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

**FOR THE YEAR
ENDED 31 MARCH 1995**

NO.1

**(REVENUE RECEIPTS)
GOVERNMENT OF ORISSA**



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PREFATORY REMARKS

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

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, taxes on motor vehicles and passengers, land revenue, state excise, forests, mining and entertainments tax 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 1994-95 as well as those noticed in earlier years but could not be covered in previous years' Reports.

O V E R V I E W

This report contains 39 paragraphs relating to non-levy, short levy of tax, penalty, interest etc. and a review on "Receipt, issue and use of statutory declaration forms under OST/CST Act" involving Rs.40.30 crores. Some of the major findings are mentioned below:

1. General

- (i) The total revenue raised by the Government of Orissa during the year 1994-95 was Rs.1,556.84 crores comprising tax revenue of Rs.922.61 crores and non-tax revenue of Rs.634.23 crores. While the tax revenue consists mainly of Sales Tax (Rs.578.09 crores), non-tax revenue was mainly from Mines and Minerals (Rs.170.05 crores) and Forest (Rs.118.80 crores).

(Paragraph 1.1)

- (ii) Though the tax and non-tax revenue for the last 3 years have consistently accounted for less than 44 *per cent* of the total revenue of the State, the arrears on account of Sales Tax, Interest, Taxes and Duties on electricity and Forest alone accounted for Rs.825.62 crores.

(Paragraph 1.1 and 1.5)

- (iii) Test check of the records of Sales Tax, Motor Vehicles, State Excise, Forest and other departmental offices conducted during the year 1994-95 revealed under-assessment/short levy/loss of revenue amounting to Rs.91.86 crores in 79,606 cases. During 1994-95 the concerned departments accepted underassessment etc., of Rs.3.46 crores involved in 3479 cases of which Rs.10.99 lakhs involved in 63 cases were pointed out in 1994-95 and the rest in earlier years.

(Paragraph 1.8)

2. Sales Tax

- (i) Declaration forms play an important role in granting exemptions and concessions to new industries and registered dealers with a view to encouraging industrial growth and business in the State. A review on "Receipt, issue and use of statutory declaration form under OST/CST Act" involving observations amounting to Rs.56.95 lakhs revealed the following points.

- (a) Declaration forms for availing of exemption were used by some industries prior to or after the eligibility period which resulted in loss of revenue of Rs.10.94 lakhs.

{Paragraph 2.2.5.3(i)(ii)}

- (b) Goods were purchased by dealers free of tax by furnishing declarations that resale would be subject to levy of tax. But the sale was made to new industries which were eligible for tax exemption in contravention of the basic condition of the declaration. This resulted in tax evasion of Rs.6.72 lakhs..

{Paragraph 2.2.5.3(v)}

- (c) In one case a dealer fraudulently used declaration forms which were supposed to be in the custody of concerned assessing officer and in another case two different dealers used the same declaration form by tampering with the entries. This resulted in loss of revenue of Rs.3.86 lakhs.

{Paragraph 2.2.5.3(vi)}

- (d) Non-verification of transactions effected on declaration forms led to purchase suppression remaining undetected. Cross verification by audit resulted in detection of suppression of purchase having tax effect of Rs.22.43 lakhs.

{Paragraph 2.2.5.3(vii)}

- (ii) Audit on cross verification with the assessment records submitted by the assessee to the income tax department detected sale suppression in the sales tax return which resulted in short levy of tax amounting to Rs.10.19 lakhs.

(Paragraph 2.3)

- (iii) Delay in notifying the rate of tax on Khandsari Sugar by the Government resulted in loss of revenue of Rs.5.46 lakhs.

(Paragraph 2.9)

3. Taxes on Motor Vehicles and Passengers

- (i) Composite tax and penalty amounting to Rs.51.68 lakhs in respect of 3378 vehicles plying under National Permit Scheme was not realised.

{Paragraph 3.2(a)(b)&(c)}

- (ii) Tax and additional tax including penalty amounting to Rs.1.28 crores in respect of 606 vehicles was not realised.

{Paragraph 3.6(a)&(b)}

- (iii) In respect of 46 motor vehicles which violated off-road declaration, tax amounting to Rs.11.85 lakhs was not realised nor was any penalty levied.

(Paragraph 3.7)

- (iv) Penalty on belated payment of tax in respect of 294 motor vehicles amounting to Rs.25.64 lakhs was not levied.

(Paragraph 3.10)

4. Land Revenue

- (i) Premium, ground rent, cess and interest amounting to Rs.6.66 crores were not recovered from Orissa State Electricity Board, State Government Departments, State Government Undertakings, Co-operative Societies, Private Company and Orissa Cashew Development Corporation.

(Paragraph 4.2)

- (ii) Development expenditure, rent, cess and interest amounting to Rs.10.29 crores were not realised from South Eastern Coal Field Limited (SECL).

(Paragraph 4.5)

- (iii) Royalty, surface rent and cess amounting to Rs.11.52 lakhs were short realised from private parties.

(Paragraph 4.3)

5. State Excise

(i) Non-adherence to the Chemical Examiner's Report in conversion of molasses into rectified spirit resulted in loss of revenue amounting to Rs.8.86 crores.
(Paragraph 5.2)

(ii) Excess wastage of spirit in India Made Foreign Liquor bottling plant resulted in non-realisation of duty of Rs.8.45 lakhs.
(Paragraph 5.3)

6. Forest Receipts

(i) Shortage in central godowns/defective processing of kendu leaves resulted in loss of Rs.82.11 lakhs.
(Paragraph 6.2.1)

(ii) Delayed disposal/non-disposal of kendu leaves resulted in loss of Rs.3.26 crores.
(Paragraph 6.2.2)

(iii) Loss on resale of kendu leaves amounting to Rs.5 crores has not been realised from the defaulting bidders by the OFDC.
(Paragraph 6.2.4)

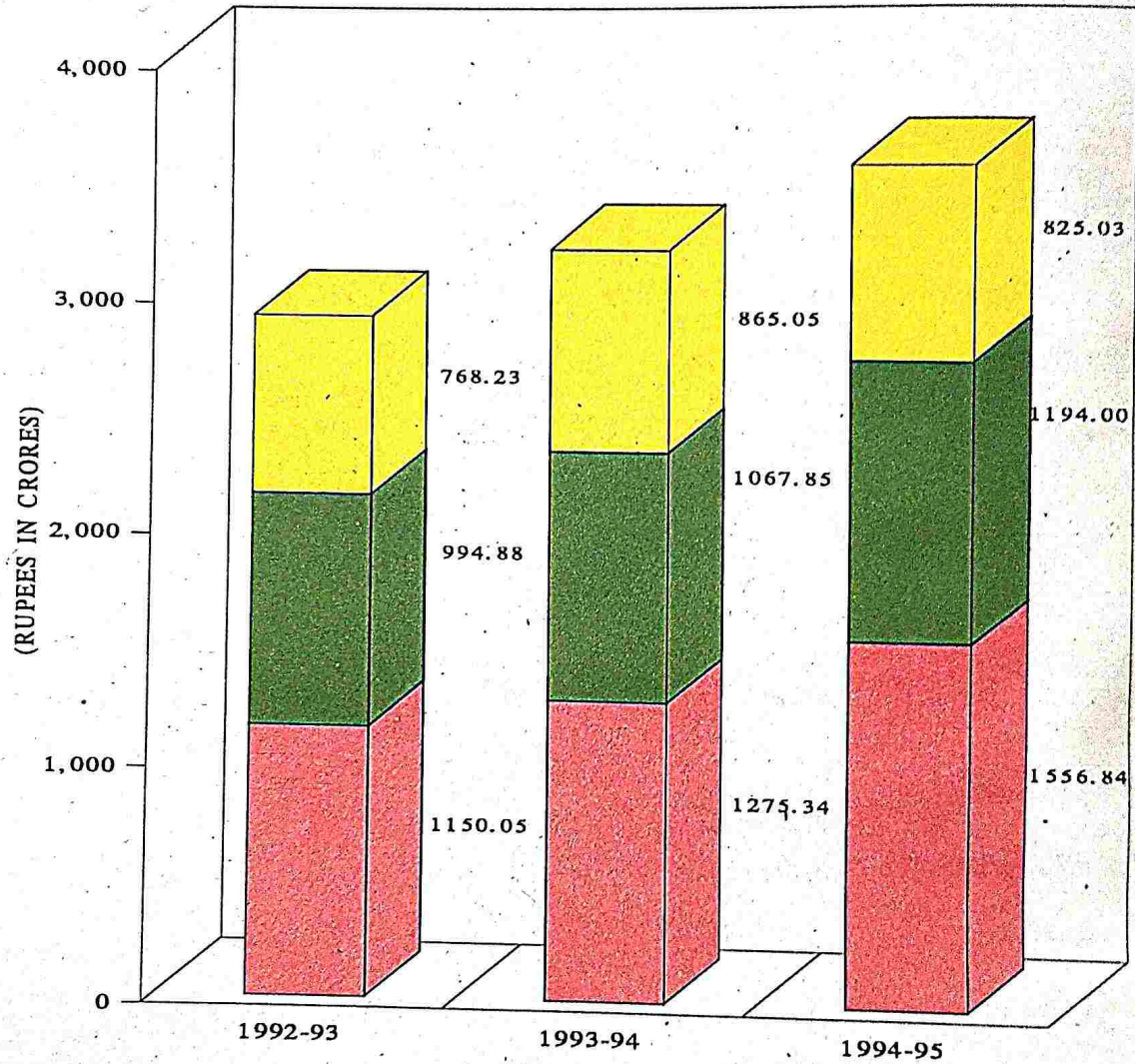
(iv) Interest on belated payment of royalty amounting to Rs.6.60 lakhs was not levied.
(Paragraph 6.3)

7. Mining Receipts

Interest amounting to Rs.5.88 lakhs on belated payment of mining dues in 17 cases was not levied.

(Paragraph 7.2)

CHART-I TREND OF REVENUE RECEIPTS



- TAX & NON-TAX REVENUE
- STATE SHARE OF UT
- GRANTS-IN-AID

(Paragraph 1.1)

CHAPTER-1 GENERAL

1.1 Tread of Revenue Receipts

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

		1992-93	1993-94	1994-95
I	Revenue raised by State Government (Rupees in Crores)			
(a)	Tax Revenue	761.90	859.89	922.61
(b)	Non-Tax Revenue	388.15	415.45	634.23
Total		1150.05	1275.34	1556.84
II	Receipts from Government of India			
(a)	State's share of divisible union taxes	994.88	1067.85	1194.00*
(b)	Grants-in-aid	768.23	865.05	825.03
Total		1763.11	1932.90	2019.03

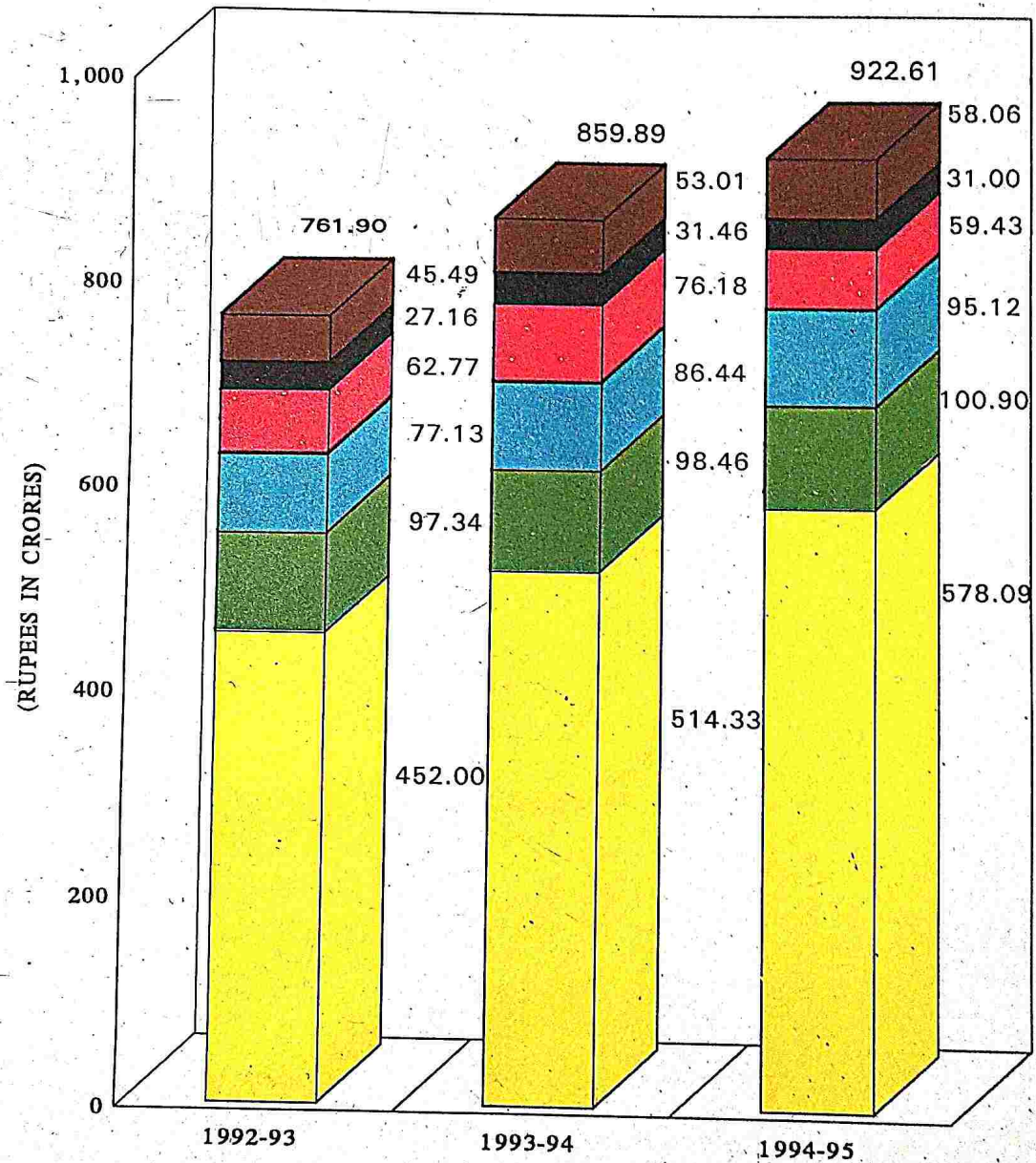
* For details, please see Statement No.- 11- Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Orissa for the year 1994-95. Figures under the head "0021- Taxes on Income other than Corporation Tax- share of net proceeds assigned to States" booked in the Finance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

III	Total Receipt of the State Government (I+II)	2913.16	3208.24	3575.87
IV	Percentage of I to III	39.47	39.75	43.53

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

Heads of Revenue	1992-93	1993-94	1994-95	Percentage of increase (+) or decrease(-) in 1994-95 over 1993-94
(Rupees in Crores)				
1. Sales Tax	452.00	514.33	578.09	(+)12.40
2. Taxes and duties on electricity	97.34	98.46	100.90	(+)2.48
3. Land Revenue	27.16	31.46	31.00	(-)1.46
4. Taxes on Vehicles	77.13	86.44	95.12	(+)10.04
5. Taxes on goods and passengers	0.01	0.01	0.01	--
6. State Excise	62.77	76.18	59.43	(-)21.99
7. Stamp duty and registration fees	40.64	47.98	53.32	(+)11.12
8. Other taxes and duties on commodities and services	4.85	5.03	4.74	(-)5.76
Total	761.90	859.89	922.61	

CHART-II GROWTH OF TAX REVENUE

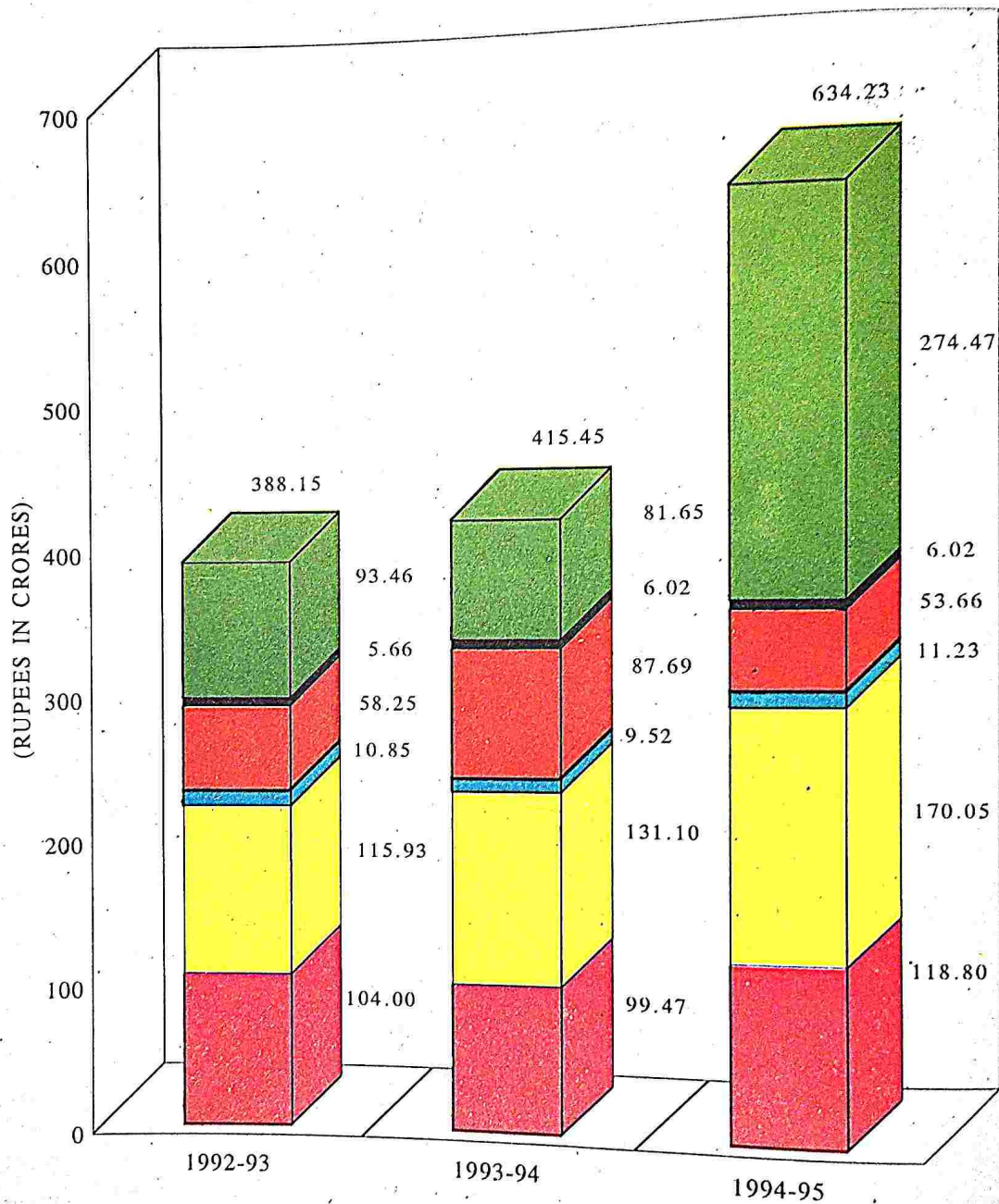


SALES TAX
 ELECT. DUTY
 MVT
 STATE EXCISE
 LAND REV
 OTHERS*

(Paragraph 1.1(i))

* INCLUDES STAMP DUTY AND REGISTRATION FEES ALSO

CHART-III GROWTH OF NON-TAX REVENUE



- FOREST
- MINES & MINS
- EDUCATION
- INTEREST
- PUBLIC HEALTH
- OTHERS*

* INCLUDES IRRIGATION AND POLICE ALSO

(Paragraph 1.1(ii))

- (a) "Sales Tax" - The increase (12.4 per cent) was due to price escalation.
- (b) "Taxes on vehicles" - The increase (10.04 per cent) was due to revision of rates of fine and increase in the number of vehicles.
- (c) "State Excise" - The shortfall (21.99 per cent) was due to (1) Ban on manufacture and sale of country liquor (2) Non-settlement of shops by Government.
- (d) "Stamp Duty and Registration Fees" - The increase (11.12 per cent) was due to increase in sale of non-judicial stamps and fees for registering documents during the year 1994-95.
- (ii) The details of major non-tax revenue realised during the years 1992-93 to 1994-95 are given below and also exhibited in chart-III.

Heads of Revenue	1992-93	1993-94	1994-95	Percentage of increase (+) or decrease(-) in 1994-95 over 1993-94
	(Rupees in Crores)			
1. Forest	104.00	99.47	118.80	(+)19.43
2. Mines and Minerals	115.93	131.10	170.05	(+)29.71
3. Education	10.85	9.52	11.23	(+)17.96
4. Interest	58.25	87.69	53.66	(-)38.80
5. Public Health, Sanitation and water supply	5.66	6.02	6.02	--
6. Irrigation Navigation Drainage and Flood Control Project	14.68	6.55	5.90	(-)9.92
7. Police	6.65	6.93	4.58	(-)33.91
8. Others	72.13	68.17	263.99	(+)287.25
Total	388.15	415.45	634.23	

Reasons for variations in receipts during 1994-95 compared to those of 1993-94, as intimated by the respective departments are given below :

- (a) "Forest" - The increase (19.43 per cent) was due to the fact that advance royalty paid by OFDC during 1993-94 was adjusted during 1994-95.
- (b) "Mines and Minerals" - The increase (29.71 per cent) was due to increase in production of minerals, ores and increase in the rate of royalty on coal with effect from 11 October 1994.
- (c) "Education" - The increase (17.96 per cent) was due to better supervision and monitoring of sale of text books.
- (d) "Police" - The shortfall (33.91 per cent) was due to non-realisation of demands raised against the Government of India and Reserve Bank of India for deployment of police force in their establishment.
- (e) "Others" - The increase (287.25 per cent) was due to receipt of Rs.187.65 crores on account of sale of power from Rengali Power Project.
- (f) "Interest" - The reasons for shortfall (38.80 per cent) though called for from the department could not be furnished (October 1995).

1.2 Variations between Budget estimates and actuals

The variations between Budget estimates of revenue for the year 1994-95 and the actual receipts under the principal heads of tax and non-tax revenue and the reasons therefor as intimated by the respective departments are given below:

Heads of Revenue	Budget Estimates	Actual receipts	Variations Increase(+) Shortfall(-)	Percentage of variation
(Rupees in Crores)				
1. Sales Tax	600.38	578.09	(-)22.29	(-)3.71
2. Forest	127.21	118.80	(-)8.41	(-)6.61
3. Taxes and Duties on electricity	129.83	100.90	(-)28.93	(-)22.27

Heads of Revenue	Budget Estimates	Actual receipts	Variations Increase(+) Shortfall(-)	Percentage of variation
4. Land Revenue	33.01	31.00	(-)2.01	(-)6.09
5. Taxes on vehicles	90.98	95.12	(+)4.14	(+)4.55
6. State Excise	44.94	59.43	(+)14.49	(+)32.24
7. Stamp duty and registration fees	62.20	53.32	(-)8.88	(-)14.28
8. Mines and Minerals	182.76	170.05	(-)12.71	(-)6.95
9. Education	12.49	11.23	(-)1.26	(-)10.09
10. Interest	48.99	53.66	(+)4.67	(+)9.53
11. Police	5.34	4.58	(-)0.76	(-)14.23

- (a) "Taxes and Duties on electricity"- No specific reasons for shortfall (22.27 per cent) were assigned by the department.
- (b) "State Excise"- The increase was due to the abolition of bonded warehouse system with effect from 1 April 1994 having effect of increase in collection of excise duty on IMFL.
- (c) "Stamp duty and registration fees"- The decrease (14.28 per cent) was due to the decrease in demand of stamps and stamp paper and non-registration of documents as per expectation.
- (d) "Education" - The shortfall (10.09 per cent) was due to grant of free studentship to girl students.

- (e) "Police" - The shortfall (14.23 per cent) was due to non-realisation of demands raised against the Government of India and the Reserve Bank of India for deployment of police force in their establishment.

1.3 Analysis of Collection

The break up of the total collections (at the pre-assessment stage and after regular assessment) of Sales Tax during the year 1994-95 and the corresponding figures for the preceding two years as furnished by the department are given below:

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount of arrear demand collected	Other misc. receipt	Amount refunded	Net collection of tax	Percentage of col. 2 to 7
1	2	3	4	5	6	7	8
(Rupees in crores)							
1992-93	410.91	28.90	15.45	-	3.43	451.83*	91
1993-94	474.24	26.08	23.54	-	11.20	512.66**	93
1994-95	541.66	35.76	27.11	-	26.97	577.56***	94

The position of revenue collected by Sales Tax Department as detailed above, shows that the collection of revenue at pre-assessment stage ranged between 91 and 94 per cent during last 3 years ending March 1995. This indicates a high degree of voluntary compliance by tax payers and limited role of tax collecting machinery in achieving the higher targets of collection.

* The difference of Rs.0.17 crore (Rs.452 crores (-) Rs.451.83 crores) has been attributed by the department to the non-inclusion of miscellaneous receipts.

** The difference of Rs.1.67 crores (Rs.514.33 crores (-) Rs.512.66 crores) was attributed by the department to difference in misc. receipt (Rs.0.43 crore) and difference in refund figure (Rs.1.24 crores) which has not been reconciled by the department (November 1994).

*** The reason for difference of Rs.0.53 crore (Rs.578.09 crores (-) Rs.577.56 crores) though called for (October 1995) from the department, has not been received.

1.4 Cost of Collection

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

Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1993-94
		(Rupees in Crores)			
1. Sales Tax	1992-93	452.00	8.80	1.9	1.3
	1993-94	514.33	9.49	1.8	
	1994-95	578.09	10.31	1.8	
2. Taxes on vehicles	1992-93	77.13	1.59	2.06	2.6
	1993-94	86.44	1.75	2.02	
	1994-95	95.12	1.40	1.47	
3. State Excise	1992-93	62.77	4.86	7.74	2.7
	1993-94	76.18	4.68	6.14	
	1994-95	59.43	5.18	8.71	
4. Stamp duty & Registration fees	1992-93	40.64	4.38	10.77	4.8
	1993-94	47.98	4.74	9.87	
	1994-95	53.32	5.27	9.88	
5. Taxes and duties on Electricity	1992-93	97.34	1.47	1.5	-
	1993-94	98.46	1.48	1.5	
	1994-95	100.90	1.54	1.5	

The expenditure on collection of "State Excise" and "Stamp Duty and Registration fees" as a percentage of total collection under the respective heads is higher as compared to the national average.

1.5 Arrears of revenue

As on 31 March 1995, arrears of revenue under principal heads of revenue, as reported by the departments, were as under:

Head of revenue	Amount of arrears as on 31 March 1995	Arrears more than five years old	Remarks
	(Rupees in Crores)		
1. Sales Tax	566.45	138.56	<p>The position of recovery of arrears is as under:</p> <p style="text-align: right;">(Rupees in crores)</p> <p>(a) Recovery stayed by:</p> <p>(i) High Court and other judicial authorities 230.47</p> <p>(ii) Government/departmental authorities 191.05</p> <p>(b) Other stages:</p> <p>(i) Under third party notices 25.93</p> <p>(ii) Under show cause notices 58.91</p> <p>(c) Demands covered by certificate proceedings:</p> <p>(i) Certificate Officer 4.62</p> <p>(ii) Tax Recovery Officer 53.01</p> <p>(d) Amounts likely to be written off 2.46</p>
Total			566.45

Head of revenue	Amount of arrears as on 31 March 1995	Arrears more than five years old	Remarks
(Rupees in Crores)			
2. Interest	135.39		Interest payable by the State Electricity Board The details of interest on loans by Industries Department and Pachayat Raj Department have not been received (September 1995)
3. Taxes and Duties on Electricity	83.82*		The year-wise break up and specific action taken to effect the recovery has not been intimated by the department (October 1995)
4. Forest	39.96		The year-wise break up and specific action taken to effect the recovery has not been intimated by the department (October 1995).
5. Mines and Minerals	2.92	1.07	Out of the above arrears, recovery of Rs.1.01 crores was covered by certificate proceeding, Rs.0.55 crore was under stay orders of the High Court and other judicial authorities, Rs.0.67 crore was under proposal for write off, Rs.0.11 crore was under dispute and the balance amount of Rs.0.58 crore was under process of recovery.
6. Stationery	2.06	0.55	The specific action taken to effect the recovery has not been intimated (October 1995).

* The figure furnished by the department is provisional.

The information from other departments though called for has not been received (September 1995).

1.6 Arrears in assessment

The details of Sales 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 the number of cases pending finalisation at the end of each year, during 1990-91 to 1994-95, as furnished by the Department are given below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
1990-91	1,90,832	1,90,981	3,81,813	1,81,936	1,99,877	48
1991-92	1,99,877	1,99,949	3,99,826	1,89,024	2,10,802	47
1992-93	2,10,802	1,87,167	3,97,969	1,81,342	2,16,627	46
1993-94	2,16,627	2,01,294	4,17,921	1,82,287	2,35,634	44
1994-95	2,35,634	1,81,589	4,17,223	1,75,287	2,41,936	42

The above table shows that the number of outstanding cases went up from 1,99,877 at the end of 1990-91 to 2,41,936 at the end of 1994-95 registering an increase of 21 per cent and the percentage of finalisation of assessment cases declined from 48 during 1990-91 to 42 during 1994-95.

1.7 Fraud and evasion of tax

The number of cases of evasion of tax detected by the Sales Tax department and assessments finalised during 1994-95 are given below:

	Number of cases
A (i) Cases pending as on 31 March 1994	17,754
(ii) Cases detected during the year	6,721
Total	24,475

	Number of cases
B. Cases in which investigations/ assessments were completed during the year	8,335
C. Cases which were pending at the end of the year	16,140

The amount of revenue involved in the above cases was not furnished by the department.

1.8 Results of Audit

Test check of the records of Sales Tax, Motor Vehicles, State Excise, Forest and other departmental offices conducted during the year 1994-95 revealed under-assessment/short levy/loss of revenue amounting to Rs.91.86 crores in 79,606 cases. During the course of the year 1994-95 the concerned departments accepted under-assessment etc. of Rs.3.46 crores involved in 3479 cases of which Rs.10.99 lakhs involved in 63 cases were pointed out in 1994-95 and the rest in earlier years.

This report includes 39 paragraphs and one review involving financial effect of Rs.40.30 crores of which Rs.31.11 crores were accepted by the Departments/Government. Recovery made in these cases amounted to Rs.0.17 lakh upto October 1995. Audit observations with a total revenue effect of Rs.5.69 lakhs have not been accepted by the Departments/Government but their contentions being at variance with the facts or legal position have been appropriately commented upon in the relevant paragraphs.

1.9 Outstanding inspection reports and audit observations

(a) Audit observations on incorrect assessments, short levy of taxes, duties, fees etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities

through inspection reports. Serious financial irregularities are reported to the heads of departments concerned and the Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of one month.

(b) The year-wise break up of the outstanding inspection reports and audit observations issued upto December 1994, as on 30 June 1995 is given below:

		Number of Outstanding		Revenue involved (Rupees in lakhs)
		Inspection Reports	Audit Observations	
upto	1992-93	2329	7221	6145.97
	1993-94	227	1100	2327.43
	December 1994	198	944	2465.33
Total		2754	9265	10938.73

(c) Department-wise break up of the inspection reports and audit observations outstanding as on 30 June 1995 is given below:

Department	Nature of receipts	Number of outstanding		Amount of receipts involved (Rupees in lakhs)	Year to which observations relate	Number of inspection reports to which even first replies had not been received
		Inspection reports	Audit observations			
1 Revenue and Excise	Land Revenue	787	1896	4137.06	1975-76 to 1994-95	73
	Stamp Duty & Registration fees	326	388	7.15	1976-77 to 1994-95	27
	State Excise	137	403	881.44	1973-74 to 1994-95	24

Department	Nature of receipts	Number of outstanding		Amount of receipts involved	Year to which observations relate	Number of inspection reports to which even first replies had not been received
		Inspection reports	Audit observations			
2. Commerce and Transport (Transport)	Taxes on vehicles	214	2300	1038.08	1990-91 to 1994-95	16
	Taxes on passengers	70	237	375.26	1973-74 to 1987-88	--
3. Finance	Sales Tax	543	2222	2849.28	1972-73 to 1994-95	19
	Entertainments Tax	167	211	6.52	1973-74 to 1994-95	25
4. Forest and Environment	Forest Receipts	420	1461	946.77	1967-68 to 1994-95	20
5. Steel and Mines	Mining Receipts	90	147	697.17	1974-75 to 1994-95	13
Total		2754	9265	10938.73		217

The matter was brought to the notice of the Chief Secretary to Government between August 1995 and October 1995; intimation regarding steps taken by the Government to settle the outstanding inspection reports and audit observations has not been received (October 1995).

CHAPTER - 2

SALES TAX

2.1 Results of Audit

Test check of assessments and refund cases and the connected documents in the Commercial Tax Offices during 1994-95 revealed underassessment of tax, loss of revenue etc. amounting to Rs.919.83 lakhs in 1267 cases which may broadly be categorised as under:

	Number of cases	Amount (Rs. in lakhs)
1. Irregular grant of exemption	88	254.01
2. Short levy due to incorrect computation of taxable turnover	64	168.31
3. Under-assessment due to application of incorrect rate of tax	133	77.17
4. Non-levy of interest	689	18.51
5. Non-levy of surcharge	40	5.59
6. Other cases	253	396.24
Total	1267	919.83

During the course of the year 1994-95, the concerned Department accepted underassessment etc. of Rs.69.45 lakhs involved in 380 cases, of which 62 cases involving Rs.10.15 lakhs were pointed out during 1994-95 and the rest in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.43.86 lakhs and findings of a review on "Receipt, issue and use of Statutory Declaration Forms under OST/CST Act" involving Rs.56.95 lakhs are mentioned in the following paragraphs.

2.2 Receipt, issue and use of statutory declaration forms under OST/CST Act

2.2.1 Introduction

Under the Orissa Sales Tax Act, 1947 (OST) and the Central Sales Tax Act, 1956 (CST) if a registered dealer claims that his turnover or part thereof should be exempted from the levy of tax, or be levied at concessional rate of tax, he shall have to substantiate his claim, with the prescribed declarations (except in respect of goods notified to be tax free) obtainable from Sales Tax authorities. The dealer using these declarations is also required to submit to the issuing authority an account of such declaration forms.

2.2.2 Organisational set-up

At the apex level, the Commissioner of Commercial Taxes assisted by the Additional Commissioners and Assistant Commissioners of Commercial Taxes is responsible for administration of taxation laws and printing, receipt and distribution of declaration forms to each circle in Orissa. The State is divided into 31 Commercial Taxes circles, each under the charge of a Commercial Tax Officer, who is responsible for registration and assessment of dealers as well as receipt of declaration forms directly from the Commissioner's office and its distribution to the dealers.

2.2.3. Scope of audit

With a view to evaluating the working of the system of receipt, issue and use of declaration forms, the records for the period from 1 April 1991 to 31 March 1994, maintained in the office of the Commissioner of Commercial Taxes, and in 8* out of 31 circles, each headed by a Commercial Tax Officer, falling under his jurisdiction were test checked in audit.

2.2.4. Highlights

- (1) Irregular issue of declaration forms to ineligible industries resulted in loss of revenue amounting to Rs. 7.79 lakhs.

(Paragraph : 2.2.5.2)

* (1) Bhubaneswar-I (2) Cuttack-I (Central) (3) Cuttack-I (East) (4) Cuttack-I (West)
(5) Cuttack-II (6) Ganjam-I (7) Rourkela II (8) Sambalpur-I

- (2) Irregular use of declaration forms prior to commencement of commercial production resulted in loss of revenue of Rs.2.87 lakhs.
{Paragraph : 2.2.5.3(i)}
- (3) Irregular use of declaration forms after the expiry of eligibility period resulted in loss of revenue amounting to Rs.8.07 lakhs.
{Paragraph : 2.2.5.3(ii)}
- (4) Irregular use of declaration forms for purchase of raw materials beyond permissible limits resulted in loss of revenue amounting to Rs.5.21 lakhs.
{Paragraph : 2.2.5.3(iii)}
- (5) Contravention of declarations in Form-XXXIV resulted in tax evasion of Rs.6.72 lakhs.
{Paragraph : 2.2.5.3(v)}
- (6) Fraudulent use of declaration forms resulted in loss of revenue amounting to Rs.3.86 lakhs.
{Paragraph : 2.2.5.3(vi)}
- (7) Non-verification of transactions effected on declaration forms led to short accountal of purchase transactions - resulting in loss of revenue amounting to Rs.22.43 lakhs.
{Paragraph : 2.2.5.3(vii)}

2.2.5 Maintenance of accounts of declaration forms

Declaration forms as prescribed under the Orissa Sales Tax Act, 1947 (such as Forms - XXXIV, I-A, I-B, I-D, I-E) and those prescribed under the Central Sales Tax Act, 1956 (viz Forms 'C' 'H' & 'F') are obtained by the Commissioner of Commercial Taxes from the Orissa Government Press, Cuttack, against the indent placed on the basis of the requirement of the circles. The aforesaid declaration forms are accounted for in separate stock registers.

2.2.5.1 Receipt

On the basis of requirements of the circles, CCT places indent on the Government Press for printing and supply of various statutory declaration forms. After receipt of the forms from the press these are entered in the respective stock registers and supplied to the CTOs of circles for ultimate issue to the registered dealers after obtaining the prescribed fees and acknowledgement. Deficiencies noticed in the maintenance of the accounts of these forms are given below:

(i) Non-verification of stock of forms

As per Rule 111 to 113 of the Orissa General Financial Rules Volume-I read with para 15 of Chapter 23 of the Orissa Commercial Taxes Manual Volume III part A, a Gazetted Officer is required to conduct annual physical verification of the stock and record a certificate of verification on the body of the respective stock register. However, it was noticed that no such physical verification of stock of forms was ever conducted in CCT's office.

(ii) Non-cancellation of damaged declaration forms

Review of the stock register of declaration forms showed that 8000 declaration forms (Form XXXIV) were received from the Government Press and were taken to stock accounts in CCT's office during March to November 1991 but were not issued on the ground that they were damaged. The damaged forms have not been cancelled as of March 1995.

2.2.5.2 Issue of declaration forms

Declaration forms are to be issued by the CTOs to the registered dealers only to enable them to avail of exemption/concessional rate of tax.

A test check of the records of Cuttack I (West) circle showed that though a medium scale industry was not registered by the Director of Industries, Orissa, Form IB was issued to the industry during the period from April 1989 to February 1990. The irregular issue of declaration form led to undue tax benefit to the dealer amounting to Rs.7.79 lakhs. Besides, no accounts have been rendered by the dealer as of February 1995 for 25 blank declaration Forms I-B issued on 4 April 1991. In the absence of the accounts the details of transactions covered could not be ascertained.

On being pointed out in audit the assessing officer agreed to examine the case.

2.2.5.3 Use of declaration forms

A registered dealer is authorised to use declaration forms for availing of exemption from tax or for availing of concessional rate of tax for the following purposes.

- (i) for purchase by a registered dealer of goods, specified in his certificate of registration, from another registered dealer of the State for resale by him within the State in a manner that such resale be subject to levy of tax under the State Act. (Form XXXIV of OST Act)
- (ii) for purchase by a registered industrial unit (small/ village/cottage/medium/large) of goods specified in its certificate of registration from another registered dealer, required by it for use in manufacture or processing of finished products for sale. (Form IA, IB, ID, IE under OST Act)
- (iii) for purchase by a registered dealer of goods, specified in his certificate of registration in the course of inter-State trade or commerce at a concessional rate for resale or for use in manufacture/processing of goods for sale. (Form - 'C' under CST Act)
- (iv) for movement of goods from one State to another, occasioned by reason of transfer of such goods by a dealer to any other place of his business or to an agent in the course of inter-State trade or commerce, as specified in his certificate of registration. (Form 'F' under CST Act)

In audit, the following cases of misuse of the declarations by the dealers, were noticed in the circles reviewed.

(i) Irregular use of declaration forms prior to commencement of commercial production

Under the OST Act 1947, purchase or sale of goods which directly go into the composition of finished products, machinery and spare parts thereof and packing materials, when sold to or purchased by a registered dealer, duly certified by the concerned General Manager(GM), District Industries Centre (DIC) as village/cottage/small scale industry and starting production inside the State on or after

1 August 1980, is exempted from payment of tax subject to furnishing declaration in Form IA. The exemption is allowed for a period of five years from the date of certification of the unit by the Director of Industries, Orissa or GM of the concerned DIC as the case may be. However, it has been judicially held* that the period of five years should be counted from the date of certification of the unit having commenced commercial production. Industrial units, set up on or after 1 April 1986 and starting commercial production thereafter are also eligible for this exemption (except on sale or purchase of machinery) for a period of five years from the date of commercial production subject to furnishing declaration in Form IB/IE.

It was noticed that in 2 circles (Bhubaneswar I and Cuttack II), declaration forms were used by six dealer industrial units for purchase of raw materials tax free prior to the date of commencement of commercial production, which was irregular. This resulted in misuse of declaration forms covering transactions amounting to Rs.23.19 lakhs involving loss of revenue of Rs.2.87 lakhs.

On this being pointed out in audit the assessing officer agreed to reopen the case.

(ii) **Irregular use of forms by dealer industries after expiry of eligibility period**

A test check of records of six circles revealed that 99 declaration Forms IA/IB were used by the dealer industries in respect of the purchases made after expiry of their eligibility period. This led to misutilisation of forms by the dealer industries towards purchase of goods valued at Rs.125.42 lakhs resulting in loss of revenue of Rs.8.07 lakhs as shown below :

Name of the circle	Year of use	Name of form	No. of forms used after expiry of eligibility period	Value of transactions covered (Rupees in lakhs)	Tax effect
Cuttack I (central)	1992-93	IB	25	2.85	0.11
Ganjam I	1991-92	IB	10	9.31	0.37
	1993-94	IB	2	1.60	0.19
Sambalpur I	1988-89 1989-90	IA	15	50.71	2.42

* Teleworks Pvt. Ltd. vs. Steel Authority of India Limited - 81 STC (449) (Orissa)

Name of the circle	Year of use	Name of form	No. of forms used after expiry of eligibility period	Value of transactions covered (Rupees in lakhs)	Tax effect
Cuttack II	1991-92	IB	9	5.52	0.66
	1992-93	IA	8	19.73	2.61
	1993-94				
Bhubaneswar I	1990-91	IA	4	1.02	0.09
	1992-93	IB	11	27.04	0.78
	1993-94	IB	13	6.91	0.74
Rourkela II	1991-92	IA	2	0.73	0.10
Total			99	125.42	8.07

The concerned assessing officers stated that the cases would be reassessed.

(iii) Irregular use of declaration forms for excess purchase of raw materials

Under the OST Act, registered industrial units are allowed exemption from payment of sales tax on purchase or sale of raw materials/spare parts of machinery/packing materials for a period of five years from the date of commercial production on the strength of permanent certificate of registration granted by the GM of the concerned DIC. The DIC certifies the maximum requirement of raw materials/spare parts/packing materials so as to enable the concerned assessing officer to restrict tax benefit to that extent.

It was noticed that in the Cuttack I(Central), Cuttack-I (East) and Cuttack II circles, three dealer industries purchased raw materials tax free against declaration in Form IA/IB in excess of the quantity as certified by the GM, DIC. The concerned assessing officer also allowed the excess quantity to be exempted from payment of tax at the time of assessment, which was irregular. This resulted in loss of revenue amounting to Rs.5.21 lakhs.

On this being pointed out the concerned assessing officers agreed to reopen the cases.

(iv) Misutilisation of Form IB/ID for purchase/ sale of machinery

Under the OST Act, a small scale industry starting production on or after 1 August 1980 was eligible to purchase machinery tax free against declaration in Form IA. This

benefit was, however, withdrawn in the case of small scale/village/cottage industries set up on or after 1 April 1986.

In two cases of Cuttack I(East) and Ganjam I circles misutilisation of Form 1B/1D for sale/purchase of machinery led to the underassessment of tax amounting to Rs.59,043.

On this being pointed out the assessing officer of Cuttack-I (East) circle completed re-assessment and raised extra demand of Rs.35,837 and the assessing officer, Ganjam I circle reopened the case. Further reply is awaited.

(v) Contravention of declaration in Form XXXIV under OST Act

Under the OST Act, 1947 when a registered dealer purchases goods specified in his certificate of registration, without payment of tax for resale in the State in a manner that such resale is subject to tax under the OST Act, by furnishing a declaration to that effect in the prescribed form but sells those goods in any other manner, the price of the goods so purchased shall be included in his taxable turnover and he shall be liable to pay tax thereon. This has also been judicially confirmed by Hon'ble High Court of Orissa*.

(a) In Rourkela II circle, a registered dealer purchased non-ferrous materials valued at Rs.4.60 lakhs on the strength of declarations in Form XXXIV during the year 1991-92 and Rs.39.76 lakhs during the year 1992-93. However, the assessment records for these years revealed that out of these, the dealer resold goods tax free to SSI units on declaration in Form ID amounting to Rs.10.13 lakhs during 1991-92 and Rs.26.61 lakhs during 1992-93. As no tax was collected during the entire series of sales the dealer was liable to pay tax on the corresponding purchase value of the goods so sold. This resulted in evasion of tax amounting to Rs.4.73 lakhs including surcharge.

(b) Similarly another dealer of the same circle purchased non-ferrous materials valued at Rs.26.51 lakhs on the strength of declaration in Form XXXIV during the year 1991-92 and Rs.64.13 lakhs during the year 1992-93. The assessment records relating to these years revealed that the dealer effected inter-State sales of Rs.1.92 lakhs in the year 1991-92 and intra-State sale to SSI units free of tax on declaration in Form 1B/1D amounting to Rs.14.65 lakhs in the year 1992-93, out of the goods purchased by him on declaration Form XXXIV. Thus the dealer contravened the provisions of declaration as no

* State of Orissa Vs. Sahoo Traders, SJC No.27 of 1990

tax was collected by him nor was there any scope for further levy of tax under the OST Act at subsequent point. This resulted in evasion of tax amounting to Rs. 1.99 lakhs.

(vi) **Fraudulent use of declaration Forms XXXIV**

The following cases of fraudulent use of declaration Forms XXXIV were noticed.

(a) **Use after cancellation of certificate of registration**

(i) In Cuttack-I (West) circle a registered dealer carrying on business in 'Zarda', 'Panmasala' and 'Blade' claimed deduction of Rs.29.49 lakhs from his gross turnover for the year 1993-94 towards sales made to registered dealers on furnishing declaration in Form XXXIV. Out of the above sales, the dealer effected sale of 'blades' to one registered dealer of Rourkela-I circle amounting to Rs.11.42 lakhs.

On cross verification in Rourkela I circle, it was noticed that the certificate of registration of the purchasing dealer was cancelled u/s 9(3)(e) of the OST Act, w.e.f. 1 April 1989. Further scrutiny revealed that the blank declaration Form XXXIV on the basis of which the dealer purchased the goods in question were actually not issued to him but were issued to a dealer of Balasore circle who surrendered the same to the CTO Balasore on 22 June 1993 consequent upon cancellation of his certificate of registration with effect from 1 April 1993. These declaration forms were cancelled (22 June 1993) by the assessing officer, Balasore circle and stated to have been kept in his custody. However, the same could not be produced to audit when called for (May 1995). Fraudulent use of statutory declaration forms resulted in loss of revenue of Rs. 1.51 lakhs including surcharge of Rs. 13,704.

(ii) The same dealer of Cuttack-I (West) Circle, effected sale of 'blades' amounting to Rs. 14.39 lakhs to two other dealers against statutory forms as detailed below :

Sl. No.	Name of the purchasing dealer	No. of Form XXXIV used	Period of transaction	Value of goods involved (in Rupees)	Remarks
1.	M/s R	EV-263105 EV-263118 EV-263119 EV-263122 EV-263124	December 1993 to February 1994	7,03,007	"Blades" were not specified in purchasing dealer's R.C. which stood cancelled w.e.f. 1.4.89 Vide CTO, Bolangir order No.4576/CT/90 Dt.20.6.1990

Sl. No.	Name of the purchasing dealer	No. of Form XXXIV used	Period of transaction	Value of goods involved (in Rupees)	Remarks
2.	M/s S	EV/A 293880 to EV/A 293884	February 1994	7,35,910	"Blades" were not specified in purchasing dealer's RC which stood cancelled w.e.f. 1-4-92 Vide CTO. Koraput-I. Jeypore order No.9786/CT-94 Dt.31.3.94
Total				14,38,917	

Thus, deduction of Rs.14.39 lakhs allowed by the assessing officer towards sales made to unregistered dealers was irregular which resulted in under-assessment of tax of Rs.1.90 lakhs including surcharge of Rs.17,267. In both these cases the purchasing dealers were also liable for penal action under Section 25 (2) of the Act but no action was taken.

On this being pointed out, the assessing officer stated that he would initiate proceedings for reassessment.

(b) Use of same declaration form by two different dealers

In Rourkela II circle a registered dealer "X" was allowed deduction of Rs.22.34 lakhs towards sales to registered dealers on declaration in Form XXXIV in the assessment for the year 1992-93 (assessed on 28 January 1994). Another dealer "Y" of the same circle was also allowed deduction amounting to Rs.7.82 lakhs towards sales to registered dealers on furnishing declaration in Form XXXIV in the assessment for the year 1992-93 (assessed on 30 November 1994).

On verification of both the above dealers' accounts it was noticed that the declaration Form XXXIV bearing No.CX-033823 was issued by a purchasing dealer of Rourkela I circle in favour of "X" against purchase of goods valued at Rs.6,12,730 vide bill no.99 dated 13.3.1993. The assessing officer allowed deduction to this extent to "X" in the assessment. However this form was not available in the assessment records of the assessee "X" at the time of audit. Instead, it was found in assessment records for the year 1992-93 of another dealer "Y", who had submitted it for availing deduction of Rs.3.37 lakhs towards sales to the same registered dealer by striking off and overwriting the entries in relevant columns and the assessing officer also allowed the deduction.

Fraudulent use of declaration forms resulted in loss of revenue of Rs.44,523 (including surcharge of Rs.4,047).

On these cases being pointed out in audit the department accepted the lapses and stated (September 1995) that the matter was under examination.

(vii) Non-verification of transactions effected on declaration forms under OST Act

According to the standing instructions issued by the CCT on the procedure for custody, accountal and verification of declaration forms issued under the OST Act 1947, a dealer is required to render utilisation account of declaration forms alongwith duplicate copies of such forms. The duplicate copies of declaration forms received by the concerned assessing officers should be scrutinised and those relating to the selling dealers within the same circle should be sorted out for placement in the relevant assessment records for cross verification of transactions so effected by the purchasing dealer with those disclosed by the selling dealer. If the selling dealer happens to be a dealer within the jurisdiction of any other circle, once in a week all the duplicate copies of declaration forms relating to such dealers should be sent to the concerned assessing officer for verification.

A test check of records of 7 circles* relating to utilisation accounts of declaration form XXXIV/IB submitted by the dealers revealed that duplicate copies of forms, received from them were either not sent to the concerned assessing officer of other circles or in cases where they were sent no verification report was obtained from them. However, cross verification of transactions effected on statutory declaration forms under the OST Act, conducted by audit revealed the following discrepancies.

(a) In Rourkela I circle a dealer submitted "nil" return for the year 1992-93 and 1993-94. But on cross verification of the concerned selling dealer's accounts it was noticed that the above purchasing dealer had purchased non-ferrous materials valued at Rs.40.48 lakhs free of tax from these dealers on the strength of declaration in Form XXXIV during the year 1992-93. Suppression of purchases valued at Rs.40.48 lakhs led to consequential suppression of sales of Rs.44.53 lakhs resulting in evasion of tax of Rs.5.87 lakhs.

On this being pointed out in audit the assessing officer agreed to initiate proceedings for reassessment.

Bhubaneswar I, Cuttack I (Central), Cuttack I (East), Cuttack I (West), Cuttack II, Ganjam I, Rourkela II

(b) In the same circle it was noticed that the assessment of a registered dealer for three years 1989-90, 1990-91 and 1991-92 was completed on 31 March 1993 by determining his gross turnover and taxable turnover as "NIL".

On cross verification by audit of assessment records of another two registered dealers of the same circle, it was noticed that the instant dealer had purchased "non-ferrous materials" valued at Rs.8.56 lakhs during the year 1991-92 on the strength of declaration Form XXXIV. He also did not render the accounts of Form XXXIV (25 Nos.) issued to him during July 1988 and the department did not take any action in this regard. The total sale turnover on such purchase worked out to Rs.8.99 lakhs (after adding margin of profit at 5 per cent). This resulted in short levy of tax amounting to Rs.1.19 lakhs.

On this being pointed out in audit the assessing officer completed the reassessment proceedings (May 1994) and raised extra demands of Rs.1.95 lakhs, Rs.2.10 lakhs and Rs.9.57 lakhs for 1989-90, 1990-91 and 1991-92 respectively.

(c) In the following circles, purchases disclosed by the dealers in their purchase statements (submitted during the assessment) were less than those reflected in the utilisation of form accounts (i.e. goods actually purchased against the declaration forms) as detailed below:

Name of the Circle	Declaration forms used by dealers	Year of transaction	Value of purchases covered under the declaration forms	Value of purchases accounted	Value of purchases short accounted	Consequential sales suppression	Tax effect
(R u p e e s i n l a k h s)							
1.	2.	3.	4.	5.	6.	7.	8.
Cuttack I (Central)	Form XXXIV	1991-92	6.24	3.22	3.02	3.48	0.14
		1992-93	5.20	1.90	3.30	3.79	0.15
		1993-94	18.58	5.90	12.68	14.57	0.58
-do-	Form C/F	1992-93	2.90	-	2.90	3.34	0.59
Ganjam I	Form XXXIV	1991-92	13.14	12.17	0.97	1.17	0.05
		1992-93	16.68	7.04	9.64	11.57	0.51
		1993-94	34.49	28.75	5.74	6.89	0.30
Sambalpur-I	Form XXXIV	1991-92	23.61	17.06	6.55	7.21	0.32
Cuttack-II	Form XXXIV	1992-93	92.01	90.50	1.51	1.60	0.07

Name of the Circle	Declaration forms used by dealers	Year of transaction	Value of purchases covered under the declaration forms	Value of purchases accounted	Value of purchases short accounted	Consequential sales suppression	Tax effect
(R u p e e s i n l a k h s)							
1.	2.	3.	4.	5.	6.	7.	8.
Cuttack-I (West)	Form XXXIV	1991-92	102.48	79.31	23.17	25.47	2.54
		1992-93	14.12	2.59	11.53	12.69	0.56
		1993-94	31.49	6.04	25.45	28.00	1.23
Cuttack-I (East)	Form 'F'	1992-93	17.71	-	4.59	5.04	0.69
Rourkela-II	Form XXXIV	1990-91	7.63	4.46	3.17	3.49	0.15
		1991-92	33.92	21.37	12.55	13.81	0.94
		1992-93	173.92	117.14	56.78	62.58	5.66
		1993-94	39.77	33.65	6.12	6.74	0.89
Total					189.67	211.44	15.37

The above short account of purchases led to consequential sales suppression amounting to Rs.211.44 lakhs resulting in short levy of tax of Rs. 15.37 lakhs.

On this being pointed out in audit the concerned assessing officers agreed to reopen the cases.

2.2.6. Other topics of interest

(i) Retention of forms after cancellation of certificate of registration

Under the OST Act 1947 and CST Act 1956 statutory forms may be issued to the registered dealers only. As such no dealer can use such forms for making sales/purchases tax free/at concessional rates after his certificate of registration under the State/Central Act is cancelled. The forms, if any, remaining unused on the date of cancellation of certificate of registration should be surrendered to the issuing authority (concerned STO) by the dealer forthwith.

It was noticed in audit that 48 dealers of 6 circles* whose certificates of registration were cancelled during the period from 1988-89 to 1993-94 neither surrendered 1284 unused declaration forms (396 "C" forms, 110 "F" forms, 753 Form

* Bhubaneswar I, Cuttack I(Central), Cuttack I (East), Cuttack I (West), Cuttack II and Ganjam I

XXXIV and 25 IB forms) lying with them at the time of cancellation of their Certificates of Registration nor any adequate action was taken by the department to get back such unused forms. This is likely to result in misuse of the forms.

On this being pointed out in audit the assessing officers stated that they would get back the unused forms.

(ii) Retention of forms beyond expiry of period of eligibility

The registered dealer industries are required to surrender the unused statutory declaration forms, if any, lying with them after the expiry of the specified period of eligibility.

A test check of relevant records in 6 circles* revealed that 1624 declaration forms (905 IA forms, 694 IB forms and 25 IE forms) were lying with 68 dealers even after the expiry of their eligibility period from 1988-89 to 1993-94. Neither the concerned dealers rendered utilisation accounts nor surrendered the unused forms to the department. The department also did not initiate any action to take back such forms, leaving scope for misuse.

On this being pointed out in audit the concerned assessing officers agreed to get back the unused forms.

The above points were brought to the notice of Government (May 1995); their reply has not been received (October 1995).

2.3 Short levy of tax

Under the Orissa Sales Tax Act, 1947, sale includes transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. The commissioner of Commercial Taxes, Orissa in a circular dated 18 July 1988 clarified that hire charges should be taxed at the same rate as applicable to the goods involved. Under the Act 'machinery' was taxable at the rate of 12 per cent upto 30 June 1990 and at the rate of 16 per cent thereafter.

* Bhubaneswar I, Cuttack I(Central), Cuttack I (West), Cuttack II, Ganjam I and Sambalpur I.

Under the Act *ibid* taxable turnover in respect of works contract shall be deemed to be gross value received or receivable by a dealer for carrying out such contract less the amount of labour charges and service charges incurred for the execution of such contract. Such turnover is taxable at the rate of 4 *per cent*. Further, if for any reason the turnover of a dealer for any period has escaped assessment or has been underassessed the assessing authority may, at any time within five years from the expiry of the year to which that period relates, proceed to assess the amount of tax due from the dealer.

In the course of audit (August 1994 to October 1994) of Rourkela I circle the following irregularities were noticed (August 1994 to October 1994) in the assessments for the years 1986-87 to 1990-91 of a works contractor which resulted in short levy of tax aggregating Rs.14.72 lakhs.

- (a) Reassessment of the dealer for the years 1986-87 and 1987-88 was completed on receipt of a vigilance report (December 1992) alleging suppression of turnover *inter alia* on account of hire charges of machinery. In the reassessment, gross turnover was enhanced by Rs.67.20 lakhs and Rs.34.99 lakhs for the years 1986-87 and 1987-88 respectively which included Rs.24 lakhs for each of the years towards hire charges of machinery. The assessing officer while finalising the assessments allowed 32 *per cent* deduction for each year towards labour charges and service charges treating the entire turnover as works contract. As hire charges received by hiring out machinery was a transaction distinct from works contract the deduction allowed was irregular. This resulted in short levy of tax amounting to Rs.1.92 lakhs including additional sales tax of Rs.7,680.
- (b) The entire taxable turnover determined in the reassessment for the years 1986-87 and 1987-88 was taxed at the rate of 4 *per cent* applicable to works contract though hire charges component of the taxable turnover (Rs.32.64 lakhs) was taxable at the rate of 12 *per cent* (rate applicable to machinery). The application of incorrect rate of tax resulted in short levy of tax amounting to Rs.2.61 lakhs.

- (c) The assessments for the years 1988-89 to 1990-91 were completed in 1989-90 and 1991-92. Though reassessments for 1986-87 and 1987-88 were completed (February 1994) on receipt of vigilance report, no proceedings were initiated for re-assessment for the subsequent years i.e. 1988-89 to 1990-91 nor any investigation was made to unearth any possible suppression in those years. However, audit on verification of profit and loss account of the dealer, filed by him before the income tax authority, noticed that the dealer had received hire charges of machinery amounting to Rs.72.63 lakhs during the years 1988-89 to 1990-91 which were not assessed to tax. Non-disclosure of the above turnover by the dealer and failure of the assessing officer to detect the same led to turnover of Rs.72.63 lakhs escaping assessment with consequential short levy of tax amounting to Rs.10.19 lakhs including additional sales tax (Rs.46,544) and surcharge (Rs.28,800)

On these being pointed out in audit (August 1994 and October 1994) the assessing officer stated (October 1994) that the cases for the years 1986-87 and 1987-88 were pending with the first appellate authority to whom the audit objection would be communicated for consideration. No further information has been received (October 1995). As to the years 1989-90 and 1990-91 the assessing officer initiated re-assessment proceedings (October 1994). In respect of the years 1988-89 it was stated (October 1994) that the Assistant Commissioner of Sales Tax would be moved to initiate proceedings. As the re-assessment/revision for the year 1988-89 had already become time barred, tax amounting to Rs.3.06 lakhs (out of total short levy of Rs.14.72 lakhs) for that year, had been rendered irrecoverable.

The matter was reported to Government (February 1995); their reply has not been received (October 1995).

2.4 Short levy of tax due to application of incorrect rate

(a) Under the provisions of the Orissa Sales Tax Act, 1947, different rates of tax are applicable in respect of different commodities. Application of incorrect rates of tax in 4 cases resulted in short levy of tax of Rs.2.59 lakhs as per details given below :

Sl.no	Name of the circle	Year assessed	Name of the commodity	Taxable turn-over (Rupees in lakhs)	Rate of tax leviable	Rate of tax levied	Short levy (Rupees)	Remarks
1.	Bhubaneswar-I	1991-92	Marine Engine	4.23	16%	8%	37,245	The assessing officer has reopened the case for reassessment (August 1995)
2.	Bhubaneswar II	1992-93	Spares and equipments of machinery	9.90	16%	12%	43,578	The assessing officer had reopened the case for reassessment (July 1994). Further reply not received (October 1995)
3.	Rourkela I	1990-91	Hire chages of machinery	18.19	16% (w.e.f. 1 July 1990)	12%	80,046	Demand of Rs.80,046 raised. The dealer has deposited Rs.40,000 (March 1995) and gone for appeal. The balance amount is under stay.
4.	Rourkela II	1992-93	Hand pump (judicially held as machinery)	22.22	16%	12%	97,769	The assessing officer has raised demand of Rs.97,770/- (July 1995).
Total							2,58,638	

* OM Engineering Co.(p) Limited, Vs. Commissioner of Sales Tax, UP Lucknow (1976)38 STC-553 (Allahabad)

(b) Under the Central Sales Tax Act, 1956, on inter-State sale of goods (other than declared goods) by one registered dealer to another or to Government, tax is leviable at concessional rate of 4 *per cent* if such sales are supported by prescribed declarations in Form C or D as the case may be. Otherwise tax is leviable at the rate of 10 *per cent* or at the rate leviable on sale of such goods within the State under the State law, whichever is higher. Timber is taxable at the rate of 12 *per cent* under the OST Act, 1947 with effect from 1 July 1990.

During the course of audit of Cuttack-I (West) Circle it was noticed (May 1994) that a registered dealer sold timber valued at Rs.18.06 lakhs to Railways during the year 1992-93 in the course of inter-State trade or commerce. The sales were not supported by declaration in Form 'D'. The assessing officer levied tax at the rate of 10 *per cent* instead of 12 *per cent*. The application of incorrect rate resulted in short levy of tax amounting to Rs.36,123.

On this being pointed out in audit (May 1994), the assessing officer raised (March 1995) demand of Rs.36,123. The report on realisation has not been received (October 1995).

The matter was reported to Government (August 1994); they confirmed the fact of raising demand (September 1995).

2.5 Underassessment due to misclassification of goods

(a) Under the Orissa Sales Tax Act, 1947, perfumery, perfumed oil, and cosmetics of all varieties are taxable at the rate of 16 *per cent*.

During the course of audit of Cuttack-I (West) circle it was noticed (December 1994) that a registered dealer sold perfumed hair oil valued at Rs.2.58 lakhs during the year 1992-93. While completing the assessment (July 1993) the sale was taxed at the rate of 4 *per cent* treating the same as "drug" on the ground that it was a medicinal preparation. The misclassification resulted in short levy of tax amounting to Rs.34,002 including surcharge of Rs.3,091.

On this being pointed out in audit (December 1994) it was stated by the assessing officer (December 1994) that as per objection raised by audit earlier, re-assessment proceedings had been initiated (November 1994). Further report has not been received (October 1995).

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

(b) Under the Orissa Sales Tax Act, 1947, 'cotton' that is to say all kinds of 'cotton' (indigenous or imported) in the manufactured state, whether ginned or unginned, baled pressed or otherwise but not including 'cotton' yarn and yarn waste, is taxable at the rate of 4 *per cent*. In the notification dated 30 June 1990 'cotton' (item no.30) and 'cotton' waste (item no.36) have been specified as two distinct items to be taxed at the first point of sale in a series of sales. 'Cotton' waste being an unspecified item was taxable at the general rate of 8 *per cent* upto 30 June 1990 and at the rate of 12 *per cent* thereafter.

During the course of audit of Bolangir II circle it was noticed (November 1994) that in the assessment for the years 1990-91, 1991-92 and 1992-93 of a registered dealer sale turnover of cotton waste valued at Rs.6.87 lakhs (1990-91 Rs.2 lakhs, 1991-92 Rs.2.70 lakhs and 1992-93 Rs.2.17 lakhs) was erroneously taxed at the rate of 4 *per cent* treating the same as cotton instead of at the rate of 8 *per cent* upto June 1990 and 12 *per cent* thereafter. This resulted in short levy of tax amounting to Rs.53,619.

On this being pointed out in audit (November 1994) the assessing officer initiated re-assessment proceedings (November 1994). Further report has not been received (October 1995).

The matter was reported to Government (March 1995); their reply has not been received (October 1995).

(c) Under the Orissa Sales Tax Act, 1947, drugs as defined under the Drug and Cosmetics Act, 1940 are taxable at the rate of 4 *per cent*. It has been judicially held* that cotton roller bandages used for the purpose of healing cuts and wounds would fall under the meaning of "drugs and medicines" and not under "handloom fabrics of all varieties".

During the course of audit of Rourkela-II circle it was noticed (February 1995) that while finalising the assessment of a registered dealer (March 1994) for the year 1992-93 sale of handloom gauze cloth, handloom bandage cloth and handloom cotton bandage cloth valued at Rs.19.78 lakhs made to hospitals etc. was allowed tax free

* Chimantlal Jagjivandas Sheth Vs. State of Maharashtra AIR 1963 SC 665

treating the same as handloom cloth. This resulted in non-levy of tax of Rs.87,024 including surcharge of Rs.7,911.

On this being pointed out in audit (February 1995) the assessing officer re-opened the case (February 1995) for re-assessment. Further report has not been received (October 1995).

The matter was reported to Government (May 1995); their reply has not been received (October 1995).

2.6 Non-levy of surcharge

Under the Orissa Sales tax Act, 1947, every dealer whose gross turnover during any year exceeds rupees ten lakhs, shall, in addition to tax payable by him, pay surcharge at the rate of ten *per cent* of the total amount of tax payable by him with effect from 1 July 1990.

During the course of audit of eight circles* it was noticed (between April 1994 and March 1995) that in ten cases the assessing officers while completing the assessment for the years 1990-91 to 1992-93 omitted to levy surcharge though the gross turnover in all the cases exceeded the prescribed limit during all these years. This resulted in non-levy of surcharge amounting to Rs.3.06 lakhs.

On this being pointed out in audit (between April 1994 and March 1995) in six cases the assessing officers of Cuttack-I (East), Cuttack-I (West), Cuttack-I(Central), Mayurbhanj, Ganjam-II, Rourkela-I and Sambalpur-I raised demand aggregating Rs.2.00 lakhs and others reopened the cases. Report on realisation has not been received (October 1995).

The matter was reported to Government (between August 1994 and June 1995). In reply they confirmed the fact of raising demand in case of Cuttack I (East), Cuttack-I (West) and Sambalpur-I dealers. In case of Mayurbhanj dealer they stated that the case had been remanded by the appellate authority and the reassessment was pending. As

* Cuttack-I(East), Cuttack-I(West), Cuttack-I(Central),Cuttack-II,Ganjam-II,Mayurbhanj, Rourkela-I,Sambalpur-I

regards Cuttack-I (Central) dealer it was stated that the appeal for the 12(4) assessment of 1991-92 was allowed in full; further details as to whether demand for surcharge, which was separately raised, was quashed or not have not been received.

2.7 Short levy of tax due to irregular allowance of deduction

Under the Orissa Sales Tax Act, 1947, the State Government may notify the points in the series of sales by successive dealers at which any goods may be taxed. Accordingly cement has been notified to be taxed at the first point of sale with effect from 1 April 1978.

Further, under the Act *ibid* (Explanation below Sec.8 of the OST Act 1947), where, in a series of sales, tax is notified to be levied at the first point, such point, in respect of goods despatched from outside the state of Orissa shall mean and shall always be deemed to have meant the first of such sales effected by a dealer liable under the Act *ibid* after the goods are actually taken delivery by him inside the State of Orissa.

During the course of audit of Koraput-I circle, it was noticed (December 1994) that an unregistered dealer purchased cement during the year 1992-93 from outside Orissa and sold the same during the year 1992-93 for Rs.4.71 lakhs. His sale being the first sale in Orissa, the dealer was liable to pay tax on such sale. But while completing the assessment the assessing officer allowed the sale to be deducted from the gross turnover on the ground that tax was already paid at the check-gate while transporting the cement from outside the State. Scrutiny revealed that the tax was paid at the check-gate by the seller of the outside state and not by the assessee dealer. Since no tax was paid by the assessee dealer after taking delivery of the goods as first seller inside the state, the deduction allowed was irregular. This resulted in short levy of tax of Rs.62,172 including surcharge of Rs.5,652.

On this being pointed out in audit (December 1994) the assessing officer reopened the case (January 1995). Further report has not been received (October 1995).

The matter was reported to Government (March 1995). In reply they have stated that the dealer preferred appeal and the appellate authority while disposing of the appeal

case included the amount of Rs.4.71 lakhs pointed out by audit in the taxable turnover determined by him.

2.8 Non-levy of central sales tax

Under the Central Sales Tax Act, 1956, inter-State sale of goods made to a registered dealer is taxable at the rate of 4 *per cent* provided such sales are supported by declarations in Form-C.

Under the Orissa Sales Tax Act, 1947, and the rules made thereunder, the tax levied and realised in respect of sale or purchase inside the State of any declared goods, shall, if such goods are sold in the course of inter-State trade or commerce, be refunded to the dealer who made the inter-State sale and had paid the tax (Central Sales Tax) in respect of such sales.

During the course of audit of Cuttack-II circle it was noticed (December 1994) that a registered dealer purchased 9185 MT of coal (declared goods) during the year 1991-92 by paying tax at the first point of sale inside the State. Out of the above purchases, the dealer effected inter-State sale of 4650 MT during the year 1991-92 for Rs.80.26 lakhs which was supported by declarations in Form-C.

While completing the assessment under the Central Sales Tax Act, tax was not levied on the ground that coal being declared goods and tax having been paid under the State Act, no further tax was leviable on inter-State sale of such goods. The action of the assessing officer was irregular in as much as the dealer was liable to pay Central Sales Tax and may take refund of tax already paid under the State Act. This resulted in non-levy of central sales tax of Rs.3.21 lakhs calculated at the rate of 4 *per cent* on Rs.80.26 lakhs. Even after allowing the estimated refund of Rs.49,372 the net accrual of revenue out of the CST due of Rs.3.21 lakhs if realised, would be to the extent of Rs.2.72 lakhs.

On this being pointed out in audit (December 1994), the assessing officer initiated re-assessment proceedings.

The matter was reported to Government (March 1995); their reply has not been received (October 1995).

2.9 Loss of revenue due to delay in notifying the tax rate

The Orissa Sales Tax Act, 1947, provides that the tax payable by a dealer shall be levied on his taxable turnover at such rate as notified from time to time.

Under the Act *ibid* sugar which included Khandsari sugar as described in the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 was tax free. With the enactment of the Union Finance (No.2) Act, 1991 with effect from 27 September 1991, the schedule was amended deleting Khandsari sugar from the description of sugar. Thus Khandsari sugar became exigible to tax under the Orissa Sales Tax Act, 1947 with effect from 27 September 1991. However, Government notified the rate of tax for Khandsari sugar (at 4 *per cent*) only with effect from 21 April 1993. Consequently, from 27 September 1991 to 20 April 1993 even though Khandsari sugar was exigible to tax (being deleted from the tax free list) yet it could not be assessed to tax in the absence of any notification prescribing the rate of tax as required under Section 5 of the Act *ibid*.

It was noticed in audit (July 1994 to January 1995) that in four circles {Ganjam-I, Rourkela-I, Koraput-I, and Cuttack-I-(East)} ten registered dealers claimed tax free sale of Khandsari sugar valued at Rs.60.89 lakhs in 1991-92 and Rs.106.03 lakhs in 1992-93. In the assessments, the assessing officers also allowed the deductions which were irregular and resulted in non-levy of tax amounting to Rs.5.46 lakhs (Rs.1.22 lakhs for 1991-92 and Rs.4.24 lakhs for 1992-93). Though actual sale turnover of Khandsari sugar for the period from 27 September 1991 to 31 March 1992 was not ascertainable from the assessment records of the concerned dealers the same was estimated at Rs.30.45 lakhs i.e. approximately 50% of total turnover of Khandsari sugar for the year 1991-92.

On this being pointed out in audit (July 1994 to January 1995) two assessing officers (Ganjam-I(ward A) and Koraput-I (ward C) reopened the assessments. One assessing officer (Rourkela-I ward A) agreed to reexamine the cases. His report has not been received (August 1995). The remaining assessing officers (Koraput-I (ward- A, B and D) and Cuttack-I (E) (ward B and D) justified the deductions on the ground of non assessability to tax in the absence of Government notification specifying the rate of tax. This was not acceptable as in view of the anomalous position the assessing officers should have sought for clarification from the higher authority before completing the assessment.

The matter was reported to Government (October 1994 to April 1995) followed by reminder in (August 1995); their reply has not been received (October 1995).

2.10 Irregular treatment of divisible contract as indivisible

Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by the dealer for carrying out such contract less the amount of labour charges and service charges incurred for the execution of the contract. The taxable turnover is taxable at the rate of 4 *per cent*. It has been judicially held* that the work of installation of airconditioning units is incidental to the sale of airconditioners and does not amount to a composite and indivisible works contract. Under the Act *ibid* airconditioning and cooling appliances and apparatus are taxable at the rate of 16 *per cent*.

During the course of audit of Cuttack-I(West) Circle it was noticed (May 1993) that a registered dealer executed works of supply and installation of airconditioners and appliances during the year 1991-92 and received payment of Rs.25.12 lakhs. While completing the assessment(January 1993) the assessing officer treated the work as a composite and indivisible contract and determined the taxable turnover at Rs.21.70 lakhs, after allowing deduction of Rs.2.84 lakhs and Rs.0.58 lakh towards labour charges and installation charges respectively. The taxable turnover was assessed to tax at the rate of 4 *per cent* instead of at the rate of 16 *per cent*. This resulted in short levy of tax amounting to Rs.2.86 lakhs including surcharge of Rs.26,039.

On this being pointed out in audit (May 1993) the assessing officer initiated reassessment proceedings and raised extra demand of Rs.2.87 lakhs (March 1994) against which the dealer preferred appeal which is still pending (August 1995).

The matter was reported to Govt.(August 1993); their reply has not been received (October 1995).

* M/s Lloyd Sales Corporation vs. State of Andhra Pradesh-(1992)-86 STC-529

2.11 Non-levy of interest for furnishing incorrect returns

Under the Orissa Sales Tax Act, 1947, if the assessing officer is satisfied that a dealer has knowingly or without sufficient cause furnished incorrect returns or information affecting or intended to affect the quantum of tax payable by him or his liability to pay tax for the period for which such assessment is made, he may direct that the dealer shall, in addition to the tax assessed, pay interest at the rate of 24 *per cent* per annum on the tax payable in respect of the taxable turnover not incorporated in the return for a period of ninety days or from the period beginning from the date on which the return was due and ending on the date of assessment whichever is less.

During the course of audit of Cuttack-I (West) circle it was noticed (March 1995) that a registered dealer sold taxable commodities (atta, dal, gunny bags) valued at Rs.767.83 lakhs during the years from 1990-91 to 1992-93. This taxable turnover was neither exhibited in the returns nor tax was paid thereon. This was detected by the assessing officer at the time of assessment. He raised demand of tax amounting to Rs.34.52 lakhs(including surcharge of Rs.2.99 lakhs and additional sales tax of Rs.0.69 lakhs) but did not levy interest of Rs.2.04 lakhs.

On this being pointed out in audit (March 1995), the assessing officer initiated proceedings (March 1995) for levy of interest and raised demand (July 1995) of Rs.2.04 lakhs. The report on realisation has not been received (October 1995).

The matter was reported to Government (June 1995); they confirmed the fact of raising demand (September 1995).

2.12 Non-levy of penalty

(a) Under the Central Sales Tax Act, 1956, a registered dealer may purchase goods from a dealer in another State at a concessional rate of tax by furnishing declaration in prescribed Form 'C' provided such goods have been specified in his certificate of registration as being intended for resale/use in manufacture, processing of goods for sale etc. Issue of Form 'C' for purchasing goods which are not covered by specification in the registration certificate constitutes an offence for which the dealer is liable for prosecution. The registering authority may, however, impose, in lieu of prosecution, a penalty not exceeding one and half times the amount of tax which would have been levied.

In Cuttack I (Central) circle a dealer registered under the Central Sales Tax Act, 1956, purchased (May 1989 to November 1989) goods (styromac/styroper) valued at Rs.6.43 lakhs and paid tax at the concessional rate of four *per cent* by furnishing declaration in Form 'C'. It was noticed (May 1993) in audit that the goods so purchased were not covered by the specification in his registration certificate during the above period. The assessing officer neither took any action for prosecution of the dealer nor did he impose any penalty in lieu thereof. The maximum penalty leviable in this case amounted to Rs.96,406.

On this being pointed out in audit (May 1993) the assessing officer imposed a penalty of Rs.1.06 lakhs. The dealer filed revision petition (October 1994) before the Additional Commissioner of Sales Tax, Orissa.

The Government to whom the matter was reported in November 1993 confirmed the imposition of the penalty (July 1995).

(b) Under the Orissa Sales Tax Act, 1947, if an unregistered dealer realises any amount by way of tax, penalty not exceeding thrice the amount of tax so realised could be levied.

During the course of audit of Sambalpur-II circle, Bargarh, it was noticed (December 1993) that the registration certificate of a dealer was cancelled on 11 October 1990 with retrospective effect from 1 April 1990. Despite the order of cancellation having been served upon the dealer on 5 November 1990, he continued to collect sales tax. The tax so collected from 6 November 1990 to 31 March 1991 amounted to Rs.25,687 for which he was liable to pay a maximum penalty of Rs.77,062.

On this being pointed out in audit (December 1993) the assessing officer imposed (July 1994) a penalty of Rs.77,062.

The matter was reported to Government (April 1994). They confirmed the fact of imposition of penalty (January 1995) and stated that necessary action was being taken for realisation of the dues.

2.13 Irregular grant of exemption

(a) Under the Orissa Sales Tax Act, 1947, "aluminium utensils" being unspecified item were taxable at a general rate of 8 *per cent* upto 30 June 1990. Under the Act *ibid*, in case

a dealer furnishes an incorrect return affecting the quantum of tax payable by him the assessing officer may direct that the dealer shall pay, in addition to the tax assessed, interest at the rate of 24 *per cent* per annum for a period of ninety days or for the period beginning from the date on which the return was due and ending on the date of assessment, whichever is less.

During the course of audit of Bolangir-I circle it was noticed (September 1993) that assessment for the year 1989-90 of a registered dealer engaged in manufacture and sale of brass and aluminium utensils was completed *ex parte* on 31 March 1993. While completing the assessment, the tax exemption on sale of aluminium utensils valued at Rs.4.18 lakhs as claimed by the dealer was allowed without recording any reasons. The exemption allowed was irregular and resulted in short levy of tax of Rs.37,602 including additional sale tax of Rs.4178. Besides, the dealer was also liable to pay interest of Rs.2225 for having furnished incorrect return.

On this being pointed out in audit the assessing officer raised extra demand of Rs.42,915 (March 1994) for the entire amount including additional sales tax and interest.

The matter was reported to Government (April 1994); their reply has not been received (October 1995).

(b) Under the Orissa Sales Tax Act, 1947, sale of raw-materials, that is to say, goods which directly go into the composition of finished products, when sold to a registered dealer who is certified by the Director of Industries as a village/cottage/small scale industry starting production inside the State on or after 1 August 1980, is exempt from levy of tax for a period of 'five' years from the date of certification subject to furnishing of a declaration in Form I-A.

During the course of audit in Cuttack-I (Central) Circle, it was noticed (May 1994) that in the assessment of a dealer for the year 1990-91, sale turnover of Rs.64.45 lakhs was exempted from tax on the strength of declaration in Form I-A though sales amounting to Rs.38.05 lakhs were made after expiry of five years from the date of certification. This resulted in short levy of tax of Rs.5.02 lakhs including surcharge of Rs.45,633.

On this being pointed out in audit (May 1994) the assessing officer raised extra demand of Rs.1.67 lakhs (January 1995).

The matter was reported to Government (August 1994); their reply has not been received (October 1995).

2.14 Non-levy/Short levy of additional Sales Tax

Under the Orissa Additional Sales Tax Act, 1975, as amended in 1979, every dealer shall, in addition to sales tax, be liable to pay additional sales tax at the rate of half per cent upto 30 November 1988 and at the rate of one per cent thereafter upto 30 June 1990 on his gross turnover other than the turnover relating to declared goods and any goods exempted from tax under the Orissa Sales Tax Act, 1947.

Further, in the cases of inter-State sale of goods (other than declared goods) where as a result of sales not being supported by prescribed declarations, tax is required to be levied at the rate applicable to the sale of such goods inside the appropriate State, Hon'ble Supreme Court held¹ that additional sales tax could be levied on such inter-State sales of goods in regard to which no notification has been made under the Central Sales Tax Act, 1956 fixing a specific lower rate of tax in the public interest.

In the course of audit of 4 Commercial Tax circles (Bhubaneswar I, Cuttack III, Mayurbhanj, Sambalpur I) it was noticed (between July 1994 and March 1995) that in 5 cases (4 assessed under State Act and 1 under Central Act) additional sales tax amounting to Rs.53,268 was short levied/not levied.

On these being pointed out in audit (between July 1994 and March 1995) one assessing officer (Sambalpur-I) raised demand (November 1994), three assessing officers (Mayurbhanj-2 officers and Cuttack III) reopened the cases for reassessment and assessing officer of Bhubaneswar-I circle agreed to examine the case in the light of judicial decision.

The matter was reported to Government (between December 1994 and June 1995); their reply has not been received (October 1995).

CHAPTER - 3

TAXES ON MOTOR VEHICLES AND PASSENGERS

3.1 Results of Audit

Test check of the records relating to assessment, collection and refunds of Motor Vehicles Tax in the offices of the State Transport Authority, Orissa and Regional Transport Offices conducted in audit during 1994-95 revealed underassessment and losses etc. of revenue amounting to Rs.745.16 lakhs in 21563 cases, which may broadly be categorised as under:

	Number of cases	Amount (Rs. in lakhs)
	<u> </u>	<u> </u>
1. Short levy/short realisation of motor vehicles tax/additional tax	1438	54.17
2. Non-levy/non-realisation of motor vehicles tax/additional tax	2799	519.45
3. Short/non-realisation of compounding fees	174	3.02
4. Short/non-realisation of composite tax	2989	58.41
5. Short/non-realisation of trade certificate fees/tax	84	1.53
6. Loss due to other irregularities	14079	108.58
Total	<u>21563</u>	<u>745.16</u>

During the course of the year 1994-95, the Department accepted underassessment etc., of Rs.94.92 lakhs involved in 1280 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.386.32 lakhs are mentioned in the following paragraphs.

3.2 Non/short realisation of composite tax/penalty under National Permit Scheme

Under the National Permit Scheme, an operator of a public carrier goods vehicle authorised to ply in Orissa State but registered in another State, is liable to pay composite tax at the rate of Rs.1500 *per annum* upto 31 August 1993 and at the rate of Rs.5000 *per annum* from 1 September 1993. The composite tax which is in addition to the motor vehicles tax and other taxes payable in the State of registration of the vehicle is to be paid in advance either in lump sum on or before 15 March or in two equal instalments payable before 15 March and 15 September every year. According to the instructions issued by the Government of India in October 1993, the due date for payment of enhanced rate of composite tax for the 2nd half of 1993-94 (October to March) was extended upto 31 December 1993. The scheme provides for penalty @ Rs.100 for each month of default or any part thereof.

During the course of audit of the State Transport Authority, Orissa it was noticed (July 1994) that:

(a) Composite tax in respect of 735 vehicles was realised only for a part of the year instead of full year 1993-94 for which the vehicles were authorised to ply in Orissa. This resulted in non-realisation of composite tax amounting to Rs.16.53 lakhs.

On this being pointed out in audit (July 1994) the State Transport Authority, Orissa stated (July 1994) that the matter was being taken up with the concerned State Transport Authorities for realisation of the dues. Further report on realisation has not been received (October 1995).

The matter was reported to Government (February 1995); their reply has not been received (October 1995).

(b) The composite tax in respect of 1764 vehicles had not been realised at the correct rates for the periods between April 1993 to March 1994 during which the vehicles were authorised by the concerned home States to ply in Orissa. This resulted in short realisation of composite tax amounting to Rs.32.56 lakhs.

On this being pointed out in audit (July 1994) the State Transport Authority, Orissa stated (July 1994) that the matter was being taken up with the concerned State Transport Authorities for realisation/remittance of the balance dues. Further report has not been received (October 1995).

The matter was reported to Government (February 1995); their reply has not been received (October 1995).

(c) In respect of 879 vehicles of other States authorised to ply in Orissa under the National Permit Scheme during the period from April 1993 to March 1994, penalty amounting to Rs.2.59 lakhs for belated payment of tax, was not collected by State Transport Authorities of other States on behalf of State Transport Authority, Orissa. No action was initiated by the State Transport Authority, Orissa to realise the amount.

On this being pointed out in audit (July 1994) the State Transport Authority, Orissa, stated (July 1994) that steps were being taken to realise the dues from other State Transport Authorities concerned. Further report on realisation has not been received (October 1995).

The matter was reported to Government (February 1995); their reply has not been received (October 1995).

3.3 Non-realisation of composite tax in respect of goods vehicles under reciprocal agreement

In respect of goods vehicles belonging to the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreement, Government of Orissa decided (August 1986) to levy Rs.1,500 annually on each vehicle as composite tax (in lieu of the additional tax payable for each entry) with effect from July 1986, payable in advance in lump sum, on or before 15 April every year. In case of delay in payment, penalty of Rs.100 for each calendar month or part thereof of default is also payable in addition to the composite tax.

During the course of audit of records of State Transport Authority, Orissa, it was noticed (June 1994) that 231 goods vehicles of Andhra Pradesh were allowed to ply in Orissa under reciprocal agreement during the year 1993-94, but composite tax amounting to Rs.3.47 lakhs in respect of these vehicles was not realised. In addition, penalty of Rs.2.77 lakhs was also leviable which was not levied.

On this being pointed out in audit (June 1994) the State Transport Authority, Orissa stated (July 1994) that the State Transport Authority of Andhra Pradesh has been asked (June 1994) to realise and remit the dues. Report on realisation has not been received (October 1995).

The matter was reported to Government (February 1995); their reply has not been received (October 1995).

3.4 Non/short realisation of tax/additional tax on stage carriages under reciprocal agreement

Where, in pursuance of any agreement between the Government of Orissa and Government of any other State, a stage carriage plies on a route partly within the State of Orissa and partly in some other State, such stage carriage is liable to pay additional tax calculated on the total distance covered by it on such route in a day in the State of Orissa, at the rates and in the manner specified under the Orissa Motor Vehicles Taxation Act, 1975 and Orissa Motor Vehicles Taxation Rules, 1976. Besides, in the event of non-payment of tax/additional tax within the specified period, the vehicle owner is liable to pay penalty extending upto 200 *per cent* of the tax/additional tax due.

During the course of audit of the records of the State Transport Authority and Regional Transport Office, Koraput it was noticed (between July 1994 and February 1995) that motor vehicles tax/additional tax for the period from April 1993 to March 1994 in respect of 23 stage carriages authorised to ply on the inter-State routes under reciprocal agreements was not realised, which resulted in non/short realisation of tax amounting to Rs.2.37 lakhs (non-realisation Rs.1.32 lakhs and short realisation Rs.1.05 lakhs due to computation mistake). Besides, penalty amounting to Rs.4.74 lakhs was also leviable.

On this being pointed out in audit (between July 1994 and February 1995) the State Transport Authority, Orissa stated (July 1994) that the cases were under examination and the taxing officer, Koraput agreed (March 1995) to realise the tax due after verification of records.

The matter was reported to Government (between February 1995 and April 1995); their reply has not been received (October 1995).

3.5 Short realisation of motor vehicles tax on goods carriages of other States

According to the notification (27 October 1993) issued under the the Orissa Motor Vehicles Taxation Act, 1975, temporary tax tokens may be issued in respect of goods carriages of other States plying temporarily in the State of Orissa on payment of tax at the revised rates. The tax/additional tax in respect of such vehicles is required to be collected by the State Transport Authority/Regional Transport Authority of the home State by means of crossed demand drafts and remitted to the State Transport Authority, Orissa. The latter is to check the correctness of the remittance received.

During the course of audit of State Transport Authority, Orissa, it was noticed (July 1994) that motor vehicles tax amounting to Rs.1.59 lakhs was short realised due to application of pre-revised rates in respect of 357 goods carriages of other States which plied temporarily (between November 1993 to April 1994) in Orissa.

On this being pointed out in audit (July 1994), the State Transport Authority, Orissa agreed (July 1994) to realise the balance tax from the concerned State Transport Authorities. Further reports on realisation have not been received (October 1995).

The matter was reported to Government (February 1995); their reply has not been received (October 1995).

3.6 Non/short realisation of motor vehicles tax and additional tax from stage carriages

(a) Under the Orissa Motor Vehicles Taxation Act, 1975, motor vehicles tax and additional tax payable in respect of a stage carriage is leviable on the basis of the number of passengers (including standees) which the vehicle is authorised to carry and the total distance permitted to be covered in a day as per route permits and such tax is allowed to be paid monthly. Besides, in the event of non-payment of tax/additional tax within the specified period, the vehicle owner is liable to pay penalty extending upto 200 per cent of the tax/additional tax due.

A test check of the records revealed (between June 1994 and March 1995) that due to non-compliance of the above provisions there was non/short realisation of tax

amounting to Rs.38.29 lakhs in respect of 472 vehicles. Besides, penalty of Rs.76.59 lakhs was also leviable as per details given below:

Sl. No.	Number of registrations	Number of vehicles	Period of taxation	Nature of irregularity	Amount of short/non-levy (Rupees in lakhs)	Amount of penalty	Remarks
1	2	3	4	5	6	7	8
1(a)	9 ^A	74 {Owned by Orissa State Road Transport Corporation (OSRTC)}	Between April 1993 and March 1994	Stage Carriages having valid permit and not covered by off-road declaration	10.42	20.84	While the taxing officers Dhenkanal, Kalahandi and Mayurbhanj stated (between August 1994 and January 1995) that demand notices were issued for realisation of the dues, the remaining taxing officers agreed (between July 1994 and March 1995) to issue demand notices.
1(b)	14 ^B	168 (Owned by private operators)	- do -	- do -	20.94	41.88	While the taxing officers, Cuttack and Mayurbhanj issued (between July 1994 and October 1994) demand notices for realisation of the dues, the remaining taxing officers agreed (between June 1994 and July 1995) to realise the dues
2(a)	4 ^C	24 (Owned by OSRTC)	Between April 1993 and March 1994	Adoption of incorrect rates	0.58	1.17	The taxing officers, Balasore and Ganjam agreed (between July 1994 and November 1994) to issue demand notices and the taxing officers, Koraput and Puri stated (March 1995) that the demand notices would be issued after verification of records.

- A Balasore, Bolangir, Cuttack, Dhenkanal, Ganjam, Kalahandi, Mayurbhanj, Puri and Sambalpur
 B Balasore, Bargarh, Bhubaneswar, Cuttack, Chandikhol, Dhenkanal, Ganjam, Keonjhar, Mayurbhanj, Puri, Phulbani, Rourkela, Sambalpur and Sundargarh.
 C Balasore, Ganjam, Koraput and Puri

Sl. No.	Number of regions	Number of vehicles	Period of taxation	Nature of irregularity	Amount of short/non-levy (Rupees in lakhs)	Amount of penalty	Remarks
1	2	3	4	5	6	7	8
2(b)	15 ^D	193 (Owned by private operators)	Between April 1993 and March 1994	Adoption of incorrect rates	5.39	10.77	While the taxing officers, Cuttack and Mayurbhanj issued (between July 1994 and October 1994) demand notices and the taxing officer, Chandikhol stated (December 1994) that the cases would be examined and results intimated to audit, the remaining taxing officers agreed (between June 1994 and March 1995) to realise the tax dues.
3	4 ^E	13 -do-	Between April 1992 and March 1994	Exhibition of less distance of routes in the permit.	0.96	1.93	All the taxing officers agreed (between July 1994 and March 1995) to realise the dues.
Total	46	472			38.29	76.59	

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

(b) Under the Act, if any stage carriage vehicle is detected plying without a permit, the tax payable is to be determined on the basis of the maximum number of passengers (including standees) as ordinary service upto May 1993 and as express service for the entire period not covered by valid permit, with effect from June 1993, which the vehicle would have been permitted to carry, reckoning the distance covered each day as exceeding 320 kilometers, attracting the highest rate of tax as per the Taxation Schedule.

(i) During the course of audit of Ganjam region, it was noticed (between September 1994 and October 1994) that eleven stage carriages owned by Orissa State Road Transport Corporation were detected plying without any permit during various periods falling between August 1993 and March 1994. Tax in respect of these vehicles was not assessed and collected at the prescribed rate. This resulted in short realisation of tax amounting to Rs.5.23 lakhs.

^D Balasore, Bhubaneswar, Bolangir, Bargarh, Cuttack, Chandikhol, Ganjam, Kalahandi, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

^E Bolangir, Cuttack, Kalahandi and Puri.

On this being pointed out in audit (between September 1994 and October 1994), the taxing officer concerned agreed (November 1994) to realise the tax.

The matter was reported to Government (March 1995); their reply has not been received (October 1995).

(ii) During the course of audit of sixteen* regions it was noticed (between June 1994 and March 1995) that 123 stage carriages owned by private operators were detected plying without permit during various periods falling between April 1993 and March 1994. Tax and additional tax in respect of these vehicles were not assessed and collected at the prescribed rates. This resulted in short realisation of tax amounting to Rs.7.49 lakhs.

On this being pointed out in audit (between June 1994 and March 1995), the taxing officers of Dhenkanal, Mayurbhanj, Rourkela and Sundargarh issued (between July 1994 and January 1995) demand notices for realisation of the dues. The taxing officers of the remaining 12 regions agreed (between June 1994 and March 1995) to realise the dues.

The matter was reported to Government (between August 1994 and April 1995); their reply has not been received (October 1995).

3.7 Non-realisation of motor vehicles tax/additional tax in respect of motor vehicles which violated off-road declarations

Under the Orissa Motor Vehicles Taxation Act, 1975, motor vehicles tax and additional tax shall be levied on every motor vehicle used or kept for use in the State, unless prior intimation of non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid specifying *inter alia* the period of non-use and the place where the motor vehicle is to be kept during such period. If at any time during the period covered by such intimation, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period and in such a case the owner of the vehicle is liable to pay tax and penalty for the entire period for which it was declared off-road.

* Balasore, Bargarh, Bhubaneswar, Bolangir, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh

During the course of audit of eight regions* it was noticed (between May 1994 and February 1995) that 46 vehicles which had been declared off-road for various periods (between July 1992 and January 1995) were detected plying on road or not found at declared places by the Enforcement staff during the period covered by such off-road declarations. But, no action was taken by the taxing officers to realise the tax and levy penalty in respect of such vehicles. Tax/additional tax leviable on these vehicles worked out to Rs. 11.85 lakhs. Besides, penalty not exceeding Rs. 23.70 lakhs was also leviable.

On this being pointed out in audit (between May 1994 and February 1995) the taxing officers of Ganjam and Chandikhol had issued demand notices (between February 1994 and December 1994) for realisation of dues, while others agreed to realise the dues.

The cases were reported to Government (between August 1994 and April 1995); their reply has not been received (October 1995).

3.8 Non/short realisation of motor vehicles tax/additional tax in respect of stage carriages used as contract carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, when a motor vehicle in respect of which tax for any period has been paid as per registration, is proposed to be used in a manner for which higher rate of tax is payable, the owner of the vehicle is liable to pay the differential tax and penalty as prescribed. In determining such differential tax, any broken period in a month is to be considered as a full month.

During the course of audit of twelve regions** it was noticed in audit (between May 1994 and February 1995) that 85 stage carriages were permitted (between April 1993 and March 1994) to ply temporarily as contract carriage for which higher rate of tax was payable, but the same was not demanded/realised. This resulted in non/short realisation of tax amounting to Rs. 2.57 lakhs (non-realisation Rs. 1.13 lakhs + short realisation Rs. 1.44 lakhs). Besides, penalty of Rs. 5.14 lakhs was also leviable.

On this being pointed out in audit (between May 1994 and March 1995) the taxing officer, Cuttack, Dhenkanal and Phulbani stated (between July 1994 and January 1995) that demand notices were issued, while the taxing officers of other regions agreed (between May 1994 and July 1995) to realise the dues.

* Balasore, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar, Koraput and Sambalpur

** Balasore, Baragarh, Bhubaneswar, Cuttack, Chandikhol, Dhenkanal, Ganjam, Keonjhar, Koraput, Phulbani, Puri and Sambalpur.

The matter was reported to Government (between August 1994 and April 1995); their reply has not been received (October 1995).

3.9 Short realisation of compounding fees in respect of transport vehicles

As per Government notification of January 1991 issued under the Motor Vehicles Act 1988, compounding fees under section 194 of the Act shall be 50 per cent of the maximum fine. The maximum fine for the first offence is Rs.2000 and for second or subsequent offence Rs.5000.

During the course of audit of seven regions* it was noticed (between July 1994 and January 1995) that compounding fees for the second or subsequent offences of carrying more than permissible weight by 133 vehicles detected (between April 1993 and March 1994) were realised at rates lower than the prescribed rates resulting in short realisation amounting to Rs.2.77 lakhs.

On this being pointed out in audit (between July 1994 and January 1995) the taxing officers (Cuttack, Dhenkanal, Sambalpur, Rourkela and Sundargarh) agreed to realise the differential compounding fees. The taxing officer, Mayurbhanj, however, stated (August 1994) that the case records had been transmitted to concerned State Transport Authority for necessary action. The taxing officer, Chandikhol stated (December 1994) that the subsequent offences in respect of vehicles as pointed out by audit had not been recorded in the Vehicle Check Report, such offences were listed by audit after their disposal, and as the cases were disposed off, there was no scope for re-opening the same.

The reply of the taxing officer, Chandikhol is not tenable as it was possible to reopen the case as confirmed by the State Transport Authority (July 1995).

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

* Chandikhol, Cuttack, Dhenkanal, Mayurbhanj, Rourkela, Sambalpur and Sundargarh.

3.10 Non/short levy of penalty for belated payment of motor vehicles tax/additional tax

Under the Orissa Motor Vehicles Taxation Act, 1975, and the rules made thereunder penalty is leviable, if a vehicle owner has not paid tax/additional tax in respect of his motor vehicle within the specified period. In case of delay, the vehicle owner shall be liable to pay penalty ranging from 25 per cent to 200 per cent of the tax/additional tax due depending upon the period of delay.

(a) During the course of audit (between May 1994 and February 1995) of eleven regions* it was noticed that in respect of 144 vehicles of different classes, no penalty was levied by the taxing authorities, though taxes were paid belatedly and in 27 cases penalty was short levied. This resulted in non/short levy of penalty amounting to Rs.5.01 lakhs (Non-levy Rs.4,15,724 and short levy Rs.85,626) for the period between May 1986 and March 1994.

On this being pointed out in audit (between June 1994 and March 1995) the taxing officers, Cuttack and Mayurbhanj issued demand notices while the other nine taxing officers agreed (between June 1994 and February 1995) to realise the dues.

The matter was reported to Government (between August 1994 and April 1995); their reply has not been received (October 1995).

(b) During the course of audit (between August 1994 and January 1995) of four regions (Kalahandi, Koraput, Mayurbhanj and Sambalpur) it was noticed that in respect of 123 vehicles owned by OSRTC, penalty was not levied by the taxing officers though taxes were paid belatedly. This resulted in non-levy of penalty amounting to Rs.20.63 lakhs for the period falling due between April 1993 and January 1994.

On this being pointed out in audit (between August 1994 and January 1995) the taxing officer, Mayurbhanj stated (between October 1994 and November 1994) that demand notices were issued, while the other three taxing officers agreed (between August 1994 and March 1995) to realise the dues.

The matter was reported to Government (between August 1994 and April 1995); their reply has not been received (October 1995).

* Balasore, Bhubaneswar, Chandikhol, Cuttack, Dhenkanal, Keonjhar, Koraput, Kalahandi, Mayurbhanj, Sambalpur and Sundargarh

3.11 Non-realisation of taxes

Under the Orissa Motor Vehicles Taxation Act, 1975 tax due on motor vehicles should be paid in advance within the prescribed period at the rates specified in the taxation schedule, unless exemption from payment of such tax is allowed for the period for which necessary undertaking of temporary discontinuance of use of the vehicle is delivered by the owner of the vehicle to the taxing officer on or before expiry of the term for which tax has been paid. Further, according to the instructions issued by the Transport Commissioner, Orissa (February 1966) demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) of payment of tax. Where the tax has not been paid on or before the due date of payment, the registered owner or the person having possession or control thereof shall be liable to pay penalty varying from 25 *per cent* to 200 *per cent* of the tax due depending upon the period of delay.

(a) During the course of audit of 6 regions* it was noticed (between May 1994 and March 1995) that prescribed taxes in respect of 595 vehicles relating to different periods between April 1993 and March 1994 were paid neither by the owners of the vehicles nor by the persons having possession or control thereof. The records further revealed that these vehicles were neither covered by off-road declarations nor by intimation of payment of tax in any other region. The tax due in respect of these vehicles amounted to Rs.30.51 lakhs besides penalty of Rs.61.02 lakhs. No demand notices were issued in these cases.

On this being pointed out in audit (between May 1994 and March 1995) all the taxing officers concerned agreed (between June 1994 and March 1995) to issue demand notices for realisation of the arrear dues.

The matter was reported to Government (between August 1994 and April 1995); their reply has not been received (October 1995).

(b) During the course of audit of 12 regions** it was noticed (between May 1994 and March 1995) that in respect of 344 vehicles, tax for different periods falling due between April 1993 and March 1994 remained unrealised though tax for the earlier and later periods had been realised. The records further revealed that these vehicles were neither covered by off-road declarations nor by intimation of payment of tax in any other

* Bhubaneswar, Bolangir, Bargarh, Kalahandi, Sambalpur and Sundargarh
Balasore, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Keonjhar, Koraput, Kalahandi, Mayurbhanj, Puri, Sambalpur and Sundargarh

region. This resulted in non-realisation of tax of Rs.9.25 lakhs, besides penalty of Rs.18.50 lakhs.

On this being pointed out in audit, the taxing officers of 11 regions agreed (between June 1994 and March 1995) to issue demand notices for realisation of the arrear dues while the taxing officer, Koraput agreed (March 1995) to issue demand notices after verification of records.

The cases were reported to Government (between August 1994 and April 1995); their reply has not been received (October 1995).

3.12 Non/short realisation of trade certificate tax/fees

Under the Orissa Motor Vehicles Taxation Act, 1975, read with Central Motor Vehicles Rules, 1989, manufacturers or dealers in motor vehicles are required to obtain a trade certificate by paying the requisite tax/fees annually in advance from the registering authority within whose area they have their place of business. Under the Motor Vehicles Act, 1988, dealer includes a person who is engaged in the manufacture of motor vehicles or in building bodies for attachment to the chassis.

During the course of audit of five regions it was noticed (between June 1994 and November 1994) that in respect of 63 motor vehicle dealers and body builders, trade certificate tax and fees were not collected or were collected at a lower rate during the period between April 1992 and December 1994 resulting in non-realisation/short realisation amounting to Rs.1.15 lakhs.

On this being pointed out in audit (between June 1994 and November 1994) the taxing officer, Rourkela issued demand notices (September 1994) while others agreed (between July 1994 and December 1994) to issue demand notices for realisation of tax/fees.

The matter was reported to the Government (between September 1994 and April 1995); their reply has not been received (October 1995).

Cuttack, Kalahandi, Rourkela, Sambalpur and Sundargarh

CHAPTER - 4

LAND REVENUE

4.1 Results of Audit

Test check of records relating to assessment and collection of Land Revenue conducted in audit during the year 1994-95 revealed non-assessment, underassessment and non-realisation of revenue amounting to Rs.5423.62 lakhs in 55,177 cases which may broadly be categorised as under:

	Number of cases	Amount (Rs. in lakhs)
1. Non-collection of premium etc., from lands occupied by local bodies/private parties, Government undertakings etc.	128	5102.54
2. Non-assessment/short assessment and short collection of water rate	29	93.73
3. Non-realisation/short realisation of royalty on minor minerals	146	12.33
4. Non-lease/irregular lease of sairat sources and other miscellaneous revenue	212	20.09
5. Short levy of court fees	152	0.30
6. Other Irregularities	54510	194.63
Total	55,177	5423.62

During the course of the year 1994-95, the Department accepted underassessment etc., of Rs.23.94 lakhs involved in 23 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.1711.07 lakhs are mentioned in the following paragraphs.

4.2. Non/short realisation of premium etc.

According to Government orders of October 1961, May 1963 and February 1966 Government land can be leased out to local bodies, public sector undertakings etc., for commercial purposes on payment of premium fixed based on the market value of land plus annual ground rent at the rate of one *per cent* of the market value. In addition, cess at 50 *per cent* of the ground rent is also leviable from the year 1986-87 as per Government order of July 1987. Interest at the rate of 6 *per cent* (12 *per cent* from 1992-93) per annum is chargeable on belated payment of dues.

(a) From Orissa State Electricity Board

A scrutiny in audit of records of three tahasils (Kantamal, Aul and Cuttack) revealed that 2.883 acres of Government land were occupied by Orissa State Electricity Board between 1971-72 and 1983-84. Although lease had been sanctioned in respect of two tahasils (Aul and Kantamal), in February 1992 and April 1993 respectively, lease deeds have not been executed so far (April 1995). Further, in the case of Aul Tahasil, against Government dues of Rs.4.01 lakhs, only Rs.1.53 lakhs were realised resulting in short realisation of Rs.2.48 lakhs. No amount was realised in respect of the remaining two tahasils. This resulted in non/short realisation of revenue amounting to Rs.46.68 lakhs as detailed below:

Sl. No.	Name of the Tahasil/District	Year of Occupation	Extent of land (in acres)	Premium (Rupees in lakhs)	Ground Rent	Cess	Interest	Total
1.	Kantamal (Boudh)	1971-72	1.050	0.76	0.18	0.03	1.30	2.27
2.	Cuttack (Cuttack)	1982-83	0.833	20.83	2.33	0.83	17.94	41.93
3.	Aul (Kendrapara)	1983-84	1.000	0.68	0.23	0.08	1.49	2.48
Total			2.883	22.27	2.74	0.94	20.73	46.68

The matter was reported to Government (between September 1994 and March 1995); their reply has not been received (October 1995).

(b) From State Government Departments

During audit of Patnagarh Tahasil (December 1994), it was noticed that 6 acres of Government land were in advance possession of two State Government Departments (Tourism and Forest) from the period May 1990 to April 1994. Although the leases were applied for by the Departments (between December 1986 and September 1991), advance possessions of land were not regularised by sanction of lease (April 1995). This resulted in non-realisation of revenue amounting to Rs.15.95 lakhs till 31 March 1994.

On this being pointed out in audit (between December 1994 and April 1995), the Tahasildar, Patnagarh stated that in respect of Tourism Department action was being taken to realise the dues. In respect of Forest Department he agreed to realise the dues on receipt of valuation certificate from the Forest Department for the trees standing on the land. The reply of the Tahasildar was not acceptable to audit as the valuation certificate from the Forest Department had no relation with the collection of premium for the land.

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

(c) From State Government Undertakings

During the course of audit of four Tahasils between May 1994 to October 1994, it was noticed that 4,778 acres of Government land were in possession of three State Government undertakings from the period 1985-86 to 1993-94. Although advance possessions of land were given in the case of two Tahasils (Puri and Thuamul Rampur) in May 1985 and July 1988, no lease deeds had been executed (November 1994) due to non-sanction of lease. In the case of Jharsuguda Tahasil, though lease had been sanctioned in March 1993 and the lessee had executed the lease deed in July 1993, no dues were realised (April 1995). In the case of Khurda Tahasil, the lease had not been sanctioned and the undertaking was in unauthorised occupation of Government land. Thus, against Government dues of Rs.478.32 lakhs, only Rs.4 lakhs were realised towards premium in the case of Puri Tahasil and no amount was realised in respect of the remaining three Tahasils. This resulted in non-realisation of revenue amounting to Rs.596.62 lakhs till

31 March 1994, as detailed below :

Sl. No.	Name of the Tahasil	Name of the Undertaking	Month/ Year of possession	Extent of land in possession (in acres)	Realisable Amount				Total
					Premium rent (R u p e e s)	Ground Cess i n	Interest l a k h s)		
1.	Puri	Orissa Maritime Chilika Area Development Corporation (OMCAD).	May 1985	1754.280	259.14	20.34	8.85	185.99	474.32
2.	Khurda	Orissa State Housing Board (OSHB).	1985-86	14.844	50.72	4.56	2.03	36.14	93.45
3.	Thuamul Rampur	Industrial Development Corporation of Orissa Limited (IDCOL).	July 1988	3000.000	15.00	0.90	0.45	7.63	23.98
4.	Jhar-suguda	-do-	August 1993	8.580	4.29	0.04	0.02	0.52	4.87
Total				4777.704	329.15	25.84	11.35	230.28	596.62

On this being pointed out in audit, the Tahasildars of Puri and Jharsuguda agreed (between May 1994 and October 1994) to realise the dues.

The matter was reported to Government (between June 1994 and November 1994); their reply has not been received (October 1995).

(d) From co-operative societies

During the course of audit of two tahasils it was noticed (between June 1994 and July 1994) that 2.08 acres of Government land were in possession of two co-operative societies from the period 1976-77 to 1982-83. Although leases had been sanctioned between March 1988 and March 1994, lease deeds were not executed (May 1995). This resulted in non-realisation of revenue amounting to Rs.3.01 lakhs till March 1994, as

detailed below :

Sl No.	Name of Tahasil	Name of Society	Month/ year of sanction of lease	year of possession	Extent of land (In acres)	Realisable amount					Total
						Premium	Ground rent	Cess	Back rent	Interest	
						(R u p e e s i n l a k h s)					
1.	Salapur	Bapuji Potato Growers Storage and Marketing Co-operative Society Limited, Bahugram.	March 1988	1982-83	2.00	1.00	0.12	0.04	-	0.92	2.08
2.	Baliguda	Large Sized Multipurpose Co-operative Society Limited (LAMPS)	March 1994	1976-77	0.08	0.35	0.06	0.01	0.03	0.48	0.93
Total					2.08	1.35	0.18	0.05	0.03	1.40	3.01

On this being pointed out in audit (between June 1994 and July 1994) the Tahasildar, Baliguda agreed (June 1994) to realise the dues while the Tahasildar, Salepur stated (July 1994) that the society had not executed the lease deed.

The matter was reported to Government (September 1994); their reply has not been received (October 1995).

(e) From a private company

During the course of audit (September 1994) of records of Titilagarh Tahasil (Bolangir District) it was revealed that advance possession of Government land measuring 13.06 acres as sanctioned by Government in December 1989 in favour of a private company was made over by the Tahasildar in March 1990 which had not been regularised by way of sanction of lease (April 1995). The Government dues towards premium, ground rent, cess and interest amounting to Rs.1.95 lakhs upto March 1994 had not been demanded by the Tahasildar (April 1995).

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

(f) From Orissa Cashew Development Corporation

According to Government order issued in January 1980, Government waste land would be leased out in favour of Orissa Cashew Development Corporation (OCDC) for Cashew plantation on payment of premium based on market value of land and ground rent and the corporation would also execute a lease deed in the prescribed form. Government in their order dated 11 March 1980 fixed the market value of land at Rs.250 per acre (irrespective of its location) and annual ground rent at 1 per cent of the market value for the first five years, 7 per cent for the next five years and 14 per cent for the next ten years in respect of OCDC. In addition, cess and interest prescribed under Government orders of February 1966, July 1987 and February 1993 were also leviable.

In Keonjhar Tahasil, Government land admeasuring 276.15 acres was under the occupation of Orissa Cashew Development Corporation since May 1980. This occupation of land was, however, regularised by sanction of lease in March 1994 subject to payment of premium and other dues commencing from 2 May 1980. But the Corporation had neither paid the whole dues nor executed the lease deed upto August, 1994. The total amount that had become due for payment by the Corporation till 1993-94 amounted to Rs.1.89 lakhs (Ground rent : Rs.0.66 lakh, Cess : Rs.0.29 lakh and interest: Rs.0.94 lakh).

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

4.3 Short realisation of royalty, surface rent etc.

The Government orders of April 1983 prescribing the rates of royalty and surface rent were revised with effect from 29 August 1990 under the Orissa Minor Minerals Concession Rules, 1990. The rate of royalty on sand and road metals was further revised by the Government in August 1991. Besides royalty and surface rent, cess @ 100 per cent of royalty was also realisable as per the Orissa Cess Act, 1989 till its abolition on 4 April 1991.

A scrutiny in audit of the records of Balasore Tahasil revealed (April 1994) that in three long term sand quarry leases, royalty and surface rent for the years 1990-91 to 1992-93 were realised at the pre-revised rates besides non-realisation of cess for the year 1990-91. This resulted in short realisation of royalty, surface rent and cess amounting to Rs.11.52 lakhs.

The matter was reported to Government (September 1994); their reply has not been received (October 1995).

4.4 Non-assessment of compulsory basic water rate

Under the provisions of the Orissa Irrigation Act, 1959 and the Rules framed thereunder, compulsory basic water rate at prescribed rates is leviable on the lands coming within the cultivable command area of irrigation work for irrigation of staple cereal crop (Khariff paddy harvested between October and January) whether water is used for irrigation or not. The cultivable command area as certified by the Engineer-in-charge is required to be verified by the Revenue Officer (Tahasildar). According to the prescribed procedure, the demand for water rate is to be revised on assessment rolls prepared after such verification. The irrigation works are divided into four classes (viz. Class-I,II,III and IV) on the basis of guaranteed depth and period of supply. The water rate prescribed for class-I irrigation work is Rs. 16 per acre per annum. In the case of new irrigation projects, however, no water rate is chargeable for the first year of water supply, whereas 50 per cent and 75 per cent of the prescribed rate is chargeable for the second and third year respectively and full rate from the fourth year onwards.

In Daspalla Tahasil (Nayagarh district) the Engineer-in-Charge had certified use of water for growing staple cereal crops on 8215 acres of Class-I irrigation work since April 1991. Out of the certified area of 8215 acres, 1372 acres were found non-assessable and out of the balance ayacut area of 6843 acres available for assessment, the Tahasildar assessed only 2285 acres till March 1994 leaving an area of 4558 acres unassessed. This resulted in non-assessment of water rate amounting to Rs.4.56 lakhs for the period from 1987-88 to 1993-94.

On this being pointed out in audit (September 1994) the Tahasildar replied (September 1994 and April 1995) that action was being taken for assessment of balance area.

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

4.5 Non-realisation of development expenditure, rent and cess

According to the instruction contained in Govt. of Orissa order dated 17 November 1988, advance possession of non-forest Government land can be sanctioned in favour of South Eastern Coal Field Limited (SECL) for coal projects on payment of development expenditure which should be equivalent to market value of such land. Further, as per the clarification issued by the Government in June 1995, in addition to development expenditure the SECL had to pay ground rent @ 1 per cent of development expenditure, cess @ 50 per cent of ground rent from 1986-87. Interest @ six per cent per annum upto 1991-92 and twelve per cent thereafter was also chargeable on belated payment of dues.

A scrutiny in audit of records of Laxmanpur Tahasil (Sambalpur District) revealed (January 1995) that advance possession of Government land measuring 497.95 acres, sanctioned in favour of SECL, was made over by the Tahasildar between November 1983 and May 1985. This advance possession had neither been regularised by sanction of lease nor revenue amounting to Rs.1,028.89 lakhs (Development expenditure Rs.519.02 lakhs, ground rent Rs.56.08 lakhs, cess Rs.20.76 lakhs and interest Rs.433.03 lakhs) pertaining to the period from 1983-84 to March 1994 (calculated on the basis of market value of land on the date of advance possession) realised (January 1995).

On this being pointed out in audit, the Tahasildar replied (January 1995) that the lease case was under process.

The matter was reported to Government (May 1995); their reply has not been received (October 1995).

CHAPTER - 5

STATE EXCISE

5.1 Results of audit

Test check of the records maintained in the offices of the Excise Commissioner and Superintendents of Excise conducted during the year 1994-95 revealed non-realisation, short realisation and other losses of revenue amounting to Rs.1019.39 lakhs in 278 cases which may broadly be categorised as under:

	Number of cases	Amount (Rs. in lakhs)
	-----	-----
1. Non/short realisation of duty	148	45.92
2. Loss of revenue due to delay in grant of licenses/wastage of spirit in excess of permissible limit	43	28.39
3. Loss of revenue due to shortfall in production	1	886.00
4. Other irregularities	86	59.08
Total	278	1019.39
	-----	-----

During the course of the year 1994-95, the Department accepted underassessment etc., of Rs.2.89 lakhs involved in 28 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.905.51 lakhs are mentioned in the following paragraphs.

5.2 Loss of revenue due to non-adherence to the chemical examiner's report in conversion of molasses into rectified spirit

Rule 13 of the Board's Excise Rules, 1965 provides that samples of materials used in distilleries for the manufacture of spirit and of spirit manufactured therefrom shall be sent to the chemical examiner for examination once in July and again in December and at other times, if required. In this regard there are no other controls/norms prescribed by the Government for the manufacture of spirit from molasses.

During the course of audit (February 1995) of the records of a distillery under the control of Superintendent of Excise, Ganjam, it was noticed that samples of molasses used in the distillery for manufacture of spirit and spirit manufactured therefrom were regularly sent to the Chemical Examiner to Government of Orissa. Scrutiny of the reports prepared by him on the basis of the samples disclosed that the outturn of spirit out of molasses utilised should have been much more than actually produced during the years from 1989-90 to 1993-94 as shown below :

Year	Actual out- turn of spirit per MT of molasses	Outturn of spirit per MT of molasses as per the average based on chemical examiner's report	Shortfall of spirit per MT of molasses			
			(Q u a n t i t y)	
			in	L.	P.	L.
1989-90	397.40	549.44				152.04
1990-91	405.30	553.10				147.80
1991-92	402.80	611.79				208.99
1992-93	400.20	512.24				112.04
1993-94	410.60	495.63				85.03

Despite the shortfall in production per MT of molasses in all these years no action was taken by the Government to check the shortfall. This resulted in loss of revenue amounting to Rs.8.86 crores.

On this being pointed out in audit (May 1995), the Superintendent of Excise, Ganjam stated that compliance would be submitted separately. No reply has been received so far (October 1995).

The matter was reported to Government (June 1995); their reply has not been received (October 1995).

5.3 Non-realisation of duty due to excess wastage of spirit in IMFL bottling plant

Government of Orissa in their order dated 6 February 1995 have allowed wastage of 2 *per cent* from the stage of trial run in the process of re-distillation of spirit for preparation of Extra Neutral Alcohol(ENA).

In the course of audit (June 1994) of the records of a bottling plant "A" for the year 1993-94 it was noticed that a quantity of 15,628 LPL of rectified spirit was allowed as wastage against the allowable wastage of 5320 LPL. This resulted in excess wastage of rectified spirit of 10,308 LPL and consequential non-realisation of excise duty of Rs.8.45 lakhs.

On being pointed out (June 1995), Superintendent of Excise, Puri stated that action would be taken to raise the demand.

The matter was reported to Government (November 1994 and June 1995); their reply has not been received (October 1995).

5.4 Loss of revenue due to delay in confirmation of settlement of "OS" shops/IMFL "on" shop

According to sub-section 2 of Section 38 of Bihar and Orissa Excise Act, 1915 read with Rule 31 of Orissa Excise Rules, 1965, licence for the wholesale or retail vend of intoxicants may be granted for one year from 1 April to 31 March following. Excise shops are settled on the basis of sanction by the Government of Orissa.

- (i) In pursuance of Government sanction in January 1993 for opening of 97 outstill* shops (OS shops) in Sambalpur district during 1993-94, the Collector settled provisionally in February 1993 all shops on tender-cum-auction basis and sought for confirmation of the Government through Excise Commissioner in March 1993. However, Government while

* "OS" - "Outstill" is a system of preparation of intoxicants based on Mohua Flower.

confirming settlement of 95 outstill shops in March 1993 did not confirm provisional settlement of the remaining 2 shops without assigning any reasons. Earlier, these two shops were provisionally settled in February 1993 at a bid amount of Rs.1.18 lakhs per month against the reserve fee of Rs.1.10 lakhs per month. However, provisional settlements for these two shops were subsequently confirmed by the Government only in August 1993 at the original consideration money of Rs.1.18 lakhs per month and licences were accordingly issued from 1 September 1993 to 31 March 1994.

On scrutiny of the relevant file of the Government it was seen that initially the confirmation of provisional settlement of the two shops was not approved by the Government on the ground that :

- (i) The locations of the shops were within the Integrated Tribal Development Agency (ITDA) area
- (ii) There was public objection against the opening of the said shops.

However, further scrutiny by audit of the Government records showed that the locations of the shops were not within ITDA area and no objections had been received by the Collector at the time of issue of notices (Form A) at the district level. Later (June 1993) the reasons for non-confirmation of the shops were found to be incorrect by the Government themselves and they finally confirmed the settlement.

Thus, delay in confirmation of the provisional settlement of the two shops by 5 months, led to a loss of excise revenue of Rs.10.15 lakhs towards monthly consideration money (Rs.5.90 lakhs) and Mahua flower pass fee (Rs.4.25 lakhs).

- (ii) During the course of audit (September 1994) of the records of the Superintendent of Excise, Sundargarh it was noticed that one IMFL "on" shop* was recommended for renewal of licence for the year 1993-94 subject to production of tax clearance and solvency certificates at the time of issue of licence. The Government while confirming provisional settlement proposals of the district for the year 1993-94 did not confirm the proposal of this "on" shop. Eventhough the wanting documents of the shop were submitted to Government on 15 May 1993 by the Superintendent of Excise, Sundargarh.

* IMFL "on" shop -- Shop where IMFL can be consumed within its premises.

the confirmation order from Government could be received only on 5 November 1993 (i.e. after lapse of six months). The licence for the remaining period from 6 November 1993 to 31 March 1994 was issued on realisation of proportionate licence fees at the rate of Rs.60,000 *per annum*. This resulted in loss of revenue amounting to Rs.35,833 for the period from 1 April 1993 to 5 November 1993 towards licence fees.

On this being pointed out in audit (September 1994) the Superintendent of Excise, Sundargarh did not offer any comments and stated that the matter may be referred to Government.

The Government to whom the matter was reported (March 1995), stated (June 1995) that delay in confirmation was due to delays caused by official procedure.

5.5 Loss due to excess wastage of country spirit in polysacheting plant

Government of Orissa vide their order dated 1 January 1992 have allowed wastage of spirit to the extent of 0.5 *per cent* in a polysacheting unit in order to exercise control on excess wastages in the unit.

In the course of audit (September 1994) of the records of a distillery at Aska for the year 1993-94, it was noticed that wastage of 11,525 LPL of country spirit was allowed against the allowable wastage of 7,831 LPL. This resulted in excess wastage of country spirit of 3,694 LPL and consequential non-realisation of excise duty of Rs.55,407.

On this being pointed out in audit (September 1994), the Superintendent of Excise, Ganjam agreed to raise the demand.

The matter was reported to Government (March 1995); their reply has not been received (October 1995).

CHAPTER - 6

FOREST RECEIPTS

6.1 Results of audit

Test check of the records maintained in 27 forest Divisions conducted in audit during the year 1994-95 revealed non/short recoveries of dues and other losses of revenue etc., amounting to Rs.1046.15 lakhs in 1225 cases which may broadly be categorised as under:

	Number of cases	Amount (Rs. in lakhs)
	-----	-----
1. Non/short levy of interest for delayed payment of consideration money/royalty	374	12.55
2. Non-realisation of compensation	163	17.30
3. Non-realisation of royalty	119	23.27
4. Non-realisation of extension fees	67	2.95
5. Loss of revenue due to non disposal of forest produce by sale	5	0.83
6. Other irregularities	497	989.25
Total	1225	1046.15

During the course of the year 1994-95, the concerned Department accepted underassessment etc., of Rs.138.98 lakhs involved in 1663 cases which had been pointed out in audit earlier years.

A few illustrative cases highlighting important audit observations involving Rs.919.08 lakhs are mentioned in the following paragraphs.

6.2 Revenue collection from Kendu Leaf

6.2.1 Loss of revenue due to shortage in central godown/defective processing of Kendu leaves

In terms of the agreement entered into between Orissa Forest Development Corporation (OFDC) and Forest Department, delivery of processed Kendu leaves to the OFDC should be completed by 31 January of the following year. The Chief Conservator of Forests (Kendu Leaf) CCF (KL) confirmed (April 1995) that 711 Qtls of Kendu Leaves valued at Rs.19.96 lakhs were short delivered due to shortages and damages in the central godowns and 2156 Qtls. valued at Rs.62.15 lakhs due to poor quality of processed leaves. As this was not covered by insurance, this resulted in loss of Rs.82.11 lakhs.

On the loss being pointed out in audit (June 1994) the CCF(KL) stated that proceedings have been initiated against the officials responsible for such loss.

6.2.2 Loss in disposal of stock of Kendu Leaves

(A) It was noticed in audit that Kendu Leaf (KL) of a crop year sold within the same year fetched more value than the same crop sold in subsequent year.

To an audit query (June 1994), OFDC stated (May 1995) that the delay in disposal was due to delay in delivery by the Forest department.

As per the agreement executed between the Kendu Leaf Wing (KL wing) of the Forest department and OFDC, the Forest department had to complete delivery of KL of a crop year in phased manner by January of the following year. OFDC had to complete the disposal by the following March.

OFDC further stated that the KL delivered to them upto March was put to sale within the same financial year and there was no delay in disposal on their part.

In violation of the delivery schedule, the Forest department had delivered a portion of KL not only beyond January of the following year but even beyond March as shown

below:

Crop year	Quantity delivered upto March	Quantity delivered after March	Total quantity
1989	4,43,349.60	11,422.45	4,54,772.05
1990	3,84,837.61	10,930.55	3,95,768.16
1991	4,94,195.84	1,821.68	4,96,017.52
1992	5,04,812.32	3,053.08	5,07,866.20
1993	4,95,754.49	895.40	4,96,649.89

Therefore, delay in delivery of KL by the Forest department beyond March affected the sales as the new crop of subsequent years was preferred by the purchasers to the old crop.

Government of Orissa had sustained a loss of Rs.145.46 lakhs on account of delayed disposal due to delay in delivery of KL as shown below:

Crop year	Average sale price per Qtl. (year of production)	Quantity sold in subsequent years (in Qtls.)	Value to be realised if sold in same year	Actual value realised	Loss of revenue due to delay in disposal
1989	3526.22	11,422.45	4,02,78,071.64	3,75,28,200	27,49,871.64
1990	3251.90	10,930.65	3,55,45,380.73	2,58,63,596	96,81,784.73
1991	3035.71	1821.68	59,30,092.19	42,29,666	13,00,426.19
1992	2720.25	3053.88	83,07,317.07	78,47,308	4,60,009.07
1993	3091.55	895.40	27,68,173.87	24,14,331	3,53,842.87
Total			9,24,29,035.50	7,78,83,101	1,45,45,934.50

(B) From the information furnished by the OFDC it was noticed that quantity of KL relating to the crop years 1989 to 1993 received but not disposed of till March 1995

worked out to 7493 quintals as shown below:

Crop year	Quantity taken delivery	Quantity sold (including outside sales centres)	Balance quantity
(i n q u i n t a l s)			
1989	4,54,772.05	4,54,456.51	315.54
1990	3,95,768.16	3,92,235.62	3,532.54
1991	4,96,017.52	4,95,329.64	687.88
1992	5,07,866.20	5,07,551.81	314.39
1993	4,96,649.89	4,94,007.61	2,642.28
Total	23,51,073.82	23,43,581.19	7,492.63

Out of the balance stock, 607 quintals were lost on account of theft and 610 quintals on account of fire. Though these losses were recoverable from the Insurance Reserve Fund, no attempt was made by the OFDC to recoupe the loss. Of the balance 6276 quintals, 69 quintals were reported to be lost due to shrinkage, 3425 quintals due to damage and 2782 quintals remained unsold.

As loss due to damage was not recoverable from Insurance Reserve Fund and the remaining unsold stock has little prospect for sale due to prolonged storage, this resulted in loss of revenue (on a conservative estimate excluding loss due to shrinkage of 69 qtls.) of Rs.180.54 lakhs to the Government.

On these losses being pointed out in audit (June 1994), the CCF (KL) stated that there is no provision under existing Rules/Act to control sale activities of the OFDC who is responsible for the disposal of the kendu leaves. On the reasons for non-disposal being asked (May 1994), OFDC stated (May 1995) that the quality of leaves was not fit for manufacture of bidies and hence could not be disposed.

In terms of the agreement, OFDC should inspect the KL stock offered by the forest department and ensure that only those leaves which are fit for sale are accepted. As these leaves had been accepted after inspection by OFDC, non-disposal on the pretext that they were of inferior quality is not acceptable.

6.2.3 Non-realisation of godown rent

In terms of the agreement, the OFDC is liable to pay godown rent, watch and ward and incidental charges to the Government for delayed lifting of delivered stock from the central godown beyond 90 days from the date of delivery.

As per the details furnished by CCF (KL) godown rent of Rs.46.20 lakhs relating to the period from 1973 to 1993 was outstanding against OFDC in respect of 12 K.L. divisions. Details of outstanding godown rent in respect of remaining 7 divisions were not made available to audit.

On this being pointed out in audit (June 1994) OFDC stated (May 1995) that a decision is yet to be taken regarding payment of godown rent to the Forest Department.

6.2.4 Non-recoupment of loss from defaulting bidders by OFDC on resale of Kendu leaves

According to the conditions regulating sale in the auction sale notice, in the event of failure of successful bidder to lift the stocks on payment of bid money within the stipulated period, the sale is automatically treated as cancelled and the stocks are resold at the risk of the defaulting bidders.

As per the information furnished by the CCF (KL) loss on resale of kendu leaves which were not lifted by the successful bidders, relating to the period from 1975-76 to 1993-94 amounted to Rs.500.06 lakhs in respect of 1445 lots.

In compliance of OFDC's observation in their 158th Board meeting held in September 1993 as to the action taken for recovery of loss due to resale of the KL lots it was stated by the OFDC that security deposits wherever paid were forfeited. It was further stated (May 1995) that a decision was taken in the OFDC Board of Directors meeting held on 28 June 1994 to file suits for recovery from the defaulting bidders from 1992 crop year only. But no action had been taken as of October 1995.

6.2.5 Non-finalisation of proforma accounts

With a view to assessing the financial result, the CCF(KL) is required to prepare proforma accounts in respect of different kendu leaf divisions annually and submit the

same to the Government and Accountant General, Orissa. In reply to audit query the CCF(KL) replied (May 1995) that proforma accounts upto 1987-88 were finalised.

The matter was reported to Government (June 1994); their reply is awaited (October 1995).

6.3 Non-levy of interest on belated payment of consideration money/royalty

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of consideration money for sale of forest coupe(s) by the due date, he is liable to pay interest at the rate of 6.25 *per cent per annum* on the instalments in default. These provisions were also applicable to Orissa Forest Development Corporation who also acts as a contractor.

During the course of audit (between August 1994 and January 1995) of six* forest divisions, it was noticed that in 287 cases of belated payment of consideration money/royalty relating to the years 1991-92 to 1993-94, interest amounting to Rs.6.60 lakhs was not levied.

On this being pointed out in audit (between August 1994 and January 1995) the concerned DFO stated (between August 1994 and January 1995) that action would be taken to realise the interest from the Corporation.

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

6.4 Loss of revenue due to short/non-delivery of timber

In accordance with Government of Orissa, Forest and Environment Department letters dated 14 March, 1983 and 28 July, 1989, timbers seized in forest offence cases are required to be disposed of promptly to avoid loss of revenue due to deterioration in quality and value of the seized stock. Rule- 28(i) of Orissa Forest Department code further stipulates that the Range Officer is responsible for protection of forest produce in his charge.

* Deogarh, Dhenkanal, Ghumsur (South), Jeypore, Khurda and Nayagarh

In the course of audit of records of Puri Division, it was noticed (August, 1994) that 245 cum. of timber was seized in forest offence (undetected) cases during December, 1991 to July, 1992 against which only 204 cum. of timber were delivered to the Orissa Forest Development Corporation during 1992-93 in 4 Divisional lots. This resulted in short delivery of 41 cum. of timber. The loss of revenue due to short delivery of timber worked out to Rs.3.33 lakhs as per the royalty rates applicable for 1992-93.

On this being pointed out in audit, the Divisional Forest Officer stated (August, 1994) that the short delivery was due to non-availability of material, deterioration of timber owing to exposure to sun and rain. He further stated that the Government would be moved to write off the loss.

Since the stocks seized during December 1991 to July 1992 were allotted for disposal during May 1992 to October 1992 and the time gap between seizure and allotment for disposal was less than one year, the contention of damage to the timber on exposure to sun and rain is not acceptable.

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

6.5 Short realisation of royalty on minor minerals

According to rule 13(ii) of Orissa Minor Mineral Concession (OMMC) Rules, 1990 royalty on minor minerals extracted from the leased area shall be recoverable at the rates specified in Schedule-I as amended by Government in August 1991. As per amended Schedule royalty leviable on boulders/ballast is Rs.12 per cum.

During the audit of Forest Division, Balliguda (March 1995) it was noticed that a total quantity of 3,50,659 cft. (9930.66 cum.) of ballast and boulders (minor minerals) was removed during the period from April 1992 to November 1994 on payment of royalty at the rates applicable prior to issue of OMMC Rules 1990 which resulted in short realisation of royalty amounting to Rs.70,217.

On this being pointed out in audit (March 1995), the Divisional Forest Officer, Balliguda stated (March 1995) that the matter would be examined and further compliance submitted. Further report has not been received (October 1995).

The matter was reported to Government (April 1995); their reply has not been received (October 1995).

6.6 Underassessment of royalty

As per the schedule of rates appended to the Orissa Forest Produce Rules, 1977 and guidelines issued by the Chief Conservator of Forests, Orissa in June 1982 and September 1987, royalty in respect of coupes settled with Orissa Forest Corporation Limited (a State Government Undertaking) is determined according to the quality of timber available in the coupes and converted into units to be computed on the basis of classification of species and girth class of trees marked for felling.

A scrutiny of coupe records of the Divisional Forest Officer, Paralakhemundi revealed (February 1995) that during the year 1993-94, units of timber were wrongly worked out due to incorrect classification of trees. This resulted in underassessment of royalty in respect of 27.5 units amounting to Rs.28,017.

On this being pointed out in audit (February 1995), the Divisional Forest Officer accepted the omissions and raised demands of Rs.28,017 (February 1995) against OFDC Limited. The report regarding recovery has not been received (October 1995).

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa (February 1995); their reply is awaited (October 1995).

CHAPTER - 7 .

MINING RECEIPTS

7.1 Results of Audit

Test check of records maintained in the mining offices conducted during the year 1994-95 revealed non/short recovery of dues and loss of revenue etc., amounting to Rs.30.06 lakhs in 88 cases which may broadly be categorised as under :

	Number of cases	Amount (Rs. in lakhs)
	-----	-----
1. Non-levy/short levy of royalty, surface rent and dead rent	27	9.60
2. Non-recovery/short recovery of interest	21	6.65
3. Non-realisation/underassessment of dead rent, royalty and interest	35	12.74
4. Other irregularities	5	1.07
Total	88	30.06
	---	----

During the course of the year 1994-95, the Department accepted underassessment etc., of Rs.14.88 lakhs involved in 89 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.6.68 lakhs are mentioned in the following paragraphs.

7.2 Non-levy of interest on belated payments

In terms of Mineral Concession Rules, 1960, as amended in 1982, and Government of Orissa notification dated 9 August 1974, in the cases of belated payment of dead rent, royalty or other Government dues, simple interest at the rate of 24 per cent per annum on

the amount in default shall be charged from the 60th day of the expiry of the due date till the default continues.

During the course of audit of Talcher Mining Circle it was noticed (March 1995) that interest amounting to Rs.5.88 lakhs on belated payment of mining dues in 17 cases was not levied.

On this being pointed out in audit (March 1995) the Deputy Director of Mines, Talcher circle stated (March 1995) that action was being taken to raise the demand. Further report has not been received (October 1995).

The matter was reported to Government and Director of Mining and Geology, Orissa (April 1995); their replies have not been received (October 1995).

7.3 Non-realisation of royalty on minerals

Under the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease is to pay royalty in respect of any mineral removed or consumed from the leased area at the rate specified in the Second Schedule. The rate of royalty applicable for the year 1993-94 in respect of Iron Ore lumps (with 62 *per cent* Fe or more but less than 65 *per cent* Fe) is Rs.10 per MT.

In the course of audit of assessment records of Orissa Mining Corporation in respect of their mining lease of Daitary iron ores for the year 1993-94, it was noticed (March 1995) that the lessee had removed and despatched 15,072 MT of iron ore (with 62 *per cent* Ferrous (Fe) content or more but less than 65 *per cent* Fe content) from the leased area, during May 1993 and June 1993, but royalty on a quantity of 7096 MT only was realised and no royalty was demanded for the remaining quantity of 7976 MT of iron ore removed. This resulted in non-realisation of royalty amounting to Rs.79,760.

On this being pointed out in audit (March 1995), the Deputy Director of Mines, Jajpur Road, raised demands in March 1995.

The matter was reported to the Government and Director of Mining and Geology (April 1995); their reply has not been received (October 1995).

CHAPTER - 8

ENTERTAINMENTS TAX

8.1 Results of Audit

Test check of assessment cases and other connected documents pertaining to Entertainments Tax in the Commercial Tax Offices conducted during 1994-95 revealed under assessment of tax, non-levy of penalty etc., amounting to Rs.1.52 lakhs in 8 cases, which may broadly be categorised as under :

	Number of cases	Amount (Rs. in lakhs)
1. Short levy of compounding tax	2	0.90
2. Excess adjustment of tax paid	2	0.39
3. Non-levy of penalty	4	0.23
Total	<u>8</u>	<u>1.52</u>

During the course of the year 1994-95, the Department accepted under assessment etc., of Rs.1.20 lakhs in 16 cases of which one case involving Rs.0.84 lakh was pointed out during 1994-95 and the rest in earlier years.

An illustrative case highlighting important audit observations involving financial effect of Rs.0.84 lakh is mentioned in the following paragraph.

8.2 Short levy of entertainments tax

Under the Orissa Entertainments Tax Act, 1946, State Government may fix tax at such a percentum not less than twenty *per cent* or more than forty percentum of gross collection capacity on every show held in a cinema hall. Accordingly, by a notification dated 30 December 1989, the State Government specified that there shall be levied and realised a tax of twenty percentum of the gross collection capacity on every show in respect of exhibitions under the Municipal Councils/Notified Area Councils of

Bhubaneswar, Berhampur, Cuttack, Puri, Rourkela and Sambalpur with the condition that such tax shall be payable on an average of 70 shows per calendar month irrespective of number of shows exhibited during a month with effect from 1 January 1990.

During the course of audit of Ganjam-I circle, Berhampur it was noticed (May 1994) that a cinema hall situated within the municipal area of Berhampur revised the rate of admission fee for first class (not for other classes) from Rs.2.25 to Rs.2.90 per ticket with effect from 1 May 1991, but the tax for the period from 1 May 1991 to 31 March 1993 was levied and realised at pre-revised rates. This resulted in short levy of tax of Rs.83,720.

On this being pointed out in audit (May 1994), the assessing officer raised extra demand of Rs.83,720 (December 1994). The proprietor of the cinema hall deposited Rs.17,000 (December 1994 and January 1995). The information regarding recovery of the remaining amount has not been received (October 1995).

The Government to whom the matter was reported (June 1994) have confirmed (March 1995) the fact of raising demand of Rs.83,720 and collection of the sum of Rs.17,000.

BHUBANESWAR

The

13 DEC 1995

Countersigned



(S.K. MISHRA)

Accountant General (Audit)II

Orissa

NEW DELHI

The

20 DEC 1995



(C.G. SOMIAH)

Comptroller and Auditor General
of India

E R R A T A

to

Report of the Comptroller and Auditor General of India
for the year ended 31 March 1995

(Revenue Receipts) - No.1

Government of Orissa

Sl. No.	Page No.	Reference to line	For	Read
(1)	(2)	(3)	(4)	(5)
1	ii		Page 35,36,37 and 40.	Page 36,37,38 and 41 respectively.
2	iii	4th from the top	entering the State	—
3	24	2nd from bottom	Bhubaneswar I	*Bhubaneswar I
4	53	3rd from bottom	Bhubaneswar	* Bhubaneswar
5	53	2nd from bottom	Balasore	**Balasore
6	78	9th from bottom	Observations	Observation



COMPTROLLER AND AUDITOR GENERAL OF INDIA
1995

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