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REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

SRA/HQ 2

FOR THE YEAR 1975-76

GOVERNMENT OF KERALA
REVENUE RECEIPTS

REPORT
OF
THE COMPTROLLER
AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 1994

NO. 3

(REVENUE RECEIPTS)

GOVERNMENT OF KERALA

CONTENTS

PREFATORY REMARKS

This Report for the year ended 31 March 1994 has been prepared for submission to Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1993-94 as well as those which came to notice in earlier years but could not be included in previous Reports.

OVERVIEW

This Report contains 33 paragraphs including 3 reviews relating to non-levy/short levy of tax, interest, penalty etc., involving Rs 7.40 crores. Some of the major findings are mentioned below:

1. General

(i) During the year 1993-94, the Government of Kerala raised a total revenue of Rs 2,667.79 crores comprising tax revenue of Rs 2,344.86 crores and non-tax revenue of Rs 322.93 crores. The State Government received Rs 751.18 crores by way of State's share of divisible Union taxes and Rs 502.78 crores as grants-in-aid from the Government of India. Sales Tax (Rs 1,533.24 crores) formed a major portion (65.39%) of the tax revenue of the State. Receipts from Forestry and Wild Life (Rs 102.96 crores) formed a major portion (31.88%) of the non-tax revenue.

(Paragraph 1.1)

(ii) Test check of the records of Agricultural Income Tax and Sales Tax, State Excise, Motor Vehicles, Registration and Forest Departments and Other Tax and non-Tax Receipts conducted during 1993-94, revealed under-assessments/short levy of revenue amounting to Rs 16.97 crores in 2,152 cases. During the course of the year 1993-94, the concerned departments accepted under-assessments etc., of Rs 4.35 crores involved in 632 cases of which 213 cases involving Rs 1.56 crores had been pointed out in audit during 1993-94 and the rest in earlier years.

(Paragraph 1.8)

(iii) As at the end of June 1994, 2,811 inspection reports containing 11,378 audit observations involving revenue effect of

Rs 104.18 crores issued up to December 1993 were outstanding for want of final replies from the departments.

(Paragraph 1.9)

2. Sales Tax

(i) Application of incorrect rate of tax in thirteen cases resulted in short levy of sales tax of Rs 11.54 lakhs.

(Paragraph 2.2)

(ii) Turnover escaping assessment in thirty one cases resulted in non-levy/short levy of tax of Rs 33.23 lakhs.

(Paragraph 2.3)

(iii) Irregular grant of exemption from tax/ concessional rate of tax in thirteen cases resulted in short levy of tax of Rs 15.89 lakhs.

(Paragraphs 2.4 and 2.5)

(iv) Mistake in computation of tax in two cases resulted in short demand of tax of Rs 9.10 lakhs.

(Paragraph 2.7)

(v) Short levy of surcharge and non-levy of penalty and additional sales tax in four cases resulted in short levy of tax of Rs 8.83 lakhs.

(Paragraphs 2.8, 2.9 and 2.10)

3. Agricultural Income Tax

(i) Agricultural income tax amounting to Rs 4.73 lakhs was short levied due to incorrect computation of income in eight cases.

(Paragraphs 3.2 and 3.3)

(ii) Grant of inadmissible deduction in five cases resulted in short levy of tax of Rs 7.08 lakhs.

(Paragraph 3.4)

(iii) Incorrect renewal of registration of a firm resulted in short levy of tax of Rs 2.45 lakhs.

(Paragraph 3.7)

4. State Excise Duties

(i) Low yield of spirit from molasses in two distilleries during 1989-90 to 1992-93 resulted in short production of spirit involving excise duty of Rs 2.85 crores.

(Paragraph 4.2.6)

(ii) 1,844 M.T. of molasses from which spirit involving excise duty of Rs 106.79 lakhs could have been produced was irregularly allowed as transit and storage wastage.

(Paragraph 4.2.7)

(iii) Irregular allowance of transit wastage on Indian Made Foreign Liquor issued to Kerala State Beverages Corporation resulted in short levy of excise duty of Rs 2.85 lakhs.

(Paragraph 4.2.9)

(iv) Verification certificates, in respect of 6.43 lakh proof litres of spirit involving excise duty of Rs 94.98 lakhs issued under bond, have not been received.

(Paragraph 4.2.10)

(v) 276 permits were issued without realisation of fee of Rs 10.33 lakhs for the import of foreign liquor and beer.

(Paragraph 4.3)

5. Taxes on Motor Vehicles

(i) No system exists in the department to ensure that the composite tax due to Government is realised promptly.

(Paragraph 5.2.6)

(ii) (a) There was delay ranging from 3 months to 19 months in receipt of 2,625 demand drafts for Rs 19.79 lakhs for composite tax from other states.

[Paragraph 5.2.8(i)]

(b) There was delay ranging from 10 days to 76 days in depositing 4,432 demand drafts for Rs 37.52 lakhs received from other states.

[Paragraph 5.2.8(ii)]

(c) The delay in crediting 4,088 demand drafts for Rs 29.61 lakhs to Government account ranged from one month to four months during the period from July 1989 to December 1989.

[Paragraph 5.2.8(iii)]

(d) Out of 1,703 demand drafts for Rs 13.62 lakhs returned to bank for revalidation, due to delay in receipt from other states as well as delay in depositing them in bank, 304 demand drafts for Rs 2.33 lakhs had not been received back.

[Paragraph 5.2.8(iv)(a)]

(iii) There was short levy of composite fee amounting to Rs 1.12 lakhs in 300 cases.

(Paragraph 5.2.10)

6. Other Tax Receipts

A Land Revenue

(i) a) There was no uniformity in the maintenance of records relating to revenue recovery cases. There was no system of monitoring that revenue recovery certificates were issued by the Collector in respect of every requisition received by him nor was there any system of ensuring that all revenue recovery certificates issued from the Collectorate to the Taluk offices were duly registered in the latter office.

[Paragraph 6.2.6(i)]

b) The system of monitoring of the revenue recovery cases at the level of Board of Revenue/Government was not effective.

[Paragraph 6.2.6(C)]

c) In Taluk offices also, the monitoring of the follow-up action on revenue recovery certificates was not effective. Test check of a few Taluk offices revealed that in 639 cases involving Rs 66.79 lakhs recoveries were either not made at all or only partly made.

[Paragraph 6.2.6(C) (1 & 2)]

d) Failure to maintain necessary records or to make necessary entries therein wherever maintained, and lack of response from the requisitioning institution to the references made by the Tahsildars resulted in revenue recovery certificates amounting to Rs 182.91 crores being returned to the requisitioning departments during the period 1990-91 to 1992-93.

(Paragraph 6.2.7)

e) Pursuance of court cases/stay orders was ineffective on account of inadequate monitoring and lack of co-ordination between the requisitioning institution/department and the District Collectors. In Kozhikode district, the latest position of 348 court cases was not available. The amount involved in 255 cases alone was Rs 2.45 crores.

(Paragraph 6.2.10)

f) There was no monitoring of the disposal of properties attached as a result of revenue recovery proceedings. In 15 Taluks no register was maintained to record the details of properties attached. In 17 Taluks properties (movable and immovable) valuing Rs 3.85 crores attached in 223 revenue recovery cases were pending disposal as on 1 March 1993.

(Paragraph 6.2.11)

g) Half-yearly inspections of Taluk offices as required were not conducted regularly by District Collectors concerned. In 2 Collectorates (Kollam and Kozhikode) no inspections were conducted during 1990-91 to 1992-93.

(Paragraph 6.2.13)

(ii) Test check on the 'Recovery of cost of establishment from the Railways, Public Sector Undertakings, Autonomous and Local bodies etc., for the staff employed for land acquisition' revealed the following:

a) A sum of Rs 4.42 crores was outstanding as on 31 October 1992 from 20 defaulter institutions.

(Paragraph 6.3.2)

b) An amount of Rs 94.64 lakhs was outstanding from five organisations, on account of cost of establishment employed on acquisition of land for them.

(Paragraph 6.3.3)

c) An amount of Rs 2.43 crores due from two institutions was not recovered even though it could be done when loans/ grants of Rs 41.09 crores were sanctioned to them by Government during 1990-91 and 1991-92.

(Paragraph 6.3.5)

d) Interest amounting to Rs 37.69 lakhs on unpaid establishment charges was not demanded from the defaulting institutions.

[Paragraph 6.3.6(a)]

(iii) Incorrect fixation of capital value in 16 cases resulted in short levy of building tax of Rs 1.05 lakhs.

(Paragraph 6.4)

B. Stamp Duty and Registration Fees

There was short levy of stamp duty amounting to Rs 2.04 lakhs on 89 partition deeds.

(Paragraph 6.5)

7. Non-tax Receipts

Royalty for 4,23,317 tonnes of building rocks/boulders amounting to Rs 4.03 lakhs was not collected.

(Paragraph 7.3)

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Kerala during the year 1993-94, the State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below and depicted in Chart I.

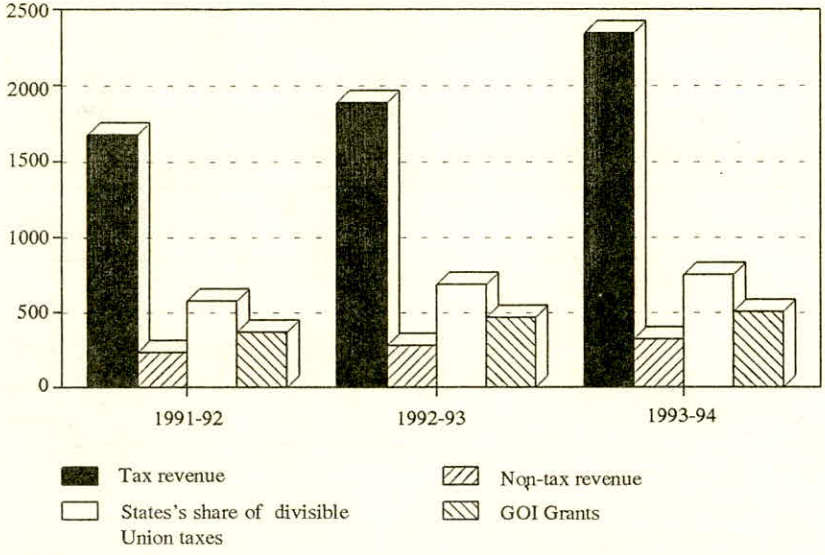
		(In crores of rupees)		
		1991-92	1992-93	1993-94
I.	Revenue raised by the State Government			
	a) Tax revenue	1673.94	1886.96	2344.86
	b) Non-tax revenue	234.72	279.40	322.93
	Total	1908.66	2166.36	2667.79
II.	Receipts from Government of India			
	a) State's share of divisible Union taxes	576.42	686.96	751.18*
	b) Grants-in-aid	367.04	465.41	502.78
	Total	943.46	1152.37	1253.96
III.	Total receipts of the State Government (I and II)	2852.12	3318.73	3921.75
IV.	Percentage of I to III	66.92	65.28	68.03

* *For details please see Statement No.11-Detailed Account of revenue by Minor Heads in the Finance Accounts of Kerala for the year 1993-94. Figures under the head "0021-Taxes on Income other than Corporation Tax-Share of net proceeds assigned to States" booked in the Finance Accounts under 'A-Tax Revenue' have been excluded from the revenue raised by the State and included in State's share of divisible Union taxes in this Statement.*

Chart I

TOTAL RECEIPTS OF THE STATE

(In crores of rupees)



(i) The details of the tax revenue raised during the year 1993-94, along with the figures for the preceding two years, are given below and depicted in Chart II.

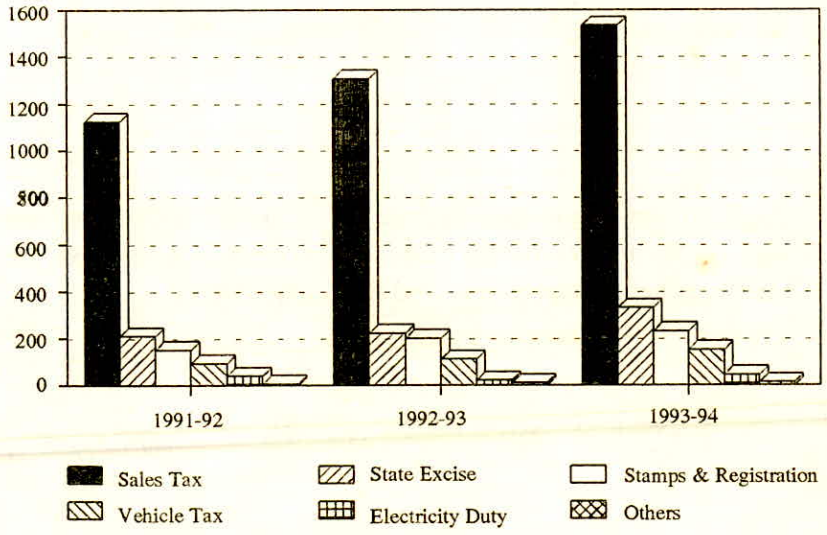
		(In crores of rupees)			Percentage of increase (+)/ decrease (-) in 1993-94 over 1992-93
		1991-92	1992-93	1993-94	
	(1)	(2)	(3)	(4)	(5)
1.	Sales Tax	1122.10	1305.59	1533.24	(+) 17.44
2.	State Excise	210.30	222.21	330.95	(+) 48.94

	(1)	(2)	(3)	(4)	(5)
3.	Stamps and Registration Fees				
	(a) Stamps Judicial	5.87	10.86	11.65	(+) 7.27
	(b) Stamps - Non-Judicial	124.80	154.71	189.67	(+) 22.60
	(c) Registration Fees	21.52	24.04	28.84	(+) 19.97
4.	Taxes and Duties on Electricity	41.15	22.15	44.46	(+) 100.72
5.	Taxes on Vehicles	94.76	111.89	151.06	(+) 35.00
6.	Taxes on Agricultural Income	35.13	12.52	20.88	(+) 66.77
7.	Land Revenue	11.44	11.85	19.80	(+) 67.09
8.	Others	6.87	11.14	14.31	(+) 28.46
	Total	1673.94	1886.96	2344.86	(+) 24.27

Chart II

TAX REVENUE RAISED BY THE STATE

(In crores of rupees)



The reasons for increase in receipts in 1993-94 called for from the departments concerned have not been received (December 1994).

(ii) The details of non-tax revenue realised during the years 1991-92 to 1993-94 are given below and depicted in Chart III.

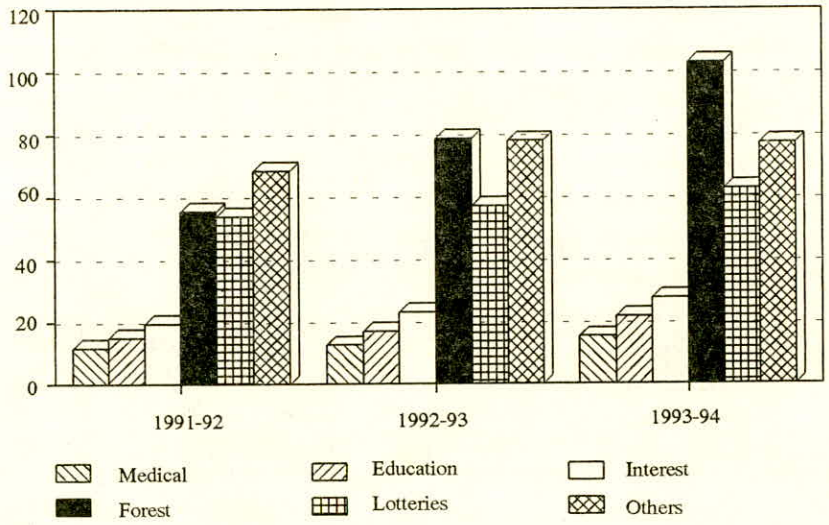
		(In crores of rupees)			Percentage of increase (+)/ decrease (-) in 1993-94 over 1992-93
		1991-92	1992-93	1993-94	
	(1)	(2)	(3)	(4)	(5)
1.	State Lotteries	53.87	57.28	62.83	(+) 9.69
2.	Forestry and Wild Life	55.64	78.71	102.96	(+) 30.81
3.	Interest Receipts	19.49	23.10	27.60	(+) 19.48
4.	Education,Sports,Art & Culture	15.05	17.11	21.77	(+) 27.24
5.	Medical and Public Health	11.73	12.63	15.31	(+) 21.22
6.	Crop Husbandry	4.28	5.41	7.58	(+) 40.11
7.	Animal Husbandry	2.58	2.90	3.50	(+) 20.69
8.	Stationery and Printing	2.42	2.98	2.71	(-) 9.06
9.	Public Works	1.16	1.26	1.32	(+) 4.76
10.	Others	68.50	78.02	77.35	(-) 0.86
	Total	234.72	279.40	322.93	(+) 15.58

There was significant increase in receipt under Forestry and Wild Life. The reasons for the increase in receipts called for from the departments have not been received (December 1994).

Chart III

NON-TAX REVENUE OF THE STATE

(In crores of rupees)



1.2. Variation between the Budget estimates and actuals

The variations between Budget estimates of revenue for the year 1993-94 and the actual receipts under principal heads of revenue are given below:

	Head of Revenue	(In crores of rupees) Budget estimates	Actual receipts	Variation increase(+)/ shortfall(-)	Percentage of variation
1.	Sales Tax	1478.20	1533.24	(+) 55.04	3.72
2.	State Excise	235.00	330.95	(+) 95.95	40.83
3.	Stamps and Registration Fees				
	(a) Stamps - Non judicial	141.75	189.67	(+) 47.92	33.81
	(b) Registration Fees	30.00	28.84	(-) 1.16	3.87
4.	Taxes on Vehicles	126.30	151.06	(+) 24.76	19.60
5.	Forestry and Wild Life	67.41	102.96	(+) 35.55	52.74
6.	Taxes and duties on Electricity	52.00	44.46	(-) 7.54	14.50
7.	Taxes on Agricultural Income	39.00	20.88	(-) 18.12	46.46
8.	Land Revenue	13.00	19.80	(+) 6.80	52.31

The reasons for variations called for from the concerned departments have not been received (December 1994).

1.3. Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1991-92, 1992-93 and 1993-94 along with the relevant all India average percentage of expenditure on collection to gross collections for 1992-93 are given below:

	Head of Revenue	Year	(In crores of rupees) Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1992-93
1.	Sales Tax	1991-92	1122.10	13.49	1.20	
		1992-93	1305.59	14.60	1.12	1.5
		1993-94	1533.24	18.61	1.21	
2.	Stamps (Non-Judicial) and Registration Fees	1991-92	146.32	11.67	7.98	
		1992-93	178.75	13.19	7.38	4.9
		1993-94	218.51	15.99	7.32	
3.	State Excise	1991-92	210.30	11.43	7.81	
		1992-93	222.21	12.28	5.53	2.2
		1993-94	330.95	15.10	4.56	
4.	Taxes on Vehicles	1991-92	94.76	3.83	4.04	
		1992-93	111.89	4.15	3.71	2.9
		1993-94	151.06	5.14	3.40	
5.	Taxes on Agricultural Income	1991-92	35.13	0.42	1.16	
		1992-93	12.52	0.14	1.12	
		1993-94	20.88	0.25	1.20	

1.4. Arrears of revenue

As on 31st March 1994, arrears of revenue under principal heads of revenue, as reported by the departments were as under:-

Head of Revenue	Arrears	Amount of arrears outstanding for more than 5 years	Remarks
	(In crores of rupees)		
1. State Excise Duties	81.48	30.30	Out of Rs 81.48 crores, demands amounting to Rs 62.02 crores were covered by revenue recovery certificates. Recoveries of Rs 15.37 crores were stayed by High Court and other judicial authorities and Rs 1.58 crores by Government. Recovery of Rs 68 lakhs was held up as the defaulters became insolvent. Demands for Rs 31 lakhs were likely to be written off. The balance amount was under other stages of action.
2. Electricity Duty	54.45	3.45	Out of Rs 54.45 crores, a sum of Rs 53.91 crores was due from the Kerala State Electricity Board of which Rs 2.51 crores represented inspection fee collected by the Board from the consumers, but not remitted to the Government and the balance amount represented duty/ surcharge payable by the Board under Sections 4 and 5A of the Kerala Electricity Duty Act, 1963. Rs 0.51 lakh was likely to be written off and the balance was under other stages of action.
3. Forest	38.68	12.60	Out of Rs 38.68 crores, demands amounting to Rs 1.41 crores were covered by revenue recovery certificates. Recoveries of

			Rs 1.17 crores were stayed by High Court and other judicial authorities. Recoveries of Rs 33.06 crores were under other stages of action.
4. Police	7.21	3.26	The amount represents amounts recoverable from Government of India/other State Governments/Local Bodies/Public Sector Undertakings of the State/Central Governments etc., relating to the period 1983-84 to 1993-94 towards cost of police guards supplied.
5. Local Fund Audit	2.57	1.25	The amount represents audit fee for the period 1976-77 to 1993-94 payable by the local bodies.

Details of arrears of revenue in respect of other departments though called for in June 1994 have not been furnished (December 1994).

1.5. Arrears in assessment of sales tax and agricultural income tax

The details of sales tax and agricultural income tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1990-91 to 1993-94, as furnished by the department, are given below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Per-centage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax						
1990-91	77,311	1,22,921	2,00,232	1,06,466	93,766	53.17
1991-92	93,766	1,06,464	2,00,230	98,705	1,01,525	49.30
1992-93	1,01,525	1,23,065	2,24,590	1,07,434	1,17,156	47.84
1993-94	92,976*	98,313	1,91,289	98,514	92,775	51.50
Agricultural Income Tax						
1990-91	30,601	34,954	65,555	37,808	27,747	57.67
1991-92	27,747	23,677	51,424	26,629	24,795	51.78
1992-93	24,795	20,139	44,934	28,576	16,358	63.60
1993-94	16,034*	14,094	30,128	18,519	11,609	61.47

The above table shows that the department was able to complete between forty eight to sixty four per cent of the assessments due for completion every year. The delay in finalisation of assessments resulted in delay in realisation of the revenue involved in those cases. Information regarding special steps, if any, taken by the department to bring down the arrears, though called for (June 1994) from the department has not been received (December 1994).

1.6. Write-off, waiver and remission

During the year 1993-94, sales tax revenue amounting to Rs 2.76 lakhs due from Canteen Stores Department (India), relating to the

* *As regards the variation between the closing balance for the year 1992-93 and the opening balance for the year 1993-94, the department stated (August 1994) that the figures for 1992-93 and 1993-94 were provisional.*

period 1983-84 to 1990-91, was waived by Government as the Kannur Unit of the Canteen Stores Department was not collecting sales tax on the sales effected by it to the staff of the office on the presumption that they were exempted from the payment of sales tax. The items sold by the Canteen Stores Department to civilian employees, however, were exempted from payment of sales tax only from April 1991.

1.7. Internal Audit

i) Land Revenue Department

The Internal Audit Unit of the Board of Revenue (Land Revenue) consists of one Junior Superintendent, two Upper Division Clerks and one Lower Division Clerk. It has no system of recording the money value of objections. It verifies the accounts and cash transactions in the Revenue Divisional Offices and the Taluk Offices and points out defects/omissions in the maintenance of accounts and allied records to the officer concerned and watches rectification thereof. It was reported by the department that the system of recording money value had been introduced (July 1994) at the instance of audit. During 1993-94, the unit inspected 18 Taluk Offices. Inspection of 43 Taluk Offices and 20 Revenue Divisional Offices was in arrears up to 1993-94. The department has attributed the arrears to the inadequacy of staff. The department reported (July 1994) that proposals had already been sent to Government for the formation of one more audit wing in the department.

ii) Chief Electrical Inspectorate

No Internal Audit Wing has been constituted in the department so far. Government had turned down the proposal for the constitution of an independent Internal Audit Wing. However, out of the 15 offices due for audit during 1993-94, audit of 2 offices was completed by diversion of staff from the Office of the Chief Electrical Inspector.

iii) State Excise Department

The Internal Audit Wing of the department consists of one Senior Deputy Commissioner of Excise, two Assistant Excise Commissioners, three Superintendents, six Excise Inspectors, one Confidential Assistant, one Preventive Officer and two Lower Division Typists. According to the information furnished by the department (August 1994), audit of all the Excise offices due for audit during 1993-94 had been completed.

During 1993-94, 5 audit observations involving money value of Rs 11.66 lakhs were made out of which one observation involving money value of Rs 10.10 lakhs was yet to be settled as on 31 March 1994.

iv) Forest Department

According to the information furnished by the department, out of three Junior Superintendents and six Upper Division Clerks sanctioned for the Internal Audit Wing, posts of two Junior Superintendents and four Upper Division Clerks were diverted for other duties and the internal audit was being conducted by a team consisting of one Junior Superintendent, one Upper Division Clerk and one Lower Division Clerk. Out of 96 offices due for audit during 1993-94, audit of 89 offices was in arrears as on 31 March 1994.

(v) Motor Vehicles Department

Internal Audit Wing in Motor Vehicles Department consisted of one Finance Officer, five Senior Superintendents, one Junior Superintendent, one Head Clerk, four Upper Division Clerks and one Lower Division Clerk. Out of 79 offices due for audit during 1993-94, 72 offices were audited, leaving the audit of 7 offices in arrear

as on 31 March 1994. Shortage of staff has been advanced as the reason by the department for not covering all the offices due for audit. During the period from 1991-92 to 1993-94, a total number of 3,806 audit observations involving Rs 4.23 lakhs were raised. Out of 3,806 observations raised, only 319 observations involving money value of Rs 9,381 could be settled during these years leaving 3,487 observations involving money value of Rs 4.14 lakhs to be settled as on 31 March 1994.

(vi) Registration Department

Internal Audit Wing in the department consisted of eleven District Registrars and twenty two Upper Division Clerks. Out of 309 offices due for audit during 1993-94, 219 offices were audited as on 31 March 1994. Lack of sufficient staff and diversion of internal audit staff for attending to undervaluation cases have been advanced as the reasons by the department for not covering all the offices due for audit. During the period from 1991-92 to 1993-94 a total number of 5,722 audit observations involving Rs 28.82 lakhs were raised out of which 1,703 observations involving Rs 2.02 lakhs were settled during these years leaving 4,019 observations involving Rs 26.81 lakhs to be settled as on 31 March 1994.

Information regarding the organisational set up of the Internal Audit Wing and its functioning, called for (June 1994) from the Department of Agricultural Income Tax and Sales Tax has not been received (December 1994).

1.8. Results of audit

Test check of the records of Sales Tax, Agricultural Income Tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 1993-94 revealed under-assessments/short

levy/loss of revenue amounting to Rs 16.97 crores in 2,152 cases. During the course of the year 1993-94, the concerned departments accepted under-assessments etc., of Rs 4.35 crores involved in 632 cases of which 213 cases involving Rs 1.56 crores had been pointed out in audit during 1993-94 and the rest in earlier years.

This report contains 33 paragraphs including 3 reviews relating to non-levy, short levy of tax, duty and interest, penalty etc., involving financial effect of Rs 7.40 crores. The department/Government have so far accepted the audit observations in 100 cases involving Rs 2.27 crores included in the Report. Audit observations with a total revenue effect of Rs 1.94 lakhs have not been accepted by the Government, but their contentions have been found at variance with the facts or legal provisions and they have been appropriately commented upon in the relevant paragraphs. No final reply has been received in the remaining cases (December 1994).

1.9. Outstanding Inspection Reports and Audit Observations

Important irregularities and defects in assessments, demand and collection of State receipts, noticed during local audit but not settled on the spot, are communicated to the heads of the offices and to the next higher departmental authorities through inspection reports. The more important financial irregularities are also brought to the notice of the heads of departments and the Government for taking prompt corrective measures. According to the instructions issued by Government in November 1965, first replies to inspection reports are required to be sent within four weeks from the date of receipt of the inspection reports. In order to apprise the Government of the position of pending audit observations from time to time, annual statements are forwarded to Government and their replies watched in audit.

As at the end of June 1994, 2,811 inspection reports containing 11,378 audit observations having money value of Rs 104.18 crores issued up to December 1993 were outstanding as shown below. Figures for the preceding two years are also given.

	As at the end of June 1992	As at the end of June 1993	As at the end of June 1994
Number of inspection reports	2621	2563	2811
Number of audit observations	9844	10797	11378
Amount involved (in crores of rupees)	89.85	100.30	104.18

An analysis of the outstanding inspection reports according to the revenue heads is given below:

Revenue Head		Number of inspection reports (as at the end of June 1994)	Number of audit obse-rvations	Amount (In crores of rupees)
1	Sales Tax	842	4812	69.69
2	Agricultural Income Tax	337	2198	13.52
3	State Excise	565	1471	1.74
4	Taxes on Vehicles	179	961	1.52
5	Land Revenue	129	457	1.32
6	Forest	185	567	12.14
7	Stamps and Regis-tration fees	537	823	2.77
8	Electricity Duty	33	76	1.48
9	State Lotteries	4	13	..
	Total	2811	11378	104.18

Year-wise analysis of the outstanding inspection reports and audit observations is given below:

Year		Number of inspection reports	Number of audit observations	Amount (In crores of rupees)
			(as at the end of June 1994)	
Upto	1989-90	991	3575	41.56
	1990-91	369	1528	18.36
	1991-92	526	2090	23.35
	1992-93	486	2240	13.36
	1993-94	439	1945	7.55
	Total	2811	11378	104.18

First replies to 229 inspection reports issued up to December 1993 were not furnished by the department till the end of June 1994. The position was brought to the notice of the Chief Secretary to Government (August 1994).

CHAPTER 2

SALES TAX

2.1. Results of audit

Test check of Sales Tax assessments and refund cases and connected documents of Sales Tax Offices conducted in audit during the year 1993-94 revealed under - assessments of tax, non-levy of penalty etc., amounting to Rs 820.94 lakhs in 1,215 cases which may broadly be categorised as under:-

		Number of cases	Amount (In lakhs of rupees)
1.	Turnover escaping assessment	293	168.13
2.	Irregular exemption from tax	220	270.01
3.	Application of incorrect rate/ concessional rate of tax	289	113.72
4.	Non-levy of penalty	70	93.66
5.	Double accounting of remittance/ arithmetical mistakes	10	11.16
6.	Other irregularities	333	164.26
	Total	1,215	820.94

During the course of the year 1993-94, the department accepted under-assessments etc., of Rs 91.37 lakhs involved in 274 cases of which 53 cases involving Rs 54.69 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases highlighting important audit observations involving Rs 84.27 lakhs are given in the following paragraphs.

2.2. Application of incorrect rate of tax

During the course of audit, in 8 Circles it was noticed that tax was levied at incorrect rates in 13 cases, resulting in short levy of tax by Rs 11.54 lakhs as detailed below:

Sl. No.	Name of Office	Commodity dealt in	Assessment year	Correct rate	Rate applied	Turnover	Tax short levied	Remarks
				(In per cent)		(In lakhs of rupees)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Special Circle Mattancherry	Rubber	1987-88	5 up to 30 June 1987; 6 from 1 July 1987	5	42.29	0.54	Department revised (April 1994) the assessment. Further details have not been received.
2.	Sales Tax Office Edathua	Bodies built on motor vessels	1988-89	12	8	6.42	0.33	-do-
3.	I Circle, Thrissur	Electronic gas ignitor	1990-91 & 1991-92	15	8	5.77	0.53	-do-
4.	Special Circle, Kollam	Light diesel vehicles	1983-84	10	9	115.00	1.42	Final reply has not been received.
5.	IV Circle, Kozhikode	Jewellery	1991-92	3	1	12.48	0.33	Department issued notice to revise the assessment.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
6.	II Circle Mattan-cherry	Stainless steel products	1987-88 to 1990-91	10	5	14.33	0.91	Department revised (March 1992) the assessment. Further details have not been received.
7.	I Circle, Kalama-sserry	Cast iron castings	1990-91	8	4	22.78	1.51	Final reply has not been received.
8.	II Circle Mattan-cherry	Indian Made Foreign Liquor	1987-88	45 up to 18.2.88; 60 from 19.2.88	15	1.43	0.60	-do-
9.	Special Circle, Alappuzha	Tread rubber	1987-88	12 up to 30.6.87	8	6.71	0.34	-do-
10.	Special Circle, Mattan-cherry	Indian Made Foreign Liquor	1989-90	60	15	1.37	0.82	-do-
11.	Special Circle, Mattan-cherry	Rainguard adhesive	1988-89	8	5	26.45	1.05	-do-
12.	Special Circle, Kollam	Rubber	1987-88	6 from 1 July 1987	5	19.26	0.25	Department revised (July 1994) the assessment.
13.	Special Circle, Kollam.	Plywood	1984-85 & 1985-86	11.5 for 1984-85; 12 for 1985-86 for C.S.T.	10	158.00	2.91	Final reply has not been received.
				Total			11.54	

The cases were reported to Government between September 1993 and June 1994; they confirmed (July and November 1994) the facts in respect of serial numbers 2 and 12. Their replies in the remaining cases have not been received (December 1994).

2.3. Turnover escaping assessment

In the following cases turnover amounting to Rs 522.06 lakhs taxable at different rates escaped assessment which resulted in non-levy of tax of Rs 33.23 lakhs the details of which are given below:

Sl. No	Name of the Circle	Period to which the amount relates	Nomenclature of the goods	Amount of turnover (In lakhs of rupees)	Nature of irregularity	Rate of tax percentage	Amount of non-levy (In lakhs of rupees)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Special Circle, Kollam	1983-84 to 1991-92	Import replenishment licences (REP licences)	419.00	No tax was levied on the premium received on transfer of REP licences which is taxable under KGST Act.	5	27.11	In nine cases assessments were revised (between August 1993 and September 1994). In the remaining 16 cases final reply has not been received.
2.	Special Circle 1 Ernakulam	1987-88 & 1988-89	Hardware, laminated sheets etc.	37.99	Inter-State purchase suppressed by the assessee was omitted to be assessed.	6 to 15	4.07	Penalty up to Rs.8.14 lakhs was also leviable under Section 45A. Assessing authority stated (February 1992) that action had been initiated to revise the assessments.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
3.	I Circle, Thrissur	1988-89 & 1990-91	Tamarind	7.36	Tamarind purchased from unregistered dealers and consigned outside State was not taxed under Section 5A of the Act.	6	0.58	The department revised the assessments and the additional demand was advised for revenue recovery.
4.	Fourth Circle, Kozhikode	1983-84 & 1986-87	Hawai sheet	3.00	Turnover relating to Hawai sheets was excluded from assessment.	12	0.45	The assessing authority revised (December 1993) the assessments raising additional demand of Rs.45,000.
5.	Sales Tax Office Adoor	1990-91	Foreign Liquor	42.12	Turnover relating to the branch was not taken into consider-ation for assessment which resulted in non-levy of turnover tax.	0.5	0.41	The assessing authority revised (October 1993) the assessment raising an additional demand of Rs.40,858 and also imposed (June 1994) a penalty of Rs.81,716.
6.	Sales Tax Office, Maveli-kkara.	1988-89	Cement	2.59	Sale price of cement shown short by the dealer escaped assessment.	10	0.34	The assessing authority revised (March 1993) the assessment raising an additional demand of Rs.34,474.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
7.	Special Circle, Palakkad	1990-91	Corrugated board boxes.	10.00	Turnover of Rs.10 lakhs escaped assessment due to computation mistake.	2	0.27	Final reply has not been received from the department.

These cases were reported (between September 1993 and May 1994) to Government. Replies have not been received (December 1994).

2.4. Irregular grant of exemption from tax

In the following cases irregular grant of exemption from tax for the reasons as stated against each resulted in short levy of tax of Rs 7.13 lakhs, the details of which are given below:

Sl. No.	Name of the Circle	Year of assessment	Amount of turnover exempted (In lakhs of rupees)	Nature of irregularity	Amount of short levy (In lakhs of rupees)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Special Circle, Kollam	1990-91 & 1991-92	43.73	An inter-State sale was treated as consignment sale and given exemption.	4.37	Department revised (January 1994) the assessments raising additional demand of Rs.4.37 lakhs. The assessee had filed appeal against the revised assessment order which was allowed by the Deputy Commissioner (Appeals). Department filed second appeal before the Tribunal (June 1994).

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2.	-do-	1988-89 & 1990-91	4.74	The assessing authority accepted the declaration issued by a fictitious dealer which resulted in irregular exemption.	0.47	Department revised (September 1993) the assessment in one case raising an additional demand of Rs.26,242 and issued notice to revise the other case. Further details have not been received.
3.	Sales Tax Office, Changanassery	1990-91 & 1991-92	15.01	The assessee was eligible for tax exemption up to February 1991. But the assessing officer gave exemption for the period from March 1991 to March 1992 also.	0.71	Department revised (January 1994) the assessments raising additional demand of Rs.70,576.
4.	Third Circle Kozhikode	1989-90	6.27	The exemption granted to foot wear costing not more than Rs.20/ pair was treated as a general exemption and inter-State sale was exempted from taxation.	0.63	Department replied that the notification only intended to categorise the footwear into two categories and that exemption given was correct. But as the exemption was not general and as it is partial the sales tax exemption under Central Sales Tax was not regular.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
5.	Special Circle, Kollam	1991-92	8.32	Turnover relating to crabs, taxable at the last purchase point in the State, purchased and sent to another State was exempted.	0.55	Final reply has not been received.
6.	Fourth Circle, Thrissur	1989-90	10.11	The assessee eligible for tax exemption for the period February 1987 to February 1992 had availed the admissible amount by 31 March 1989. However, the assessing authority gave exemption for tax relating to the period beyond 31 March 1989.	0.40	Final reply has not been received.

The above cases were reported to Government between April and June 1994; their reply has not been received (December 1994).

2.5. Irregular grant of concessional rate of tax

Under the Kerala General Sales Tax Act, 1963, the tax payable by a dealer in respect of any sale of industrial raw materials, component parts or packing materials which is liable to tax at a rate higher than two per cent (four per cent up to 30 June 1987) when sold to industrial units for use in the production of finished products inside the State for sale or for packing of such finished products inside the State for sale, as the case may be, shall be at the rate of only two per cent (four per cent up to 30 June 1987) under specified conditions. One such condition is that concessional rate shall not apply where the

sale of such finished products is not liable to tax either under the Kerala General Sales Tax Act or Central Sales Tax Act or when such finished products are exported out of the territory of India. It has been judicially# held that containers cannot be treated as packing materials.

During the course of audit, in 4 Circles it was noticed that the concessional rate of four per cent/two per cent was irregularly granted in 6 cases resulting in short levy of tax of Rs 8.76 lakhs as detailed below:

Sl. No.	Name of Office	Commodity dealt in	Year of assessment	Rate of tax (In per cent)	Rate levied	Turn over (In lakhs of rupees)	Short levy	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Special Circle Mattancherry	Empty barrels	1989-90	6	2	8.26	0.44	In reply department stated that packing materials include empty barrels and tin containers also. But this reply is not tenable in view of the judicial decision.
2.	-do-	Tin containers	1985-86 & 1986-87	8	4	29.45	1.51	Department stated that the assessments would be revised. Further report has not been received.
3.	-do-	Empty barrels	1989-90	6	2	16.43	0.87	Remarks same as at Sl. No.1

M.M. Nagalinga Nadar Vs State of Kerala and others.Reported in 90 STC 496 (1992). High Court of Kerala.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4.	Special Circle I, Kozhikode	Gunny bags	1989-90 & 1990-91	8; 4 from 1.4.90	2	46.33	2.54	Govt. stated (May 1994) that the assessments for the years 1989-90 & 1990-91 were revised raising additional demand of Rs.2.5 lakhs and that collection particulars would be intimated separately.
5.	Special Circle, Kollam.	Tin containers	1985-86 & 1986-87	8	4	46.70	2.39	Remarks same as at Sl.No. 1
6.	Salex Tax Office, Changanasserry	Bread wrappers	1987-88 to 1990-91	8 (up to 31.3.90) 4 from 1.4.90	2	13.92	1.01	Department issued (January 1994) notice to revise the assessment.
				Total			8.76	

Government to whom these cases were reported (between September 1993 and May 1994) confirmed the assessing officer's reply at serial number 4. No replies have been received in the remaining 5 cases (December 1994).

2.6. Irregular adjustment of cumulative tax concession

(i) By a notification issued (October 1980) under Section 10 of the Kerala General Sales Tax Act, 1963, Government exempted the goods produced and sold by new small scale industrial units from payment of tax for a period of five years from the date of commencement of sale of such goods, subject to certain conditions stipulated therein. The stipulations, inter alia, provide that the tax, if any,

collected by such units on their sales shall be paid over to Government, that the unit shall produce to the assessing authority, the proceedings of the General Manager of the concerned District Industries Centre declaring the eligibility of the unit for claiming exemption from sales tax and that the cumulative sales tax concession granted to a unit at any point of time shall not exceed 90 per cent of the gross fixed capital investment of the unit.

In two Sales Tax Offices, while finalising (February 1991 and May 1992) the assessments of two small scale industrial units eligible for tax exemption, the assessing authorities allowed excess exemption of Rs 2.70 lakhs as detailed below:

Sl. No.	Name of Office	Period of tax exemption	Year of assessment	Balance tax exemption available	Tax exemption allowed	Excess exemption
					(In lakhs of rupees)	
1.	II Circle,Kottayam	February 1985 to February 1990	1984-85 & 1985-86	0.36	2.68	2.32
2.	IV Circle, Kozhikode	May 1987 to May 1992	1991-92	0.74	1.12	0.38
					Total	2.70

On these being pointed out (November 1991 and October 1993) in audit, the assessing authorities initiated action to revise the assessments. Further replies have not been received (December 1994).

These cases were reported to Government in February and March 1994; their reply has not been received (December 1994).

(ii) Under the Kerala General Sales Tax Act, 1963, tax is leviable on rubber at the rate of six per cent at the point of last purchase

in the State and on tread rubber at the rate of ten per cent at the point of first sale in the State. Government by a notification (June 1981) reduced the rate of tax payable on purchase of rubber by manufacturers of finished rubber products within the State to three per cent. Government by another notification (January 1991) reduced the tax payable on sale of rubber products manufactured by industrial units to three per cent for the period 1 September 1988 to 26 March 1990.

In Thaliparamba, a small scale industrial unit producing tread rubber was declared eligible for a tax exemption of Rs 4.41 lakhs for a period of five years from February 1988 to February 1993. The assessing officer while finalising (between December 1992 and January 1993) the assessments for the years 1987-88 to 1990-91 (i) gave exemption from payment on the purchase of rubber for Rs 17.43 lakhs instead of levying tax at three per cent and (ii) on sales turnover of tread rubber tax at the rate of only three per cent was levied for the whole period instead of levying tax at reduced rate for the period 1 September 1988 to 26 March 1990 and levying tax at ten per cent on a turnover of Rs 21.58 lakhs for the remaining period. These mistakes resulted in short levy of tax of Rs 2.70 lakhs. However, after adjusting the balance of tax concession of Rs 2.32 lakhs towards the above short levy the net short demand amounted to Rs 38,595.

On this being pointed out (December 1993) in audit, the assessing officer issued (August 1994) notices to revise the assessments for the years 1987-88 to 1990-91. Further reports have not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

2.7. Short demand due to mistake in computation

(i) Rule 20 of the Kerala General Sales Tax Rules, 1963, requires that the assessing authority while making an assessment shall examine, inter alia, what amounts are due from the dealer on final assessment, after deducting the tax already paid and demand any amount found to be due from the dealer. Instructions issued (March 1970 and June 1989) by the Board of Revenue lay down departmental procedure for verifying and checking of all the calculation of turnover and tax and credits given in an assessment order.

In Ernakulam First Circle, while finalising (December 1992) the assessment of a dealer for the year 1991-92, the tax due was fixed at Rs 9,57,773 and after giving credit for Rs 54,255 already paid by the dealer, an amount of Rs 93,518 was demanded (March 1993) towards balance tax due instead of Rs 9,03,518. This resulted in short demand of tax of Rs 8.10 lakhs.

Government to whom the matter was reported in January 1994, stated (June 1994) that at the instance of audit the assessment was revised (October 1993) and the arrears had been advised (November 1993) for revenue recovery. Government also stated that the original order itself had been challenged in appeal and the Appellate Assistant Commissioner remanded (February 1994) the case for fresh disposal. The remanded assessment was yet to be completed and hence there was no demand in existence.

(ii) In Kozhikode Special Circle I, the assessing authority while revising (March 1993) the assessment of a dealer for the year 1987-88, fixed the tax due at Rs 2,32,480 and after giving credit of tax paid amounting to Rs 1,24,437, worked out the balance due as Rs 8,043 instead of Rs 1,08,043. This resulted in short demand of tax by Rs 1 lakh.

On this being pointed out (October 1993) in audit, the assessing authority stated that an appeal against the revised assessment order was pending before the Deputy Commissioner (Appeals) and the short levy would be made good subject to the decision of the appeal.

The case was reported to Government in March 1994; their reply has not been received (December 1994).

2.8. Short levy of surcharge

Under the Kerala General Sales Tax Act, 1963, the tax payable by a dealer in respect of any sale of industrial raw materials, which is liable to tax at a rate higher than two per cent when sold to industrial units for use in the production of finished products inside the State for sale shall be at the rate of only two per cent on the taxable turnover relating to such industrial materials, subject to production of a declaration in the prescribed form. Under the Kerala Surcharge on Taxes Act, 1957, the tax payable under the Kerala General Sales Tax Act, 1963, shall, in the case of a dealer whose turnover exceeds Rs 10 lakhs a year, be increased by a surcharge at the rate of eight per cent. According to the Central Sales Tax Act, 1956, when sales tax law of a State imposes a tax on the sale or purchase of declared goods, the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not exceed four per cent of the sale or purchase price thereof. 'M.S. Wires' being declared goods are taxable at the rate of four per cent at the point of first sale in the State. Tax payable on these goods when sold as industrial raw materials shall be two per cent as mentioned above.

In Special Circle I, Ernakulam, while finalising (January 1993) the assessment of a dealer for the years 1989-90 and 1990-91, the assessing authority levied sales tax at the concessional rate of two per cent on sales of M.S. Wires amounting to Rs 16.20 crores to industrial

units supported by prescribed declarations. But surcharge due at eight per cent of tax payable was not levied even though the tax together with additional sales tax and surcharge would not exceed the four per cent limit. This resulted in short levy of surcharge of Rs 2.59 lakhs.

Government to whom the case was reported in December 1993 stated (May 1994) that the assessments for the years 1989-90 and 1990-91 were revised (October 1993) raising an additional demand of Rs 2.59 lakhs and that recovery was pending.

2.9. Non-levy of penal interest

Under Section 23(3) (as amended with effect from 19th February 1988) of the Kerala General Sales Tax Act, 1963, if the tax or any other amount assessed or due under the Act is not paid by any dealer or other person within the time prescribed therefor, in the Act, or in any rule made thereunder and in other cases within the time specified in the notice of demand, or within the time allowed for its payment by the appellate or revisional authority, as the case may be, or if payment is permitted in instalments by any of the authorities empowered in this behalf, any such instalment is not paid within the time specified therefor, the dealer or other person shall pay, by way of penal interest, in the manner prescribed, in addition to the amount due, a sum equal to one per cent of such amount for each month or part thereof for the first three months after the date specified for its payment and two per cent of such amount for each month or part thereof subsequent to the first three months aforesaid.

(a) In Kollam Special Circle, an assessee had, in his return for 1984-85, admitted an amount of Rs 9.48 lakhs as due from him whereas he had paid Rs 6.06 lakhs only. While finalising (September 1990) the assessment of the dealer for the year 1984-85, no penal interest was levied on the unpaid balance of Rs 3.42 lakhs. This

resulted in non-levy of penal interest of Rs 2.08 lakhs for the period from February 1988 to October 1990. The loss to Government on account of delay in payment by the assessee for the period up to February 1988 cannot be ascertained as before February 1988 there was no provision in the Act for penal interest in such cases.

On this being pointed out (August 1993) in audit, the department issued notice for levying penal interest. Further report has not been received (December 1994).

(b) In the same Circle, an assessee had collected a sum of Rs 9.85 lakhs by way of tax in 1990-91 whereas he paid Rs 4.53 lakhs only. While finalising (August 1992) the assessment of the dealer for the year 1990-91, no penal interest was levied on the unpaid balance of Rs 5.32 lakhs. This resulted in non-levy of penal interest of Rs 1.76 lakhs for the period from May 1991 to October 1992.

On this being pointed out in audit (September 1993), the assessing officer stated that the case would be examined. No further report has been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

2.10. Non-levy of additional sales tax

Under the Kerala Additional Sales Tax Act, 1978, the tax payable for every financial year by an assessee under the Kerala General Sales Tax Act, 1963, shall be increased by a prescribed percentage of tax which was twenty five per cent from 1988-89. The Supreme Court had held@ (January 1992) that the rate of tax applicable inside the State would include additional sales tax also. Board of Revenue

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@ *Deputy Commissioner of Sales Tax Vs Aysha Hosiery Factory (P) Ltd. and other appeals - 85-STC 136 (1992) Supreme Court.*

brought (March 1992) this decision to the notice of all departmental officers and directed them to include the element of additional sales tax also in the levy of central sales tax. Under the State Act, tax was leviable on copra and cotton yarn at the rate of four per cent which was reduced to three per cent with effect from 1 August 1975.

In Mattancherry Special Circle, while finalising (between April and July 1992) the central sales tax assessments of two dealers, one dealing in copra for the year 1988-89 and the other in cotton yarn for the years 1988-89 to 1990-91, on inter-State sales turnovers of copra and cotton yarn amounting to Rs 2.47 crores and Rs 72.95 lakhs respectively, tax was levied at 3 per cent only instead of at 3.75 per cent (including additional sales tax). This resulted in short levy of tax of Rs 2.40 lakhs.

On this being pointed out (August 1993) in audit, the assessing officer issued (August 1993) notice to revise the assessments in the case of the dealer in cotton yarn and in the other case it was stated (August 1993) that the case would be examined. Further report has not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

2.11. Non-levy of turnover tax

In the case of dealers in rubber, excluding synthetic rubber, Government exempted (June 1988) the turnover tax payable at all points of purchase except at the last purchase point subject to the condition that any dealer who claimed exemption on such turnover tax should submit before the assessing authority a declaration in the prescribed form obtained from the dealer who had paid the turnover tax.

In Nilambur, while finalising (January 1993) the assessment of a dealer in rubber, for the year 1988-89 turnover tax at the rate of half per cent was not levied on a turnover of Rs 56.26 lakhs relating to last purchase of rubber. This resulted in short levy of turnover tax of Rs 28,132.

On this being pointed out (June 1992) in audit, the assessing authority revised (October 1993) the assessment raising an additional demand of Rs 47,945 by levying turnover tax on the entire purchase turnover of rubber amounting to Rs 95.88 lakhs, for which the dealer had not produced the prescribed declaration for claiming exemption.

The case was reported to Government in May 1994.

CHAPTER 3

AGRICULTURAL INCOME TAX

3.1. Results of audit

Test check of the records of the Agricultural Income-tax Offices, conducted in audit during the year 1993-94, revealed under-assessments of tax amounting to Rs 268.58 lakhs in 381 cases which may broadly be categorised as under:

		Number of cases	Amount (In lakhs of rupees)
1.	Income escaping assessment	155	73.07
2.	Assignment of incorrect status	4	20.08
3.	Incorrect computation of income	29	17.06
4.	Grant of inadmissible deduction	63	110.29
5.	Application of incorrect rate of tax/incorrect computation of tax	23	2.74
6.	Other irregularities	107	45.34
	Total	381	268.58

During the course of the year 1993-94, the department accepted under-assessments etc., of Rs 93.17 lakhs involved in 140 cases of which 24 cases involving Rs 9.84 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases involving Rs 19.34 lakhs highlighting important observations are given in the following paragraphs.

3.2. Income escaping assessment

(i) Rubber trees generally start yielding from the eighth year of planting and during the subsequent four years the yield progressively increases.

In Manjeri, in computing (between February 1987 and March 1992) the agricultural income derived by an individual for the years 1984-85 to 1991-92, the assessing authority did not take into account income from 600 rubber trees planted in 1975 due for tapping in 1983 and 1000 rubber trees planted in 1979 due for tapping in 1987 in respect of 9.50 acres of garden land owned by the assessee at Kanjirappally. This resulted in short levy of tax of Rs 1.43 lakhs on an estimated income of Rs 3.50 lakhs for the years 1984-85 to 1991-92.

The case was reported to the department in April 1993 and the Government in September 1993; their replies have not been received (December 1994).

(ii) In the system of management of rubber plantations, rubber trees would normally be subjected to slaughter tapping prior to their cutting and removal. When standing rubber trees are sold by an assessee to another person for cutting and removal after slaughter tapping a part of the consideration is reckoned as value of latex and hence as agricultural income.

In Kumily, in computing (March 1993) the agricultural income of an individual for the year 1988-89, the assessing authority did not reckon an amount of Rs 68,991 being the value of latex received by the assessee on account of slaughter tapping of rubber trees as disclosed in the statement of income filed by the assessee. This resulted in income of Rs 68,991 escaping tax leading to short levy of tax of Rs 53,123.

On this being pointed out (March 1994) in audit, the assessing authority issued (June 1994) notice to the assessee proposing to revise the assessment to levy tax on the income escaped; further report has not been received (December 1994).

The case was reported to Government in May 1994; their reply has not been received (December 1994).

(iii) Under the Agricultural Income-tax Act, 1950, in computing the total agricultural income of any individual for the purpose of assessment, there shall be included so much of the agricultural income of a wife or minor child of such individual as arises directly or indirectly (1) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration (2) from assets transferred directly or indirectly to the minor child not being a married daughter, by such individual otherwise than for adequate consideration.

In Thiruvananthapuram, the agricultural income derived by an individual from 32.81 acres of rubber estate which the assessee had purchased in the names of his wife, minor child and himself in 1984 was assessed to tax in his hands up to 1986-87. However, while finalising (July 1991) the assessment for the year 1987-88 income from 3.93 hectares (9.71 acres) of land only was considered for assessment on the ground that the yielding area in the possession of the assessee as per the plantation tax assessment order for the relevant year was only 3.93 hectares. In the process, the assessing authority left out of consideration the income derived by the assessee from the properties in the names of his wife and minor child overlooking the fact that unlike in the Plantation Tax Act there existed provision in the Agricultural Income- tax Act to club the income of an assessee with that of his wife or minor child for the purpose of assessment. The exclusion

of income from the properties in the names of his wife and minor child resulted in short levy of tax of Rs 34,518.

On this being pointed out (August 1992) in audit, the assessing authority revised (April 1993) the assessment and raised additional demand of Rs 34,518.

The matter was reported to Government in March 1994.

(iv) Under the provisions of the Indian Succession Act, 1925, where the intestate has left a widow and also any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants. It was judicially held@ that intestate succession to the property of Indian Christians in the territories of former State of Tranvancore was governed by the provisions of the aforesaid Act, from 1951.

In Changanasserry, while finalising (between March 1987 and February 1989) the assessments for the years 1981-82 to 1983-84 of the widow of an individual who died intestate in March 1979 (leaving behind a widow and six sons) the assessing authority reckoned income from only one-seventh of his property as belonging to the widow instead of reckoning income from one-third of his property. The mistake resulted in income of Rs 58,533 escaping tax of Rs 30,970 for the years 1981-82 to 1983-84.

On this being pointed out in audit in April 1990, the department reported in August 1993 that the assessments had been revised (July 1990) raising additional demand of Rs 31,013.

Government to whom the case was reported in January 1994 confirmed (August 1994) the facts.

@ *Mary Roy Vs State of Kerala reported in AIR 1986 Supreme Court 1011*

(v) Under the Agricultural Income-tax Act, 1950, agricultural income shall be computed for the purpose of assessment in accordance with the method of accounting regularly employed by the assessee.

In Santhanpara, in computing (March 1993) the agricultural income of a private limited company for the year 1987-88 which regularly followed the mercantile system of accounting, the assessing authority did not take into account the value of 651.20 kg of cardamom shown as closing stock in the accounts of the company. This resulted in income of Rs 91,168 being the value of closing stock of cardamom escaping agricultural income tax resulting in short levy of tax of Rs 28,705.

On this being pointed out (March 1994) in audit, the assessing authority issued notice to the assessee in June 1994 proposing to revise the assessment to levy tax on the escaped income; further developments have not been reported (December 1994).

The case was reported to Government in May 1994; their reply has not been received (December 1994).

3.3. Mistake in computation of income

(i) In Kozhikode, while finalising (March 1992) the assessment of a domestic company for the year 1988-89, the assessing authority reckoned the net income of Rs 74,942 returned by the assessee as net loss. This resulted in income of Rs 1.50 lakhs escaping tax resulting in short levy of tax of Rs 1.02 lakhs.

On this being pointed out (February 1994) in audit, the assessing authority revised the assessment in February 1994 raising additional demand for Rs 1.02 lakhs.

The case was reported to Government in May 1994.

(ii) In Vythiri, in finalising (March 1993) the assessment of a domestic company for the year 1987-88, the assessing authority estimated the agricultural income by disallowing certain deductions claimed by the assessee and estimating the value of cardamom and pepper. Although the total agricultural income of the assessee based on the estimation of the assessing authority correctly worked out to Rs 8.17 lakhs it was erroneously computed as Rs 7.46 lakhs. This resulted in income of Rs 70,910 escaping tax resulting in short levy of tax of Rs 42,546.

On this being pointed out (March 1994) in audit, the assessing authority revised (May 1994) the assessment raising additional demand for Rs 42,546.

The case was reported to Government in May 1994.

(iii) In Kumily, while finalising (March 1993) the assessment of an individual, the agricultural income derived by him from five sources for the year 1990-91 was separately computed by the assessing authority as Rs 2,40,540 (from Pullupara Estate), Rs 1,86,566 (from Mukkunnam Estate), Rs 20,000 (from slaughter tapping), Rs 30,000 (from ancestral property) and Rs 2,884 (from Maruti Estate). However, the total income was erroneously computed as Rs 4,29,990 as against the correct amount of Rs 4,79,990. This resulted in income of Rs 50,000 escaping tax resulting in short levy of tax of Rs 38,500.

On this being pointed out (March 1994) in audit, the assessing authority issued (June 1994) notice to the assessee proposing to revise the assessment to levy tax on the escaped income; further report has not been received (December 1994).

The case was reported to Government in May 1994; their reply has not been received (December 1994).

3.4. Short levy of tax due to grant of inadmissible deduction

(i) Under the Kerala Agricultural Income-tax Act, 1950, (repealed with effect from 1st April 1991 by the Kerala Agricultural Income Tax Act, 1991) deductions admissible in computing the agricultural income of a person are enumerated. Agricultural income tax paid and provision for income tax, inter alia, do not fall under the admissible categories of deductions.

In Ernakulam, while finalising (January, February and April 1993) the assessments of a domestic company 'A' for the years 1987-88 and 1988-89 and another domestic company 'B' for the year 1988-89, tax was levied short by Rs 4.31 lakhs on account of allowance of inadmissible deductions as detailed below:

Assessee	Year of assessment	Nature of inadmissible deductions allowed	Amount Rs	Amount of short levy Rs
'A'	1987-88	Agricultural income tax paid	1,10,620	60,841
	1988-89	i) Agricultural income tax paid	19,960	
		ii) Net profit shown in the P & L account	1,09,118	
		iii) Depreciation which was already included under general expenses and allowed deduction	2,280	
			1,31,358	51,816
'B'	1988-89	i) Agricultural income tax paid	4,44,160	
		ii) Provision for income tax	45,000	
			4,89,160	3,17,954
		Total		4,30,611

On this being pointed out (February 1994) in audit, the assessing authority revised (May and July 1994) the assessments for the year 1988-89 in both the cases raising additional demands for Rs 51,816 and Rs 3.18 lakhs. As regards the assessment for the year 1987-88 notice had been issued to the assessee in May 1994 proposing to revise the assessment to levy tax on the escaped income; further developments have not been reported (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

(ii) Under the Agricultural Income-tax Act, 1950 (repealed with effect from 1st April 1991 by the Kerala Agricultural Income Tax Act, 1991), any expenditure laid out or expended for cultivation, upkeep or maintenance of immature plants from which no agricultural income has been derived, is not an allowable deduction in the computation of agricultural income.

In Ernakulam, the assessment of a company for the year 1987-88 finalised in September 1992 was revised in November 1992 fixing net income of Rs 10.47 lakhs. However, in computing the net income, the assessing authority allowed deduction of Rs 2.30 lakhs towards expenditure incurred on upkeep of immature plants from which no agricultural income had been derived. The assessing authority also reckoned an amount of Rs 38,073 as income for the year 1987-88, although it pertained to the year 1988-89. As a result, income of Rs 1.92 lakhs escaped tax leading to short levy of tax of Rs 1.11 lakhs.

On this being pointed out (March 1994) in audit, the assessing authority stated that the matter would be examined; further developments have not been reported (December 1994).

The case was reported to the Government in June 1994; their reply has not been received (December 1994).

(iii) Under the Agricultural Income-tax Act, 1950, any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of deriving the agricultural income is allowable as deduction in computing the agricultural income.

In Kozhikode, in computing (January/February 1993) the agricultural income of a domestic company for the years 1989-90 and 1990-91, the assessing authority allowed a deduction of Rs 96,530 for the year 1989-90 towards salary, allowance and commission paid to a director (project) and Rs 64,226 for the year 1990-91 towards commission paid to him although the engagement of the director by the company was not intended for deriving any agricultural income. During 1990-91 the expenditure claimed by the assessee under salary and allowances of the director was disallowed by the assessing authority himself. The allowance of inadmissible expenses resulted in income of Rs 1.61 lakhs escaping tax with consequent short levy of tax of Rs 1.04 lakhs for the years 1989-90 and 1990-91.

On this being pointed out (February 1994) in audit, the assessing authority stated that the matter would be examined. Further reply has not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

(iv) Under the Agricultural Income-tax Rules, 1951, prior to 27 September 1986, rehabilitation allowance on rubber was an admissible deduction in computing the agricultural income of a person. However, with effect from 27 September 1986, this is not an admissible deduction.

In Thrissur, while finalising (April and August 1991) the assessments of a firm for the years 1987-88 and 1988-89, rehabilitation

allowance on rubber of Rs 37,040 and Rs 42,890 claimed by the assessee for the respective years was allowed as a deduction by the assessing authority in computing the income. This resulted in short levy of tax of Rs 61,546 for the years 1987-88 and 1988-89.

On this being pointed out (November 1992) in audit, the assessing authority stated (January 1993) that action had been initiated to revise the assessment. Further report has not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

3.5. Incorrect computation of tax

(i) According to the Agricultural Income-tax Rules, 1951, deduction as provided under the Agricultural Income-tax Act, 1950, is allowable in respect of depreciation of buildings, machinery, plant or furniture which are the property of the assessee and are required for the purpose of deriving the agricultural income, at the rates specified in the statement appended to the aforesaid rules.

In Ernakulam, in computing (March 1993) the agricultural income of a domestic company for the year 1989-90, the assessing authority estimated the amount of depreciation admissible as Rs 60,862 as against Rs 1.78 lakhs claimed by the assessee. However, while finalising the assessment, both the amount estimated by the assessing authority and the amount claimed by the assessee under depreciation was allowed deduction resulting in income of Rs 1.78 lakhs escaping tax and short levy of tax of Rs 1.16 lakhs.

On this being pointed out (March 1994) in audit, the assessing authority issued (July 1994) notice to the assessee for revision of the assessment for levy of tax on the escaped income; further developments have not been reported (December 1994).

The case was reported to Government in July 1994; their reply has not been received (December 1994).

(ii) The Agricultural Income-tax Act, 1950, provides that agricultural income tax at the rates specified in the Schedule to the Act shall be charged on the total agricultural income of the assessee.

In Kottayam, while revising (March 1993) the assessment of an individual for the year 1986-87 to levy tax on escaped income of Rs 6.55 lakhs, the assessing authority instead of computing tax on the total income of Rs 6.98 lakhs (including Rs 43,270 being the income as per the original assessment order) computed tax only on the escaped income of Rs 6.55 lakhs. This resulted in income of Rs 43,270 being assessed at a lower rate of tax with consequent short levy of Rs 22,169.

On this being pointed (September 1993) in audit, the assessing authority revised (September 1993) the assessment raising additional demand for Rs 22,169.

The case was reported to Government in January 1994.

3.6. Under-assessment of income

(i) The Agricultural Income Tax and Sales Tax Department follows a practice of fixing average market rate, for each agricultural commodity for each accounting year, based on market intelligence. The prices of commodities prevailing in the local markets are taken into consideration in determining the average market rate. The rates so fixed are generally adopted by the assessing authority for computing the agricultural income of the assessee who do not maintain proper accounts and in cases in which the income returned is not supported by proper sale bills.

In Vythiri, in computing (September 1992/February 1993) the agricultural income derived by three individuals for the year 1990-91,

the assessing authority estimated the yield of cardamom as 276 kg each in the case of two assessees and 250 kg in the case of the third and valued it at Rs 150 per kg in the first two cases and at Rs 270 per kg in the third case against the market rate of Rs 350 per kg prevailing during the accounting year 1989-90. The under-valuation of cardamom resulted in an aggregate income of Rs 1.30 lakhs escaping tax, with short levy of tax of Rs 68,252.

On this being pointed out (February/March 1994) in audit, the assessing authority issued notices (February/March 1994) to the assessees proposing to revise the assessments to levy tax on the escaped income. Further report has not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

(ii) Under the Agricultural Income-tax Act, 1950, agricultural income means, inter alia, any income derived from land by agriculture or by the sale by a cultivator of the produce raised by him, in respect of which only a process ordinarily employed by a cultivator to render the produce raised by him fit to be taken to market has been performed. Under the Income Tax Rules, 1962, income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business and forty per cent of such income shall be deemed to be income liable to tax under the Income Tax Act, 1961. The remaining sixty per cent of the composite income so computed by the Income Tax Officer shall be reckoned as agricultural income from tea.

In Alappuzha, in computing (May 1991) the agricultural income of a registered firm for the year 1987-88, the assessing authority erroneously reckoned income from tea as Rs 5.58 lakhs as determined in the Central Income-tax assessment order (pre-revised) instead of

Rs 5.95 lakhs as per the revised assessment order. Further, the assessing authority did not consider income derived by one of the partners of the firm from 2.08 acres of coconut garden during 1987-88 and 1988-89, for the purpose of assessment. This resulted in short levy of tax of Rs 28,995.

On this being pointed out (April 1992) in audit, the department reported (November 1993) that the assessments were revised (October 1992) and additional demands for Rs 29,133 were raised.

The matter was reported to Government (March 1994).

3.7. Incorrect renewal of registration of firm

Under the Agricultural Income-tax Act, 1950 and the Rules made thereunder, any firm to whom a certificate of registration has been granted may have the certificate of registration renewed for a subsequent year or years on application signed personally by all partners (not being minors), declaring that the constitution of the firm and individual shares of partners as specified in the instrument of partnership remain unaltered. It has been judicially held* that application for registration of firm , signed by power of attorney holder would not satisfy the requirement of law.

In Thrissur, a certificate of registration for renewal of a firm for the years 1987-88 and 1988-89 was granted to an assessee although the applications for renewal of registration were not signed personally by one of the partners but were signed by the power of attorney holder. The incorrect renewal of registration granted to the firm on the basis of defective applications and consequent completion of assessments as registered firm resulted in short levy of tax of Rs 2.45 lakhs for the years 1987-88 and 1989-90.

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* *Matha Plantations Vs Deputy Commissioner of Income Tax: 1983 KLT 848*

On this being pointed out (November 1992) in audit, the assessing authority stated (January 1993) that action was under way to revise the assessments. Final reply has not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

3.8. Application of incorrect rate of tax

The Schedule to the Kerala Agricultural Income-tax Act, 1950, specifies the rates at which agricultural income tax is to be charged. In the case of a domestic company, with effect from Ist April 1983, tax is leviable at the rate of fifty five per cent of the total agricultural income where the total agricultural income exceeds Rs one lakh but does not exceed Rs 3 lakhs and sixty per cent where the total agricultural income exceeds Rs 3 lakhs but does not exceed Rs 10 lakhs.

In Pathanapuram, while finalising (March 1993) the assessments of a domestic company for the years 1988-89, 1989-90 and 1990-91, on the income of Rs 2.47 lakhs, Rs 2.74 lakhs and Rs 3.79 lakhs for the respective years, tax was erroneously levied at the rate of forty five per cent for all the years instead of the correct rate of fifty five per cent for the years 1988-89 and 1989-90 at sixty per cent for the year 1990-91. This resulted in short levy of tax of Rs 1.09 lakhs.

On this being pointed out (August 1993) in audit the assessing authority revised (February 1994) the assessments raising additional demand for Rs 1.09 lakhs.

The case was reported to Government in January 1994.

3.9. Failure to utilise available information for assessment

With a view to enabling the assessing authority to make proper assessments, the departmental procedures prescribe, inter alia, internal

and external surveys on a regular basis for collecting necessary data. Internal survey consists of collection of useful information from records of assessing office, whereas the external survey consists of collection of necessary details from publications, reports, inspection of agricultural holdings etc.

In Vythiri, while finalising (April 1991) the assessments for the years 1989-90 and 1990-91 of an individual deriving income from 20.40 acres and 8 acres of pepper plantations in Vythiri and Mananthavady Taluks respectively as disclosed from the plot inspection reports dated 8th December 1987 and 29th October 1990, the assessing authority did not reckon income from the agricultural property at Mananthavady for the purpose of assessment. This resulted in agricultural income of Rs 41,710 being the value of pepper escaping tax and short levy of tax of Rs 29,301.

Similarly, in the case of another assessee in the same circle, receiving agricultural income from three sets of properties at Kalpetta, Neendakara and Kottarakkara, the plot inspection reports of February 1987 and October 1987 disclosed that the assessee was in possession of 900 rubber trees at Kottarakkara out of which 600 trees started yielding in 1984 and the rest in 1985 and that the yield of pepper at Kalpetta was fixed at 225 kg for the assessment year 1986-87. However, while finalising (February 1991 and September 1991) the assessments for the years 1985-86 and 1986-87, the assessing authority did not reckon the income from rubber from Kottarakkara and the yield of pepper was reckoned as 50 kg in respect of the property at Kalpetta for the year 1986-87. This resulted in income of Rs 34,605 escaping tax with short levy of tax of Rs 25,314 for the years 1985-86 and 1986-87.

In another case in Vandanmedu, the assessment records pertaining to the income from a common property, the assessments of which

for the years 1987-88 and 1988-89 were completed in November 1990 and for the years 1989-90 and 1990-91 in June 1992 disclosed that an assessee 'A' of the same office was in receipt of one-third share of income from the above property during those years. However, the assessing authority neither made use of this information while finalising the assessment of 'A' for the year 1990-91 in January 1993 nor has taken any action to revise the assessments for the years 1987-88 to 1989-90 completed in August 1990, to levy tax on the income allocated to the assessee from the common property. This resulted in short levy of tax of Rs 19,596 for the years 1987-88 to 1990-91.

On these being pointed (February/December 1993) the assessing authority revised (September 1993 and March/April/July 1994) the assessments raising additional demands for Rs 29,301, Rs 25,314 and Rs 19,596 respectively.

The cases were reported to Government in September 1993 and June 1994.

3.10. Incorrect allowance of expenses

Under the Agricultural Income-tax Act, 1950 and the Agricultural Income-tax Rules, 1951 made thereunder, deduction in respect of depreciation of buildings, machinery, plant or furniture which are the property of the assessee and are required for the purpose of deriving the agricultural income shall be made in accordance with the rates specified in the Schedule to the aforesaid Rules.

In Ernakulam, in computing (March 1993) the agricultural income of an assessee company for the year 1988-89, the assessing authority allowed deduction of Rs 1.29 lakhs towards depreciation, from the gross income although this amount was already included in

the total expenses of Rs 21.16 lakhs claimed by the assessee as per the profit and loss account. The assessing authority, further allowed a deduction of Rs 34,159 towards rehabilitation allowance, although it was not an admissible deduction under the Act, with effect from I October 1986. These resulted in income of Rs 1.64 lakhs escaping tax with short levy of tax of Rs 86,707.

On this being pointed out (February 1994) in audit, the assessing authority stated (February 1994) that the matter would be examined. Further developments have not been reported (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

CHAPTER 4

STATE EXCISE DUTIES

4.1. Results of audit

Test check of the accounts of offices of the State Excise Department conducted in audit during the year 1993-94 revealed under-assessments of tax/loss of revenue amounting to Rs 95.66 lakhs in 148 cases, which may broadly be categorised as under:-

		Number of cases	Amount (In lakhs of rupees)
1.	Irregular/excess allowance of wastage of spirit	14	7.13
2.	Short collection of duty	6	6.72
3.	Other lapses	128	81.81
	Total	148	95.66

During the course of the year 1993-94 the department accepted under-assessments etc., of Rs 28.23 lakhs involved in 116 cases of which 106 cases involving Rs 27.73 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases and results of the review on "Working of the selected distilleries in the State" involving Rs 503.78 lakhs are given below:

4.2. WORKING OF SELECTED DISTILLERIES IN THE STATE

4.2.1. Introductory

In Kerala there are five distilleries (one in Public Sector, one in Co-operative Sector and three in Private Sector) engaged in the manufacture of liquor, arrack, rectified spirit, denatured spirit etc. The production and distribution of spirit and liquor are under the control and supervision of the Excise Department. The Kerala Abkari Act and the Rules made thereunder regulate the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs in the State of Kerala.

4.2.2. Organisational set up

The Commissioner of Excise is vested with the overall administration of the Kerala Abkari Act and collection of the excise revenue in the State. The inspection of distilleries and pharmaceutical manufactories was vested with one Assistant Excise Commissioner (Distilleries and Pharmaceuticals) with headquarters at Thiruvananthapuram till 10th October 1993. The work done by the Assistant Excise Commissioner (Distilleries and Pharmaceuticals) has been distributed to three Zonal Deputy Commissioners (South, Central and North) with effect from 11th October 1993. Each distillery is under the charge of a Circle Inspector or an Excise Inspector who is assisted by Preventive Officers to oversee due observance of the rules and terms and conditions of the licences. They are responsible for ensuring that excise duty and other dues to the Government are properly collected and accounted for. They also have to ensure that there is no leakage of revenue, surreptitious removal of liquor or preparations and that wastage allowed is as per rules.

4.2.3. Scope of Audit

A review covering the period 1988-89 to 1990-91 was conducted during August 1991 in the Excise Circle Offices attached to a public sector distillery at Thiruvalla and a private sector distillery at Cherthala with a view to ascertaining whether the provisions of the Abkari Act and the Rules made thereunder as also the terms and conditions of the licence and other orders and instructions of Government had been observed. The review report was sent to Board of Revenue/ Government in November 1991. Based on the reply furnished (November 1993) by the Board of Revenue, a further scrutiny of the records was conducted (February 1994) in the same offices covering the period 1991-92 and 1992-93.

4.2.4. Highlights

(i) The low yield of spirit from molasses in both the distilleries for the years 1989-90 to 1992-93 resulted in shortfall of production of spirit to the tune of 18.37 lakh proof litres involving excise duty of Rs 2.85 crores.

(Paragraph 4.2.6)

(ii) 1844 M.T. of molasses, from which 6.89 lakh proof litres of spirit involving excise duty of Rs 106.79 lakhs could have been produced, was irregularly allowed as transit and storage wastage.

(Paragraph 4.2.7)

(iii) Irregular allowance of transit wastage for the Indian Made Foreign Liquor issued to Kerala State Beverages Corporation during the years 1988-89 to 1992-93 resulted in short levy of excise duty of Rs 2.85 lakhs.

(Paragraph 4.2.9)

(iv) **In respect of 6.43 lakh proof litres of spirit involving excise duty of Rs 94.98 lakhs, issued under bond outside/inside the State, no verification certificates have been received.**

(Paragraph 4.2.10)

4.2.5. Revenue from the distilleries

The excise revenue from distilleries mainly accrue from

(1) Licence fee for various operations in the distillery such as manufacture of spirit and Indian Made Foreign Liquor.

(2) Duties including countervailing duty levied on manufacture and issue of spirit at the distillery or warehouse.

(3) Vending fee on denatured/methylated spirit and

(4) Fines, penalties and forfeitures for violation of conditions contained in the licences.

The excise revenue collection in the excise offices attached to the two distilleries for the period 1990-91 to 1992-93 were as follows:

Year	Excise Revenue from		Total*
	Public Sector distillery at Thiruvalla	Private Sector distillery at Cherthala	
	(Rupees in lakhs)		
1990-91	76.54	22.40	98.94
1991-92	144.53	28.99	173.52
1992-93	102.60	50.20	152.80

* *As the Indian Made Foreign Liquor produced by the distilleries is bought by the Kerala State Beverages Corporation (which is the sole licensee authorised in the State) under bond, the excise duty on the Indian Made Foreign Liquor is being remitted by the Kerala State Beverages Corporation. The excise revenue collection shown does not include the excise duty on Indian Made Foreign Liquor issued to Kerala State Beverages Corporation.*

4.2.6. Low yield of spirit

The main raw material used for manufacture of spirit in the two distilleries subjected to test check was molasses. The private distillery used other raw materials also such as malt and a mixture of jaggery and molasses during the period 1988-89 to 1992-93. Though the Molasses Control Order 1961 categorises molasses into three grades, the Government of Kerala has neither categorised molasses into different grades nor fixed any specific norms for the out-turn of spirit from different grades of molasses. The Central Board of Molasses fixed a norm of recovery of 373.5 proof litres of spirit from every tonne of molasses as against 475 proof litres fixed in the Kerala Excise Manual.

A scrutiny of the connected records in the two distilleries revealed that (i) yield obtained in public sector distillery was more or less equal to the norms prescribed by the Central Board of Molasses during 1988-89 to 1991-92 but was low during 1992-93. (ii) the yield obtained in private sector distillery was low during 1988-89 to 1992-93. The details of yield obtained and shortage are given below:

Year	Molasses used (In M.T.)		Yield obtained per M.T. of Molasses used		Expected yield (Proof litres in lakhs) as per Molasses Board @373.5PL/M.T.		Actual yield (Total proof litres in lakhs)		Shortage (Proof litres in lakhs) as per Molasses Board norms	
	Public Sector	Private Sector	Public Sector	Private Sector	Public Sector	Private Sector	Public Sector	Private Sector	Public Sector	Private Sector
1988-89	4688	9033	380.97	351.49	17.51	33.74	17.86	31.75	-	1.99
1989-90	3847	13032	379.00	341.08	14.37	48.67	14.58	44.45	-	4.22
1990-91	3579	11246	378.88	346.88	13.37	42.00	13.56	39.01	-	2.99
1991-92	5461	16277	375.21	338.39	20.40	60.79	20.49	55.08	-	5.71
1992-93	3876	13090	286.89	372.79	14.48	48.89	11.12	48.79	3.36	0.10

The shortfall on the basis of standard fixed by the Central Board of Molasses, works out to 18.37 lakh proof litres (15.01 lakh proof litres in case of private sector distillery for five years and 3.36 lakh proof litres in case of public sector distillery for 1992-93 only) for the five years, involving an excise duty of Rs 2.85 crores (Rs 2.33 crores in respect of private sector and Rs 0.52 crore in the case of public sector distillery).

The private sector company was using other raw materials such as malt and a mixture of molasses and jaggery also but the Government had not fixed any norm for the out-turn of spirit from such raw materials. The year-wise break up of such raw materials used, production and percentage of production from molasses to total production are given below. The production of spirit from molasses during the five years varied from 75 to 98 per cent.

	Raw materials used (In M.T.)			Spirit production (In lakhs of proof litres) from				Percentage of spirit production from molasses to total production
	Molasses	Combination of molasses & Jaggery	Malt	Molasses	Combination of Molassess & Jaggery	Malt	Total	
1988-89	9032.90	M 1684.06 J 20.40	301.59	31.75	7.28	1.47	40.50	78
1989-90	13031.92	-	235.16	44.45	-	1.15	45.60	97
1990-91	11245.60	M 3341.19 J 170.16	187.52	39.01	12.15	0.93	52.09	75
1991-92	16276.50	-	230.98	55.08	-	1.17	56.25	98
1992-93	13090	M 695 J 164	235.50	48.79	3.63	1.16	53.58	91

On this being pointed out in audit, Board of Revenue agreed (November 1993) that the average rate of yield of spirit from both the distilleries was far below the norms fixed by the Government for

molasses and stated that the yield was calculated based on the attenuation factor# described under Rule 93 of Distillery and Warehouse Rules, 1968 Part II and the minimum yield required under this rule had always been achieved by both the distilleries and the out-turn of spirit from the different materials used could be calculated only after making suitable amendment in the Rules. The Board of Revenue also stated that sample testing was not being done and proposed to Government to amend the Distillery and Warehouse Rules Part II by adding provision for making the chemical examination of samples of fermented wash before sending it for distillation mandatory to enable them to calculate the out-turn of spirit from the materials used and to collect duty on low yield of spirit.

It was, however, noticed (February 1994) that in the public sector distillery at Thiruvalla the D3(b) register showing the details of wash made and spirit obtained was posted only up to 12.7.1993 which showed that the degree of attenuation is not being recorded in the prescribed register on the spot.

4.2.7. Irregular allowance of wastage in transit and storage of molasses

The Kerala Abkari Act and the Rules made thereunder do not provide for any allowance for wastage of molasses in transit or storage. However, the Board of Revenue (Excise) in a letter issued in October 1978 ordered that 1 per cent transit wastage and 1 per cent storage wastage were to be allowed in respect of molasses transported, stored and subsequently used in the manufacture of spirit. The circumstances under which wastage at the rate of 1 per cent each was allowed in respect of molasses in the absence of specific provision in

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 # For the purpose of excise control, in a rough way, it can be estimated that one litre of spirit at proof strength will be obtained from 100 litres of wash by every 4 to 5 degree fall in gravity. This is called Attenuation Factor.

the Act have not been clarified by the Board in its order issued in October 1978. As there was no specific provision for allowing wastage for molasses in the Abkari Act and the Rules made thereunder, the order issued by the Board of Revenue needs to be regularised by the State Government.

The details of molasses imported by the two distilleries during the years 1988-89 to 1992-93 and the quantity of transit wastage/storage wastage allowed are given below:

Year	Quantity transported by		Quantity found short/lost during transport		Total (In M.T.)
	Public sector distillery (In M.T.)	Private sector distillery	Public sector distillery [In M.T. (percentage)]	Private sector distillery	
1988-89	2700	10524	32 (1.19)	79 (0.75)	111
1989-90	2500	13541	11 (0.44)	133 (0.98)	144
1990-91	6815	13974	9 (0.13)	137 (0.98)	146
1991-92	1917	16781	Nil	165 (0.98)	165
1992-93	2000	14168	9 (0.45)	139 (0.98)	148
				Total	714

Another quantity of 1130 M.T. (1049 M.T. in private sector during 1988-89 to 1992-93 and 81 M.T. in public sector during 1991-92 and 1992-93) was also allowed as storage wastage to the distilleries. Thus a total quantity of 1844 M.T. of molasses was irregularly allowed as wastage to the two distilleries during the year 1988-89 to 1992-93. A quantity of 6.89 lakh proof litres of spirit, involving excise duty of Rs 106.79 lakhs could have been produced from 1844 M.T. of molasses as per norms fixed by the Central Board of Molasses. The Board

of Revenue recommended (November 1993) to Government to make necessary amendments in the Distillery and Warehouse Rules, 1968, for fixing transit and storage wastage of molasses. Details of action taken by Government have not been reported (December 1994).

4.2.8. Irregular allowance of transit wastage in imported foreign liquor

Under Section 6 of the Abkari Act and under the provisions of the Foreign Liquor Rules, FL 6 licence was issued to the private sector distillery for the possession and release of imported foreign liquor for the manufacture of Indian Made Foreign Liquor. As per the conditions of the licence, any loss of foreign liquor exceeding 1 per cent during transit shall be liable for excise duty at full rate applicable to Indian Made Foreign Liquor. For the import made during 1988-89 to 1992-93 transit wastage of 5,925.57 proof litres was allowed in excess of 1 per cent of wastage admissible which resulted in short levy of excise duty of Rs 86,105 at the rate of Rs 14 up to 1990-91 and Rs 15 from 1991-92. The Board of Revenue in reply to the review has reported (November 1993) to Government that the issue of FL 6 special licence to the distillery was irregular and hence it had to be cancelled as the distillery is having a licence in Form No. II under Rule 6 of Part I of Distillery and Warehouse Rules, 1968, for compounding and blending of Indian Made Foreign Liquor and imported foreign liquor for the purpose of sale. The position is not correct as FL 6 licence is necessary for import, possession and release of imported foreign liquor for the manufacture of Indian Made Foreign Liquor. However, action taken by Government has not been reported (December 1994).

4.2.9. Irregular allowance of transit wastage in respect of Indian Made Foreign Liquor issued to Kerala State Beverages Corporation

Licences are issued under the provisions of the Kerala Distillery and Warehouse Rules, 1968, for establishment of distilleries in the State. Spirit can be issued from distilleries and warehouses under bond, for transport to another distillery or warehouse under Rule 47 (1) (b). Under Rule 47 (2) spirit can be issued on prior payment of duty for consumption within the State to licensees authorised to purchase the same. Government by notification issued in March 1988 extended the benefit of transport under bond to the warehouse licensed under Foreign Liquor (Storage in Bond) Rules, 1961. This enabled the Kerala State Beverages Corporation Ltd., the FL 9 licensee in the State to procure and store Indian Made Foreign Liquor under bond in their bonded warehouse to meet the requirements of FL 2, FL 3 and FL 6 licensees. It was noticed (August 1991 and February 1994) that in respect of cases for which verification reports (Excise Verification Certificates) had been received, a total quantity of 19,606 proof litres was allowed as transit wastage in respect of Indian Made Foreign Liquor transported by Kerala State Beverages Corporation from the two distilleries during the years 1988-89 to 1992-93 which resulted in short levy of excise duty of Rs 2.85 lakhs as shown below:

Year	Wastage in transit (In proof litres)		Total
	Private sector	Public sector	
1988-89	63	33	96
1989-90	4536	335	4871
1990-91	3821	267	4088
1991-92	3263	EVC not received	3263
1992-93	7288	EVC not received	7288
Total	18971	635	19606

On this being pointed out (November 1991) in audit, the Board of Revenue stated (November 1993) that the Distillery and Warehouse Rules allow transit wastage for transport of liquor from distillery to bonded warehouse. However, Rule 55 of Distillery and Warehouse Rules allows transit wastage in respect of spirits transported or exported under bond in "wooden casks or receptacles", in "metallic receptacles, tanker lorries or in plastic/polythene containers" only. Since the Indian Made Foreign Liquor was issued to the Kerala State Beverages Corporation in sealed glass/plastic bottles no transit wastage is admissible.

4.2.10. Non-receipt of verification certificates

(i) In respect of Indian Made Foreign Liquor exported outside the State

Under Section 17 of the Abkari Act and the notification issued thereunder from time to time a distiller is permitted to export Indian Made Foreign Liquor to other States under bond. In such cases the excise authorities in the importing States are required to send verification certificates regarding the receipt of the liquor imported to those States. If such verification certificates are not received within forty two days, excise duty on the quantity of liquor exported under bond is to be realised from the distiller.

The private sector distillery at Cherthala exported to other States in India 24 consignments involving 89,320 proof litres of Indian Made Foreign Liquor during the period November 1990 to June 1992 for which verification certificates had not been received till date (September 1994). In view of the aforesaid provisions in the Act, excise duty of Rs 12.09 lakhs was to be realised from the distiller (after excluding export fee) but the same has not been realised.

The Excise Officer stated that the matter was under correspondence with the higher authorities in the light of a judgement

(February 1989) of High Court of Kerala on the subject. However, as per the judgement, production of the certificates is mandatory in order to prevent evasion of duty but the provision regarding time limit fixed for the production of verification certificates is only directory and not mandatory. This being the position, the duty leviable in these cases should have been realised after giving the exporter reasonable opportunity for production of the certificates as ordered by the Court. However, no action was taken in this regard (March 1994).

(ii) In respect of Rectified Spirit issued under bond

Under the provisions of the Kerala Rectified Spirit Rules, 1972, spirit purchased from a distillery in the State or imported from outside, under bond, shall forthwith be taken to the bonded spirit store licensed for the purpose and produced before the Excise Inspector for verification or the Excise Inspector should be informed of the arrival of the consignment and requested to verify it. The Excise Inspector shall verify the consignments and furnish the details to the Excise Inspector in charge of the distillery from where the spirit was issued. The Excise Inspector in charge of the bonded spirit store shall verify whether the wastage in transit is within the prescribed limits and if such wastage is found to be in excess of such limits, duty at the rate applicable to the rectified spirit shall be levied on the quantity of wastage found in excess of the prescribed limit. The Excise Inspector in charge of the distillery issuing the consignment shall insist on getting the verification report in respect of each consignment. Where there is excess wastage in transit, he shall call for details of treasury receipts under which the duty on such excess wastage has been remitted. Unless the verification report and the details of treasury receipts are received, wherever necessary, a second consignment shall not be issued.

In respect of 1,97,852 proof litres of rectified spirit issued during the period April 1988 to March 1993, from public sector distillery

at Thiruvalla to the various licensees in the State under bond, involving excise duty of Rs 30.67 lakhs, it was noticed that no verification reports were received in the Office of the Excise Circle Inspector in charge of the distillery till September 1994.

When this was pointed out, the Board of Revenue recommended (November 1993) to Government to fix a time limit for submitting verification certificates in consultation with the distilleries and to incorporate it in the rules so as to avoid future litigation in the matter. Further developments have not been received (December 1994).

(iii) High Bouquet Spirit/Extra Neutral Alcohol issued under bond

In the case of private sector distillery at Cherthala verification certificates for 78,412.12 proof litres of High Bouquet Spirit/Extra Neutral Alcohol involving Excise duty of Rs 12.07 lakhs transported under bond to a private distillery at Mannuthy for the period between March 1992 and December 1992 had not been received (March 1994). Further action, if any, taken by the department was not intimated (December 1994).

(iv) Indian Made Foreign Liquor issued to Kerala State Beverages Corporation

In respect of 2,77,852 proof litres of Indian Made Foreign Liquor involving excise duty of Rs 40.15 lakhs issued to the Kerala State Beverages Corporation under bond during 1988-89 to 1992-93 no verification certificate was received (February 1994). No effective action was taken by the department to obtain the certificates.

On this being pointed out, the Board of Revenue stated (November 1993) that suitable directions were being issued to the concerned officials.

4.2.11. Lack of supervision

Under the Kerala Distillery and Warehouse Rules, 1968, the Assistant Excise Commissioner (Distilleries and Pharmaceuticals) is required to conduct inspection of distilleries in the State as often as is necessary but not less than once in every half year.

It was noticed that during the period 1988-89 to 1992-93, the Assistant Excise Commissioner (Distilleries and Pharmaceuticals) conducted inspection in each distillery only once. The Assistant Excise Commissioner (Distilleries and Pharmaceuticals) stated (November 1991) that the periodical inspection could not be conducted for want of sufficient experienced staff. It was also stated that he had addressed the Board of Revenue for some permanent staff for conducting the prescribed inspection.

When this was pointed out by Audit to the Board of Revenue (November 1991), the Board of Revenue stated (November 1993) that an inspection conducted by the internal audit wing of the Board of Revenue found that the purpose for which the office was created had not been fulfilled and so the office was abolished with effect from 11th October 1993 and the work done by the Assistant Excise Commissioner (Distilleries and Pharmaceuticals) had been distributed to the Zonal Deputy Excise Commissioners.

These points were communicated to Government in March 1994; their reply has not been received (December 1994).

4.3. Short realisation of import fee on foreign liquor

Under the Foreign Liquor Rules, no foreign liquor shall be imported into the State except under a permit issued by the officer in charge of the Excise Division to which the liquor is to be imported. Such permits will be granted only on proof of payment of excise duty

and import fee, if any, payable to the importing state. The import fee payable was at the rate of rupees two per proof litre in the case of Indian Made Foreign Liquor, and at rupee one per bulk litre in the case of beer.

In three Excise Divisions (Kollam, Thrissur and Thiruvananthapuram), 276 permits were issued to the units attached to the Defence Department for the import of 9.10 lakh proof litres of Indian Made Foreign Liquor and 4,586 bulk litres of beer during the years 1991-92 and 1992-93, without realising the import fee at the prescribed rates. This resulted in short realisation of import fee of Rs 10.33 lakhs.

On this being pointed out (April 1993 and January 1994) in audit, the department stated that the cases would be examined. Further reports have not been received (December 1994).

The cases were reported to Government in June 1994; their reply has not been received (December 1994).

4.4. Non-realisation of cost of establishment

Under the Abkari Act, 1077 (Malabar Era), the Excise Commissioner may, with the approval of the Government, prescribe the mode of supervision that may be necessary in a distillery, brewery, winery or warehouse or in any manufactory where preparations containing liquor or intoxicating drugs are manufactured. The cost of establishment and other incidental charges in connection with such supervision are to be realised from the licensees concerned. According to the Kerala Service Rules, the rates of recovery of cost of establishment are to be revised whenever there is a revision of scales of pay or other conditions of service.

In four distilleries (Nattakom, Mattancherry, Palakkad and Neyyattinkara), one pharmaceutical unit (Thiruvananthapuram) and

nine bonded warehouses (Kollam, Thrippunithura, Aluva, Kozhikode, Kannur, Attingal, Thodupuzha, Alappuzha and Kottayam) cost of establishment, surrender leave allowances, uniform allowance and adhoc bonus/festival allowance etc., amounting to Rs 2.65 lakhs for the period 1991 to 1993 were not demanded by the Excise Department.

On this being pointed out (February and March 1994) in audit, the excise officer in charge at bonded warehouses, the pharmaceutical unit and two distilleries, stated that demand notices would be issued and in one bonded warehouse (Thrippunithura) an amount of Rs 61,917 was recovered. Final replies were not received from the other two distilleries (December 1994).

The cases were reported to Government in June 1994; their reply has not been received (December 1994).

4.5. Allowance of excess wastage in manufacture of medicinal preparations

Under the provisions of the Kerala Rectified Spirit Rules, 1972, until the Government prescribe the rate of allowance of wastage of spirit during the course of manufacture of medicinal and toilet preparations, the actual wastage noticed in the manufacture subject to a maximum of ten per cent of the alcohol used for each batch of manufacture shall be allowed as wastage in the case of preparations in which solid raw materials are used for manufacture and in the case of preparations in which liquid ingredients alone are used, no wastage is admissible. Government, in accordance with Rule 38(1) of Medicinal and Toilet Preparations Rules, 1956, fixed (November 1979) the wastage in the case of certain preparations which was revised (August 1989) with effect from January 1990.

In a pharmaceutical unit at Tirur in the manufacture of medicinal preparations, in which either liquid ingredients alone were used or solid raw materials were used, for the period from 1 March 1991 to 31 March 1993, wastage of spirit aggregating 2,055 proof litres was allowed in excess of that allowable under Kerala Rectified Spirit Rules, 1972 and Rule 38(1) of Medicinal and Toilet Preparations Rules, resulting in short levy of excise duty of Rs 31,860.

On this being pointed out (June 1992) in audit, the department stated that detailed reply would be furnished later.

The case was reported to Government in December 1993; their reply has not been received (December 1994).

CHAPTER 5

TAXES ON MOTOR VEHICLES

5.1. Results of audit

Test check of the records of the Motor Vehicles Department conducted in audit during 1993-94 revealed under-assessment and non-collection of tax/fees amounting to Rs 26.30 lakhs in 168 cases, which may broadly be categorised as under:-

		Number of cases	Amount (In lakhs of rupees)
1.	Irregular exemption/concession	20	2.22
2.	Non-levy/Non-collection of tax	95	19.90
3.	Non-collection/Non-levy of fee	49	3.56
4.	Other lapses	4	0.62
	Total	168	26.30

During the course of the year 1993-94, the department accepted under-assessments etc., of Rs 74,997 involved in 8 cases. All these cases had been pointed out in audit during periods prior to 1993-94.

The results of a review on 'Working of National Permit Scheme' involving financial effect of Rs 15.74 lakhs and an illustrative audit observation involving financial implication of Rs 21,542 are given in the following paragraphs.

5.2. WORKING OF NATIONAL PERMIT SCHEME

5.2.1. Introductory

The National Permit Scheme was formulated by the Government of India in 1975 under the provisions of the Motor Vehicles Act,

1939 replaced by Motor Vehicles Act 1988 (Central Act 59 of 1988), (a) to promote nation wide operation of goods carriages (b) to ensure smooth and speedier flow of supplies and (c) to encourage long distance inter-State transportation by road. The scheme was adopted by the Government of Kerala in 1975 and is governed by the Central Acts referred to above and the Kerala Motor Vehicles Rules, 1989. Under the National Permit Scheme the States and Union Territories are authorised to grant permits to the owners of the public carriers for the carriage of goods throughout the territory of India or in such contiguous states not being less than four in number including the home State. For the issue of a National Permit, the intending operators are required to pay the home State the prescribed authorisation fee in addition to the Motor Vehicles Tax. Besides, composite fee is required to be paid to each State/Union Territory in which permission to operate is granted. Each State/Union Territory may revise the rate of composite fee payable for National Permit from time to time. The composite fee due to other states which is required to be paid in advance, is initially collected by the home State in the form of crossed bank drafts drawn in favour of the designated authorities and then passed on to the concerned State as and when received. The composite fee due to Kerala is payable either in lumpsum on or before 15 March every year or in two equal instalments on or before 14 March and 14 September of the year by the permit holder up to October 1991 and thereafter on or before 31 March for lumpsum payment and on or before 31 March and 30 September for instalment payment.

5.2.2. Organisational set up

The National Permit Scheme is administered by the Motor Vehicles Department, Commissioner of Transport assisted by one Joint Commissioner of Transport and other functionaries at Regional and District level. The registration of vehicles, issue of permits, collection

of all kinds of receipts and other ancillary functions under the National Permit Scheme are discharged by the Office of the State Transport Authority.

5.2.3. Scope of Audit

The records maintained in the Office of the State Transport Authority , Thiruvananthapuram for the period July 1989 to December 1993 were test checked during February to April 1994, with a view to ascertaining whether the system existing in the department ensures timely realisation, accounting and credit to government account of the tax due to Government of Kerala under the National Permit Scheme.

5.2.4. Highlights

(i) No system exists in the department to ensure that the composite tax due to Government is being realised promptly.

(Paragraph 5.2.6)

(ii) (a) There was delay ranging from 3 months to 19 months in the receipt of 2,625 demand drafts for Rs 19.79 lakhs from State Transport Authorities / Regional Transport Offices of other states. Out of this 886 demand drafts for Rs 6.64 lakhs were time barred even at the time of receipt at the State Transport Authority, Thiruvananthapuram.

[Paragraph 5.2.8 (i)]

(b) There was delay ranging from 10 to 76 days in depositing 4,432 demand drafts for Rs 37.52 lakhs received from other states between March 1992 and January 1993.

[Paragraph 5.2.8 (ii)]

(c) There was delay ranging from one month to four months in crediting demand drafts to Government account by the bank

in respect of 4,088 demand drafts for Rs 29.61 lakhs sent to bank during the period from July 1989 to December 1989.

[Paragraph 5.2.8 (iii)]

(d) Out of 1,703 demand drafts for Rs 13.62 lakhs returned during December 1989 to October 1993 to bank for revalidation due to delay in receipt from other states as well as delay in depositing in bank by the State Transport Authority, Thiruvananthapuram, 304 demand drafts for Rs 2.33 lakhs had not been received back so far (March 1994).

[Paragraph 5.2.8 (iv)(a)(1)]

(e) 240 demand drafts for Rs 1.89 lakhs returned for revalidation due to delay in receipt from another state were not entered in the Register of Revalidation. Of those 101 demand drafts for Rs 80,625 were not seen received back (March 1994).

[Paragraph 5.2.8(a)(2)]

(f) 117 demand drafts for Rs 99,100 received in September 1992 after revalidation were not entered in the Register of Revalidation.

[Paragraph 5.2.8 (a) (3)]

(g) 688 demand drafts for Rs 5.22 lakhs required revalidation due to delay in depositing in bank. Those were retained in State Transport Authority, Thiruvananthapuram without revalidation (March 1994).

[Paragraph 5.2.8 (b)]

(iii) There was short levy of composite fee amounting to Rs 1.12 lakhs in 300 cases.

(Paragraph 5.2.10)

5.2.5. Growth of Permits

The position of permits issued, renewed etc., by the State Transport Authority, Thiruvananthapuram during the last four years ending 31 March 1993 was as under:-

Year	No.of permits issued	Fee realised (permits and authorisation fees) (Rs in lakhs)	No.of permits renewed	Amount of renewal fee collected (Rs in lakhs)	Total No. of permits in operation at the end of the year	Total amount collected (Rs in lakhs)	Percentage of increase of permits over preceding year
1989-90	523	4.71	1174	5.87	1705	10.58	-
1990-91	762	6.86	1482	7.41	2259	14.27	32
1991-92	650	5.85	2234	11.17	2903	17.02	29
1992-93	1059	9.53	1835	9.18	2919	18.71	1

The total number of permits in operation as on 31 March 1993 recorded a growth of 71 per cent as compared to that as on 31 March 1990; the annual growth varied from 1 per cent to 32 per cent. The issue of fresh permits during 1992-93 recorded a growth of 102 per cent as compared to that of 1989-90. However, there was a decline of 15 per cent during 1991-92 as compared to the preceding year 1990-91. The renewal of permits recorded a growth of 90 per cent during 1991-92 in comparison with the permits renewed during 1989-90. But there was a decline of 18 per cent during 1992-93 as compared to that of 1991-92.

5.2.6. Non-receipt of details regarding vehicles issued with National Permits and non-maintenance of Demand, Collection and Balance Register

The Motor Vehicles (National Permits) Rules, 1975 read with the Kerala Motor Vehicles Rules, 1989, stipulate that when a National

Permit is issued, the appropriate authority shall furnish to the State Transport Authorities of other states concerned, information regarding the name and complete address of the National Permit holder, registration mark of the motor vehicle, National Permit Number, summary of trips made during the quarter and the details of taxes and fee, if any, due to the state and collected at intervals of not more than three months. However, information as mentioned above was not being received from any of the State Transport Authorities of other states so far, with the result that information regarding number of vehicles of other states plying in Kerala on National Permits, and whether the composite fee due to Kerala had been collected in time are not available with the department. The State Transport Authority Office also does not maintain a Demand, Collection and Balance Register in respect of vehicles of other states covered by National Permits. Thus, there exists no system in the department to ensure that the composite tax due to the State is being realised promptly and on the prescribed date as the example given below would indicate.

A scrutiny by Audit of a few demand draft statements revealed that in certain cases the composite tax due to Kerala State pertaining to previous years was collected after a lapse of about two years along with additional tax. This shows that the composite tax due to the state is not realised promptly by the due dates.

The State Transport Authority stated (March 1994) that the details were not being received from the concerned state authorities and the Demand, Collection and Balance Register was not maintained due to practical difficulties.

5.2.7. Incomplete information relating to composite fee collected by other states

Scrutiny of 23 statements comprising 330 demand drafts received from the States/Regional Transport Authorities of other states revealed that the exact periods to which the composite tax related were not specified in the statements. In the absence of the information it could not be verified in audit whether the composite tax had been paid correctly and in time. However, the department has not so far taken any effective steps to get the above information from the concerned authorities.

The State Transport Authority stated (March 1994) that the matter would be taken up with the Transport Authorities concerned.

5.2.8. Receipt and disposal of demand drafts

Mention was, inter alia, made in paragraph 5.4 of the Report of the Comptroller and Auditor General of India for the year 1985-86 (Revenue Receipts) about delay in accounting and encashment of bank drafts received towards tax due to Government under the scheme of inter-State Transport. To guard against such defects/omissions, the Commissioner of Transport, Thiruvananthapuram issued (September 1988 and January 1990) instructions streamlining the procedure to be followed in the receipt and disposal of demand drafts from various states under the National/Composite/Temporary permit schemes and in the conduct of regular inspections of records by the supervisory officers. A further review of the records connected with the scheme for the period July 1989 to December 1993 conducted at the State Transport Authority, Thiruvanathapuram during February to April 1994, revealed the recurrence of many defects pointed out earlier in the Audit Report 1985-86. Some of the important defects noticed are discussed below.

(i) Late receipt of demand drafts

The composite fee payable to other states is required to be collected by the home State in the form of crossed demand drafts payable to the designated authorities of those states. The home State is required to send those demand drafts to the concerned states as and when received. A draft, if not presented for payment within six months of the date of issue becomes time barred. On a test check (March / April 1994) of 2,625 demand drafts for Rs 19.79 lakhs relating to composite fee remitted by other states during the period 1991-92 to 1993-94, it was found that they were received late by the State Transport Authority. The delay ranged from three months to nineteen months as shown below:

From 3 months to 6 months		From 6 months to 12 months		Above 12 months		Total	
No. of DDs	Amount (Rs in lakhs)	No. of DDs	Amount (Rs in lakhs)	No. of DDs	Amount (Rs in lakhs)	No. of DDs	Amount (Rs in lakhs)
1739	13.15	857	6.42	29	0.22	2625	19.79

Of these, 886 demand drafts amounting to Rs 6.64 lakhs were time barred even at the time of their receipt at the State Transport Authority. No action has, however, been taken by the department so far (April 1994) to ensure the timely remittance of composite fee by other states.

(ii) Delay in deposit of demand drafts

According to the provisions of the Kerala Treasury Code, Vol.I, an officer receiving a cheque (including a bank draft) on behalf of Government shall immediately remit the cheque/draft to the treasury/

bank for crediting to Government account. 4,432 demand drafts for Rs 37.52 lakhs received during the period March 1992 to January 1993 from other states towards composite fee were deposited with the bank after a delay ranging from 10 to 76 days.

(iii) Delay in crediting the proceeds of demand drafts to Government account by banks

As per the instructions issued by the Transport Commissioner, the supervisory officers in charge of cash book should reconcile the totals in the demand draft register with that of the proceeds of the demand drafts every month and ensure that all demand drafts received were credited to Government account promptly. It was, however, noticed (March/April 1994) that 4,088 demand drafts for Rs 29.61 lakhs sent to bank between July and December 1989 were credited to Government account after a delay ranging from one month to four months.

The State Transport Authority stated (April 1994) that the matter would be taken up with the bank.

(iv) Delayed action for revalidation of demand drafts

A demand draft requires revalidation when the payee fails to present it to the bank for payment within six months of the date of its issue. A demand draft received at a State Transport Authority requires revalidation either due to delay in receiving it from other states or due to delay in sending it to the Bank for crediting to Government account.

(a) Non-receipt and non-accounting of demand drafts sent for revalidation

(1) Due to delay in receipt from other states and delay in sending for encashment to bank by State Transport Authority, 1,703 demand drafts for Rs 13.62 lakhs were returned to the banks concerned for revalidation during the period from December 1989 to October

1993. Of those, 304 demand drafts for Rs 2.33 lakhs had not been received back (March 1994) after revalidation.

(2) Out of 275 demand drafts received from one Regional Transport Office (Kolhapur) in September 1992, 240 demand drafts for Rs 1.89 lakhs required revalidation due to delay in receipt and were returned to the banks. Of these, details regarding receipt back of 101 demand drafts for Rs 80,625 were not available with the State Transport Authority. Further, the return of the above 240 demand drafts for revalidation was also not entered in the Register of Revalidation.

(3) Details of 117 demand drafts for Rs 99,100 returned to Indore in September 1992 for revalidation and their receipt back were also not entered in the Register of Revalidation.

(b) Demand Drafts retained without revalidation

688 demand drafts for Rs 5.22 lakhs received from other states during February 1992 to February 1994 required revalidation due to delay in sending to banks for collection by the State Transport Authority. They had not been send for revalidation so far (March 1994).

5.2.9. Non-realisation of additional tax for belated payment of composite fee

In Government notification dated 26 November 1986, it was laid down that if the composite tax payable under the National Permit Scheme was not paid within the prescribed period, additional tax at the rate of Rs 100 per month of default or part thereof, should be payable along with the composite tax. Test check of the records of State Transport Authority relating to the period November 1990 to September 1993 revealed (March 1994) in audit that in respect of 430 vehicles where the tax had been paid after the due date, additional tax amounting to Rs 43,000 was not realised. The fact of non-realisation

of additional tax has not been pointed out to the concerned authorities of the other states so far (August 1994) by the State Transport Authority, Thiruvananthapuram.

The State Transport Authority stated (April 1994) that the loss of revenue will be made good after taking up the matter with the concerned authorities.

5.2.10. Short collection of composite fee due to Kerala State in respect of multi axle vehicles of other states plying in the State under National Permit Scheme

In their letters dated 16 and 19 May 1986, Government of India intimated, inter alia, their decision to reduce the tax rates/composite fee on multi axle vehicles to 25 per cent less than that applicable to conventional two axle vehicles and directed the States/Union Territory Governments to effect necessary amendment to the respective Motor Vehicles Taxation Act. The Government of Kerala, however, issued notification to effect the above changes in the Kerala Motor Vehicles Taxation Act, 1976, on 9 October 1991 only. Government stated (February 1994) that the reduced rate became operative only from 9 October 1991.

A scrutiny (March 1994) of the demand draft registers for the period from 1989 onwards and also the statements of demand drafts received from the State Transport Authorities/Regional Transport Offices of other states revealed that in respect of a large number of multi axle Public Carrier Goods Vehicles permitted to ply in Kerala under National Permit, composite tax due to Kerala was realised by the State Transport Authorities/Regional Transport Offices of other states at the reduced rate of Rs 1,125 per annum (Rs 563 per half year) even for periods prior to 9 October 1991, the date from which the

reduced rate of tax was implemented in Kerala. In 300 cases test checked the short levy of composite fee amounted to Rs 1.12 lakhs.

On this being pointed out (March 1994) in audit, the State Transport Authority stated (April 1994) that final reply would be furnished soon.

5.2.11. Irregular realisation of composite tax due to Kerala in four quarterly instalments instead of two half yearly instalments

Government in a notification issued in November 1986, prescribed that the composite tax in respect of any Public Carrier Goods Vehicle registered and normally kept in any one of the States or Union Territories of India, other than the State of Kerala, and authorised to ply in the State of Kerala under a National Permit granted by the competent authority of any other State or Union Territory shall be paid on or before the 15 March of every year in lumpsum or in two equal instalments, the first instalment on or before 14 March of every year and the second instalment on or before 14 September of the year. These dates of payments were subsequently revised to 31 March of the year in the case of lumpsum and to 31 March and 30 September of the year if the tax is paid in two equal instalments, as per the notification issued by the Government in October 1991.

However, it was noticed (March 1994) on a test check of the statements of demand drafts received from other states (Tamil Nadu, Maharashtra and Andhra Pradesh) that the composite tax due to Kerala in respect of 77 vehicles was allowed to be paid in four equal instalments during 1988-1993 which was irregular and against the financial interest of the state. But no action has so far (August 1994) been taken by the State Transport Authority, Thiruvananthapuram to

bring the irregularity to the notice of the State Transport Authorities/ Regional Transport Offices of the states concerned.

On this being pointed out (March 1994) in audit, the State Transport Authority stated that the attention of the other Transport Authorities would be invited to the irregular procedure followed by them.

The forgoing observations were communicated to the Department and the Government in May 1994; their replies have not been received (December 1994).

5.3. Non-enforcement of provisions for maintenance of reserve bus

Under the Kerala Motor Vehicles Rules, 1961, and the Kerala Motor Vehicles rules, 1989, every operator of stage carriages having seven or more route buses in operation (including stage carriages operating on temporary permits) shall maintain one or more reserve buses calculated at the rate of one reserve bus for every complete unit of seven route buses. Further, according to the Motor Vehicles Act, 1939 and the Motor Vehicles Act, 1988, the Regional Transport Authority which grants a stage carriage permit may attach to the permit the condition regarding the maintenance of the reserve vehicles to maintain the continuity of operation. The Transport Authority which grants the permit may cancel the permit or suspend the same for such period as it thinks fit in the event of breach of any of the conditions of the permit. However, in lieu of cancellation or suspension of permit, the offence may be compounded for an amount which shall not be less than Rs 250 per day of suspension or more than Rs 2,000.

In Thrissur, it was noticed (May 1993) during the audit of one Regional Transport Office that an operator having seven or more route buses did not keep any reserve bus during the period between

October 1988 and March 1993 as required under the Rules. Operator-wise Register of Stage carriages as prescribed in Circular No.38/76 of October 1976 of the Commissioner of Transport has not been maintained in the office to ascertain whether any operator of stage carriages has seven or more route buses in operation at any time. No action was, however, taken to enforce compliance with the provisions of the Rules. Non-insistence of compliance resulted in short collection of tax of Rs 21,542 during the period from October 1988 to March 1993. The Regional Transport Officer stated (May 1993), that the registered owner had been served with a show cause notice and the matter was included in the following meeting of the Regional Transport Authority, Thrissur. Further developments have not been reported (December 1994).

The case was reported to the Transport Commissioner (December 1993) and the Government (January 1994); their replies have not been received (December 1994).

CHAPTER 6

OTHER TAX RECEIPTS

6.1. Results of audit

Test check of the records of the departmental offices, conducted in audit during 1993-94 revealed under-assessments of taxes or loss of revenue amounting to Rs 102.20 lakhs in 209 cases as indicated below:

	Name of tax revenue	Number of cases	Amount (In lakhs of rupees)
1.	Land Revenue and Building Tax	95	85.09
2.	Stamp Duty and Registration Fees	114	17.11
	Total	209	102.20

During the course of the year 1993-94 the department accepted under-assessments etc., of Rs 8.41 lakhs involved in 55 cases of which 18 cases involving Rs 1.44 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases and results of a review on 'Internal Controls in the Land Revenue Department for recovery of dues treated as arrears of land revenue' involving Rs 93.93 lakhs and Rs 18.82 lakhs respectively are given below:

LAND REVENUE

6.2. INTERNAL CONTROLS IN THE LAND REVENUE DEPARTMENT FOR RECOVERY OF DUES TREATED AS ARREARS OF LAND REVENUE

6.2.1. Introductory

Internal controls are intended to provide reasonable assurance for prompt and efficient service and adequate safeguards against evasion of taxes and duties. They are meant to promote enforcement of compliance with laws, rules and departmental instructions and help in prevention and detection of frauds and other irregularities. They also help in creation of reliable financial and management information system.

It is, therefore, the responsibility of the department to ensure that a proper internal control structure is instituted, reviewed and updated to keep it effective.

The Kerala Revenue Recovery Act, 1968, and the Rules made thereunder, inter alia, prescribe the procedure for collection of arrears of Government dues of different kinds which can be recovered as arrears of land revenue under the relevant tax enactments under which such dues are levied. Under Section 71 of the Act, Government may, by notification, declare that the provisions of the Act shall be applicable to the recovery of the amounts due from any person or class of persons, to any specified institution or classes of institutions and there upon all the provisions of the Act shall be applicable to such recovery. The Act is administered by the Land Revenue Department.

6.2.2. Organisational set up

The administration of Land Revenue Department vests with the Board of Revenue (Land Revenue). For the purpose of administration,

the State is divided into 14 revenue districts. Each district is sub-divided into taluks and each taluk is further sub-divided into villages.

The District Collectors are responsible for the land revenue administration of their respective districts. The Tahsildars are in immediate charge of the land revenue administration of their respective taluks and exercise supervision and control on Village Officers who are entrusted with the work of collection of land revenue and other receipts. In 11 districts there are Special Tahsildars (RR) at district headquarters exclusively for revenue recovery relating to that taluk.

6.2.3. Scope of Audit

A review on internal controls in Land Revenue Department in respect of revenue recovery under the Revenue Recovery Act covering the period 1990-91 to 1992-93 was conducted during December 1993 to February 1994 with reference to the records available in the Board of Revenue, Thiruvananthapuram, 5 Collectorates (Kollam, Alappuzha, Ernakulam, Thrissur and Kozhikode) out of 14 and 17 Taluk Offices out of 61 and 5 Offices of Special Tahsildar (RR) out of 11 in the State.

6.2.4. Highlights

(i) There was no uniformity in the maintenance of records relating to revenue recovery cases. There was no system of monitoring that revenue recovery certificates were issued by the Collector in respect of every requisition received by him nor was there any system of ensuring that all revenue recovery certificates issued from the Collectorate to the Taluk offices were duly registered in the latter office.

[Paragraph 6.2.6(A) (i & ii)]

(ii) The system of monitoring of the revenue recovery cases at the level of Board of Revenue/Government was not effective.

[Paragraph 6.2.6(C)]

(iii) In Taluk offices also, the monitoring of the follow-up action on revenue recovery certificates was not effective. Test check of a few Taluk offices revealed that in 639 cases involving Rs 66.79 lakhs recoveries were either not made at all or only partly made.

[Paragraph 6.2.6(C)(1 & 2)]

(iv) Failure to maintain necessary records or to make necessary entries therein wherever maintained, and lack of response from the requisitioning institutions to the references made by the Tahsildars resulted in revenue recovery certificates amounting to Rs 182.91 crores being returned to the requisitioning departments during the period 1990-91 to 1992-93.

(Paragraph 6.2.7)

(v) There were discrepancies in the maintenance of records relating to revenue recovery cases. Year-wise details of demand, collection and balances in recpect of revenue recovery cases were not available with the Board of Revenue. In a number of cases, there were large variations between the closing balances of the year and the corresponding opening balances of the subsequent year.

(Paragraph 6.2.8)

(vi) Pursuance of court cases/stay orders was ineffective on account of inadequate monitoring and lack of co-ordination between the requisitioning institution/department and the District Collectors. In Kozhikode district, the latest position of 348 court

cases was not available. The amount involved in 255 cases alone was Rs 2.45 crores.

(Paragraph 2.6.10)

(vii) There was no monitoring of the disposal of properties attached as a result of revenue recovery proceedings. In 15 Taluks no register was maintained to record the details of properties attached. In 17 Taluks properties (movable and immovable) valuing Rs 3.85 crores attached in 223 revenue recovery cases were pending disposal as on 1 March 1993.

(Paragraph 6.2.11)

(viii) Collection charges amounting to Rs 10.28 lakhs in respect of 15 Taluk offices were not realised from the institutions on whose behalf revenue recovery certificates were issued and recoveries made.

(Paragraph 6.2.12)

(ix) Half yearly inspection of Taluk offices as required were not conducted regularly by District Collectors concerned. In 2 Collectorates (Kollam and Kozhikode) no inspections were conducted during 1990-91 to 1992-93.

(Paragraph 6.2.13)

6.2.5. Procedure for receipt and disposal of revenue recovery cases

The requisition for recovery of arrear Government dues or arrears of recovery of the amount due from any person or class of person to any particular institution notified by Government as arrears of land revenue under the Kerala Revenue Recovery Act, 1968, and the Rules made thereunder are received by the District Collectors from the concerned departments of Government or from the particular institution.

The formats of the records to be maintained in connection with the Revenue Recovery cases have not been prescribed either in the Kerala Revenue Recovery Act, 1968 or in the Kerala Revenue Recovery Rules, 1968. Though the department has issued instructions/ procedures from time to time about the procedure to be followed at District Collectorates and Taluk/Village Offices in this regard, the same have not been manualised.

The District Collector receiving a requisition for recovery, issues under his signature, a Revenue Recovery Certificate under Section 69(3) of the Act to the Tahsildar of the Taluk to which the defaulter belongs within one week of the receipt of the requisition. In the Taluk Office, on receipt of the Certificate, a case file is opened, a number assigned to it and the number is noted in the Revenue Recovery Ledger maintained department-wise. Demand notice under Section 7 ibid is to be issued to the Village Officer concerned for effecting recovery within one week of the receipt of the Revenue Recovery Certificate.

6.2.6. Deficiencies

Test check of the accounts and records of revenue recovery revealed the following deficiencies in respect of monitoring aspects at various levels.

A) In Collectorates

(i) There was no uniformity in the maintenance of records relating to revenue recovery. In Collectorates Ernakulam and Thrissur separate registers were maintained to record the receipt and watch the disposal of revenue recovery requisitions. But no such registers were maintained at Collectorates Kollam, Alappuzha and Kozhikode where they were pursued through a register meant for recording miscellaneous papers received by the clerk.

(ii) There was no system to monitor that all the requisitions received in the Collectorates were registered and certificates issued in all such cases. In Alappuzha, Revenue Recovery Certificate received in 7 cases in 1991 were not issued till January 1994. On this being pointed out, Revenue Recovery Certificates in two cases were issued in January 1994.

(iii) The system of computerisation of revenue recovery activities introduced in October 1990 in the five districts covered by review was found to be deficient as the objective of completing the data entry of pending cases by 31 December 1990, in addition to the data of cases received from 1 October 1990 and to generate all prescribed periodical returns such as monthly and annual Demand, Collection and Balance Statements through computer from 1 January 1991 could not be achieved. The requisitioning department was not being informed of the progress of the recovery.

B In Taluk and Village Offices

No system was available in Taluk Offices to ensure that all Revenue Recovery Certificates issued by the Collectors were received and properly recorded in Taluk Offices and also to ensure that demand notices were issued on all Revenue Recovery Certificates received from the collectorate.

In one taluk (Special Tahsildar (RR), Kanayannur), Revenue Recovery Certificate issued in January 1987 by the District Collector, Ernakulam for Rs 7.41 lakhs relating to abkari (excise) arrears was neither entered in the Revenue Recovery Ledger nor demand notice issued. On pointing out in audit (February 1993), the amount was brought to demand in August 1994.

In six taluks delay ranging from one month to seven months was noticed in the issue of demand notices in respect of 116 cases

test checked. Delay ranging from one month to ten months was noticed in eight Village Offices in serving the demand notices in 102 cases.

C Follow-up action and Monitoring

There is no effective system of monitoring of the cases at Government/Board's level other than getting the consolidated statement of amount outstanding for recovery. It is also noticed in audit that information regarding the number of cases and their age-wise pendency is not being intimated by the Collector to the Board and by the Board to the Government. Nor has the Board/Government at any time called for such details.

Similarly, in Taluk Offices also, no effective monitoring and follow-up action is in force.

(1) Test check of Revenue Recovery Ledgers in 22 Taluk Offices revealed that in a large number of cases, no recovery was effected after the issue of demand notices . In 357 cases test checked relating to the period November 1985 to March 1993, where an amount of Rs 42.31 lakhs was to be recovered, no recovery had been effected. No reason was furnished by the Tahsildars for the non-recovery of amount in those cases.

(2) It was also noticed that in many cases though recoveries were made partly, further steps were not being taken to recover the balance amount. Balance due in 282 cases, relating to the period 1985-86 to 1992-93, test checked in 21 Taluk Offices amounted to Rs 29.48 lakhs.

(3) Revenue Recovery proceedings initiated in May 1987 by District Collector, Thrissur for realisation of agricultural income tax arrears amounting to Rs 6.42 lakhs for the period from 1973-74 to

1975-76 and from 1979-80 to 1987-88, was finally stayed by the High Court of Kerala in February 1990 for a period of one month. Since the statement of facts sent by the District Collector on 24 March 1990 was insufficient to file a counter affidavit, the Advocate General requested the District Collector on 30 December 1991 to send a better statement of facts without clearly specifying in the request the areas requiring re-examination. It was, however, noticed (December 1993) that the statement of facts had not been furnished by the District Collector to the Advocate General. Thus, delay in preparation of required statement of facts resulted in a sum of Rs 6.42 lakhs remaining uncollected.

6.2.7. Return of Revenue Recovery Certificates

Revenue Recovery Certificates may be returned by the Tahsildars to District Collector when the defaulter becomes insolvent, when the assessments are remanded by appellate authorities or when the requisitioning authority withdraws the requisition etc. Revenue Recovery Certificates should not be returned in cases of stay.

The amounts covered by Revenue Recovery Certificates returned during the years 1990-91, 1991-92 and 1992-93 as shown in the Demand, Collection and Balance Statements of the Board of Revenue are as follows:

Year	Amount (In lakhs of rupees)
1990-91	4,814.35
1991-92	7,476.01
1992-93	6,000.74

A test check of Revenue Recovery Certificates returned in 22 Taluk Offices revealed that:

(i) In 7 Taluk Offices (Kanayannur, Kuttanad, Ambalappuzha, Karthigappally, Chavakkad, Mukundapuram and Thrissur), the prescribed registers were not maintained to note the Revenue Recovery Certificates returned. In one Taluk Office (Chengannur) though the register was maintained there were no entries during the years 1991-92 and 1992-93 though as per the Demand, Collection and Balance Statement, Revenue Recovery Certificates for Rs 141.64 lakhs and Rs 60.18 lakhs respectively were returned during these years.

(ii) In 4 Taluk Offices, 7 revenue recovery cases involving Rs 7.27 lakhs were returned although stay orders were in force.

(iii) In one Taluk Office (Mukundapuram), revenue recovery proceedings were not pursued in 10 cases involving Rs 1.13 lakhs and the Revenue Recovery Certificates returned through the Collector on the ground that there was no response from the requisitioning authorities to the reference made by the Tahsildars.

6.2.8. Discrepancies in the maintenance of records

Monthly statement of Demand, Collection and Balance of recovery cases furnished by the Tahsildars are consolidated by the District Collectors and forwarded to the Board of Revenue. The Board consolidates the statement received from all the districts, conducts monthly review and communicates the review report to the District Collectors for follow up action. A copy of the review report is forwarded to the Government also for information.

The position of Demand, Collection and Balance of all revenue recovery items as on 31 March 1991, 31 March 1992 and 31 March 1993 collected from the Board of Revenue is as follows:

As at the end of 31 March	Total demand	Amount under stay	Amount not collectable due to pending re-assessment	RRC returned	Collect-able demand	Collec-tion	Balance
			(In lakhs of rupees)				
1990-91	22898.33	15080.07	335.71	4814.35	2668.20	2246.39	421.81
1991-92	33853.46	20982.59	558.25	7476.01	4836.61	4210.81	625.80
1992-93	35148.92	23756.40	543.68	6000.74	4848.10	4390.61	457.49

Year-wise details of Demand, Collection and Balance are not available with the Board of Revenue. Though the details were called for in audit in November 1993, those were yet to be received from the department. Government stated (July 1994) that the details were being collected from the District Collectors and would be made available soon.

Test check of Demand, Collection and Balance Statements maintained at Collectorates and Taluk Offices covered under the review revealed that:

(i) Large variations ranging from Rs 2.41 lakhs to Rs 469 lakhs were noticed in the closing balance as on 31 March 1991 and the opening balance as on 1 April 1991 in three Collectorates (Kollam, Ernakulam and Kozhikode) and five Taluk Offices (Karunagappally, Kottarakkara, Kochi, Aluva and Talappilly.)

(ii) The collectable balance and the amount under stay in the Demand, Collection and Balance Statements as on 31 March 1993 and that in the Revenue Recovery Ledgers varied in 10 Taluk Offices. Variations up to Rs 15.82 lakhs in the balances in the ledger and the Demand, Collection and Balance Statement in respect of collectable demand and variations up to Rs 22.5 lakhs in the balances in the

ledger and the Demand, Collection and Balance Statements in respect of amount under stay were noticed. In Special Tahsildar (RR), Ernakulam the collectable balance under "Excise" as per Demand Collection and Balance Statement was "NIL" as against Rs 15.82 lakhs shown in the ledger.

(iii) Interest on arrears had not been worked out and included in the demand each year in any of the Taluk Offices.

(iv) Percentage of collection of arrears in all the taluks was worked out on the basis of collectable balance. But the collectable balance was worked out after keeping the total amount of instalments under stay intact without reducing the remittances received subsequently so as to show high percentage of collection. This was in contravention of the instructions issued by the Board of Revenue in January 1989. Even though the District Collectors were required to conduct surprise checks on the Demand, Collection and Balance Statements as per the circular no surprise checks were conducted by the District Collectors concerned.

6.2.9. Recovery in Instalments

Though the Revenue Recovery Act and the Rules made thereunder do not contain provision for granting stay/instalment facilities, Government by invoking the clemancy powers vested with them, have granted stay and instalment facilities in many cases. Further there was no mechanism to watch the vacation of stay orders where the conditions of stay were not fulfilled or to watch the recovery of all instalments in these cases. It was noticed in 143 cases test checked that:

(i) While the number of instalments sanctioned by District Collectors ranged from 2 to 42, the maximum instalments remitted were found to be 8. In 111 cases no instalment was remitted.

(ii) Against the demand of Rs 11.28 lakhs the collection made in instalments was only Rs 2.90 lakhs.

(iii) In four districts (Kollam, Thrissur, Ernakulam and Kozhikode) the Deputy Collectors had also issued stay orders with instalment facilities. In two Collectorates (Alappuzha and Thrissur) stay orders were issued by the Collectors in cases where the amount exceeded the ceiling fixed by Government.

(iv) In 201 cases test checked involving an amount of Rs 21.33 lakhs the conditions of stay were not fulfilled but follow up action was not taken.

Government in a letter addressed to all District Collectors in December 1988 had instructed, inter alia, to resume revenue recovery steps in cases where conditions of stay were not fulfilled and to identify and immediately bring to the notice of Government, the cases of stay orders obtained time and again for the same demand of the same item of revenue. It was, however, noticed that Government granted stay orders in 7 cases involving Rs 7.93 lakhs for more than once; the number of occasions varied from 2 to 10.

The above position shows that the system was not working effectively.

6.2.10. Pursuance of court cases/stay orders - Monitoring and Flaws in system

In respect of court cases there is no co-ordination between the requisitioning departments and Collectorates in pursuing the court cases. It was noticed that the registers prescribed for noting stay/court cases were either maintained improperly or not maintained at all by the District Collectors/ Tahsildars with the result that latest position of a particular case is not readily ascertainable.

Sometimes the courts grant conditional stay on cases pending before the appellate authorities of the assessing departments till disposal of appeals. Due to lack of co-ordination between requisitioning department and Revenue Department, large amounts held under stay remained uncollected for want of details regarding disposal of appeal petitions before appellate authorities. In 38 cases test checked in 12 taluks the amount so held up from February 1984 to March 1994 amounted to Rs 17.33 crores. A cross verification of 25 cases with the records of the Sales Tax Department revealed that 8 cases involving Rs 2.78 lakhs had already been decided by the appellate authorities between the period June 1986 and April 1994, but no action was taken to effect recovery.

In order to pursue cases on behalf of Government in sub-courts, there are Government Pleaders attached to Collectorates.

The District Collector, Kozhikode forwarded 348 cases pending in various courts to the District Government Pleader, Kozhikode in July 1992 but the present position or details of disposal of the cases were not furnished to the Collector by the Pleader even as of March 1993. The amount involved in 255 cases alone was Rs 2.45 crores.

In one case, the Collector, Kollam, issued a Revenue Recovery Certificate for Rs 8.72 lakhs against a Village Industries Society towards Khadi and Village Industries Board dues. The demand notice was issued on 19 March 1990. The Society filed an original suit before the Munsiff Court, Punalur. Even though there was no stay order, the amount was classified under stay and no action was taken to recover the amount. The Khadi Board on 24 April 1993 informed the Tahsildar, Pathanapuram that the case was decided in favour of the Board. Recovery proceedings, however, had not been initiated even as of October 1994 for want of a copy of the judgement. The

Government Counsel, Punalur had informed the Tahsildar on 24 September 1993 that although he had applied for a copy of the judgement on 5 December 1992 the remission of cost of stamp paper was issued only on 27 July 1993.

From the above it is clear that the mechanism now in existence is not effective to monitor the court cases and to protect the financial interest of the Government.

Government stated (July 1994) that the system of pursuing court cases through Government Pleaders would be reviewed in consultation with the Advocate General, Kerala and necessary changes in the existing arrangements would be ordered.

6.2.11. Cases of attachment of properties

Under the provisions of the Revenue Recovery Act, if the defaulter does not make any arrangement for payment of arrears, the properties attached should be sold in public auction. Till then the Collector may appoint an agent for the management of the property.

Out of 22 Taluks covered in the review, in 15 Taluks, no register was maintained to record the particulars of the properties attached by Government. It could not, therefore, be verified whether the properties attached were put under proper management and revenue from such properties was collected effectively.

As per the information furnished by 17 Taluk Offices, properties (movable and immovable) worth Rs 3.85 crores, attached in 223 revenue recovery cases were pending disposal as on 31 March 1993. Year-wise break up of pending cases and the reasons for pendency though called for from the Taluk Offices in November 1993 have not been received (December 1994).

6.2.12. Non-realisation of collection charges

Under Section 71 of the Kerala Revenue Recovery Act, 1968, Government issued notifications from time to time to make applicable the provisions of the Act, for the recovery of dues, to specified institutions or any class or classes of institutions. For recoveries on behalf of notified institutions under Section 71 of the Act, five per cent of such collections should be credited to Government as collection charges and the balance alone should be remitted to the institutions on behalf of which collection is made by the Revenue Department.

Government in December 1990, decided to realise collection charges from all institutions/autonomous bodies etc., on whose behalf recoveries of arrears are being made by Government through the Revenue Department by invoking the provisions of the Revenue Recovery Act. The Board of Revenue in circular issued on 7 March 1991 directed all the District Collectors to realise collection charges as provided in the Kerala Revenue Recovery Rules from all institutions whether it is a notified institution under Section 71 of the Kerala Revenue Recovery Act or a statutory body. It was, however, noticed that in 15 Taluk Offices, in respect of an amount of Rs 205.63 lakhs collected in favour of the institutions, collection charges amounting to Rs 10.28 lakhs were not adjusted and credited to Government.

6.2.13. Half yearly inspections

Government in October 1979 directed the District Collectors to conduct half yearly inspections of the branches of Taluk Offices and reiterated (December 1990) the need for inspection to ensure prompt collections of arrears and strict adherence to the provisions of the Revenue Recovery Act. It was also stated that the 11 Special Revenue Recovery Units in the state would be inspected by the Board periodically. It was, however, noticed that the prescribed quantum of

inspections was not conducted either by the District Collectors or by the Board of Revenue. Out of four Collectorates (Kollam, Alappuzha, Thrissur and Kozhikode) test checked, it was noticed that in two Collectorates (Kollam and Kozhikode) no inspection was conducted during 1990-91 to 1992-93 and in the other two Collectorates, out of 42 inspections to be conducted during the years from 1990-91 to 1992-93, only six inspections were conducted .

Of the 11 Special Tahsildar Offices (RR) the Board of Revenue inspected only one office in 1990-91 ; four offices in 1991-92 and two offices in 1992-93.

Government stated (July 1994) that steps would be taken to conduct the half yearly inspection on a regular basis and that out of 11 Revenue Recovery Tahsildar offices to be inspected by Board, 9 had already been inspected during 1993-94.

On pointing out these defects in audit (May 1994), Government stated (July 1994) that the Board had proposed to introduce a new register of receipt and disposal of revenue recovery requisitions, and after the maintenance of this register in the Collectorates and Taluk Offices prompt disposal of revenue recovery requisitions and their review and monitoring at the taluk/district level was expected to be done more effectively.

6.3. AMOUNTS RECOVERABLE FROM RAILWAYS, PUBLIC SECTOR UNDERTAKINGS, AUTONOMOUS BODIES AND LOCAL BODIES FOR SPECIAL STAFF FOR LAND ACQUISITION

6.3.1. Under the Kerala Land Acquisition Act, 1961, acquisition of land required by the Railways, Public Sector Undertakings, Autonomous Bodies, Local Bodies etc., is carried out by the staff of Revenue

Department, specially sanctioned for the purpose by Government with definite condition that the cost of establishment of the special staff shall be recovered from the party requisitioning the land. Rule 156 of Kerala Service Rules, Part I, stipulates the manner in which the recoveries shall be made.

A test check on the recovery of cost of establishment covering the period 1989-90 to 1992-93 conducted in August/September 1993 in the Board of Revenue (Land Revenue), Thiruvananthapuram, 7 Collectorates (Thiruvananthapuram, Kollam, Alappuzha, Kottayam, Ernakulam, Kozhikode and Wayanad) out of 10 Collectorates under which land acquisition special establishment exists, 18 Offices of Special Tahsildar (Land Acquisition) out of 21 offices and all the three offices of Special Deputy Collectors (Land Acquisition) revealed the following points:

6.3.2. Position of arrears

The position of arrears as on 31 March 1993 and the year-wise break up though called for (November 1993) from the Board of Revenue has not been received (December 1994). However, scrutiny in audit of the details furnished by the Board of Revenue disclosed the following discrepancies.

(i) A sum of Rs 4.42 crores was outstanding as on 31 October 1992 from 20 defaulter institutions towards cost of establishment of land acquisition staff. More than 50 per cent of the arrears were due from 3 institutions viz., Kerala State Electricity Board (Rs 107 lakhs), Southern Railway (Rs 88 lakhs) and Kerala State Housing Board (Rs 45 lakhs).

(ii) The entries in the Register maintained in the Board of Revenue to note the details of amounts due/recovered from each

institution were not updated with the result that the amount due as per the records of Land Acquisition Units and that noted in the Board's register did not tally in many cases.

(iii) In respect of Land Acquisition Units for Kerala State Electricity Board at Wayanad, the amounts reported by the units to the District Collector, Wayanad and those reported by the Collector to the Board of Revenue were different.

(iv) The arrears of Rs 63,412 due from Food Corporation of India relating to cost of establishment of staff engaged till 1986-87 were not included in the statement of arrears prepared by the Board of Revenue for the month of October 1992.

6.3.3. Accumulation of arrears

As per conditions in the agreement to be executed under Land Acquisition Rules, the requisitioning authority shall deposit with the Collector (Land Acquisition Officer) at the time of execution of the agreement or on any other date to be fixed by the Collector etc., estimated amount of establishment charges likely to be incurred by the Government in connection with the acquisition to be provisionally fixed by the Collector. Non-compliance of the provision in the Land Acquisition Act and Rules and Government instruction thereon by the Land Acquisition Officers resulted in huge arrears as given below:

(i) Due to failure to recover the cost in advance from four organisations and due to failure to adjust the cost in time from the advance deposit made by one organisation, an amount of Rs 94.64 lakhs was outstanding from those five organisations for the period from February 1978 to March 1991, even though the relevant Land Acquisition Units were wound up after completion of work of acquisition and handing over of possession of land. In two of these cases, although

revenue recovery proceedings were ordered, no recovery could be effected so far (December 1994).

(ii) Demand for Rs 60 lakhs relating to the years 1981-82 to 1987-88 was raised in September 1989 against Kerala State Electricity Board, Wayanad; the delay ranged from 2 to 8 years. Demands for Rs 42 lakhs for the years 1991-92 and 1992-93 had not yet been raised (September 1993) against Kerala State Electricity Board, Wayanad.

(iii) Rs 17.66 lakhs pertaining to 1973-74 to 1986-87 due from the Thiruvananthapuram Corporation was demanded only in January 1988 after a lapse of 1 to 15 years.

6.3.4. Continuance of land acquisition staff without recovery of arrears and cost of establishment in advance

In Circular dated 21 April 1987, the Government directed the Board of Revenue (LR) to abolish with effect from 16 May 1987 the land acquisition units engaged on land acquisition work of organisations which had defaulted in payment of cost of establishment. Further, it was directed that in future, when continuance is given or fresh staff is sanctioned for land acquisition , approximate establishment cost for one year should be got remitted before orders are issued. It was, however, noticed that the above instructions were not adhered to by the Board of Revenue or by the Government while issuing sanctions for the temporary posts of land acquisition units. Four Land Acquisition Units (Cochin Corporation, Kerala State Electricity Board I, II and III Wayanad) were allowed to continue during 1987-88 and thereafter though the requisitioning parties had defaulted. In respect of 2 Land Acquisition Units (Kerala State Housing Board, Kozhikode and Thiruvananthapuram) though the dues from 1988-89 onwards were not remitted, the posts were continuing (August 1993).

The fact regarding non-remittance of arrears by the concerned units was not mentioned by the Board of Revenue while sending proposals for the continuance of land acquisition posts. Information as to whether the Government had examined the fact before issuing continuance sanctions, called for (December 1993) has not been received (December 1994).

6.3.5. Non-adjustment of arrears from loans/grants

The Revenue Department in September 1989 intimated the Board of Revenue that the details of amounts, due from various local bodies/institutions on account of land acquisition charges had been forwarded to the concerned administrative departments and various sections of the Finance Department with instructions to adjust the amounts due to Government against further loans/grants or any other amount sanctioned to these institutions. It was, however, noticed that there was failure to adjust Rs 2.43 crores due from two institutions for the period from 1989-90 to 1991-92 from the grant/loan of Rs 41.09 crores sanctioned to them during 1990-91 and 1991-92.

6.3.6. Non-demand/short demand of establishment charges/interest on arrears

(a) The Government, in January 1992, informed the Accountant General (Audit) that the Board of Revenue had been asked to urge the defaulter institutions to remit the dues before 29 February 1992 and to realise penal interest at the rate of 9 per cent from 1 March 1992, if they fail to pay dues before the stipulated time. It was, however, seen that interest was not demanded from the defaulter institutions in respect of the amount not remitted before 29 February 1992. The interest in 16 cases for 1992-93 amounting to Rs 37.69 lakhs has not been demanded so far (December 1994).

(b) The Government in November 1989 revised the scales of pay of the State Government employees, with effect from July 1988. The Board of Revenue revised the average cost, consequent on the pay revision, only in May 1992 at the instance of audit. It was noticed that in four Offices of the Special Tahsildar (Land Acquisition) the average cost as intimated by the Board was not adopted resulting in short demand of Rs 3.63 lakhs.

(c) As per the Government decision under Rule 156 of Kerala Service Rules, Part I, "gross sanctioned cost of service" will include the average cost of several posts included in the establishment together with dearness pay, dearness allowance, special dearness allowance, personal pay/special pay and other compensatory allowances admissible on the average cost. It was observed that exclusion of bonus (5 offices, Rs 2.85 lakhs), medical claims (4 offices, Rs 0.26 lakh), arrears of dearness allowance increases from time to time (3 offices, Rs 2.15 lakhs), rent (1 office, Rs 0.71 lakh) for the calculation of 'gross sanctioned cost of service' while revising the average cost from July 1988 resulted in short demand of Rs 5.97 lakhs.

6.3.7. Lack of uniform procedure

The Government has not prescribed the detailed procedure for the recovery of cost of establishment or the formats in which the records for watching the recovery of the same are to be maintained. Therefore no uniform procedure in this regard is being followed in the Land Acquisition Units.

Government to whom the above facts were reported (December 1993) stated (July 1994) that remedial action would be taken to rectify and to avoid recurrence of the defects pointed out.

BUILDING TAX

6.4. Under- assessment of building tax

Under the Kerala Building Tax Act, 1975, building tax at the prescribed rate is leviable in respect of every building, the construction of which was completed on or after 1 April 1973 and the capital value of which exceeded Rs 75,000. Capital value is determined at ten times the amount of annual value which is defined as the gross annual rent at which the building may, at the time of completion, be expected to be let out from month to month or year to year as assessed by the local authority within whose jurisdiction the building is situated. However, if the assessing authority is of the opinion that the annual value fixed by the local authority is too low, it may fix the annual value independently after taking into account the various factors including the location of the building, amenities provided in the building and the estimated cost of construction of the building etc. For estimating the cost of construction, the assessing authority may adopt the current PWD Schedule of rates applicable as on the date of completion/occupation of the building. The PWD Schedule of rates were revised from 1 June 1990. Further, according to the instructions issued (March 1987) by the Board of Revenue, where the actual rent received in respect of a building let out is higher than that fixed by the local authority, the assessing authority shall adopt the actual rent received as annual value for purpose of determining the capital value. Tax is leviable at slab rates on capital values exceeding Rs 75,000 in respect of each building.

(i) In Taluk Office, Kollam, the capital value of a five storeyed commercial building was determined (August 1989) at Rs 55.35 lakhs with tax of Rs 5.27 lakhs, taking into account the annual value fixed by the local authority, as the annual value determined on the basis of actual rent received was found to be less than that fixed by the local

authority. It was, however, noticed in audit that in the process of computation of capital value on the basis of gross annual rent received or receivable, the capital value attributable to the portions of the building not let out, but under owner's use or lying vacant, was not considered by the assessing authority. This resulted in under-assessment of building tax of Rs 76,334.

On this being pointed out (April 1990) in audit, the assessing authority stated that the assessee had filed (November 1989) an appeal before the Revenue Divisional Officer, Kollam who had set aside (July 1993) the original assessment for fresh disposal. Later, the assessing authority revised the assessment (September 1993) refixing the capital value of the building on the basis of gross annual rent received/ receivable, at Rs 62.98 lakhs with tax effect of Rs 6.04 lakhs. Accordingly the assessing authority after adjusting the tax already remitted, raised (September 1993) a demand of Rs 4.72 lakhs including the tax of Rs 76,334 under-assessed originally. The assessee was allowed to remit the above amount in four equal quarterly instalments.

The case was reported to Government in May 1994; their reply has not been received (December 1994).

(ii) In Chengannur Taluk, it was noticed (June 1992) in audit that the assessing authority fixed the capital value of buildings, which were completed after 1 June 1990, based on the cost of construction with respect to the PWD Schedule of rates in force prior to 1 June 1990 instead of considering the Schedule of rates effective from 1 June 1990. The application of incorrect PWD Schedule of rates in the estimation of capital value of buildings resulted in under-assessment of building tax of Rs 28,504 in 15 cases.

On this being pointed out (June 1992) in audit, the department stated (August 1993) that assessments were revised (March 1993 to

August 1993) in 14 cases and an additional demand of Rs 26,204 was raised. In respect of the remaining case, it was stated (August 1993) that the assessment could not be revised as the assessee was staying abroad and that the revised assessment would be completed later. Part of the additional demand amounting to Rs 9,096 was collected (August 1993) by the department. Further developments have not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

STAMP DUTY AND REGISTRATION FEES

6.5. Evasion of stamp duty in partition deeds

Instrument of partition means any instrument whereby co-owners of any property divide or agree to divide such property in severality. By partition, a co-sharer puts an end to the joint obligation and possesses property allotted to him proportionate to his share in the joint ownership. The stamp duty payable in respect of partition deeds is for the amount of the value of separated share or shares of the property. According to the provision of Registration Manual, Vol. II, Part I, in case of partition, the value of the share and not of the property should be taken into consideration for the purpose of levy of stamp duty. The Kerala Stamp Act, 1959, lays down that chargeability of any instrument with duty should be fully and truly set forth in the document. Hence the proportionate legal right of each co-sharer has to be specified in a partition deed to ascertain the value of the separated share, since the value of the separated property and that of the separated share may not be one and the same. According to Hindu Succession Act, the spouse of the deceased and the children get equal shares. As per Indian Succession Act, 1925, applicable to Christian families, the

widow/widower of the deceased gets one third share and the balance is equally divided among children.

A test check of records of 8 Sub-Registry Offices during February 1994 to April 1994 revealed that in 89 partition deeds executed during 1992 and 1993, the joint ownership of the property was vested in the executants as heirs on the death of original owner who died without leaving a will. Since, the sole criterion for joint ownership was succession, the value of separated share should have been specified in the deed and reckoned for the purpose of levy of stamp duty. But it was noticed that in all the 89 cases the value of the separated share was not specified and that the value reckoned was the value of the separated property as set forth in the document, which was less than the value of separated share as per the relevant Succession Act. Short levy of stamp duty on this account works out to Rs 2.04 lakhs.

On the matter being reported to them in June 1994, Government stated (December 1994) that duty on instrument was levied according to the circumstances and wordings described in the partition where the co-owners agree to divide the property in severality under the provision of Stamp Act. The reply is not tenable as stamp duty is leviable on the value of the separated share(s) and not according to the circumstances or wording in the document.

6.6. Short levy of stamp duty

(i) Under the Kerala Stamp Act, 1959, all conveyances purporting to transfer immovable property situated within Municipal Corporations and Municipalities are leviable with stamp duty at the rate of rupees eight and paise fifty and those within the Panchayat area are leviable at the rate of rupees six for every Rs 100 or part thereof of the amount or value of consideration for such conveyance. Under the Indian Registration Act, 1908, every document that affects

immovable property shall be presented for registration in the office of the Sub Registrar within whose sub district the whole or some portion of the property to which such document relates is situated.

In Sub Registry, Vadakkencherry, it was noticed (July 1993) in audit that certain documents were registered for the conveyance of land situated within the limits of Municipal Corporations and Municipalities of Tamil Nadu along with certain land situated within the registration sub-district of Vadakkencherry. The stamp duty levied was at the lower rate of Rs 6 as against the higher rate of Rs 8.50 applicable to the conveyance of property situated in Municipal Corporations/ Municipalities. This resulted in short levy of stamp duty of Rs 65,179 in respect of 24 documents registered between January and December 1992.

The case was pointed out in audit in July 1993 and was reported to Government in April 1994; their replies have not been received (December 1994).

(ii) Under the Kerala Stamp Act, 1959, the stamp duty leviable on partition deeds where the partition is among the family members is two rupees fifty paise for every Rs 100 or part thereof of the value of separated shares of the property whereas in other cases of partition, it is five rupees for every Rs 100 or part thereof of the value of separated shares.

In Kunnathukal Sub Registry, while registering (August 1992) a deed for the partition of the properties of a partnership firm on its dissolution, among its partners not being members of a family, stamp duty at two rupees fifty paise was levied instead of at the correct rate of five rupees for every Rs 100 or part thereof on the separated shares valued at Rs 8 lakhs. This resulted in short levy of stamp duty amounting to Rs 20,080.

On this being pointed out (April 1993) in audit, the department stated (March 1994) that the amount has been included in the liability of the concerned officer. Details of recovery have not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received (December 1994).

6.7. Excess payment of duty to the Municipality on transfer of property

Under the Kerala Municipalities Act, 1960, a duty on transfer of property (surcharge on stamp duty) on instruments purporting to effect sale, exchange, gift, mortgage with possession, lease in perpetuity etc., of immovable property situated within the limits of a municipality is levied at the rate of four per cent of the value or consideration as set forth in the instrument. The duty on transfer of property is levied by means of stamps impressed on instruments, as in the case of stamp duty. The entire duty so levied (as accounted for by registering officers) is paid to the municipality, after deducting three per cent of the amount of duty levied towards collection charges.

In Hosdurg, it was seen in audit (February 1993) that duty on transfer of property situated within the limits of Kanhangad Municipality was levied at the incorrect rate of five per cent instead of four per cent of the value or consideration as set forth in the documents registered during the period from 13 November 1990 to 31 March 1991. This resulted in an excess levy of surcharge amounting to Rs 70,196 from the public. After retaining a sum of Rs 2,106 towards collection charge, the balance amount of Rs 68,090 was allocated in excess of the amount due to the Kanhangad Municipality.

On this being pointed out (February 1993) in audit, the department stated (November 1993 and June 1994) that the excess levy of surcharge was caused due to wrong calculation and that the excess amount erroneously allocated (Rs 68,090) would be adjusted in the subsequent surcharge duty payable to the Municipality. Further report has not been received (December 1994).

The case was reported to Government in June 1994; their reply has not been received so far (December 1994).

CHAPTER 7

NON-TAX RECEIPTS

FOREST RECEIPTS

7.1. Results of audit

Test check of the records of Forest Offices, conducted in audit during 1993-94 revealed non-levy or short realisation of revenue amounting to Rs 374.98 lakhs in 27 cases, which may broadly be categorised as under:-

		Number of cases	Amount (In lakhs of rupees)
1.	Lease rent not demanded on forest land	1	58.96
2.	Loss of revenue due to non-application of formula for correction of loss of weight of bamboos	4	300.13
3.	Non/short levy of sales tax	6	9.25
4.	Other lapses	16	6.64
	Total	27	374.98

During the course of the year 1993-94 the department accepted under-assessments etc., of Rs 212.95 lakhs involved in 39 cases of which 12 cases involving Rs 62.74 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. An illustrative audit observation involving financial implication of Rs 34,393 is given below in the following paragraph.

7.2. Non-application of revised rates on sale of teak poles

According to the Kerala Forest Code, Volume II, schedule rates of sale of timber, firewood and other forest produce are fixed by Government for each year. The Chief Conservator of Forests prepares the schedule rates on the basis of data collected from the sub offices and submits it to the Government for sanction with simultaneous instructions to the sub offices to adopt the rates from the date from which the revision is proposed pending approval of Government. The sanction of Government to the revised schedule of rates should be obtained before 15 March every year. The proposal for revising the rates from 1 April 1991 was sent to Government in August 1991 under intimation to sub offices. The rates were revised by Government in December 1991 with effect from 1 April 1991.

In Wild Life Division, Parambikulam, 1,331 teak poles of different classes were supplied in October 1991 to a Public Sector Undertaking at the rates applicable prior to 1 April 1991. This resulted in short demand of Rs 34,393 including centage charges, forest development tax and sales tax.

On this being pointed out (December 1991) in audit, the department stated (April 1993) that an additional demand for Rs 56,172, including penal interest had been raised.

The case was reported to Government in June 1994.

MINES AND MINERALS

7.3. Loss of royalty on minor minerals

Under the Kerala Minor Mineral Concession Rules, 1967, royalty at the rate of 50 paise per tonne from 12 December 1967 and Rs 2 per tonne from 24 January 1989 was leviable on building stones including granite or any other rock/stone used as building stone etc.,

and all other minor minerals extracted from lands in which the minor minerals vest in the Government. The permits for extraction of minor minerals shall be issued by the competent authority after realising seigniorage fee and such authority shall also collect royalty in respect of minerals removed by the permit holder.

In a notification issued (July 1978), Government had appointed District Collectors, Revenue Divisional Officers, Tahsildars, Municipal Commissioners/ Councillors, Executive Officers of Panchayats and Divisional Forest Officers as competent authority in their respective jurisdiction in addition to the Director of Mining and Geology. In the Government Order issued in August 1978, Government had, inter alia, instructed the competent authorities to collect the royalty under the rules, when they issue permits for extraction of minor minerals and to credit the amount to the receipt head of the Department of Mining and Geology and to intimate the Geologists in charge of the District concerned regarding the issue of quarrying permits to enable the latter to ensure the compliance of relevant rules and collection of royalty.

It was noticed (June 1993) in audit that in Wayanad District, for 4,23,317 tonnes of building rocks/boulders extracted during the period from August 1978 to July 1991, no royalty under the Kerala Minor Mineral Concession Rules, 1967, was collected by the competent authority (Deputy Collector (LT)-cum-Administrator) who issued permits for extraction from the Government land under the Wayanad Colonisation Scheme. The fact of issue of the permits was not reported to the Geologists concerned. Even though the Department of Mining and Geology had pointed out the requirements under the Rules in January 1990, the competent authority collected the royalty only with effect from August 1991. The loss of royalty on that account worked out to Rs 4.03 lakhs.

On this being pointed out (June 1993) in audit, the Deputy Collector who was the competent authority stated (June 1993 and January 1994) that the loss of revenue occurred due to the fact that the Government notification of August 1978 was not properly brought to his notice and that the arrears of royalty could not be collected at this distant time.

The case was reported to Government in December 1993; their reply has not been received (December 1994).

Thiruvananthapuram,
The 12 March 1995

(A.K. CHAKRABARTI)
Principal Accountant General (Audit) Kerala.

Countersigned

New Delhi,
The 28 March 1995

(C.G. SOMIAH)
Comptroller and Auditor General of India