i) In Sarangpur village of Ankleshwar taluka of Bharuch district, 16,45,602 square metres of land was acquired in 1980-81 and handed over to a State Corporation for industrial use. But non-agricultural assessment was levied only for 4,97,286 square metres of land. For the remaining portion of 11,48,316 square metres, only agricultural land revenue was assessed and realised though non-agricultural assessment for industrial use was leviable. As a result, Rs.4.50 lakhs was realised short on account of non-agricultural assessment for the years 1980-81 to 1989-90. In addition, local fund cess and education cess at appropriate rates were also not levied.

The omission was pointed out to the department in November 1990. Final reply has not been received (November 1992) despite reminder issued in November 1991.

(ii) In Mansa town of Vijapur taluka (Mehsana district), 1,43,785.76 square metres of land was held free of assessment for educational purpose i.e. construction of college building by a society from 1971-72. Out of this land 4,970.88 square metres was sold to a trading corporation in June 1989 by the Society without prior approval of the competent authority. For breach of conditions prescribed for grant of revenue free land the society is liable to pay land revenue of Rs. 1.29 lakhs for the years 1971-72 to 1989-90 but it was not recovered.

The omission was pointed out to the department in March 1991. They accepted the audit observations and stated (March 1991) that necessary action would be taken to recover the land revenue. Further report has not been received (November 1992).

(iii) In Sisodara village of Navsari taluka in Bulsar district, 8,18,779 square metres of land was acquired in 1979-80 and 1987-88 and handed over to a State Corporation for industrial use.



However, non-agricultural assessment was realised from the date on which the plots on these land were allotted to the industrialists by the Corporation instead of from the date of handing over possession of the land to the Corporation. The mistake resulted in short levy of land revenue to the extent of Rs.96,714 for the years 1979-80 to 1988-89. In addition, local fund cess and education cess at appropriate rates were also leviable but were not levied.

The omission was pointed out to the department in October 1989. They accepted the audit observations and stated (October 1989) that the matter would be taken up with the Corporation for effecting recovery. Further report has not been received (November 1992).

The above cases were reported to Government in May 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(iv) Village Bhatpur of Surat district falls within peripheral area of Surat, an 'A' class city. In village Bhatpur, 15,98,270 square metres of land was acquired by the Oil and Natural Gas Commission in 1984-85 for industrial purpose. Demand for non-agricultural assessment for Rs.3.84 lakhs was raised at 8 paise per square metre per annum for the years 1984-85 to 1986-87 against which the Commission had paid Rs. 2.88 lakhs. No action was taken to recover the unpaid balance of land revenue of Rs.95,89. In addition, local fund cess and education cess were also leviable but were not levied.

This was pointed out to the department in May 1988. They accepted the omission and stated (May 1988) that action would be taken to recover the unpaid land revenue. Further report has not been received (November 1992).

The case was reported to Government in April 1992 and

followed up by reminder (November 1992); their reply has not been received (November 1992).

1 (v) In village Lalpur (Jamnagar district), in 4 cases, non-agricultural assessment at the rate of 2 or 4 paise per square metre per annum was not recovered from the dates from which the lands were put to non-agricultural use. As a result, non-agricultural assessment of Rs. 82,769 including local fund cess was not levied for the years 1970-71 to 1989-90.

The omission was pointed out to the department in December 1990. They accepted the audit observations and stated (December 1991) that action would be taken to recover the dues. Further report has not been received (November 1992).

4 (vi) In village Akota of Vadodara taluka, 38,749 square metres of land was assigned to an industrial undertaking for industrial use in 1976-77 but non-agricultural assessment was not levied and as a result, land revenue of Rs. 81,375 including local fund cess for the years 1976-77 to 1989-90 was not realised.

The omission was pointed out to the department in January 1991. They stated (January 1991) that demand notice would be issued. Further report has not been received (November 1992).

The above cases were reported to Government in May 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(vii) In Village Bhamiya, 1,28,485 square metres of land falling within the peripheral area of one kilometer adjoining Godhra (a class 'B' town) was used for commercial purposes by the Food Corporation of India from 1983-84. Non-agricultural assessment was being recovered at the lower rate of one paise per square metre on this land. On being pointed out in audit in July 1986, land revenue was recovered at the rate of 6 paise per



square metre per annum from 1983-84 to 1986-87. But from 1987-88 onwards non-agricultural assessment at this rate was not recovered. As a result, non-agricultural assessment including local fund cess amounting to Rs.74,007 for 1987-88 to 1989-90 was not levied.

This was pointed out to the department in April 1991. They accepted the audit observation and stated (April 1991) that action would be taken to recover the amount. Further report has not been received (November 1992).

The case was reported to Government in April 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(viii) In village Nizampura of Vadodara district, 1,81,907 square metres of land was acquired for residential purpose of the Narmada Project executed by the then Narmada Development Department of the Government of Gujarat. Subsequently the project was converted into a Government Company viz the Sardar Sarovar Narmada Nigam Ltd. in September 1988. The non-agricultural assessment (including local fund cess) amounting to Rs. 32,743 for the years 1988-89 to 1989-90 was not recovered.

The omission was pointed out to the department in January 1991. They accepted the audit findings and stated (January 1991) that demand notice would be issued. Further report has not been received (November 1992).

The case was reported to Government in May 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).



### 3.4. Non-levy of non-agricultural assessment on lands belonging to ex-ruler

Under the Bombay Land Revenue Code, 1879 as applicable to Gujarat State, land revenue is payable on all lands irrespective of use or unless specifically exempted from such payment. As per a Government Resolution of 25th April 1980, ex-rulers are liable for payment of land revenue on the land held by them from the date of merger at the applicable rates according to the use of the land, such as, agricultural, residential, industrial or commercial.

In Chhota Udepur of Vadodara district, 3,15,636 square metres of agricultural land out of the landed property of an ex-ruler was disposed of in 1950-51 for non-agricultural purposes but land revenue was not assessed and realised.

After merger of the ex-ruler's State with the Union Government and abolition of privileges of ex-rulers in 1972, the land also became subject to land revenue. In respect of 3,15,636 square metres of land which was disposed of for residential and commercial purposes, note of transfer of land in the records of the revenue department was not made and consequently non-agricultural assessment of Rs.5.07 lakhs including local fund cess was not levied on this land for the period from 1971-72 to 1988-89.

The omission was pointed out to the department in June 1989. Final reply has not been received (November 1992) despite reminder issued in July 1991.

The matter was reported to Government in April 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

### 3.5. Non-agricultural assessment not levied for unauthorised use of land

Under the Bombay Land Revenue Code, 1879, as applicable to Gujarat State and the Rules made thereunder, land revenue is payable at the prescribed rates on all land put to agricultural or non-agricultural use unless specifically exempted. Land revenue is to be assessed with reference to the purpose for which the land is used, such as, agricultural, residential, industrial or commercial. Agricultural land can be used for any non-agricultural purposes only with the prior permission of the Collector. In case of unauthorised use of agricultural land a fine, which may extend to forty times the amount of non-agricultural assessment, is leviable. In August 1980, Government prescribed the amount of fine to be levied for different types of unauthorised use of land.

(i) In Kanpura village of Vyara taluka of Surat district, 42,335 square metres of land was unauthorisedly used for a hospital building by a Trust without obtaining prior permission of the competent authority. Fine for unauthorised use of agricultural land was not levied and land revenue at the rates applicable for non-agricultural use of the land was not recovered from the Trust. Instead, only land revenue for agricultural use was recovered during 1974-75 to 1990-91. Thus, non-agricultural assessment for the years 1974-75 to 1990-91 and fine aggregating Rs.93,750 was not levied.

The omission was pointed out to the department in May 1991. The concerned Taluka Development Officer accepted the audit findings and stated (May 1991) that action would be taken to effect the recovery. Further report has not been received (November 1992).

(ii) In Mandvi village of Surat district, in two cases, 28,505 square metres of agricultural land was used for non-agricultural



purposes (residential and commercial) during 1978-79 to 1988-89 without prior permission of the Collector. Fine for unauthorised use of agricultural land and land revenue for non-agricultural use of the land aggregating to Rs. 89,318 (including cess) was not recovered from the occupants of the land.

The omissions were pointed out to the department in May 1989. Final reply has not been received (November 1992) despite reminder issued in February 1992.

The above cases were reported to Government in April 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

### **3.6. Demand of occupancy price not raised**

Under the Bombay Land Revenue Code, 1879 as applicable to Gujarat State and the Rules made thereunder, Government can dispose of available land to needy persons for cultivation and for other purposes on payment of occupancy price subject to terms and conditions specified by the Government.

In Vallabhipur village of Bhavnagar district, 768 square metres of land was allotted to five persons in June 1990 by the Deputy Collector, Bhavnagar subject to payment of occupancy price. However, demand for the occupancy price amounting to Rs.56,069 was not raised.

When the omission was pointed out to the department (January 1991), they accepted the audit observations and stated (January 1991) that the demand would be raised in the revenue year 1990-91. Further report has not been received (November 1992) despite reminder issued in January 1992.

The matter was reported to Government in May 1992 and followed up by reminder (November 1992); their reply has not



been received (November 1992).

### **3.7. Conversion tax not levied**

Under the Bombay Land Revenue Code, 1879 as applicable to Gujarat State, conversion tax is payable on change in mode of use of land from agricultural to non-agricultural purpose or from one non-agricultural purpose to another non-agricultural purpose in respect of land situated in a city or a town including peripheral areas. Different rates of conversion tax are prescribed for residential, industrial and commercial uses depending upon the population of the city/town.

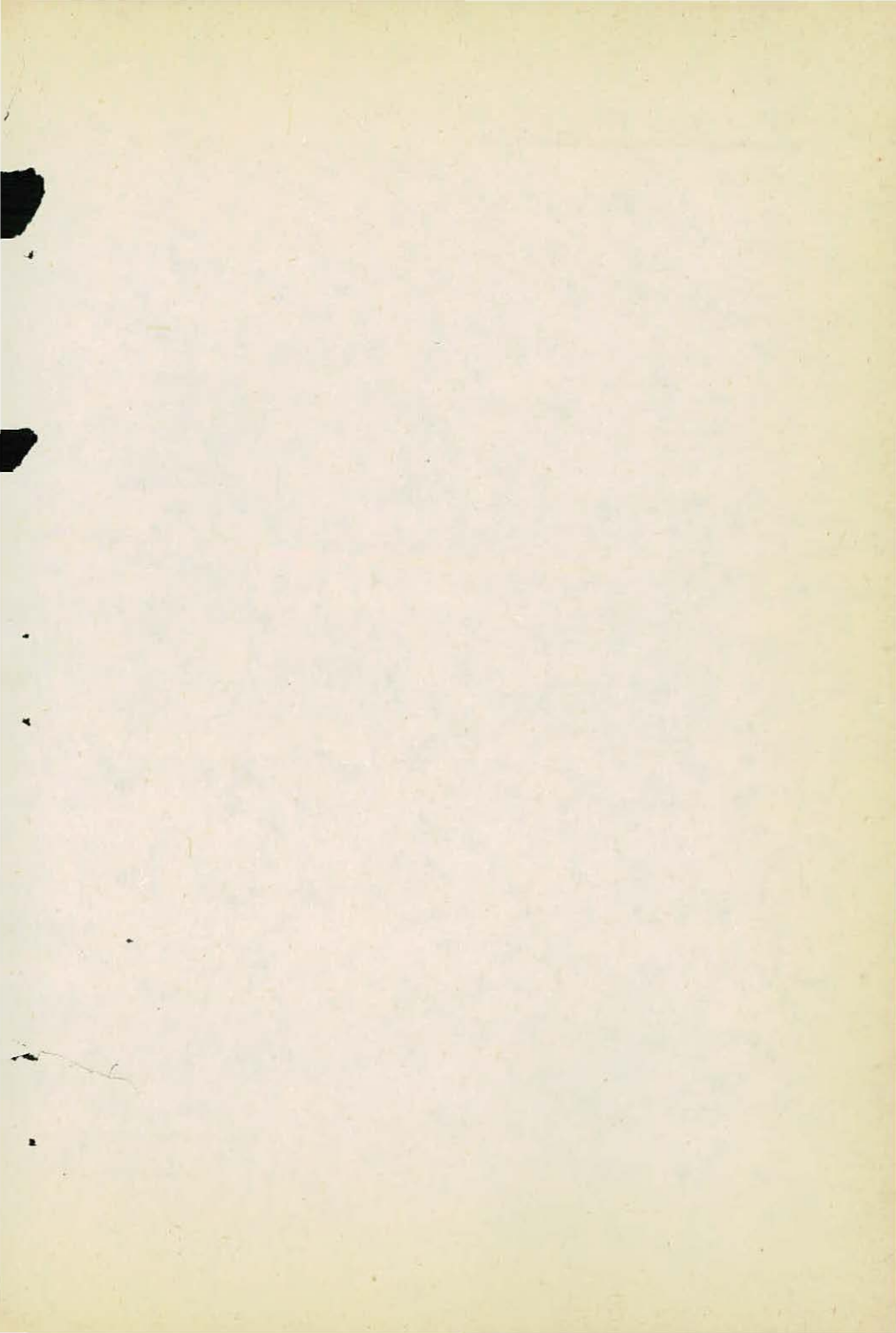
In three cases in Bhavnagar, permissions were granted after August 1989 for change in mode of use of 2,02,350 square metres land from agricultural to non-agricultural purpose (residential use) in respect of the land situated in peripheral area of Savarkundla Municipality. However conversion tax of Rs. 50,588 at the rate of 25 paise per square metre was not levied.

The omission was pointed out to the department in December 1990. Final reply has not been received (November 1992) despite reminder issued in January 1992.

The case was reported to Government in May 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

## CHAPTER 4

TAXES ON VEHICLES





## CHAPTER 4

### TAXES ON VEHICLES

#### 4.1. Results of audit

Test check of records in offices of the Director of Transport, Regional Transport Offices and Inspector of Motor Vehicles in the State, conducted in audit during 1991-92, disclosed under-assessments amounting to Rs.147.90 lakhs in 114 cases. These cases broadly fall under the following categories:

	Number of cases	Amount (Rupees in lakhs)
1. Short levy or non-levy of goods tax	31	46.76
2. Short levy or non-levy of motor vehicles tax	43	15.12
3. Short recovery or non recovery of fees	8	2.94
4. Other irregularities	32	83.08
Total	114	147.90

During 1991-92, the Department accepted under-assessments etc., of Rs.6.56 lakhs in 33 cases. Out of these cases, 6 cases involving Rs.1.14 lakhs was pointed out during 1991-92 and the rest in earlier years. Sixteen draft paragraphs involving major points and having financial effect of Rs. 20.87 lakhs noticed during the year or earlier years were issued to Government for their comments. The Government/department accepted the

observations fully or partly in 8 cases involving Rs.4.14 lakhs, and recovered Rs.1.69 lakhs up to November 1992. A few illustrative cases are given in the following paragraphs.

#### **4.2. Non-recovery/short recovery of motor vehicles tax and/or goods tax**

Under the Bombay Motor Vehicles Tax Act, 1958 as applicable to Gujarat, tax is levied and collected on all motor vehicles used or kept for use in the State. If the owner of a motor vehicle does not intend to use the vehicle or keep it for use in the State and desires to avail of exemption from payment of tax, he has to make a declaration to that effect and inform the taxation authority in a prescribed form before the expiry of the period for which tax has already been paid. Such an intimation is valid only up to the end of the financial year in which it is made. The declarations of non-use of vehicle are required to be entered in the tax index cards and registration records after their acceptance by the taxation authority. In addition to motor vehicles tax, goods tax is leviable on goods vehicles under the Gujarat Carriage of Goods Taxation Act, 1962. For non-payment of motor vehicles tax and goods tax in time, penalty not exceeding twenty-five per cent and interest under the Goods Taxation Act are also leviable.

(i) In the following 117 cases, motor vehicles tax and/or goods tax were not levied as there was no entry in the tax index cards and registration records to show that any declaration regarding non-use of vehicles had been filed for the different periods falling between April 1978 and March 1990. The motor vehicles tax and/or goods tax leviable in these cases amounted to Rs.4.24 lakhs. In addition, penalty and/interest were also leviable in these cases but not levied.

	Taxation Office	Number of vehicles	Period	Tax not levied			Remarks
				Motor vehicles tax	Goods tax	Total	
				Rs.	Rs.	Rs.	
1.	Nadiad	29	Jan.1986 to June 1989	1,12,340	-	1,12,340	The department stated (March 1990 and October 1991) that in 13 cases an amount of Rs.44,818 had been recovered
2.	Godhra	4	April 1979 to March 1990	66,152	42,940	1,09,092	Reply has not been received
3.	Junagadh	22	April 1979 to Sept.1989	51,253	27,740	78,993	The department stated (February 1990) that tax of Rs.1723 (including penalty and interest) in 2 cases had been recovered
4.	Rajkot	33	April 1983 to June 1989	-	63,829	63,829	The department stated (March 1990 and October 1991) that in 9 cases tax of Rs.24,517 (including penalty and interest) had been recovered
5.	Mehsana	29	April 1978 to March 1988	27,133	32,640	59,773	The department stated (May 1989) that demand notices had been issued
Total		117				4,24,027	

The above cases were reported to Government in June 1992; their reply has not been received (November 1992).



(ii) In respect of 16 vehicles at Nadiad, motor vehicles tax for different periods between July 1981 and March 1986 was neither paid nor demanded. As a result, motor vehicles tax of Rs.39,943 was not recovered.

The omission was pointed out to the department in November 1987. They stated (September 1989 and January 1990) that in six cases, tax together with penalty amounting to Rs.18,936 had been recovered and the remaining cases were under correspondence with vehicle owners and Recovery Mamlatdar. Further report has not been received (November 1992).

The case was reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

(iii) In respect of 64 vehicles registered between March 1987 and March 1988 in Surat, motor vehicles tax was levied from the date of sale letter issued by the dealers in motor vehicles. In these cases, the dates of commencement of insurance was earlier than the date of sale as per the sale letter. Since the date of commencement of insurance was the conclusive proof of ownership of the vehicle from that date, the tax was leviable from that date. Not levying tax from the date of commencement of insurance led to short recovery of motor vehicles tax of Rs.36,523 in respect of these vehicles.

The case was reported to Government in June 1992. They stated (July 1992) that the concerned taxation authority had recovered Rs.12,571 in 27 cases. Further report has not been received (November 1992).

#### **4.3. Non-recovery/short recovery of additional tax**

Under the provisions of the Bombay Motor Vehicles Tax

Act, 1958 as applicable to Gujarat, an additional tax is leviable in lieu of passengers tax with effect from 1st May 1982 on all omnibuses exclusively used or kept for use as contract carriage in the State. According to the Rules made under the Act, if a non-use declaration is filed in advance and accepted by the taxation authority, the additional tax is exempted for the period of non-use. According to departmental instructions issued in July 1982, if an omnibus is used exclusively as contract carriage during any period for which it is declared as not used, additional tax is recoverable on detection for a minimum period of one week or for the period from the date of declaration of non-use or from the date of additional tax last paid to the date of detection whichever is greater. The rates of additional tax were revised from 14th September 1987 and again from 1st April 1989.

(i) In the case of following 46 omnibuses exclusively kept for use as contract carriages, the operators had not filed non-use declarations for various periods between June 1985 and March 1990. Additional tax of Rs.3.73 lakhs though leviable was not levied in these cases.

Taxation office	Number of omnibuses	Period for which non-use declaration not filed	Amount of additional tax not levied (In rupees)	Remarks
1. Vadodara	4	April 1988 and March 1990	1,97,940	-
2. Ahmedabad	13	June 1985 and March 1987	1,25,195	The department stated (January 1991) that the operators had not filed non-use declarations. Final reply indicating action taken has not been received (November 1992).



Taxation office	Number of omni-buses	Period for which non-use declaration not filed	Amount of additional tax not levied (In rupees)	Remarks
3. Mehsana	29	May 1988 and April 1989	50,347	Final reply on action taken has not been received (November 1992).
Total	46		3,73,482	

The above cases were reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

(ii) In Surat, additional tax was levied at old rates in respect of 49 vehicles between 14th September 1987 and 30th November 1987 instead of at the revised rates. This resulted in short levy of additional tax of Rs.78,440.

The omission was pointed out to the department in November 1990. They accepted the audit findings in May 1991. Report on recovery has not been received (November 1992).

(iii) Twenty omnibuses declared as not used during various periods between November 1985 and March 1989 in Amreli were detected plying as contract carriages during the period of declaration of non-use. Additional tax was either not recovered or recovered only for the day of detection instead of for the period specified in the departmental instructions of July 1982. This resulted in short levy of additional tax of Rs.42,726.

The omission was pointed out to the department in May



1991. They accepted the audit observations and stated (May 1991) that the amount would be recovered. Further report has not been received (November 1992) despite reminder issued in February 1992.

The above cases were reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

#### **4.4. Irregular grant of exemption**

Tax is required to be levied and collected on all motor vehicles used or kept for use in the State under the Bombay Motor Vehicles Tax Act, 1958 as applicable to Gujarat. In addition to motor vehicles tax, goods tax is levied under the Gujarat Carriage of Goods Taxation Act, 1962 on goods vehicles. The Government is empowered to exempt any class of motor vehicles or any motor vehicles belonging to any class of persons either totally or partially from the payment of motor vehicles tax. By a notification issued in June 1936, motor vehicles tax is not leviable on vehicles owned by the State Government but the motor vehicles owned by autonomous bodies are not exempted from payment of tax. For non-payment of motor vehicles tax and goods tax within the prescribed time, penalty up to 25 per cent is also leviable besides interest in respect of goods tax.

(i) At Bharuch and Palanpur, 37 transport and non-transport vehicles owned by the erstwhile Narmada Project Organisation under the Narmada Development Department of Government of Gujarat were granted exemption from payment of tax. Subsequently the Narmada Project Organisation was converted into the Sardar Sarovar Narmada Nigam Limited, a Government Company with

effect from 1st September 1988 and vehicles allotted to the project organisation were transferred to the company. Thus the benefit of exemption from payment of life time motor vehicles tax in case of non-transport vehicles and motor vehicles tax and goods tax of transport vehicles was not available to these vehicles. However, the benefit was not withdrawn from September 1988. As a result, motor vehicles tax and goods tax of Rs. 7.51 lakhs in respect of 37 vehicles for the period from September 1988 to June 1991 was not recovered. In addition, penalty not exceeding Rs. 1.87 lakhs was leviable.

The omission was pointed out to the department in July 1991. They stated (July 1991 and February 1992) that Taxation Authority, Bharuch would take necessary action to recover the tax after verification of the records. The Taxation Authority, Palanpur recovered tax of Rs. 36,354 (including penalty and interest) in five cases. Further report has not been received (November 1992).

The case was reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

(ii) Tractors-cum-trailors owned by the agriculturists and used for the specified agricultural purposes are exempted from payment of motor vehicles tax as per a notification of September 1987 issued under the Bombay Motor Vehicles Tax Act, 1958 as applicable to Gujarat. Persons other than agriculturists owning tractors-cum-trailors are not entitled for the exemption.

Motor vehicles tax was not levied and collected from April 1989 in respect of seven tractors-cum-trailors and six tractors registered during 1989-90 at Godhra and belonging to persons



other than agriculturists. The irregular grant of exemption resulted in non-levy of motor vehicles tax of Rs.88,279 (including penalty) from April 1989 to March 1991.

The omission was pointed out to the department in May 1991. They stated (February 1992) that the concerned Taxation Authority had issued demand notices to the vehicle owners. Further reply has not been received (November 1992).

The matter was reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

#### **4.5. Non-recovery of goods tax**

Goods tax is levied on all goods carried by road in the State under the Gujarat Carriage of Goods Taxation Act, 1962. Any operator who fails to pay tax without reasonable cause within the time, is liable to pay penalty up to twenty-five per cent of the tax due. If tax is not paid within the prescribed date, the operator is also liable to pay simple interest at the rate of twenty-four per cent per annum on the amount of tax not so paid.

Goods tax of Rs. 65,524 for various periods between April 1987 and March 1991 was not levied at Ahmedabad in respect of 30 goods vehicles (including 4 vehicles belonging to other regions). In addition, penalty and interest though leviable were not levied.

The omission was pointed out to the department in September 1990. They stated (February 1991 and November 1991) that the concerned Taxation Authority recovered tax of Rs. 30,511 including penalty and interest in 7 cases. The remaining cases



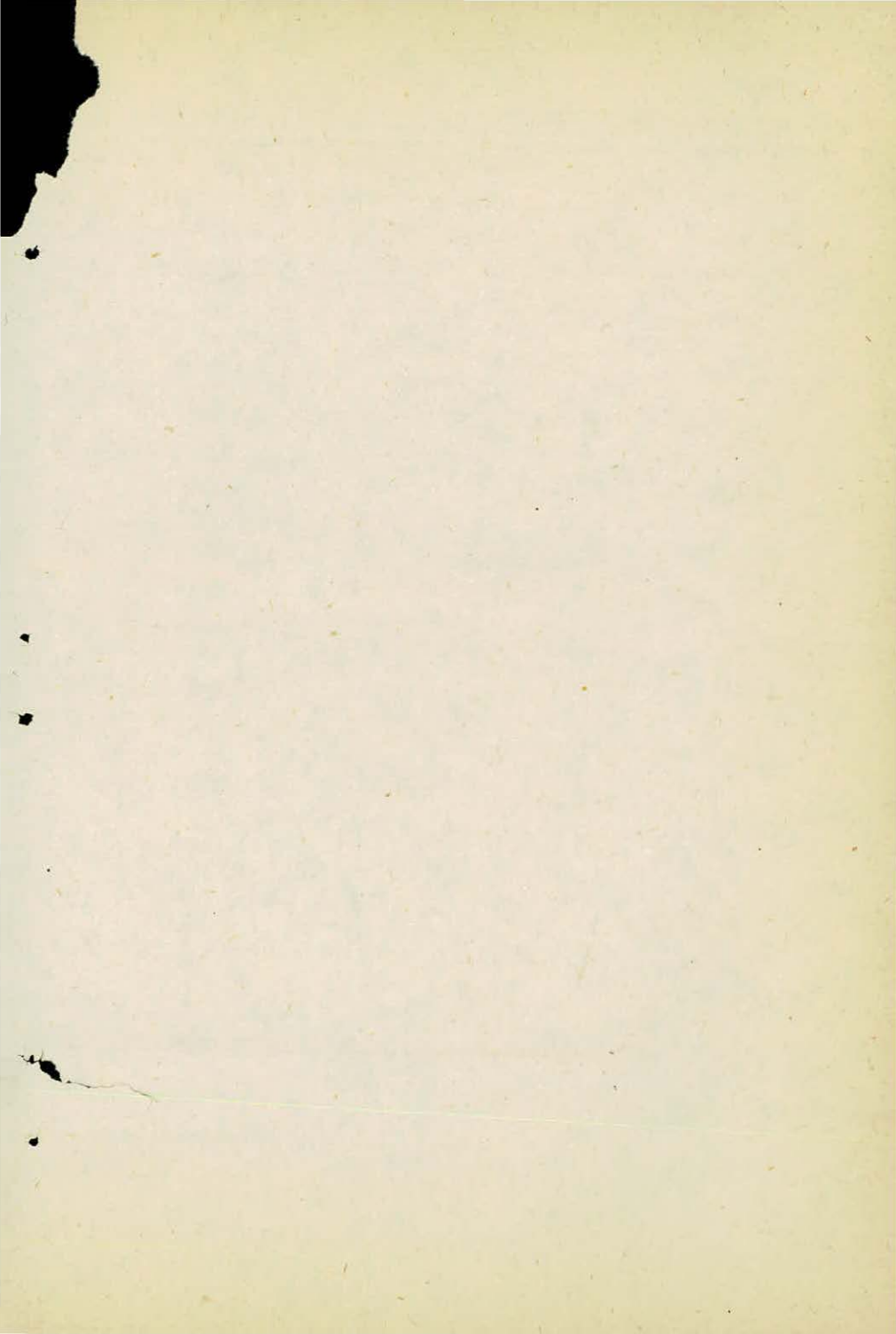
were referred to the Recovery Mamlatdar for recovery under the provisions of the Bombay Land Revenue Code, 1879. Further report has not been received (November 1992).

The case was reported to Government in June 1992 and followed up by reminder (September 1992); their reply has not been received (November 1992).

## CHAPTER 5

---

STAMP DUTY AND REGISTRATION FEES





## CHAPTER 5

### STAMP DUTY AND REGISTRATION FEES

#### 1. Results of audit

Test check of documents and records in the registration offices in the State, conducted in audit during 1991-92, disclosed short realisation of stamp duty and registration fees amounting to Rs.981.25 lakhs in 138 cases, which broadly fall under the following categories:

	Number of cases	Amount (Rupees in lakhs)
1. Incorrect/irregular grant of exemption	31	660.86
2. Under-assessment of stamp duty on instruments of mortgage	9	165.67
3. Non-recovery or short recovery of stamp duty/ registration fees due for other reasons	39	110.59
4. Mistakes in classification of documents	54	43.24
5. Under-valuation of properties	5	0.89
Total	138	981.25

During 1991-92, the Department accepted under-assessments etc., of Rs.276.51 lakhs in 87 cases. Out of these cases, one case involving Rs.0.87 lakh was pointed out during 1991-92 and the rest in earlier years. Fifteen draft paragraphs and one review on "Concessions and exemptions under Stamp Act" involving

financial effect of Rs. 14256.05 lakhs and bringing out major points noticed during the year of Report or earlier years were issued to the Government for their comments. The Government/department accepted the observations in 15 cases involving Rs. 13.95 lakhs. A few illustrative cases including the review are given in the following paragraphs.

## ***5.2. Concessions and exemptions under Stamp Act***

### **5.2.1. Introduction**

The State Government can reduce or remit the stamp duty prospectively or retrospectively on any instrument or a class of instruments executed by or in favour of a particular class of persons under the provisions of the Bombay Stamp Act, 1958 as applicable to Gujarat. Accordingly, Government granted various reductions or remissions in stamp duty in order to grant assistance to specific class of persons to promote industrial, agricultural, co-operative activities etc. The reductions/remissions of duty were absolute in some cases and in some other cases were subject to fulfilment of certain conditions.

For claiming such exemptions, no separate procedure is to be followed. The beneficiaries execute the instruments and present them for registration before the appropriate authorities without payment of duty or with reduced rate of duty. The registering authorities have to verify and satisfy themselves about the admissibility of the claims of exemption/concession and see that the conditions prescribed for its admissibility are fulfilled. In case the instrument is not duly stamped or insufficiently stamped, the registering authority takes necessary action for recovery of proper duty as prescribed in the Act.



Registration fee is also chargeable under the Indian Registration Act, 1908 on the consideration for which stamp duty has been paid.

### **5.2.2. Scope of Audit**

The exemptions/concessions granted by the Government and their implementation by the registering authorities were examined to assess whether the Government orders were implemented correctly.

The relevant files in the Revenue Department of the Secretariat and documents registered during January 1988 to December 1990 in nine offices of the District Sub-Registrars (out of 19) located in the major cities like Ahmedabad, Baroda, Surat and Rajkot where the maximum number of documents were registered and some other cities were test-checked between January 1992 and March 1992.

### **5.2.3. Organisational set-up**

Sub-Registrars at taluka levels and District Registrars at the district level administer the exemptions and concessions granted under the Stamp Act subject to control of the Inspector General of Registration as head of the department. The overall supervision of the department at Government level lies with the Secretary of Revenue Department.

### **5.2.4. Highlights**

(1) Exemption/concession from payment of stamp duty/registration fees was granted in respect of 1,25,756 documents between January 1988 and December 1990 involving revenue of Rs. 14.98 crores.



(ii) Exemption allowable on mortgage deeds were incorrectly allowed to documents of further charge resulting in loss of revenue of Rs. 142.35 crores.

(iii) Exemptions from payment of stamp duty amounting to Rs. 4.39 lakhs were incorrectly granted to 3 charitable Public Trusts though the conditions prescribed for eligibility for such exemptions were not fulfilled.

(iv) No instructions had been issued for indicating the notification under which the exemption was claimed, requiring the registering authority to exercise proper check before allowing the exemption.

(v) Exemption amounting to Rs. 2.32 lakhs was irregularly extended to the employees of an autonomous Body.

#### 5.2.5.(a) Objective of exemptions

The exemption/concession announced by Government provide relief/ exemption from stamp duty in respect of the documents relating to the various developmental and social welfare schemes initiated by Government. Purpose of such exemption/concessions were as follows:

- Development of agricultural and allied activities in rural areas
- Promotion of cottage industries
- Promotion of self-employment among artisans and other people with technical skill and entrepreneurship; encouragement of productive activities and generation of employment on large scale

- Purchase of agricultural land and building for rehabilitating the people affected by irrigation projects
- Uplift of poor and socially backward people
- Encouragement of charitable institutions engaged in programmes for uplift of the poor and other social welfare activities

**(b) Number of exemptions and the amount of revenue involved**

The total amount of revenue forgone during the three years viz. 1988, 1989 and 1990 as a result of the exemptions and concessions amounted to Rs. 14.98 crores. The details of the exempted documents etc., are given below:

Calender Year	Total number of documents registered in the State	Total revenue realised on stamp duty/ registration fees	Total number of documents exempted	Total stamp duty for-gone in these cases
		(In crores of rupees)		(In crores of rupees)
1988	266649	80.77	45328	4.20
1989	252815	91.38	47328	4.35
1990	294684	120.75	33100	6.43
	814148	292.90	125756	14.98

**5.2.6. Implementation of the schemes**

Exemption notifications issued by Government are published in the official gazette. The Inspector General of Registration forwards copies of the gazette notifications to the Sub-Registrars working under his control for implementation.



Government have not estimated the amount of revenue likely to be foregone as a result of these exemptions/concessions. There was no system or procedure to assess whether the desired objectives of these exemptions/concessions were being achieved or not. When the matter was brought to the notice of Government, they stated (August 1992) that assessing the effect of concessions is the need of the time and such study can be carried out by the Director of Evaluation. They also stated that there was no specific machinery in the department for monitoring the impact of concessions.

While registering the documents, the Sub-Registrars are required to check the documents to ensure that the exemptions and concessions claimed are admissible as per the exemption notification and that the concessions, if admissible, are allowed on the documents presented for registration.

The notifications of concessions/exemptions are published in the official gazette. No publicity of these exemptions etc., for the knowledge of the beneficiaries through any other media is made as is done by some other departments like the Sales Tax Department.

#### **5.2.7. Action by Sub Registrars**

The concessions and exemptions notified by Government from time to time fall under different categories and aimed at different objectives as mentioned in paragraph 5.2.5(a) above. It is, therefore, desirable that the documents registered should indicate the particular notification under which the concessions are claimed. But no such instructions had been issued by the department. It was noticed in 2,708 documents (out of 7,521 test-checked) that neither the beneficiaries indicated this information in the documents nor the Sub-Registrars ensured its inclusion before



the documents are registered. As this information was not available on the documents, it could not be ascertained whether the registering authorities ensured that the concessions/exemptions allowed in these cases were admissible as per the Government notifications.

#### **5.2.8. Irregular grant of exemption to the documents of further charge**

Government reduced the rate of stamp duty in March 1987 on mortgage deeds executed by any person on behalf of any industrial undertaking in favour of certain financial institutions including Life Insurance Corporation of India, from Rs. 8 for every Rs. 100 or part thereof to a lower rate varying from Rs. 50 if the amount of loan/debt does not exceed Rs. 10,000 to Rs. 25,000 if the loan/debt exceeds Rs. 30 lakhs. These concessions are not available for documents of further charge on which stamp duty at the rate of Rs. 8 for every Rs. 100 or part thereof is leviable under Article 27 of the Bombay Stamp Act, 1958.

Irregular grant of the concessions to deeds of further charge treating them as a mortgage deeds was pointed out in Paragraphs 6.2 and 5.2 of Audit Reports (Revenue Receipts) for 1986-87 and 1989-90 respectively. The Government referred the matter to their Legal Department which opined (May 1991) that since additional burden (charge) was created on a property already mortgaged (to the financial institutions), these instruments would fall within the purview of Article 27 *ibid* and were, therefore, liable to be charged accordingly.

(i) In Ahmedabad and Ankleshwar, 55 industrial undertaking executed documents in favour of financial institutions for securing loans aggregating Rs. 1,303.57 crores between October 1987 and March 1990. The Collector and Superintendent of Stamps

adjudicated and certified these documents as mortgage deeds and levied concessional rate of stamp duty as per the notification of March 1987 on all such documents.

A scrutiny of these cases showed that these were instruments of further charge as the immovable properties were already mortgaged to the financial institutions and as such concessional rates on these documents were not admissible. Allowing reduced rates of stamp duty on these documents was incorrect and this resulted in loss of revenue to the extent of Rs. 141.15 crores (including panchayat duty).

(ii) By the notification issued in February 1988, Government exempted the mortgage deeds executed by the Gujarat State Co-operative Housing Finance Society Ltd., Ahmedabad in favour of financial institutions and Life Insurance Corporation of India (LIC) from payment of stamp duty and registration fees.

Gujarat State Co-operative Housing Finance Society Ltd., Ahmedabad executed a deed styled as deed of 'Further Charge' in favour of LIC for a consideration of Rs. 15 crores. The document was exempted from stamp duty, though the notification was applicable to only mortgage deeds and not to documents for 'Further Charge'. The irregular exemption resulted in non-levy of stamp duty amounting to Rs. 1.20 crores.

The Government stated (November 1992) that the matter is being investigated and submitted afresh to Legal Department for opinion.

#### **5.2.9. Incorrect grant of exemption from payment of stamp duty to employees of Maritime Board**

Document of mortgage executed by an office of Government in civil or military employee securing advance from Government



for construction/purchase of dwelling house is exempted from payment of stamp duty and registration fees as per notifications issued from time to time. The exemption is not available to the employees of the autonomous bodies.

In Ahmedabad, Bhavnagar and Rajkot, in 27 cases the instruments of mortgage executed (between February 1988 and October 1990) by the employees of Gujarat Maritime Board were exempted from payment of stamp duty and registration fees. As the employees of the Board were not Government servants the exemptions granted in these cases were irregular. This resulted in non-levy of stamp duty and registration fees aggregating Rs. 2.32 lakhs.

In respect of Bhavnagar and Rajkot, the department stated (February 1992) that the deficit amount of stamp duty and registration fees would be recovered. In respect of Ahmedabad, the Sub-Registrar stated (January 1992) that the Maritime Board is an undertaking of the Government of Gujarat and its employees are Government servants only and hence stamp duty is not recoverable from them. The contention of the Sub-Registrar is not acceptable as the employees of State Government undertakings are not Government employees. On a similar point raised in the Audit Report (Revenue Receipts) for 1986-87 (Paragraph 6.10), Government accepted this point.

#### **5.2.10. Irregular grant of concessions on documents executed for personal loans**

Government remitted stamp duty chargeable on instrument executed (between April 1988 and July 1989) by farmers in favour of Banks (including Co-operative Banks and Co-Operative Credit Societies) in respect of loans taken for agricultural and land



development purposes, by a notification issued in March 1979. By another notification of August 1981, Government remitted stamp duty chargeable on instruments of loans, mortgages executed by small farmers, marginal farmers, rural artisans and agricultural labourers in respect of loans for agricultural and allied activities.

In Rajkot 59 mortgage deeds amounting Rs. 4.80 lakhs executed (between April 1988 and July 1989) by agriculturists for securing loans for non-agricultural purposes were exempted from stamp duty. As the purpose of these loans were not covered by the aforesaid notifications the exemptions were irregular and resulted in non-levy of stamp duty amounting to Rs. 39,260.

#### **5.2.11. Non-levy of stamp duty due to incorrect exemption to Charitable Trusts**

All the facts and circumstances affecting the chargeability of the instrument with duty or the amount of duty with which it is chargeable should be fully and truly set forth in the document according to Section 28 of the Bombay Stamp Act, 1958. By a notification of 20th March 1979, Government exempted the instruments of conveyance executed in favour of a Public Charitable Trust, registered under the Bombay Public Trust Act, 1950, from payment of stamp duty subject to fulfilment of certain conditions. One of the conditions provide for an undertaking from the Public Trust that the immovable property mentioned in the instrument should be utilised only for carrying out the object of the Trust i.e. achievement of public interest. The Trust is also required to give an undertaking that the property should not be utilised for making profit and it should not discriminate on the basis of caste, creed and sex.

At Vadodara and Waghodia (Vadodara district) and Anand (Kheda district), five conveyance deeds executed (1989) in favour

of three Trusts conveying immovable properties worth Rs. 43.57 lakhs were exempted from payment of duty under the aforesaid notification. The recitals of the documents did not indicate fulfilment of any of the above mentioned conditions and therefore the exemptions were not admissible. The incorrect exemptions resulted in non-levy of stamp duty of Rs. 4.39 lakhs.

The findings of the Review were reported to Government in June 1992. The Government stated (September 1992) that due to industrial growth the documents which are coming for registration have become more and more complicated and to enable the Sub-Registrars to carry out proper scrutiny at given time, training and Refresher Course for them is under consideration.

### **5.3. Short levy due to misclassification of documents**

#### **(a) Mortgage deeds treated as mortgage by deposit of title deeds**

(i) Under the Transfer of Property Act, 1882, an "equitable mortgage" (also known as mortgage by deposit of title deeds) is one by which a person delivers document of title to immovable property with intent to create a security thereon to a creditor or his agent.

While a 'mortgage' is the transfer of an interest in the property in favour of the mortgagee for the purpose of securing the payment of money advanced or to be advanced, an instrument evidencing 'deposit of title deeds' merely contains recitals relating to terms of the bargain between the parties in regard to the deposit of title deeds and conditions subsidiary or ancillary to the deposit of title deeds. If a document evidencing deposit of title deeds also contains provisions which are usually found in a mortgage deed and creates (and not merely evidences), by its own force, a right or interest in the property, the document would be



classified for the purpose of levy of stamp duty as a 'deed of mortgage' and not as a "deed evidencing deposit of title deeds". The rate of stamp duty on 'mortgage deed' is higher than the leviable on an instrument evidencing 'deposit of title deeds'.

In Chansma, in 20 cases, the mortgagors executed deeds styled as 'mortgage by deposit of title deeds' in 1989 with a co-operative bank (the mortgagee) for securing loans granted to them. The deeds were accordingly assessed to stamp duty. Prior to execution of these deeds the mortgagors executed loan agreements with the bank offering security which were not registered but retained by the bank for securing the loans sanctioned. The documents presented for registration mentioned that loan agreements had been executed and contained recitals indicating that the residential premises had been pledged as security by appending a schedule of the property referred to in the agreements. All the enjoyable rights in relation to the property were denied to the owners unless permitted by the bank, as per the recitals in the agreements. The loan agreements also required the mortgagors to execute demand promissory notes besides declarations that the property is free from encumbrance and would not be transferred to third persons in any way. Thus the loan agreements containing details of the property pledged as security for loans and subsequent deeds of deposit of title deeds together constituted complimentary parts of the mortgage deeds. Therefore these documents were not equitable mortgage deeds but regular mortgage deeds and attracted stamp duty and registration fees at the specified rates as per the Bombay Stamp Act, 1958 and the Indian Registration Act, 1908. The incorrect classification of the instruments resulted in short levy of stamp duty and registration fees aggregating Rs. 72,065.



The case was reported to Government in May 1992. They accepted the objection and stated (July 1992) that the Collector and District Registrar, Mehsana had initiated action for recovery of deficient stamp duty and registration fees. Further report has not been received (November 1992).

(ii) In Gandhinagar, the employees of the Gujarat State Civil Supplies Corporation Ltd. executed deeds styled as "mortgage by deposit of title deeds" in 1989 and 1990 under a scheme of the Corporation to grant loans to its employees for purchase or construction of houses. The deeds were accordingly assessed to stamp duty and registration fees. Prior to execution of the said deeds the employees executed loan agreements offering security to the Corporation which were not registered but retained by the Corporation for securing the loans. The recitals of these deeds indicated that the residential premises had been pledged as security referred to in the agreements and that the assets of the loanee, as described in the deeds as well as in agreements to be secured by the Corporation, remained exclusively the property of the Corporation during the entire period of currency of the loan. The loan agreements also required the loanees to execute equitable mortgage over right, interest and title in the property described in the schedule appended to the loan agreements. As per the agreement the Corporation was free to take possession of the property, sell by auction or otherwise and recover the amount due to the Corporation in case of default in payment of instalment/interest. Thus the loan agreements containing reference to the mortgage of the property pledged as security for loans and subsequent deeds of deposit of title deeds together constituted complimentary parts of deeds which were not equitable mortgage deeds but regular mortgage deeds attracting prescribed rates of stamp duty. Incorrect classification of the documents of mortgage

deeds resulted in short levy of stamp duty and registration fees of Rs. 60,440 in 6 sets of deeds.

The matter was reported to Government in May 1992. They accepted the audit observation and stated (July 1992) that the concerned Collector and District Registrar had initiated action regarding recovery of the deficient stamp duty and registration fees. Further report has not been received (November 1992).

(iii) In Nadiad, 15 documents registered as agreements relating to deposit of title deeds and assessed to stamp duty accordingly contained recitals that mortgagee (a bank), obtained demand promissory note and that the mortgagors executed separate agreements and deposited title deeds with the bank. The promissory notes and agreements constituted complimentary parts of the mortgage deeds. Therefore these documents were not equitable mortgages but regular mortgage deeds and chargeable to stamp duty at the rates prescribed for regular mortgage deed. The incorrect classification of the deeds resulted in short levy of stamp duty and registration fees of Rs. 51,445.

The omission was pointed out to the department in January 1991. They accepted the audit observations and stated (March 1991) that the Collector and District Registrar concerned had been instructed suitably. Further report has not been received (November 1992).

The case was reported to Government in July 1992 and followed up by reminders; their reply has not been received (November 1992).

(iv) In Bhavnagar, the mortgagors executed deeds styled as "mortgage by deposit of title deeds" in five cases in 1989 with co-operative bank (the mortgagee) for securing loans granted to them. The deeds were accordingly assessed to stamp duty.



However, execution of the power of attorney in respect of the property in favour of the co-operative bank and making legal provisions in the 'will' of the mortgagors for securing the loans advanced created a right or interest in the mortgaged property. Thus the deeds were not equitable mortgage deeds but regular mortgage deeds attracting stamp duty applicable for mortgage deeds. The incorrect classification of the mortgage deeds as deposit of title deeds resulted in short levy of stamp duty and registration fees of Rs. 52,690.

(v) In Bayad, members of a co-operative housing society executed (1990) deeds styled as "mortgage by deposit of title deeds" with a co-operative bank in 9 cases for amounts advanced for construction of houses. Recital of the deeds showed that the co-operative bank (mortgagee) had obtained promissory note for the loan and interest from the mortgagors. The mortgagors had also executed separate loan agreements with the co-operative bank stipulating the terms and conditions of the loan. The co-operative housing society was agreeable to accept additional liability as further charge on behalf of the mortgagors and would execute any deed as may be required by the mortgagee. Thus right and interest of the mortgagees were created in the mortgaged property. Therefore the deeds were regular mortgage deeds and were liable to stamp duty as such. The misclassification of the documents resulted in short levy of stamp duty and registration fees aggregating Rs. 31,805.

The above cases were reported to Government in May 1992. They accepted the audit observations and stated (July 1992) that the concerned Collector and District Registrars had initiated action regarding recovery of the deficient stamp duty and registration fees. Further report has not been received (November 1992).



**(b) Conveyance deeds treated as *benami* assignments**

Stamp duty on a conveyance deed is levied at eight rupees for every hundred rupees or part thereof of the amount of the consideration of the conveyance under the Bombay Stamp Act, 1958 as adopted by Gujarat.

*Benami* sale is a sale in favour of the nominee of the real purchaser. *Benamidar* holds the property on behalf of the purchaser although outwardly he appears as the owner. In law the burden of proving that a sale is *benami* and the apparent purchaser is not the real owner rests on a person asserting it to be so. No absolute formula or acid test can be laid down to decide whether the transaction is of *benami* nature or not. The Supreme Court\* has formulated six criteria to determine whether a transaction is *benami* or not viz., (i) the source from which purchase money came; (ii) the nature and possession of property after the purchase; (iii) motive if any, for giving the transaction a *benami* colour; (iv) position of the parties and relationship if any, between the claimant and the alleged *benamidar*; (v) custody of title deed after the sale and (vi) conduct of parties in dealing with the property after the sale.

In Valsad, five documents styled as *benami* assignment without consideration were executed in April 1989 in respect of lands in favour of a registered partnership firm. The ground of *benami* assignment was that the lands were originally purchased by the partners jointly on behalf of the registered partnership firm and that they were holding it as *benamidar* of the registered partnership firm. The recitals of the original documents of the

---

\* Jaydalal Poddar (Deceased) through L. Rs. and another, Appellants vs Mst Bibi Hazra and others AIR 1974 SC 171 (V 61 C 29)

purchase of the lands executed by the partners as purchasers and sellers showed that the lands were purchased by the partners for themselves out of their own resources. Moreover, the partnership firm was in existence since January 1986, that is, even before the land was purchased by the so called benamidars who were the partners of the said firm. Thus, although there was no evidence to support the documents as benami transactions these were erroneously registered as "*benami assignments*". The criteria laid down by the Supreme Court are not satisfied in these cases to testify the transactions as *benami*. Consequently the documents were erroneously charged to stamp duty and registration fees as leviable on benami assignments instead of at the rate applicable to conveyance deeds. The incorrect classification of the instruments resulted in short levy of stamp duty and registration fees of Rs. 1.15 lakhs.

The case was reported to Government in May 1992. They accepted the audit observations and stated (August 1992) that the Collector and District Registrar, Valsad had been instructed to recover the deficient stamp duty and registration fees. Further report has not been received (November 1992).

### (c) Conveyance deeds treated as agreements

'Conveyance' includes every instrument by which property, movable or immovable, is transferred *inter vivos* (i.e. between living persons), as per the Bombay Stamp Act, 1958 as applicable to Gujarat. Therefore if any instrument though styled as 'agreement' contains recitals by virtue of which immovable property is transferred *inter vivos*, it is required to be classified as a conveyance deed. Stamp duty and registration fees leviable on conveyance deed is higher than those on an agreement.



In one case, land with old construction was handed over by the owners to a construction firm in Valsad for development through a document of agreement in August 1989 and was assessed to duty as such. The recitals of the documents provided that the building developer would construct new multistoreyed structure in which one flat at the concessional rate of Rs. 91,000 and two other flats on second floor would be given free of cost to the owners in consideration of value of the land and remaining flats would be sold by the developer and sale proceeds would be retained by him. Irrevocable power of attorney in respect of the property was also given to the developer to carry out the agreement and to obtain finance from the financial institutions. The property was thus transferred to the developer by virtue of the instrument. Another tripartite agreement was executed in August 1989 among the said developers, the said owners and the tenants who had tenancy right over the property. The recitals of the deed mentioned that the developer agreed to give one flat on first floor of the building free of cost and another flat at the concessional rate of Rs. 91,000 and one shop at Rs. 61,000 to the tenants in consideration of value of tenancy rights over the property.

Thus the above documents were required to be classified as conveyance deeds though styled and assessed as agreements. The misclassification of the documents resulted in short levy of stamp duty and registration fees of Rs. 80,250.

The case was reported to Government in May 1992. They accepted the audit observations and stated (August 1992) that the concerned Collector and District Registrar had initiated action regarding recovery of the deficient stamp duty and registration fees. Further report has not been received (November 1992).



**(d) Partition deed treated as release deed**

Any instrument through which a person gives up his claim right in a property upon another person who has a pre-existing right or claim in that property is called a 'release deed'. An instrument of 'partition' means any instrument whereby co-owners of any property decide or agree to divide such property in severalty. Stamp duty on "partition deed" is higher than that on "release deed" under the Bombay Stamp Act, 1958.

Two co-owners executed a deed styled as 'release deed' in November 1988 in Surat releasing right over a property. The document was assessed to stamp duty and registration fees as such. The recitals of the document indicated that 16,698 square yards of land situated in Bhestan of Surat district was purchased jointly by the said two co-owners in July 1975. The second co-owner sold his portion of land (8,400 square yards) to various purchasers by executing tripartite sale deeds in 1988. In the said sale deeds the first co-owner joined as confirming party and released his rights over portion of land (8,400 square yards) in favour of the second co-owner who also released his share (8,298 square yards) in favour of the first co-owner without any consideration. These deeds of mutual release between the two co-owners in favour of another person having no pre-existing right or claim in that property in effect partitioned the property and as such the document was required to be classified as partition deed. The omission to do so resulted in short levy of stamp duty and registration fees of Rs. 49,223.

The case was reported to Government in June 1992. They accepted the audit observations and stated (August 1992) that the Collector and District Registrar, Surat had initiated action regarding

recovery of the deficient stamp duty and registration fees. Further report has not been received (November 1992).

**(e) Gift deed treated as release deed**

An instrument by which certain existing movable or immovable property is transferred voluntarily and without consideration by a person to another is called a "gift deed" according to the Transfer of Property Act, 1882 read with the Bombay Stamp Act, 1958. Any instrument through which a person renounces a claim in a property in favour of another person who has a pre-existing claim or right in that property so as to enlarge the transferee's right or claim is called an instrument of 'release'. Stamp duty chargeable on an instrument of 'gift' is higher than that on an instrument of 'release'.

At Bharuch, a sole owner of a land worth Rs. 4.15 lakhs (approximate market price) transferred the property voluntarily and without consideration to his nephew who had no pre-existing right in the land. Although the transfer was a case of gift the instrument was registered as a release deed and was accordingly assessed to stamp duty. This resulted in stamp duty and registration fees being levied short by Rs. 39,150.

The case was reported to Government in June 1992. They accepted the audit observations and stated (August 1992) that action regarding recovery of stamp duty and registration fees had been initiated. Further report has not been received (November 1992).

**5.4. Short levy on lease deed due to incorrect computation of premium price**

- (i) By a notification of March 1987 issued under the



Bombay Stamp Act, 1958, the State Government reduced the rate of stamp duty from Rs. 8 to Rs. 4 for every Rs. 100 or part thereof on the amount of the consideration on instruments of sale or lease of plots or sheds (by the Gujarat Industrial Development Corporation) the allotment of which was made on or after 1st November 1977 to industrialists or persons intending to start industrial undertakings.

In Ahmedabad, the Corporation leased out 9,76,773 square metres of land situated at Sachin Industrial Estate to an industrial undertaking in March 1986 at a provisional premium of Rs. 159.72 lakhs, besides rent. The Corporation fixed the final amount of premium at Rs. 203.39 lakhs in August 1987. While adjudicating the lease deed in June 1988 the Collector and Superintendent of Stamps, Gujarat, Ahmedabad levied stamp duty and registration fees on the document with reference to the provisional lumpsum premium of Rs. 159.72 lakhs, besides, rent instead of the premium of Rs. 203.39 lakhs in addition to rent fixed finally by the Corporation. This resulted in short levy of stamp duty and registration fees of Rs. 3.01 lakhs.

(ii) In the case of a lease deed where the lease purports to be in perpetuity, stamp duty is leviable as on a 'conveyance' for a consideration equal to one-fifth of the entire amount of rents which would be paid or delivered in respect of the first fifty years of the lease as per the Bombay Stamp Act, 1958 as applicable to Gujarat. According to the Explanation I below Article 30 of Schedule I to the Act, rent paid in advance should be deemed to be a premium of money advanced unless it is specifically provided in the lease deed that rent paid in advance will be set off towards the last instalment(s) of rent.



(a) In respect of twenty deeds of lease on perpetuity executed during 1989 in Bhuj, stamp duty and registration fees were levied on amount of the average annual rent and taxes instead of at one-fifth of average amount of rent and taxes that would be paid for fifty years. This resulted in short levy of stamp duty and registration fees of Rs. 95,415.

(b) In respect of open terrace premises of a property, a lease deed was executed in March 1988 in Surat for leasing out the terrace for a period of 98 years on payment of rent at Rs. 2,000 per annum. In addition to annual rent, the lessee was to advance Rs. 5 lakhs to lessor which would be adjusted towards rent. The money advanced by the lessee was not considered for assessment of stamp duty and registration fees. This resulted in short levy of stamp duty and registration fees of Rs. 47,120.

The above cases were reported to Government in June 1992. They accepted the audit observations and stated (August 1992) that the Collector and District Registrars concerned had started recovery proceedings for the deficient stamp duty and registration fees. Further report has not been received (November 1992).

#### **5.5. Short levy of stamp duty due to incorrect application of rates**

Stamp duty leviable on mortgage deed is the same as on a conveyance deed and it is based on the amount secured by such deed under the Bombay Stamp Act, 1958 as applicable to Gujarat.

As per a notification of July 1970 the rate of stamp duty leviable on 'mortgage deed' is reduced to the rate of Rs. 4 for every Rs. 100 or part thereof, applicable to bond in respect of instruments of loans and advances, without possession, executed

by members of co-operative societies registered under the Gujarat Co-operative Societies Act, 1961 and some other entities in favour of the nationalised banks or scheduled banks or any other financial institutions in Public Sector or a Corporate Sector.

In Olpad and Anand, 5 mortgage deeds were executed between February 1989 and February 1990 by co-operative housing societies for loans of Rs. 126.84 lakhs advanced to them by the Gujarat State Co-Operative Housing Finance Society Limited for the purpose of meeting cost of construction of houses. These being instruments of loans and advances executed by the co-operative societies the stamp duty at the rate of four per cent was leviable as per the notification of July 1970. However, the duty was levied at the incorrect rate of two per cent which resulted in short levy of stamp duty of Rs. 3.32 lakhs (including panchayat duty).

The cases were pointed out to the department in August 1991 and reported to Government in June 1992. They accepted the audit observations and stated (March 1992 and August 1992) that the Collector and District Registrar concerned had initiated action for recovery of the deficient stamp duty. Further report has not been received (November 1992).

#### **5.6. Short levy due to incorrect computation of consideration**

Unpaid mortgage money together with the interest are included in the consideration for the sale of property which is subject to a mortgage or other incumbrance as per the Indian Stamp Act, 1899. Stamp duty is chargeable at eight rupees for every hundred rupees or part thereof on the amount of consideration for such conveyance under the Bombay Stamp Act, 1958.



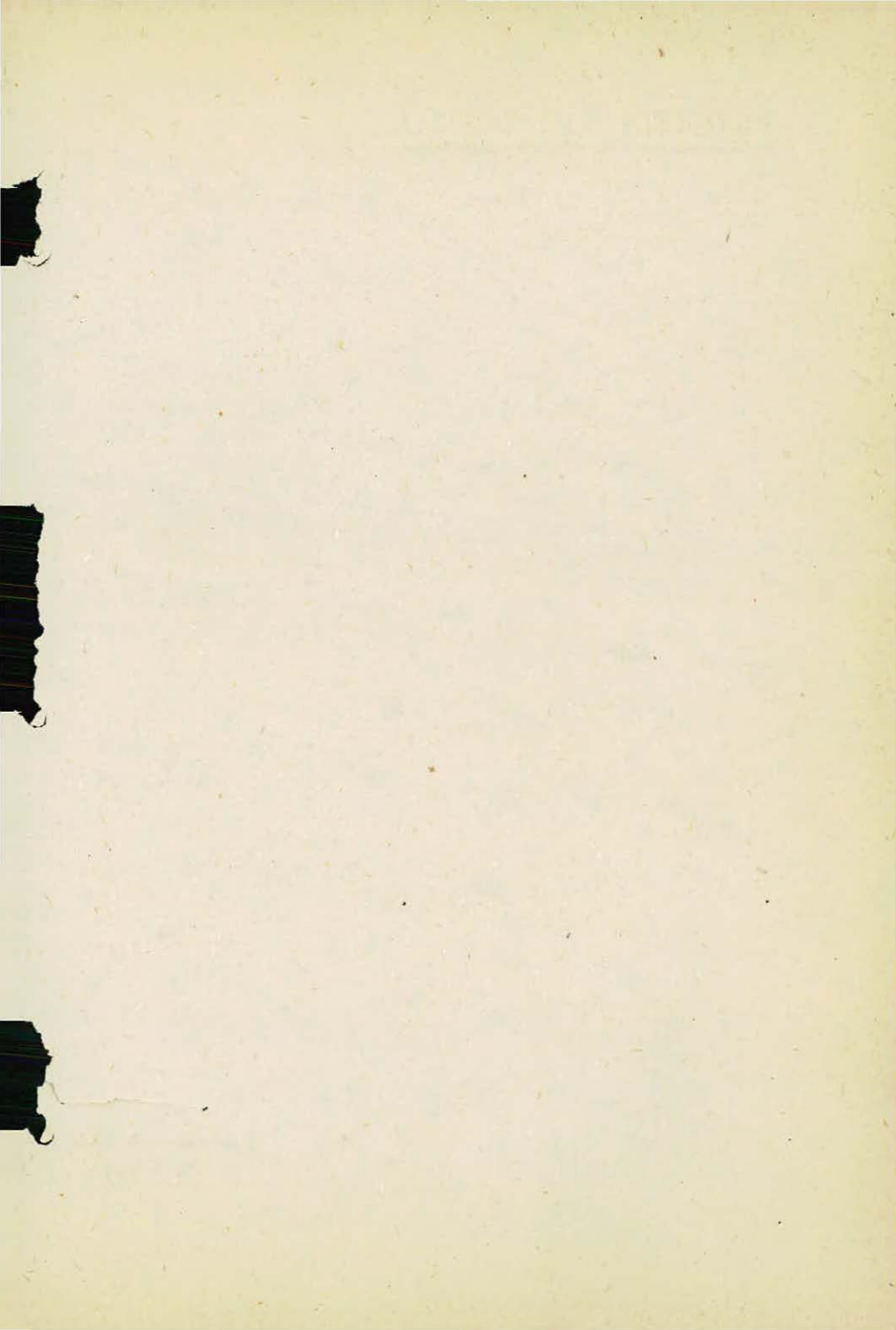
In Dehgam, a sale deed in respect of sale of 15,378 square metres of land was executed in July 1989 among sellers, purchaser and confirming party and stamp duty and registration fees of Rs. 11,665 on the consideration of Rs. 1.01 lakhs was levied. The recitals of the document indicated that an amount of Rs. 7 lakhs was advanced as loan to the confirming party by the purchaser. This was to be adjusted against the sale price of the land after deducting the amount of loan of Rs. 1.01 lakhs advanced to the sellers by the confirming party. Thus, the land was actually conveyed for Rs. 7 lakhs and stamp duty and registration fees were chargeable on the liability of Rs. 7 lakhs. This resulted in stamp duty and registration fees being levied short by Rs. 68,910.

The case was reported to Government in June 1992. They accepted the audit observation and stated (August 1992) that the Collector and District Registrar, Ahmedabad had initiated recovery proceedings in respect of the deficient stamp duty and registration fees. Further report has not been received (November 1992).



## **CHAPTER 6**

**OTHER TAX RECEIPTS**



## CHAPTER 6

### OTHER TAX RECEIPTS

#### 6.1. Results of audit

Test check of assessment records relating to the following receipts, conducted during the year 1991-92, revealed under-assessments of tax and losses of revenue as detailed below:

	Number of cases	Amount (In lakhs of rupees)
<b>(I) Entertainment tax</b>		
Non-recovery/short recovery of entertainment tax	37	20.23
Non-recovery/short recovery of security deposit	10	3.42
Irregular grant of exemption from payment of entertainment tax	3	2.65
4. Non-recovery/short recovery of interest on belated payment of entertainment tax	5	0.66
Total	55	26.96
<b>(II) Electricity duty</b>		
Non-recovery of interest on belated payment of duty	6	20418.57
2. Other irregularities	27	192.65
Total	33	20611.22



	Number of cases	Amount (In lakhs rupees)
<b>(III) Professions, trades, callings and employments tax</b>		
1. Non-levy/short levy of penalty and interest	343	0.46
2. Application of incorrect rate of tax	1,132	7.70
<b>Total</b>	<b>1,475</b>	<b>8.16</b>

During 1991-92, the concerned Departments accepted under-assessments etc. of Rs. 131.74 lakhs in 165 cases. Out of these, 23 cases involving Rs. 6.77 lakhs was pointed out in audit during 1991-92 and the rest in earlier years. Sixteen draft paragraphs involving major points and having financial effect of Rs. 39.5 lakhs noticed during the year of Report or earlier years were issued to the Government for their comments. The Government/department accepted the observations fully or partly in 15 cases involving Rs. 32.12 lakhs, of which Rs. 22.31 lakhs have been recovered up to November 1992. A few illustrative cases are mentioned in the following paragraphs.

#### **I - Entertainment Tax**

##### **6.2. Non-recovery/short recovery of entertainment tax and interest**

Entertainment tax is payable weekly along with the returns to be filed by the proprietor of the entertainment under the

Gujarat Entertainments Tax Act, 1977 and the Rules made thereunder. The department is required to check the return and verify the tax payable on the basis of the number of tickets sold. If no return is furnished or if the return appears to be incorrect or incomplete, the prescribed officer is empowered to assess the tax to the best of his judgement. In the case of cinema house situated in a designated or specified area, the Government may allow the proprietor to pay consolidated tax fixed per week based on the seating capacity of the cinema house irrespective of the number of shows held during a week. In such cases the proprietor is to pay tax every week even if the cinema house remained closed for any reason other than suspension of the licence. The Commissioner of Entertainment Tax clarified in January 1989 that if a cinema proprietor who had opted for the payment of compounded tax subsequently reduces the seating capacity of the cinema house, he would not get the benefit of such reduction for the purpose of assessment of tax. In case of default in payment within the prescribed period, simple interest at the rate of twenty- four per cent per annum is chargeable on the unpaid amount of tax.

(i) In Mehmedabad, Thasra, Dakore and Sevalia of Kheda district, proprietors of seven cinema houses, who were allowed to compound tax, did not pay tax for a period/part of the period and paid tax late for certain other periods between October 1989 and May 1991. This resulted in non-recovery of tax of Rs. 4.33 lakhs. Interest amounting to Rs. 1.75 lakhs (up to March 1992) was also leviable for the non-payment and delayed payment of the tax but was not levied.



The omissions were pointed out to the department between April 1991 and July 1991. They accepted the audit observations in respect of the cases of Mehmedabad in October 1992. Further report in these cases and final reply in remaining cases have not been received (November 1992) despite reminder issued in March 1992.

The cases were reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

(ii) In Ahmedabad, proprietors of two cinema houses did not pay the entertainment tax for certain periods between June 1988 and March 1989 and in two other cases the proprietors paid the tax late for certain periods between June 1988 and November 1988. The department did not take any action to recover the tax and interest (up to March 1992) of Rs. 2.13 lakhs and Rs. 2.5 lakhs respectively.

The omission was pointed out to the department in August 1991. Final reply has not been received (November 1992) despite reminder issued in March 1992.

The case was reported to Government in July 1992 and followed up by reminder (November 1992); their final reply has not been received (November 1992).

(iii) In Visavadar of Junagadh district, a proprietor of a cinema house, who was allowed to compound the tax, did not pay the tax for certain periods between May 1989 and August 1990 as the cinema house remained closed during these periods though the licence of cinema house was not suspended. As the



cinema house remained closed for reasons other than suspension of licence, entertainment tax of Rs. 33,552 and interest of Rs. 17,165 though recoverable were not recovered.

The omission was pointed out to the department in August 1991. They stated (August 1991) that order for recovery of tax had been issued. Further report has not been received (November 1992).

The case was reported to Government in (July 1992) and followed up by reminder (November 1992); their reply has not been received (November 1992).

(iv) In village Oad of Anand taluka of Kheda district, the proprietor of a cinema house situated in a specified area and having seating capacity of 625 seats opted for the payment of compounded tax. The entertainment tax at Rs. 2,244 was required to be levied per week but the proprietor paid tax at Rs. 1,048 per week. This resulted in short payment of tax of Rs. 1.29 lakhs for the period March 1989 to March 1991. Interest of Rs. 58,167 (up to March 1992) was also leviable for short payment of tax but was not levied.

The omission was pointed out to the department in November 1990 and August 1991. They stated (November 1990 and August 1991) that the amount would be recovered. Further report has not been received (November 1992).

(v) In another case in village Vasad of the same taluka, the proprietor of a cinema house situated in a designated area opted for compounded payment of tax. Subsequently the proprietor reduced the seating capacity of the cinema house but the tax was

assessed and levied incorrectly on reduced seating capacity of the cinema house. This resulted in short levy of entertainment tax of Rs. 30,124 for the period September 1989 to August 1991. Besides, interest of Rs. 10,694 (up to March 1992) leviable for short realisation of tax was not levied.

The irregularity was pointed out to the department in August 1991. The department accepted the objection in August 1991. Details of recovery has not been received (November 1992).

The above cases were reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).

### **6.3. Non-levy of interest on belated payment of entertainment tax**

Under the Gujarat Entertainment Tax Act, 1977, if a proprietor of an entertainment fails to pay the amount of tax within the prescribed time he is liable to pay the amount of the tax with simple interest at the rate of twenty-four per cent per annum on the amount of tax not so paid or less paid during the period of default.

In Ahmedabad, interest amounting to Rs. 1.60 lakhs was not levied by the Collector on belated payment of entertainment tax by the proprietors of ten cinema houses during the year 1988-89.

The omission was pointed out in audit in August 1991. The department accepted the audit observations in August 1991. Further report has not been received (November 1992) despite reminder issued in February 1992.



The matter was reported to Government in March 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

#### **6.4. Irregular grant of exemption**

By a notification of November 1990 issued under the Gujarat Entertainments Tax Act, 1977, increase in rate of payment for admission to an entertainment to the extent of 50 paise is exempt from payment of tax with effect from 29th November 1990.

In Patan of Mehsana district, the proprietor of a cinema house decreased the rate of admission by 50 paise per ticket with effect from 1st December 1990. The tax exemption was granted to the proprietor in respect of 50 paise per ticket of admission rates charged from 1st December 1990 to 28th July 1991 though there was no provision of exemption for decrease in rate of admission. Irregular grant of exemption resulted in short levy of entertainment tax of Rs. 40,053.

The omission was pointed out in September 1991. The department stated (September 1991) that action would be taken to recover the deficient amount of tax. Further report has not been received (November 1992).

The matter was reported to Government in March 1992 and followed up by reminder (August 1992); their reply has not been received (November 1992).

## **II - Electricity Duty**

### **6.5. Non-recovery of interest on belated payment of electricity duty**

When any consumer fails or neglects to pay electricity duty



due from him within the prescribed time, the licensee may recover the amount together with interest at the prescribed rate on the amount not so paid as per the rules framed under the Bombay Electricity Duty Act, 1958 as applicable to Gujarat.

In Kalol, an industrial undertaking filed a writ petition regarding payment of electricity duty for the period July 1987 to December 1987 in the Gujarat High Court. The writ petition was rejected in April 1988. They also requested the Government for allowing payment of duty in easy instalments and the Government turned down the request in February 1990. The assessee paid the duty between January 1989 and May 1990. Interest was leviable on the delayed payment of duty but was not assessed and realised by the licensee resulting in non-recovery of interest of Rs. 14.42 lakhs.

The omission was pointed out to the department in December 1990. They stated in November 1991 that the entire amount has been recovered from the consumer in July 1991.

The case was reported to Government in July 1992.

#### **6.6. Non-realisation of inspection fee**

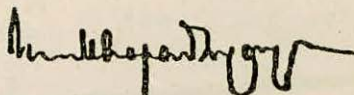
Under the Indian Electricity Rules, 1956 read with State Government notification of September 1976, inspection of all extra high, high and medium voltage electrical installations and all low voltage electrical installations in factory premises is required to be done once in a year and an inspection fee is chargeable at the rates prescribed by the Government.

In Valsad, 14 high voltage electrical installations and other installations in 20 sub-divisions of the Gujarat Electricity Board were inspected by the Electrical Inspector during the year 1989-90

but inspection fee amounting to Rs. 2.88 lakhs was not realised.

The omission was pointed out to the department in December 1990. The department stated (November 1991) that Rs. 1.66 lakhs had been recovered. Further progress of recovery has not been intimated (November 1992).

The matter was reported to Government in July 1992 and followed up by reminder (November 1992); their reply has not been received (November 1992).



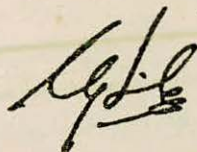
Ahmedabad

The 18 MAR 1993

(P. K. MUKHOPADHYAY)

Accountant General (Audit-I), Gujarat

Countersigned



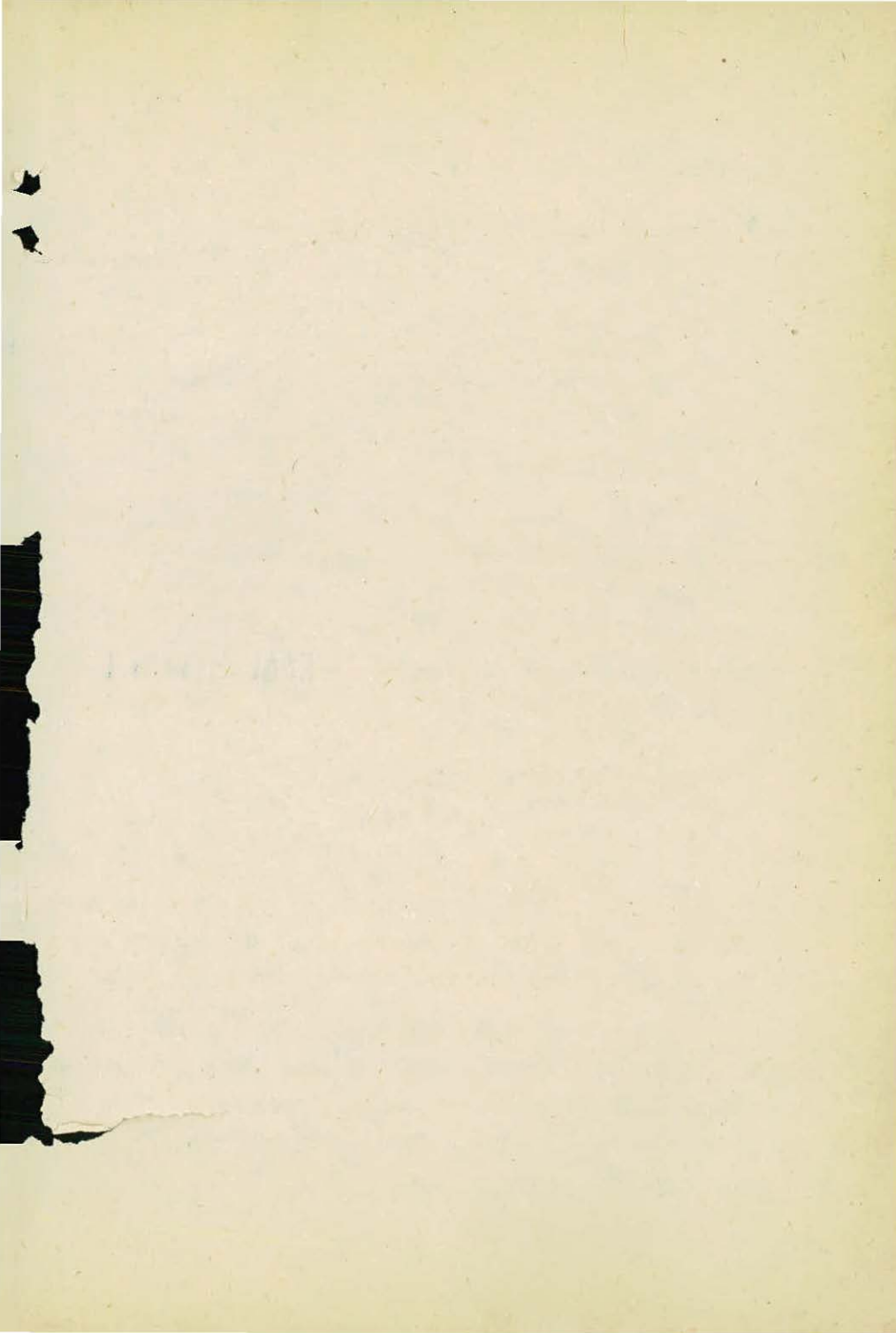
New Delhi

The

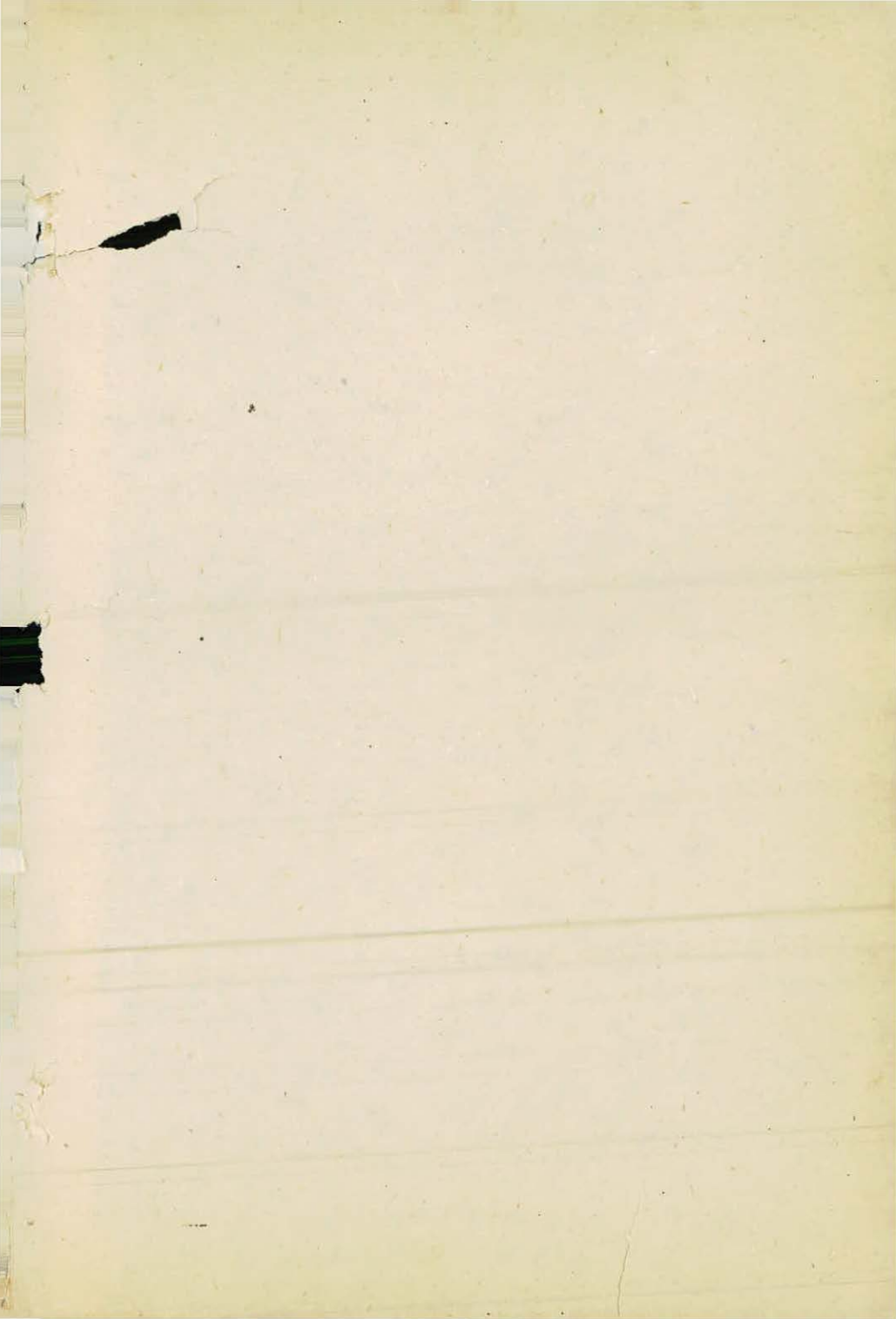
(C. G. SOMIAH)

Comptroller and Auditor General of India

18.9 MAR 1993







PRINTED AT THE GOVERNMENT PHOTO LITHO PRESS, AHMEDABAT