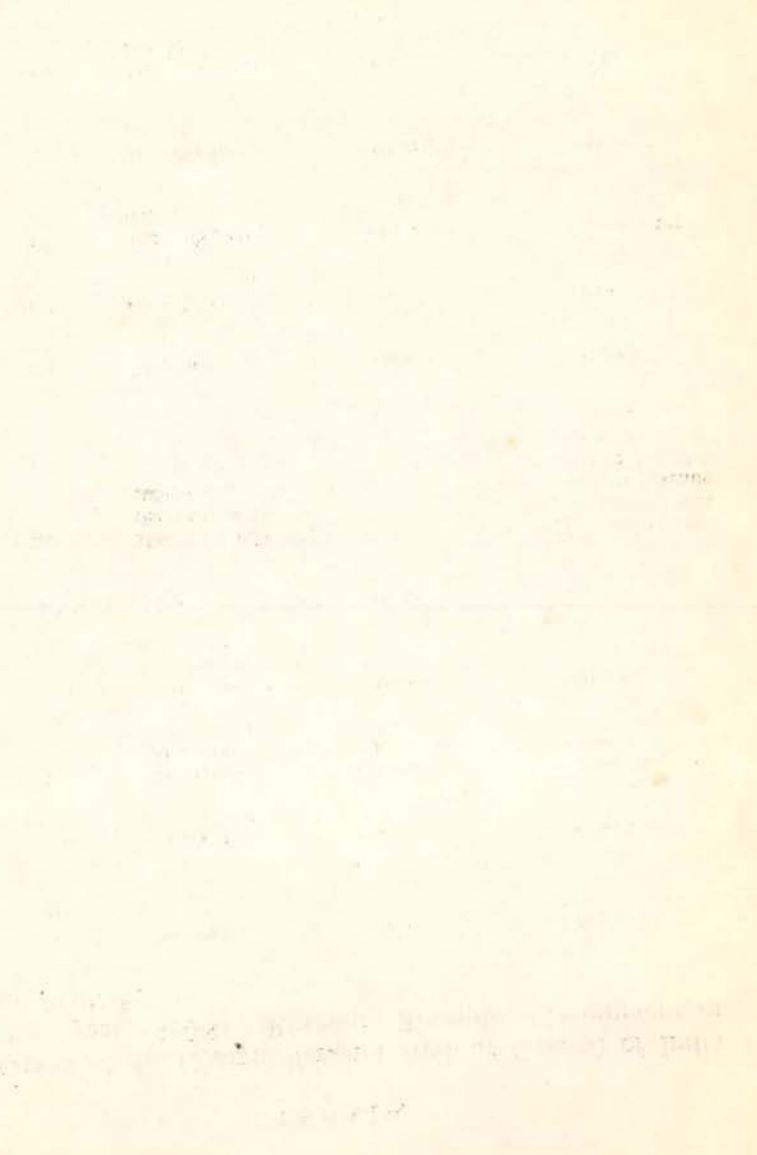


ERRATA

Report of the Comptroller and Auditor General of India
for the year 1980-81 (Revenue Receipts) Government of
Uttar Pradesh.

<u>Page no.</u>	<u>Para no.</u>	<u>Reference</u>	<u>For</u>	<u>Read</u>
11	1.6(c)(i)	Line 3	arrears,	arrears
15	1.9	1st table; 1st column	1974-75 Prior to	Prior to 1974-75
49	3.2(i)	1st sub-para; line 9	Ashapur	Ashapur,
64	4.2.3(iii)	Line 6	above ;	above:
75	5.3	May be added at the end of the last sub-para		The fact remains that there was loss of revenue due to irregular acceptance of options.
96	8.1	Line 6	miner	minor
98	8.2	First line	other	Other
112	8.9	2nd sub-para; line 1	contractor	a contractor
113	8.10(a)	1st sub-para; line 15	Officer),	Officer,
123	9.4	3rd sub-para; last line	until	uptil





REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA

for the year 1980-81

(REVENUE RECEIPTS)

GOVERNMENT OF UTTAR PRADESH



REPORT

OF THE
COMPTROLLER

AND
DIRECTOR GENERAL OF FINANCE

FOR THE YEAR 1920

SYDNEY

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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Uttar Pradesh for the year 1980-81 is presented in a separate volume as was done last year. The material in the Report has been arranged in the following order:

(i) Chapter 1 deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Budget estimates and actuals in respect of principal heads of revenue, the position of arrears of revenue, etc., are also discussed in this chapter.

(ii) Chapters 2 to 9 set out certain cases and points of interest which came to notice during the audit of Sales Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Tax on the Purchase of Sugarcane, Stamp Duties and Registration Fees, Land Revenue, Electricity Duty and Non-Tax Receipts.

2. The cases mentioned in this Report are those which came to notice in the course of test audit. The points brought out in this Report are not intended to convey any general reflection on the financial administration of the departments/authorities concerned.

CHAPTER I

GENERAL

1.1. Trend of Revenue Receipts

The total revenue receipts of the Government of Uttar Pradesh for the year 1980-81 were Rs. 18,98.73 crores against the anticipated receipts of Rs. 16,22.34 crores. The total receipts during the year registered an increase of 39 per cent over those in 1978-79 (Rs. 13,61.81 crores) and 13 per cent over those in 1979-80 (Rs. 16,84.47 crores). Of the total receipts of Rs. 18,98.73 crores, revenue raised by the State Government amounted to Rs. 8,88.10 crores of which Rs. 6,45.14 crores represented tax revenue and the balance Rs. 2,42.96 crores, non-tax revenue. Receipts from the Government of India amounted to Rs. 10,10.63 crores.

1.2. Analysis of Revenue Receipts

(a) General analysis

An analysis of revenue receipts during the year 1980-81 along with the corresponding figures for the preceding two years is given below:

	1978-79	1979-80	1980-81
	<i>(In crores of rupees)</i>		
I. Revenue raised by the State Government—			
(a) Tax revenue	5,08.15	5,62.27	6,45.14
(b) Non-tax revenue	2,17.32	2,59.88	2,42.96
Total ..	7,25.47	8,22.15	8,88.10
II. Receipts from the Government of India—			
(a) State's share of divisible Union taxes	3,17.63	5,69.12	6,32.28
(b) Grants-in-aid	3,18.71	2,93.20	3,78.35*
Total ..	6,36.34	8,62.32	10,10.63
III. Total receipts of the State (I+II)	13,61.81	16,84.47	18,98.73
IV. Percentage of I to III	53	49	47

*For details, please see Statement No. 11—Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Government of Uttar Pradesh 1980-81.

(b) Tax revenue raised by the State

Receipts from tax revenue constituted 73 per cent of the State's own revenue receipts during the year 1980-81. An analysis of tax revenue for the year 1980-81 and for the preceding two years is given below:

	1978-79	1979-80	1980-81 (+)	Increase or (-) decrease in 1980-81 with reference to 1979-80
<i>(In crores of rupees)</i>				
1. Other Taxes on Income and Expenditure	0.21	0.41	0.06	-0.35
2. Land Revenue	46.86	25.95	22.73	-3.22
3. Stamps and Registration Fees	56.70	64.23	68.96	+4.73
4. Taxes on Immovable Property other than Agricultural Land	0.01	0.01	0.01	..
5. State Excise	51.45	70.44	89.87	+19.43
6. Sales Tax *	2,72.25	3,02.52	3,50.85	+48.33
7. Taxes on Vehicles	21.60	24.39	26.09	+1.70
8. Taxes on Goods and Passengers	27.28	36.61	41.05	+4.44
9. Taxes and Duties on Electricity	6.96	7.52	12.47	+4.95
10. Other Taxes and Duties on Commodi- ties and Services	24.83	30.19	33.05	+2.86
Total ..	5,08.15	5,62.27	6,45.14	+82.87

* Sales Tax—

(i) Receipts under the Sales Tax Acts	2,30.08	2,56.93	3,02.74	+45.81
(ii) Tax on pur- chase of sugarcane	21.38	21.74	15.75	-5.99
(iii) Tax on sale of motor spirits and lubricants	20.79	23.85	32.36	+8.51

Major variations are explained as under :

(i) Increase of Rs. 19.43 crores under the head 'State Excise' during 1980-81 as compared to 1979-80 was stated to be mainly due to lifting of prohibition from September 1980 (see paragraph 1.3) and taking steps for mobilising additional resources including realisation of vend fees.

(ii) Under the head 'Sales Tax', increase of Rs. 48.33 crores during 1980-81 was due to (a) taking fresh steps for checking tax evasion and gearing up of collection machinery, (b) increase in the number of dealers liable to sales tax and (c) increase in the tax on sale of petrol under 'Tax on Sale of Motor Spirits and Lubricants'. Shortfall of Rs. 5.99 crores in 1980-81 in the receipts in respect of tax on purchase of sugarcane was due to (a) excessive decline in cane crushing/sugar production in 1979-80 on account of drought and (b) concessions on purchase tax granted by Government during 1979-80 resulting into lesser realisations of purchase tax during 1980-81.

(iii) Increase of Rs. 1.70 crores and Rs. 4.44 crores under the heads 'Taxes on Vehicles' and 'Taxes on Goods and Passengers' during 1980-81 was stated to be due to (a) day-to-day rise in the number of vehicles and (b) gearing up collection machinery and stricter checking over tax evasion.

(iv) Increase of Rs. 4.95 crores under the head 'Taxes and Duties on Electricity' during 1980-81 as compared to 1979-80 was stated to be mainly due to (a) enhancing the rate of duty on industrial consumption of electricity from 1 paise to 2 paise, (b) day-to-day increase in the sale of electricity as a result of improvement in its generation and (c) efforts made by the appointed authorities for effecting recoveries.

(v) Increase of Rs. 2.86 crores under the head 'Other Taxes and Duties on Commodities and Services' during 1980-81 was stated to be due to (a) increase in the number of cinema houses and (b) imposition of surcharge on entrance fee from June 1979.

(c) *Non-tax revenue of the State*

Interest, Forests and Irrigation, Navigation, Drainage and Flood Control Projects were the principal sources of non-tax revenue of the State. Other major non-tax revenue comprised receipts from Minor Irrigation, etc., and Education and other departments, as detailed in Appendix I.

Receipts from non-tax revenue constituted 27 per cent of the revenue raised by the State during the year 1980-81. An analysis of non-tax revenue for the year 1980-81 and for the preceding two years is given below:

	1978-79	1979-80	1980-81	(+) Increase or (-) decrease in 1980-81 with reference to 1979-80
<i>(In crores of rupees)</i>				
1. Interest	64.66	79.13	82.40	+3.27
2. Forests	42.26	45.18	49.13	+3.95
3. Irrigation, Navigation, Drainage and Flood Control Projects	33.30	32.32	28.86	-3.46
4. Others (details in Appendix I)	77.10	1,03.25	82.57	-20.68
Total ..	2,17.32	2,59.88	2,42.96	-16.92

1.3. Taxation changes during the year 1980-81

During the year 1980-81, neither any new tax nor any major increase or concession in the rates of the existing taxes was introduced. Complete prohibition in several districts of the State during the last two years was, however,

lifted from September 1980 which was estimated to yield revenue of Rs. 20.82 crores during the year 1980-81 and Rs. 32.33 crores in a full year.

1.4. Variations between Budget estimates and actuals

(a) The comparative figures of variations between Budget estimates and actuals of tax revenue and non-tax revenue during the three years ending 1980-81 are given below:

	Year	Budget estimates	Actuals	Variations Increase(+)/ shortfall(-)	Percent- age of variation
	(1)	(2)	(3)	(4)	(5)
<i>(In crores of rupees)</i>					
A. Tax Revenue	1978-79	4,36.09	5,08.15	+72.06	16
	1979-80	4,50.35	5,62.27	+1,11.92	25
	1980-81	5,04.99	6,45.14	+1,40.15	28
B. Non-tax Revenue	1978-79	2,05.70	2,17.32	+11.62	6
	1979-80	2,31.12	2,59.88	+28.76	12
	1980-81	2,58.77	2,42.96	-15.81	6

(b) The break-up of the variations under the principal heads of revenue is given below:

Receipt Head	Year	Budget estimates	Actuals	Variations Increase(+)/ shortfall(-)	Percent- age of variation
(1)	(2)	(3)	(4)	(5)	(6)
<i>(In crores of rupees)</i>					
1. Land Revenue	1978-79	28.30	46.86	+18.56	66
	1979-80	28.30	25.95	-2.35	8
	1980-81	28.30	22.73	-5.57	19
2. Stamps and Registration Fees	1978-79	39.54	56.70	+17.16	43
	1979-80	45.63	64.23	+18.60	41
	1980-81	57.29	68.96	+11.67	20
3. State Excise	1978-79	50.03	51.45	+1.42	3
	1979-80	35.50	70.44	+34.94	98
	1980-81	52.67	89.87	+37.20	70

(1)	(2)	(3)	(4)	(5)	(6)
4. Sales Tax	1978-79	2,45.01	2,72.25	+27.24	11
	1979-80	2,61.25	3,02.52	+41.27	16
	1980-81*	2,76.83	3,50.85	+74.02	26
5. Taxes on Vehicles	1978-79	19.50	21.60	+2.10	10
	1979-80	21.86	24.39	+2.53	12
	1980-81	28.16	26.09	+2.93	13
6. Taxes on Goods and Passengers	1978-79	26.74	27.28	+0.54	2
	1979-80	28.14	36.61	+8.47	30
	1980-81	32.10	41.05	+8.95	27
7. Other Taxes and Duties on Commodities and Services	1978-79	20.71	24.83	+4.12	20
	1979-80	23.09	30.19	+7.10	31
	1980-81	28.09	33.05	+4.96	17
8. Interest	1978-79	66.11	64.66	-1.45	2
	1979-80	78.41	79.13	+0.72	1
	1980-81	86.25	82.40	-3.85	4
9. Forests	1978-79	35.52	42.26	+6.74	19
	1979-80	37.84	45.18	+7.34	19
	1980-81	40.58	49.13	+8.55	21
10. Irrigation, Navigation, Drainage and Flood Control Projects	1978-79	26.02	33.30	+7.28	28
	1979-80	31.02	32.32	+1.30	4
	1980-81	31.02	28.86	-2.16	6

Reasons for variations between the Budget estimates and actuals for the year 1980-81 under the heads 'State Excise', 'Sales Tax', 'Taxes on Vehicles', 'Taxes on Goods and Passengers' and 'Other Taxes and Duties on Commodities and Services' were the same as given in paragraph 1.2 (b), while in respect of 'Land Revenue', 'Stamps and Registration Fees' and 'Forests' are as under:

(i) Lesser receipt of Rs. 5.57 crores under the head 'Land Revenue' was stated to be mainly due to stay of

* 1980-81					
(i) Receipts under the Sales Tax Acts	2,38.02	3,02.74	+64.72	27	
(ii) Tax on purchase of sugarcane	15.61	15.75	+0.14	..	
(iii) Tax on sale of motor spirits and lubricants	23.20	32.36	+9.16	39	

recovery by the State Government in view of the natural calamities.

(ii) Increase of Rs. 11.67 crores under the head 'Stamps and Registration Fees' was stated to be due to (a) continuous rise in the market price of agricultural/urban land, resulting in higher realisation of stamp duty and registration fees and (b) vigorous steps taken by the department towards detecting under-valuation of agricultural/urban land transactions and consequent recovery of short charge of stamp duty and registration fees.

(iii) Increase of Rs. 8.55 crores under the head 'Forests' was stated to be due to (a) better receipts from forest lots and (b) increase in the price of resin.

1.5. Arrears in assessment of sales tax

(a) The number of assessments finalised by the Sales Tax Department during the assessment years 1979-80 and 1980-81 and the assessments pending finalisation at the end of 31st March, as reported by the department, are indicated below:

Number of assessments due for disposal

Year	Arrear cases	Current cases	Remand cases	Total
(1)	(2)	(3)	(4)	(5)
1979-80	4,76,579	2,48,396	7,382	7,32,357
1980-81	4,27,060*	2,41,063	4,802	6,72,925

Number of assessments actually finalised

Arrear cases	Current cases	Remand cases	Total
(6)	(7)	(8)	(9)
3,03,476	56,388	6,641	3,66,505
2,64,205	48,759	3,641	3,16,605

Number of assessments pending finalisation as on 31st March

(10)
3,65,852*
3,56,320

* Addition of 61,208 cases in the opening balance of 1980-81 as compared with the closing balance of 1979-80 was stated by the department to be owing to inclusion of cases as a result of scrutiny of records and cases opened under section 21 of the U. P. Sales Tax Act, 1948.

The total number of assessments completed and the net demand raised month-wise during 1980-81 were as under:

Month	Number of assessments completed during 1980-81	Net demand raised (In crores of rupees)
April	207	0.19
May	3,066	1.28
June	16,365	1.78
July	25,388	3.71
August	24,701	4.66
September	33,651	5.53
October	29,263	5.20
November	27,892	6.27
December	35,455	6.81
January	34,216	7.85
February	34,926	8.19
March	51,475	58.65
Total ..	3,16,605	1,10.12

The number of assessments completed in the month of March 1981 was 51,475 which constituted 16 per cent of the total number (3,16,605) of the assessments completed during the year. The net demand raised in the month of March 1981 was Rs. 58.65 crores which constituted 53 per cent of the total net demand (Rs.1,10.12 crores) raised during the year.

The following is the year-wise break-up of the pending cases as on 31st March 1981:

Year	Number of cases
Upto 1977-78	45,243
1978-79	1,17,612
1979-80	1,92,304
Cases remanded by courts for re-assessment	1,161
Total ..	3,56,320

(b) The following tables show the progress of the appeal and revision cases (sales tax) during the last three years:

Year	Arrear cases	Current cases	Total	Number of cases decided	Number of cases pending at the end of the year	Percentage of pending cases to total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
PROGRESS OF APPEAL CASES						
1978-79	1,19,384	70,489	1,89,873	79,234	1,10,639	58
1979-80	1,10,639	71,488	1,82,127	82,296	99,831	55
1980-81	99,831	71,762	1,71,593	71,798	99,795	58
PROGRESS OF REVISION CASES						
1978-79	28,025	25,274	53,299	30,380	22,919	43
1979-80	25,004	19,653	44,657	15,464	29,193	65
1980-81	29,193	23,090	52,283	20,765	31,518	60

The year-wise break-up of 31,518 revision cases pending as on 31st March 1981 was as under:

Year	Number of cases
1975-76	7
1976-77	76
1977-78	462
1978-79	1,786
1979-80	8,414
1980-81	20,773

(Figures are as furnished by the department.)

The difference of 2,085 cases in the opening balance of 1979-80 as compared with the closing balance of 1978-79 in respect of the revision cases was stated by the department to be owing to exclusion/inclusion of certain cases as a result of physical verification.

1.6. Uncollected revenue and salient points

(a) Comparative position of the arrears of revenue as on 31st March 1980 and 31st March 1981 is given below together with percentage of the arrears at the end of the year 1980-81 to the collections during the year in respect of some of the departments (figures of total arrears of revenue for the State as a whole are not available).

Sl. no.	Source of revenue	Amount of revenue collected during the year 1980-81	Amount of revenue pending collection on 31st March 1981	Percentage of arrears of revenue at the end of 1980-81 to revenue collected during the year	Corresponding arrears at the end of 1979-80 and percentage (shown within brackets)
(1)	(2)	(3)	(4)	(5)	(6)
			<i>(Amount in crores of rupees)</i>		
1.	Sales Tax—				
	(i) Receipts under the Sales Tax Acts	3,02.74	1,90.40	63	1,28.52 (50)
	(ii) Tax on Purchase of Sugarcane	15.75	7.60	48	7.47 (34)
2.	State Excise	89.87	7.09	7	6.96 (10)
3.	Taxes on Vehicles, Goods and Passengers	67.14	1.04	1	0.90 (1)
4.	Land Revenue	22.73	48.43	213	41.49 (159)
5.	Electricity Duty	12.47	17.17	137	15.60 (207)
6.	Forests	49.13	6.86	13	4.99 (11)

(Figures are as furnished by the departments.)

(b) As per information furnished by the departments, out of the amounts pending collection on 31st March 1981, Rs. 9.72 crores (out of Rs. 1,90.40 crores) and Rs. 4.88 crores (out of Rs. 7.60 crores) in respect of "Sales Tax" and "Tax on Purchase of Sugarcane" respectively represented arrears more than 10 years old.

(c) *General analysis of arrears*

(i) *Arrears of sales tax*—Sales tax demand raised but not collected as on 31st March 1981 amounted to Rs. 1,90.40 crores as against Rs. 1,28.52 crores outstanding at the end of March 1980. There is, thus, increase both in the quantum and percentage of the arrears of sales tax as on 31st

NOTE—Land Revenue comprises Land Development Tax and Vrihat Jot Kar (since abolished with effect from 1st July 1977 and 1st July 1979, respectively). The amount pending collection on 31st March 1981 was Rs. 43.68 crores (Land Revenue), Rs. 4.41 crores (Land Development Tax) and Rs. 0.34 crore (Vrihat Jot Kar).

March 1981 as compared to the position at the end of the previous year.

On the other hand, the pace of recovery of arrears, up to 1979-80 was slow (22.1 per cent) as only Rs. 28.37 crores (out of Rs. 1,28.52 crores) could be realised during the year 1980-81, as can be seen from the table given below:

Year	Arrears as on 31st March		Arrears realised during 1980-81	
	1980	1981	Amount	Percentage
<i>(Amount in crores of rupees)</i>				
Upto 1974-75	19.40	18.99	0.41	0.2
1975-76	4.89	4.70	0.19	0.3
1976-77	9.92	8.30	1.62	16.3
1977-78	16.32	13.85	2.47	15.1
1978-79	22.00	16.34	5.66	25.5
1979-80	55.99	37.97	18.02	32.2
1980-81	—	90.25	—	—
Total ..	1,28.52	1,90.40	28.37	22.1

The amount of arrears (Rs. 1,90.40 crores) as on 31st March 1981 was in the following stages of action:

Stage of action	Amount of arrears <i>(In crores of rupees)</i>
(a) Amount covered by recovery certificates	50.70
(b) Amount stayed by High Court and other judicial authorities	37.48
(c) Amount stayed by Government	1.58
(d) Amount held up due to dealers becoming insolvent	14.52
(e) Other stages (including Rs. 13.58 crores due from Government departments)	86.12
Total ..	1,90.40

(ii) *Arrears of State excise duty*.—Normally, there should be no arrears relating to State excise duty, vend fee, etc., as they are payable in advance before the products are removed from the distilleries/breweries and/or bonded warehouses. Even in the case of auction of country liquor and foreign liquor shops, a part of the bid money is realised in advance

and the balance in suitable monthly instalments. However, as per information furnished by the department, the amount of arrears as on 31st March 1981 was Rs. 7.09 crores.

Year-wise analysis of these arrears was not available with the department.

The arrears were under the following stages of action :

Stage of action	Amount of arrears (In crores of rupees)
(a) Amount covered by recovery certificates	4.98
(b) Amount stayed by High Court	1.96
(c) Amount likely to be written-off	0.15
Total ..	7.09

(iii) *Arrears of land revenue*—Demand of land revenue raised but not collected as on 31st March 1981 amounted to Rs. 43.68 crores as against Rs. 36.41 crores outstanding on 31st March 1980. Recovery of the entire amount was stayed by Government in view of the natural calamities.

Similarly, while Rs. 4.41 crores of land development tax were pending collection on 31st March 1981 as against Rs. 4.62 crores outstanding on 31st March 1980, recovery of Rs. 4.23 crores was stayed by Government in view of the natural calamities. (Land Development Tax has since been abolished with effect from 1st July 1977).

(iv) *Arrears of electricity duty*—Demand of electricity duty raised but not collected as on 31st March 1981 amounted to Rs. 17.17 crores as against Rs. 15.60 crores outstanding on 31st March 1980.

Year-wise analysis is as under :

Year	Amount of arrears (In crores of rupees)
Upto 1975-76	4.76
1976-77	1.02
1977-78	1.00
1978-79	4.46
1979-80	3.12
1980-81	2.81
Total ..	17.17

The amount of arrears as on 31st March 1981 was in the following stages of action:

Stage of action	Amount of arrears (In crores of rupees)
(a) Amount held up due to the judgment of the Allahabad High Court (delivered in May 1974) directing the State Government to reconsider the application of a company at Renukoot regarding exemption from payment of electricity duty leviable on its own generation since 1st September 1970. Decision has not yet been taken by the State Government.	11.04
(b) Amount being deducted from the loan sanctioned to the U. P. State Electricity Board	5.49
(c) Amount stayed by High Court	0.37
(d) Amount covered by recovery certificates	0.12
(e) State and Central Government Appointed Authorities being pursued to deposit the outstanding dues.	0.15

Total .. 17.17

(v) *Arrears of forest receipts*—For supplying timber and other forest products to the indentors, full payments in respect of the same are required to be collected before despatch and, as such, normally there should not be any arrears on account of the supply of timber and other forest products. However, as per information furnished by the department, the amount of arrears as on 31st March 1981 was Rs. 6.86 crores as against Rs. 4.99 crores outstanding on 31st March 1980.

Year-wise analysis is as under:

Year	Amount of arrears (In crores of rupees)
Upto 1975-76	1.43
1976-77	0.24
1977-78	0.08
1978-79	0.12
1979-80	0.51
1980-81	4.48
Total ..	6.86

The amount of arrears as on 31st March 1981 was in the following stages of action:

Stage of action	Amount of arrears (In crores of rupees)
(a) Amount to be adjusted against security in hand or material in the custody of the department	4.57
(b) Amount covered by recovery certificates	1.05
(c) Amount stayed by High Court and other judicial authorities	0.38
(d) Amount likely to be written-off (due to the parties being insolvent)	0.09
(e) Other stages	0.77
Total ..	6.86

[Figures in paragraph 1.6 (c) are as furnished by the departments.]

1.7. Writes-off and remissions of revenue

Details of demands written-off and remitted during the year 1980-81, as furnished by a few departments without indicating the number of items, are given below:

Department	Write-off of losses, irrecoverable revenue, tax	Remission
(i) Finance—		(In crores of rupees)
Sales tax	0.63	..
(ii) Revenue—		
(a) Land revenue	..	0.48
(b) Land development tax	..	0.03

1.8. Cost of collection

Expenditure incurred in collecting the receipts under the principal heads of revenue during the three years 1978-79 to 1980-81 is given in Appendix II.

1.9. Position of outstanding audit inspection reports

Audit observations as a result of scrutiny of records relating to assessment and collection of various receipts noticed during the local audit of the various executive units are communicated to the heads of offices and to the next higher

departmental authorities through audit inspection reports. The more important irregularities are also reported to the heads of departments and Government. First replies to the audit inspection reports are required to be sent within one month of their receipt.

Half-yearly reports of audit observations remaining outstanding for more than six months are also sent to the heads of departments and Government to expedite their settlement.

Out of the audit inspection reports issued upto March 1981, 6,726 paras incorporated in 2,881 inspection reports remained outstanding at the end of September 1981.

Year-wise break-up of these outstanding inspection reports/paras with money value is as follows:

Year	Number of inspection reports	Number of paragraphs	Amount involved (In lakhs of rupees)
1974-75	48		
Prior to 1974-75		57	39.26
1974-75	170	252	46.58
1975-76	216	392	60.17
1976-77	279	687	3,20.70
1977-78	345	720	4,98.48
1978-79	488	1,117	5,43.65
1979-80	511	1,217	5,30.25
1980-81	824	2,284	5,28.39
Total	2,881	6,726	2,567.48

The departments with comparatively heavy outstandings are mentioned below:

Department	Number of reports and paragraphs outstanding for more than three years (reports issued upto March 1978)		Number of reports and paragraphs outstanding for three years and less (1978-79 to 1980-81)	
	Reports	Para-graphs	Reports	Para-graphs
1. State Excise	295	557	216	425
2. Stamps and Registration Fees	169	274	310	613
3. Purchase Tax on Sugarcane	166	305	226	400

4. Forest	147	303	116	416
5. Electricity Duty	58	91	89	161
6. Land Revenue	53	106	159	293
7. Sales Tax	45	92	470	1,565
Total	933	1,728	1,586	3,873

The following table contains data of the audit inspection reports pertaining to various departments, in respect of which even first replies had not been received:

Department	Number of inspection reports			Total
	3 years and more (issued upto March 1978)	More than 2 years but less than 3 years (issued during 1978-79)	Less than 2 years (1979-80 and 1980-81)	
1. Sales Tax	—	..	162	162
2. State Excise	36	23	35	94
3. Electricity Duty	33	18	20	71
4. Stamps and Registration Fees	..	..	56	56
5. Purchase Tax on Sugarcane	..	..	39	39
6. Irrigation	..	..	34	34
7. Land Revenue	..	..	22	22
8. Forest	1	1	16	18
9. Agriculture	..	..	11	11
10. Public Works	..	..	8	8
11. Entertainment and Betting	..	..	7	7
12. Transport	..	..	7	7
13. Co-operation	..	..	3	3
14. Food and Civil Supplies	..	..	3	3
Total	70	41	423	535

CHAPTER 2
FINANCE DEPARTMENT
SALES TAX

2.1. Results of test audit in general

In the course of test audit of the records of the Sales Tax Offices during the year 1980-81, under-assessment of tax and non-levy/short levy of interest and penalty in 1,311 cases involving revenue of Rs. 70.76 lakhs were pointed out to the department. The cases are broadly categorised as under :

	Number of items	Amount (In lakhs of rupees)
1. Irregular exemptions	123	12.40
2. Application of incorrect rates of tax	195	10.02
3. Turnover escaping assessment and incorrect determination of turnover	128	5.23
4. Non-levy of additional tax	147	5.33
5. Incorrect classification of goods	45	1.72
6. Non-levy/short levy of interest/penalty	247	26.67
7. Arithmetical mistakes	121	3.63
8. Miscellaneous	305	5.76
Total ..	<u>1,311</u>	<u>70.76</u>

A few important cases are given in the succeeding paragraphs.

2.2. Irregular concession on purchases of raw materials

Section 4-B of the U. P. Sales Tax Act, 1948, provides for specific relief to the manufacturers of goods notified

under that section under specified conditions. If a manufacturer of the notified goods wants to avail of the special relief, he will have to obtain from his assessing officer a "recognition certificate" whereupon he will not have to pay or will have to pay at a concessional rate sales tax or purchase tax on his purchase of raw materials for use in manufacture of the notified goods. Under the notifications issued from time to time, "rubber and rubber products" was included as one of the notified goods and no tax was payable on the purchases of raw materials required for use in their manufacture. No concession under the said notifications would be admissible if the goods manufactured by the unit were not liable to tax at any stage under the Act *ibid*. It was further provided in the Act that a dealer who issues to another dealer, a false or wrong certificate or declaration, prescribed under any provision of the Act or the Rules framed thereunder, by reason of which a tax leviable under this Act on the transaction of purchase or sale made with such other dealer, ceases to be leviable or becomes leviable at a concessional rate, shall be liable to pay on such transaction an amount which would have been payable as tax on such transaction, had such certificate or declaration not been issued.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (January 1981) that a dealer was granted recognition certificate from 12th November 1974 for manufacture of rubber products against which the dealer purchased free of tax 'raw rubber, latex and chemicals' as raw materials worth Rs. 6.86 lakhs in 1975-76, Rs. 16.45 lakhs in 1976-77, Rs. 25.97 lakhs in 1977-78 and Rs. 41.15 lakhs in 1978-79 by furnishing prescribed declarations to the selling dealers. The manufactured item from the aforesaid raw materials was, however, sold as agricultural implement (plough grips) the sales of which were exempt from levy of tax. As such, the dealer was not entitled to the concession of tax-free purchases of raw materials. The tax involved on such purchases of raw materials worth

Rs. 90.43 lakhs amounted to Rs. 7.23 lakhs (at the rate of 8 per cent including additional tax of one per cent).

The matter was reported to Government in March 1981; their reply is awaited (January 1982).

2.3. Irregular exemptions

(i) Non-levy of tax on foodgrains transferred outside the State on consignment basis

According to the provisions of the U. P. Sales Tax Act, 1948, where goods are liable to tax at the point of sale to the consumer, every sale is to be deemed to be a sale to the consumer and is liable to tax. If, however, the sale is made to a registered dealer who purchases the goods for re-sale within the State or in the course of inter-State trade or commerce and furnishes a declaration to that effect to the selling dealer, the latter would sell the goods to the purchasing dealer free of sales tax. After having taken advantage of this provision for purchase of the goods tax-free, if the purchasing dealer does not re-sell them either within the State or in the course of inter-State trade or commerce in the same form and condition in which he had purchased them, he is liable to pay tax on his purchases of those goods at the same rate at which tax would have been payable by the selling dealer, had such declaration not been furnished.

Foodgrains were taxable at 4 per cent at the point of sale to consumer during the period 2nd September 1976 to 30th April 1977. (Thereafter, tax became leviable at the point of first purchase at the same rate).

In the course of audit of the Sales Tax Circle, Aligarh, it was noticed (May 1980) that a registered dealer purchased foodgrains valued at Rs. 3.27 lakhs during the period 2nd September 1976 to 31st March 1977 without paying any tax thereon, by furnishing prescribed declarations. However, later, instead of re-selling them either within the State

or in the course of inter-State trade or commerce, he transferred them to his branch office outside Uttar Pradesh on consignment basis. The dealer, therefore, became liable to pay tax on his aforesaid purchases of foodgrains made on prescribed declarations and the amount of such tax worked out to Rs. 13,088. No tax was, however, levied.

As the aforesaid tax was admittedly payable by the dealer, he also became liable for payment of interest which worked out to Rs. 9,666 from February 1977 to May 1980 (month of audit), after providing credit for excess deposits of Rs. 1,005 on other item by the dealer.

On this being pointed out in audit in June 1980, the department stated in February 1981 that assessment order had been revised raising additional demand for the aforesaid tax and interest in June 1980 and that the recovery of the dues would be watched by them.

The matter was reported to Government in June 1980; their reply is awaited (January 1982).

(ii) *Non-declared goods treated as declared ones*

The State rate of sales tax/purchase tax including rate of tax for additional tax on goods declared to be of special importance in inter-State trade or commerce under section 14 of the Central Sales Tax Act, 1956, is not to exceed the rate specified in the Act *ibid*, which has been 4 per cent since 1st July 1975.

The State rate on foodgrains was raised from $2\frac{1}{2}$ per cent to 4 per cent with effect from 2nd September 1976. Additional tax of one per cent was also leviable if the turnover exceeded Rs. 2 lakhs. Though cereals and pulses were included from 2nd September 1976 in the list of declared goods on which the rate of tax could not exceed 4 per cent, 'Peas and peas pulse' (*matar* and *matar dal*) were not so included.

In the course of audit of the Sales Tax Circle, Hathras, it was noticed (October 1980) that a dealer had disclosed taxable turnover of foodgrains of Rs. 17.21 lakhs for the period May 1977 to March 1978. Commodity-wise details of foodgrains were neither given by the dealer nor enquired by the assessing authority and, treating the entire turnover of foodgrains as that of declared commodity, assessment of tax was made at the rate of 4 per cent.

A scrutiny of the various declarations in audit revealed (October 1980) that the above turnover of foodgrains comprised mainly of peas (*matar*) which was not a declared commodity. Thus, levy of purchase tax thereon was not subject to the maximum rate of 4 per cent prescribed under the Central Sales Tax Act and levy of tax should have been made at the rate of 4 per cent with additional tax of one per cent as the turnover exceeded Rs. 2 lakhs.

On this being pointed out in audit in December 1980, the departmental authorities checked the accounts records of the dealer and found that purchases of Rs. 16.51 lakhs related to peas (*matar*). Accordingly, the assessment order was revised in February 1981 raising additional demand of Rs. 16,505 which was stated (December 1981) by the department to have been recovered in full in May/June 1981.

As the aforesaid tax was admittedly payable by the dealer, he also became liable for interest for non-payment of this tax. The amount of such interest worked out to Rs. 11,405 for the period July 1977 to October 1980 (month of audit).

Government, to whom the matter was reported in December 1980, endorsed (January 1982) the reply of the department.

(iii) Non-levy of tax on sales returns after admissible period

Under the Central Sales Tax Act, 1956, for working out the taxable sales turnover of a dealer, deductions are permissible on account of the sale price of all goods returned to the dealer by the purchasers of such goods, provided the goods are returned within a period of six months from the date of delivery of goods.

In the course of audit of the Sales Tax Circle, Kannauj, (Fatehgarh district), it was noticed (September 1979) that while finalising the assessment of a dealer for the year 1975-76 in October 1978, exemption of tax on goods of the value of Rs. 7.61 lakhs in periodical returns on account of goods returned by ex-U. P. purchasers was allowed to him, though the sales returns revealed that goods (scents) of the value of Rs. 1.42 lakhs had been actually returned after six months from the dates of delivery. Exemption claimed by the dealer to this extent for the year 1975-76 was, therefore, inadmissible.

This resulted in under-assessment of tax of Rs. 17,035 at the State rate of 12 per cent applicable to such goods which were not supported by prescribed declarations.

Besides, there was omission in levying tax on a turnover of Rs. 9,862 not supported by prescribed declarations and the amount of such tax due for the year 1975-76 worked out to Rs. 1,184.

There was thus total short charge of Rs. 18,219 on account of the above two mistakes.

As the above tax was admittedly payable by the dealer, he also became liable for payment of interest of Rs. 13,482 due for the period 9th September 1976 to September 1979 (month of audit).

On this being pointed out in audit (November 1979), the department stated (January 1981) that assessment order had since been revised in September 1980 raising additional

demand for the aforesaid tax and interest. Report regarding recovery is awaited (January 1982).

The matter was reported to Government in November 1979; their reply is awaited (January 1982).

(iv) Non-levy of tax on purchases of goods against declarations utilised for export

Under the U. P. Sales Tax Act, 1948, where a registered dealer purchases any goods free of tax from another dealer by giving declaration for re-sale in the same condition either within the State or in the course of inter-State trade or commerce and after having taken advantage of this provision, does not re-sell such goods as per declaration, he shall be liable to pay tax on the turnover of purchases in respect of those goods at the same rate at which sales tax would have been payable by the selling dealer, had such declaration not been furnished.

In the course of audit of the Sales Tax Circle, Agra, it was noticed (April 1980) that a dealer purchased leather valued at Rs. 29.86 lakhs and Rs. 30.76 lakhs during the years 1976-77 and 1977-78 respectively, free of tax after furnishing prescribed declarations. Out of these tax-free purchases, the dealer effected sales of Rs. 2.64 lakhs in 1976-77 and of Rs. 1.85 lakhs in 1977-78 for export out of India, on which no sales tax was leviable.

As the commodity earlier purchased tax-free by furnishing the declaration was not sold within the State or in the course of inter-State trade or commerce, the dealer was not entitled to the said benefit and was liable to pay tax on its purchase prices of Rs. 2.50 lakhs and Rs. 1.76 lakhs, for the years 1976-77 and 1977-78 respectively. On this an amount of Rs. 17,063 was leviable as tax at the rate of 4 per cent.

On this being pointed out in audit (June 1980), the department stated (June 1981) that the assessment had been revised raising additional demand for the aforesaid tax which had

been recovered. The dealer has, however, gone in appeal against the revised assessment.

Further, as the aforesaid tax was admittedly payable by the dealer, he also became liable for interest for non-payment of this tax which worked out to Rs. 10,596 from May 1977 to April 1980 (month of audit). Further action is awaited (January 1982).

The matter was reported to Government in June 1980; their reply is awaited (January 1982).

2.4. Application of incorrect rates

(i) The rate of tax on sales of '*Vanaspati*' leviable at the point of sale by the manufacturer or importer was enhanced from 7 per cent to 8 per cent with effect from 19th December 1974. Similarly, the rate of tax on sales of 'washing soap', also leviable at the point of sale by the manufacturer or importer, was enhanced from 4 per cent to 5 per cent with effect from 1st June 1975.

In the course of audit of the Sales Tax Circle, Varanasi, it was noticed (June-July 1980) in the case of a dealer that (a) his turnover of Rs. 2,48.42 lakhs for the period 19th December 1974 to 31st March 1976 relating to the sale of *Vanaspati* and (b) his turnover of Rs. 30.50 lakhs for the period 1st June 1975 to 31st March 1976 relating to washing soap, both imported from outside the State, were assessed to tax at the pre-revised rates of 7 per cent and 4 per cent respectively. Non-application of the enhanced rates led to short levy of tax of Rs. 2.79 lakhs.

On the short levy being pointed out in audit (July-August 1980), the department intimated (November 1981) that the assessment had been revised raising an additional demand of Rs. 2.79 lakhs, out of which Rs. 2,850 had been deposited by the dealer and that recovery of the balance amount had been stayed in appeals.

Government, to whom the matter was reported in July-August 1980, endorsed the department's reply and stated that progress of recovery would be watched (January 1982).

(ii) Under the U. P. Sales Tax Act, 1948, 'Mill stores and hardwares' became taxable at the rate of 7 per cent with effect from 1st December 1973, at the point of sale by the manufacturer or importer.

In the course of audit of the Sales Tax Circle, Agra, it was noticed (October 1980) that the turnover of a manufacturer of brass rivets of Rs. 7.98 lakhs for the year 1975-76 and of Rs. 7.12 lakhs for the year 1976-77 were assessed to tax in September 1979 and November 1979, respectively, at the rate of 4 per cent. Brass rivets, being items of hardwares, were liable to tax at the rate of 7 per cent applicable to entry 'Mill stores and hardwares'. Application of lower rate of tax of 4 per cent resulted in short charge of Rs. 45,294.

As the aforesaid tax was admittedly payable by the dealer, he also became liable for interest of Rs. 43,793 for non-payment of tax from May 1976 to October 1980 (month of audit).

Total short charge on account of tax and interest worked out to Rs. 89,087.

On this being pointed out in audit, the department stated (January 1982) that the assessment orders were revised raising additional demands of tax of Rs. 45,294 and interest due thereon, out of which Rs. 25,200 towards tax have been recovered. Report regarding recovery of balance amount of tax and interest is awaited (January 1982).

The matter was reported to Government in November 1980; their reply is awaited (January 1982).

(iii) Under the Central Sales Tax Act, 1956, inter-State sales of goods other than declared goods not supported by prescribed forms are to be assessed at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher.

Tax at the rate of 12 per cent was leviable under the U. P. Sales Tax Act, 1948, on sales of spare parts of radios and loudspeakers, with effect from 15th April 1974. The inter-State sales of these spare parts not supported by prescribed forms were, therefore, liable to tax at the rate of 12 per cent from that date.

In the course of audit of the Sales Tax Circle, Ghaziabad, it was noticed (June 1980) that the turnover of a dealer for the years 1976-77 and 1977-78 of radio and loudspeaker spare parts was determined (March 1980) on best judgment basis at Rs. 20 lakhs for each year and was assessed to tax at the rate of 10 per cent in March 1980 as inter-State sales not supported by prescribed 'C' forms instead of 12 per cent which was correctly leviable on such inter-State sale during the aforesaid years. The application of incorrect rate of tax, thus, resulted in short charge of Rs. 80,000.

The dealer having gone in appeal (April 1980) against the assessment orders, the cases were remanded (November 1980) for fresh assessment. The remand cases were finalised by the assessing officer in March 1981 and the turnover was determined at Rs. 18 lakhs for the year 1976-77 and at Rs. 16.65 lakhs for the year 1977-78 and the tax was levied at the rate of 12 per cent as pointed out in audit, raising an additional demand of Rs. 69,292. Report regarding recovery is awaited (January 1982).

The matter was reported to Government in September 1980; their reply is awaited (January 1982).

(iv) Spirits and spirituous liquors of all kinds, excluding country liquor, are taxable at the rate of 12 per cent, at the point of sale by the manufacturer or importer, with effect from October 1972.

Excise licences for sale of spirits and spirituous liquors are given by the State Excise Department for one year at a time and they expire on 31st March each year. The excise dealers do not always pay their sales tax dues during the

currency of their contract period and the unpaid dues become irrecoverable in some cases. In order to check evasion of the sales tax by such dealers, the Sales Tax Manual provides for finalisation of assessments on a priority basis in respect of casual dealers and of contractors where contracts are for a particular year. Instructions have also been issued by the department for ensuring assessment and realisation of tax from excise licensees before they wind up their business.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (February 1980) that the business premises of a 'wine' dealer—who was not on record with the department and was not a regular assessee—were surveyed in December 1974 and stock of the value of Rs. 1.00 lakh was found. The departmental authorities estimated that the dealer effected annual sales of the value of Rs. 9 to 10 lakhs. However, the assessment proceedings in this case were initiated after a lapse of more than 3 years in April 1978 when a notice was issued to the dealer to appear before the assessing officer in June 1978. The notice, which recorded the name of the dealer incorrectly, was returned unserved. Another notice, issued in February 1979, was also returned unserved as the addressee was untraceable.

The assessment of the dealer was finalised, *ex parte*, in March 1979. According to the assessment, gross sales were estimated at Rs. 20 lakhs, out of which sales of ex-U. P. purchased wine—which were taxable—were estimated at Rs. 4.00 lakhs, and the latter were assessed to tax of Rs. 32,000 (tax calculated at the rate of 7 per cent and additional tax at the rate of 1 per cent). As the sales of wines imported from outside U. P. were correctly taxable at 12 per cent during the year 1974-75, the tax correctly leviable should have been Rs. 52,000.

However, the notice of demand of tax issued on the dealer was received back unserved as the dealer was reported to be untraceable.

The matter was reported to Government in April 1980; their reply is awaited (January 1982).

2.5. Application of incorrect rates of tax to inter-State sales of declared goods

(i) Under the Central Sales Tax Act, 1956, inter-State sales are taxed as under:

(a) In respect of sales supported by the prescribed declarations, the rate is 3 per cent upto June 1975 and 4 per cent thereafter.

(b) In respect of sales not supported by the prescribed declarations, the rate is 10 per cent or the State rate, whichever is higher.

In the course of audit of the Sales Tax Circle, Allahabad; it was noticed (September 1980) that a dealer's returned inter-State turnover of tyres of Rs. 4.55 lakhs for the year 1975-76, which was not supported by the prescribed declarations, was assessed to tax at 7 per cent, being the State rate applicable to sale of tyres within Uttar Pradesh instead of the correct rate of 10 per cent. This resulted in under-assessment of tax of Rs. 13,665.

As the aforesaid tax was admittedly payable by the dealer, he became liable also for interest at the rate of 2 per cent per month with effect from 9th September 1976 for its non-payment.

On this being pointed out in audit (September 1980), the department revised the assessment order in March 1981 raising additional demand for the aforesaid tax and interest. Recovery certificate was also issued in July 1981. Further developments are awaited (January 1982).

The matter was reported to Government in November 1980; their reply is awaited (January 1982).

(ii) If the inter-State sales in respect of goods declared under section 14 of the Central Sales Tax Act, 1956, to be of special importance in inter-State trade or commerce, are

not supported by prescribed declarations, they are taxable at twice the rate applicable to the sale or purchase of such goods inside the appropriate State. Foodgrains are among the goods declared to be of special importance in inter-State trade or commerce with effect from 2nd September 1976 and are taxable at 4 per cent inside the State of Uttar Pradesh.

In the course of audit of the Sales Tax Circle, Hardoi, it was noticed (February 1981) that a dealer's disclosed inter-State sales of Rs. 3.68 lakhs of foodgrains for the period 1st November 1976 to 31st March 1977 were not supported by prescribed declarations but were assessed to tax at the State rate of 4 per cent, while the rate leviable should have been double of this rate. The levy of tax at incorrect rate resulted in short charge of revenue of Rs. 14,730.

As the aforesaid tax was admittedly payable by the dealer, he became liable also for payment of interest which worked out to Rs. 13,551 for the period May 1977 to February 1981 (month of audit).

The matter was reported to Government in April 1981; their reply is awaited (January 1982).

2.6. Irregular benefit of concessional rates of tax

(i) By a notification issued on 1st October 1975 under sub-section (5) of section 8 of the Central Sales Tax Act, 1956, the concessional rate of tax on sales of mill stones in the course of inter-State trade or commerce was enhanced from 2 per cent to 3 per cent with effect from 2nd October 1975. This concession is admissible only to dealers who are registered under section 7 of the Act *ibid.*

In the course of audit of the Sales Tax Circle, Agra, it was noticed (September 1980) that in respect of a dealer not registered under the Act, inter-State sales of mill stones of Rs. 40,000 for the year 1974-75 and of Rs. 5 lakhs for the year 1975-76 were assessed to tax in January 1979 and

March 1980 respectively at the concessional rate of 2 per cent upto 1st October 1975 and 3 per cent thereafter. As the dealer was not registered under the Central Sales Tax Act, 1956, he was not entitled to the concessional rates of taxation. These sales, being not covered by the prescribed declarations, were taxable at the rate of 10 per cent. Irregular application of concessional rates of tax resulted in short levy of tax of Rs. 40,700.

On this being pointed out in audit, the department revised the assessment orders in June 1981, raising an additional demand of Rs. 40,700. Report regarding recovery is awaited (January 1982).

Government, to whom the matter was reported in November 1980, confirmed the facts (January 1982).

(ii) By a notification issued on 1st October 1975 under sub-section (5) of section 8 of the Central Sales Tax Act, 1956, inter-State sales of oilseeds, a declared commodity under section 14 of the Act, were made taxable at the concessional rate of 2 per cent with effect from 2nd October 1975. By issue of another notification of 26th March 1977, this concession was withdrawn and inter-State sales of oilseeds supported by prescribed declarations became taxable with effect from 1st April 1977 at the normal rate of tax of 4 per cent.

In the course of audit of the Sales Tax Circle, Gonda, it was noticed (June 1980) that the Central assessment case of a dealer for the year 1977-78 was finalised in March 1980 in two parts (1st April 1977 to 2nd September 1977 as first part and from 5th September 1977 to 31st March 1978 as second part). The inter-State sales of oilseeds supported by prescribed declarations of Rs. 5,72,110 (Rs. 2,86,490 for first part and Rs. 2,85,620 for second part) were assessed to tax at the concessional rate of 2 per cent, whereas the correct leviable rate was 4 per cent. Incorrect application of the concessional rate of 2 per cent resulted in short levy of tax of Rs. 11,442.

On this being pointed out (June 1980) in audit, the department revised the assessment orders in June 1980 raising an additional demand of Rs. 11,442 of which an amount of Rs. 11,362 was adjusted against the deposits of tax made by the dealer in excess and the balance of Rs. 80 was realised from him in June 1980.

Government, to whom the matter was reported in July 1980, confirmed the facts (January 1982).

2.7. Turnover assessed incorrectly

(i) Under the Central Sales Tax Act, 1956, inter-State sales supported by the prescribed declarations were taxable at the rate of 3 per cent upto 30th June 1975 and at 4 per cent thereafter.

In the course of audit of a Sales Tax Circle at Kanpur, it was noticed (November 1980) that the disclosed inter-State sales of jute goods of a dealer, supported by the prescribed declarations, were Rs. 51.39 lakhs for the period 1st April 1975 to 30th June 1975, and Rs. 1,49.86 lakhs for the period 1st July 1975 to 31st March 1976 which were taxable at the rate of 3 per cent and 4 per cent respectively. The total tax leviable on the turnover of both the periods was Rs. 7,53,633.

However, while finalising the assessment case of the dealer in March 1980, the sales for the period 1st April 1975 to 30th June 1975 were incorrectly taken at Rs. 1,56.37 lakhs as against Rs. 51.39 lakhs and that for the period 1st July 1975 to 31st March 1976 at Rs. 44.88 lakhs only as against Rs. 1,49.86 lakhs, which were assessed at the rate of 3 per cent and 4 per cent respectively. The tax levied was Rs. 6,48,650 as against Rs. 7,53,633 properly leviable. Levy of tax on incorrect turnovers resulted in short charge of Rs. 1.05 lakhs.

As the aforesaid tax was admittedly payable by the dealer, he also became liable for interest for non-payment of

the tax, which worked out to Rs. 1.07 lakhs for the period September 1976 to November 1980 (month of audit). Total short charge on account of tax and interest worked out to Rs. 2.12 lakhs.

The matter was reported to Government in May 1981; their reply is awaited (January 1982).

(ii) In the course of audit of the Sales Tax Circle, Bareilly, it was noticed (July 1977) that a firm dealing in scooters, scooter parts and agricultural implements, etc. was reconstituted with effect from 1st April 1974. Scrutiny in audit revealed that though the closing stock of Rs. 1.21 lakhs of the old firm was transferred to the reconstituted firm, it was not taken into account while determining the turnover of the assessee for the assessment year 1974-75. After adding normal profit of 10 per cent, the turnover in respect of such stock worked out to Rs. 1.32 lakhs, involving tax liability of Rs. 11,497.

On this being pointed out in audit, the assessment order was revised and additional demand was raised in April 1978 and collected in August 1980.

As the aforesaid tax was admittedly payable by the dealer, he also became liable for payment of interest leviable upto the date of payment of tax, which worked out to Rs. 14,308.

The department stated (May 1981) that the interest for the aforesaid amount had been levied by passing order in April 1981 under the U. P. Sales Tax Act, 1948. Particulars of recovery are awaited (January 1982).

Government, to whom the matter was reported in August 1977, confirmed the facts (July 1981).

(iii) Under the U. P. Sales Tax Act, 1948, cotton waste was taxable during the year 1974-75 at the rate of 2 per cent at the point of sale by the manufacturer or importer.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (July 1979) that while finalising in February 1979 the assessment of a cotton mill for the year 1974-75, as against the disclosed sales of cotton waste of Rs. 2.88 lakhs for the period 23rd November 1974 to 31st March 1975 the turnover of Rs. 35,871 only was assessed to tax. Sales amounting to Rs. 2.52 lakhs had thus escaped assessment. The sales for the period prior to 23rd November 1974 were not separately available.

On this being pointed out (July 1979) in audit, the departmental authorities checked the account books of the assessee and found (September 1979) that sales of cotton waste of Rs. 5.47 lakhs for the period 1st April 1974 to 3rd November 1974 and of Rs. 3.54 lakhs for the period 4th November 1974 to 31st March 1975, aggregating Rs. 9.01 lakhs, had actually escaped assessment. The assessment was revised accordingly in September 1979, raising an additional demand of Rs. 24,300 (including additional tax). The dealer was also liable to interest for non-payment of this tax which worked out to Rs. 24,300 for the period June 1975 to July 1979 (month of audit).

The matter was reported to Government in August 1979; their reply is awaited (January 1982).

(iv) In the course of audit of the Sales Tax Circle, Agra, it was observed (April 1980) that as per returns filed by a dealer for the assessment year 1976-77, purchases of 27,000 tins of Vanaspati were made from Rajasthan at a value of Rs. 35.72 lakhs for sale on consignment basis. The lists showing details of consignment, however, revealed that the total value of purchases worked out to Rs. 37.03 lakhs. Thus, purchases to the extent of Rs. 1.31 lakhs were omitted to be brought to tax. The entire stock was shown as sold off during the year.

The sales turnover of Rs. 1.32 lakhs (worked out by adding to the purchase value a percentage of 1.3 on account of expenses and profits) thus escaped assessment resulting in short levy of tax of Rs. 11,880.

On this being pointed out in audit (April 1980), the assessment order was revised raising additional demand of Rs. 11,880 which was recovered (April 1980). The delayed payment also invited levy of interest of Rs. 8,458 for the period May 1977 to 18th April 1980. The department intimated (September 1981) that the dealer had deposited the amount of interest in August/September 1980.

Government, to whom the matter was reported in June 1980, confirmed the facts (January 1982).

2.8. Affording excess credits

(i) In the course of audit of the Sales Tax Circle, Lucknow, it was noticed (December 1980) that a dealer of diesel engines had deposited on 30th March 1977 an amount of Rs. 11,002 through a treasury challan. This was done to make up for short deposits of tax credited by him through monthly returns for part of the assessment years 1975-76 and 1976-77 due to application of lower rate of tax during July 1975 to June 1976. While finalising the assessments for the years 1975-76 and 1976-77 in March and May 1979 respectively, credit for the said amount was given to him twice, once in respect of the assessment year for 1975-76 on the basis of the depositor's copy of the challan placed on the assessment file for 1975-76 and again for the year 1976-77 on the basis of the departmental copy of the same challan (received through treasury) which was placed in the assessment file of the dealer for 1976-77. This resulted in short charge of tax of Rs. 11,002.

Besides, interest on the above amount of tax admittedly payable by the dealer but remaining unpaid from the due dates (June to November 1976) upto the month of audit (December 1980) amounted to Rs. 9,950.

On this being pointed out in audit (December 1980), the department stated (August 1981) that the assessment order had since been revised in January 1981 raising additional demand for the aforesaid tax and interest out of which a

sum of Rs. 2,792 had been deposited in March 1981 and the balance amount had been ordered on 4th April 1981 to be recovered in eight monthly instalments.

The matter was reported to Government in February 1981; their reply is awaited (January 1982).

(ii) In the course of audit of the Sales Tax Circle, Lucknow, it was noticed (November 1980) that a dealer in machinery parts was assessed in March 1980 to a tax of Rs. 4.99 lakhs on his taxable turnover of Rs. 62.71 lakhs for the assessment year 1975-76. Against this tax liability, the dealer was afforded credit of Rs. 4,92,288 instead of Rs. 4,82,288 on account of admitted tax deposited by him. This resulted in short demand of Rs. 10,000.

On this being pointed out in audit, the department revised the assessment order in November 1980 raising additional demand of Rs. 10,000. Report regarding recovery is awaited (January 1982).

The matter was reported to Government in January 1981; their reply is awaited (January 1982).

2.9. Short charge due to application of incorrect rate and non-levy of additional tax

(i) With effect from April 15, 1974, the rate of tax leviable on tyres and tubes of motors, motor cycles and scooters was enhanced from 10 per cent to 12 per cent at the point of sale by the manufacturer or importer. Additional tax of one per cent was also leviable on turnover exceeding Rs. 2 lakhs.

In the course of audit of the Sales Tax Circle, Gorakhpur, it was noticed (May 1980) that the turnover of a dealer in respect of ex-U. P. purchased tyres and tubes of motors and scooters for the year 1974-75 was determined at Rs. 4.50 lakhs and was assessed to tax at 7 per cent in January 1980. Non-application of the correct rate of tax of 12 per cent and non-levy of additional tax of one per cent on account

of turnover exceeding Rs. 2 lakhs resulted in short assessment of tax of Rs. 27,000.

On this being pointed out in audit (June 1980), the department intimated (March 1981) that the assessment order had been revised raising additional demand of Rs. 27,000. Particulars of recovery are awaited (January 1982).

Government, to whom the matter was reported in June 1980, confirmed the factual position (August 1981).

(ii) Further, with effect from 1st April 1976, spices and condiments are taxable at the rate of 6 per cent at the point of sale by the manufacturer or importer. Additional tax of one per cent is also leviable on turnover exceeding Rs. 2 lakhs.

In the course of audit of the Sales Tax Circle, Gorakhpur, it was noticed (August 1979) that in his returns a dealer, *inter alia*, disclosed a turnover of oilseeds of Rs. 6.03 lakhs for the year 1976-77. The assessing officer determined this turnover at Rs. 6.50 lakhs on best judgment basis and assessed tax thereon at 4 per cent in April 1978. However, a scrutiny in audit of the lists of items furnished by the dealer revealed that goods of the value of Rs. 3.16 lakhs fell in the category of spices and condiments and not in that of oilseeds and were liable to tax at the rate of 6 per cent. These goods were also liable to additional tax of one per cent in view of the turnover exceeding Rs. 2 lakhs.

On this being pointed out in audit (September 1979), the department revised the assessment order in October 1979, determining the turnover of spices and condiments at Rs. 3.46 lakhs and raised additional demands of Rs. 10,380 by way of tax and of Rs. 5,940 by way of interest due for the period February—May 1977 to August 1979.

A sum of Rs. 9,607 had been recovered and for the recovery of the balance amount of tax and interest it was

stated (August 1981) by the department that the dealer had obtained stay order till decision of the second appeal.

Government, to whom the matter was reported in September 1979, endorsed (December 1981) the department's reply of August 1981.

2.10. Non-levy of additional tax

(i) Under the U. P. Sales Tax Act, 1948, if a dealer's turnover during an assessment year exceeded rupees two lakhs, he was liable to pay, besides normal tax, an additional tax on his taxable turnover at one per cent with effect from November 4, 1974. After 4th December 1979, additional tax is leviable on taxable turnover without any limitation on turnover.

If the tax payable by a dealer on admitted turnover is not deposited within the prescribed time, simple interest at the rate of 2 per cent for every month or part thereof shall become due and be payable on the unpaid amount.

In the course of audit of a Sales Tax Circle, Allahabad, it was noticed, (September 1980) that additional tax was not levied on the disclosed taxable turnover (a) of Rs. 51.04 lakhs for the year 1976-77 on a dealer of medicine and (b) of Rs. 24.52 lakhs for 1975-76 on a dealer of food-grains. This resulted in total under-assessment of tax of Rs. 0.76 lakh.

On this being pointed out in audit (September 1980), the assessment order in respect of the dealer in medicine was revised by the department in July 1981 raising an additional demand of Rs. 51,040. The dealer while admitting the additional tax liability pointed out that he had already deposited this tax at the time of submitting his periodical returns. A sum of Rs. 49,032.15 which in fact had been deposited earlier was accordingly adjusted; report of recovery of the balance amount of Rs. 2,007.85 along with the interest thereon is awaited (January 1982). The other dealer in foodgrains had gone in appeal in March

1980 against the original assessment order and the appellate authority remanded the case for fresh assessment in November 1981. Further developments are awaited (January 1982).

The cases were reported to Government in November 1980; their reply is awaited (January 1982).

(ii) In the case of goods declared to be of special importance in inter-State trade or commerce under section 14 of the Central Sales Tax Act, 1956, the maximum State rate of tax permissible under section 15 of the Act *ibid* was 3 per cent upto 30th June 1975 and 4 per cent thereafter.

Under the U. P. Sales Tax Act, 1948, additional tax at the rate of one per cent was leviable on declared goods also upto 31st October 1978, if the turnover of the dealer exceeded Rs. 2 lakhs. However, the rate of tax together with the rate of additional tax was not to exceed the aforesaid permissible maximum rate of 3 per cent or 4 per cent.

Oilseed is a declared commodity to be of special importance in the course of inter-State trade or commerce. During the year 1975-76, the State rate of tax thereon was 3 per cent at first purchase upto 4th April 1975, one per cent at first purchase from 5th April 1975 to 1st October 1975 and 4 per cent on sale to consumer from 2nd October 1975.

In the course of audit of the Sales Tax Circle, Agra, in January 1981, it was noticed that the turnover of the first purchases of oilseeds of Rs. 10.64 lakhs of a dealer for the period 5th April 1975 to 1st October 1975 was assessed to tax in December 1979 at the rate of one per cent only. Since the rate of tax together with the rate of additional tax during the period 5th April 1975 to 1st October 1975, working out to 2 per cent, was below the aforesaid permissible maximum rates of 3 per cent and 4 per cent and the turnover of the assessee was more than Rs. 2 lakhs, additional tax at one per cent was also leviable on him, but this was

not charged. This resulted in short charge of tax of Rs. 10,636.

As the aforesaid tax was admittedly payable by the dealer, he became liable also for interest for non-payment of this tax, which worked out to Rs. 13,401 for the period November 1975 to January 1981 (month of audit).

Total short charge on account of tax and interest, thus, worked out to Rs. 24,037.

The matter was reported to Government in March 1981; their reply is awaited (January 1982).

2.11. Incorrect classification of goods

(i) Polythene/Hessian laminated bags treated as jute goods

Under the U. P. Sales Tax Act, 1948, the turnover in respect of goods other than those specified by any notification was taxable at $3\frac{1}{2}$ per cent at all points of sale, upto 30th November 1973. By an amendment to the Act, unclassified goods not separately notified were made taxable at the rate of 7 per cent at the point of sale by the manufacturer or importer, with effect from 1st December 1973.

In the course of audit of two Sales Tax Circles at Gorakhpur and Hathras in April and October 1980, it was noticed that (a) disclosed turnover of a dealer of Gorakhpur for self-manufactured jute laminated polythene bags valued at Rs. 3.70 lakhs for 1976-77 and (b) disclosed turnover of a dealer of Hathras for self-manufactured laminated hessian bags valued at Rs. 7.54 lakhs for 1975-76 and 1976-77, were assessed to tax at 3 per cent upto 1st October 1975 and 4 per cent thereafter, treating the goods as falling under the entry, 'Jute and Hemp goods'. Laminated bags are a different commercial commodity and would fall in the category of unclassified items in the absence of any specification of these goods in any notification. The above goods were thus, taxable at the rate of 7 per cent. Incorrect

classification resulted in under-assessment of tax by Rs. 34,260.

On this being pointed out in audit (October 1980), the department stated (December 1981) that the assessment orders had been revised in February/July 1981 raising additional demands of Rs. 23,155 and Rs. 11,105 against the Hathras and Gorakhpur dealers, respectively. Particulars of recovery are awaited (January 1982).

Government, to whom the matter was reported in May and December 1980, endorsed the reply of the department (January 1982).

(ii) *Polythene bags (containers) treated as unclassified goods*

Under the U. P. Sales Tax Act, 1948, wares and containers made of plastic were made taxable at the rate of 7 per cent at the point of sale by the manufacturer or importer with effect from 15th November 1971.

It was judicially held by one High Court in 1976 that polythene material came under the broad head of plastic. Another High Court held in January 1977 that polythene bags were containers.

In the course of audit of the Sales Tax Circle, Varanasi, it was noticed (September 1979) that assessments of a dealer for sales of self-manufactured polythene bags of Rs. 8-00 lakhs for the period 15th November 1971 to 31st March 1973 were finalised in October 1978, levying tax at 3½ per cent as applicable to unclassified items. Misclassification of goods resulted in short charge of sales tax of Rs. 28,000.

Further, the turnover as per returns submitted by the dealer was Rs. 1.73 lakhs and he was liable to pay Rs. 6,295 as interest accruing on the tax of Rs. 6,053 payable on the above turnover for the period June 1975 to September 1979 (month of audit).

On this being pointed out in audit (October 1979), the department intimated (December 1980 and July 1981) that the assessment orders had since been revised raising an additional demand of tax and interest amounting to Rs. 34,295 for which recovery certificates had been issued to the concerned Collector.

Government, to whom the matter was reported in October 1979, confirmed the facts and stated (August 1981) that the recovery of the tax and interest would be watched.

(iii) Iron goods taxed as 'iron and steel'

"Iron and Steel" comprising forms as mentioned in section 14 of the Central Sales Tax Act, 1956, is a declared commodity by virtue of which the State rate of tax on the same was subject to a maximum of 3 per cent upto 30th June 1975 and 4 per cent thereafter. The State rate of tax was raised from 3 per cent to 4 per cent with effect from 2nd October 1975. Separately, with effect from 1st December 1973, iron or steel goods not included under any other notification were included under the category "Mill stores and hardwares" which became taxable with effect from 1st December 1973 at the rate of 7 per cent at the point of sale by the manufacturer or importer.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (February 1980) that in the case of a dealer the turnover of Rs. 10.30 lakhs for the year 1975-76 on account of sales of iron goods like tip boot full heel, tip boot toe, tip nails spoons, etc., was assessed to tax in May 1978 at the rate of 3 per cent upto 1st October 1975 and at 4 per cent thereafter, treating the goods as falling under the category of "Iron and Steel".

The aforesaid goods were not included in the list of items comprising "Iron and Steel" under section 14 of the Central Sales Tax Act and as these were not covered by any other notification too, these were liable to tax at the rate of 7 per cent applicable to "Mill stores and hardwares". Incorrect classification of goods resulted in short charge of Rs. 33,394.

On this being pointed out in audit in April 1980, the department stated in April 1981 that the assessment order had been revised in February 1981 raising additional demand of Rs. 33,394. Particulars of recovery are awaited (January 1982).

The matter was reported to Government in April 1980; their reply is awaited (January 1982).

(iv) *'Mill board' classified as "paper"*

For the purpose of assessment for the years 1976-77 and 1977-78, the rate of tax for 'paper of all kinds' was 5 per cent at the point of sale by the manufacturer or importer, while the rate of tax for unclassified item was 7 per cent.

In the course of audit of the Sales Tax Circle, Muzaffarnagar, it was noticed (November 1980) that a dealer had disclosed his sales of mill board at Rs. 4.67 lakhs for the year 1976-77 and at Rs. 4.91 lakhs for the year 1977-78. These were assessed to tax in September 1978 and April 1979 respectively at the rate of 5 per cent, treating the mill board as 'Paper of all kinds'.

Mill board as a commercial commodity could not be classified as paper and as it is not covered by any other specified category too, it was to be charged as an 'unclassified item' at the rate of 7 per cent. Incorrect classification of the commodity resulted in short charge of tax of Rs. 19,157.

As the aforesaid tax was admittedly payable by the dealer, he also became liable for interest for non-payment of this tax and the amount of such interest worked out to Rs. 14,119 for the period May 1977 to November 1980 (month of audit).

On this being pointed out in audit (January 1981), the department intimated (April 1981) that the assessment orders had since been revised raising additional demand for the

aforesaid tax. Report of recovery is awaited (January 1982).

The matter was reported to Government in January 1981; their reply is awaited (January 1982).

(v) '*Cellophane*' treated as "*paper*"

In the course of audit of the Sales Tax Circle, Varanasi, it was noticed (June 1980) that tax on the sales of cellophane (transparent material) amounting to Rs. 6,03,610 of a dealer, for the assessment year 1975-76, was levied (August 1979) at the rate of 5 per cent applicable to 'paper of all kinds'.

Cellophane not being a paper and also not being covered by any other specified categories, it was to be taxed as an unclassified item at the rate of 7 per cent. Incorrect classification of the commodity resulted in short levy of tax of Rs. 12,072.

On this being pointed out in audit (July 1980), the department revised the assessment order in August 1980 raising an additional demand of Rs. 12,072. Details of recovery are awaited (January 1982).

The matter was reported to Government in July 1980; their reply is awaited (January 1982).

2.12. Non-imposition of penalty

Under the U. P. Sales Tax Act, 1948, every dealer with a turnover exceeding Rs. 2 lakhs is required to submit returns of his turnover each month before the expiry of the next succeeding month. The dealer is also required to deposit tax due before furnishing the return or along with the return. The assessing authority may in its discretion, for reasons to be recorded, however, extend the date for submission of the return. If the assessing authority is satisfied that any dealer has, without reasonable cause, failed to furnish the return of his turnover or to furnish it

within the time allowed, he may, after such enquiry, if any, as he may deem necessary, direct that such dealer shall pay, by way of penalty, in addition to the tax payable by him a sum not less than 10 per cent but not exceeding 25 per cent of the tax due, if the tax due is up to Rs. 10,000 and 50 per cent of the tax due, if the tax due is above Rs. 10,000.

In the course of audit of the Sales Tax Circle, Ghaziabad, it was noticed (June 1980) that during the year 1976-77 a dealer did not file the returns of his turnover/deposit the tax due within the prescribed period for seven months. The extension of date for submission of returns was neither applied for by the dealer nor allowed by the assessing authority. The dealer was, therefore, liable to pay penalty at the aforesaid prescribed rates for the levy of which no action had, however, been initiated.

On this being pointed out in audit (July 1980), the department imposed penalty of Rs. 18,272 in December 1980. Report regarding recovery is awaited (January 1982).

The matter was reported to Government in August 1981; their reply is awaited (January 1982).

2.13. Arithmetical mistakes in computation of tax

(a) In the course of audit of the Sales Tax Circle, Varanasi, it was noticed (April 1980) that in December 1979, a dealer's admitted taxable turnover of Rs. 16.55 lakhs for the year 1975-76 was assessed to tax at different rates leviable on different commodities comprising the turnover, and additional tax of Rs. 13,838 on the turnover was also assessed. While the total of all items of tax leviable worked out to Rs. 60,495, the same was worked out as Rs. 46,657 omitting the figure of additional tax of Rs. 13,838 from the grand total. This resulted in short levy of tax of Rs. 13,838.

As the aforesaid amount of additional tax was admittedly payable by the dealer, he became liable also for interest for non-payment of tax. The amount leviable on account

of interest upto the month of audit (April 1980) worked out to Rs. 13,284.

The matter was reported to Government in June 1980; their reply is awaited (January 1982).

(b) In the course of audit of the Sales Tax Circle, Agra, it was noticed (October 1980) that a dealer in footwear was, *inter alia*, assessed to tax on his determined inter-State sales turnover of Rs. 2.35 lakhs for the assessment year 1974-75, by applying the rate of 10 per cent leviable in the case (as the sales were not covered by the prescribed declarations). However, due to a mistake in calculation, tax was worked out as Rs. 2,354 instead of Rs. 23,536. This resulted in under-assessment of tax of Rs. 21,182.

On this being pointed out in audit, the department stated (October 1981) that the assessment had been revised in October 1980 raising an additional demand of Rs. 21,182. Particulars of recovery are awaited (January 1982).

Government, to whom the matter was reported in November 1980, confirmed the facts (December 1981).

2.14. Non-adjustment of outstanding dues before allowing a refund

Under the U. P. Sales Tax Act, 1948, amount of tax or other dues refundable to a dealer shall first be adjusted towards the tax or any other amount outstanding against the dealer under this Act or under the Central Sales Tax Act, 1956 and only the balance, if any, shall be refunded.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (December 1980) that the assessment of a dealer of sewing machines, fans, etc., for the year 1973-74 was made in November 1977 on best judgment basis determining a turnover of Rs. 50 lakhs against the disclosed turnover of Rs. 42.59 lakhs. The dealer deposited Rs. 3,20,712 and went in appeal against this assessment

order. In appeal, however, the dealer's disclosed turnover was accepted with a tax liability of Rs. 3,13,456.

A scrutiny of the records revealed that actually the aforesaid admitted tax was to be deposited in full by 31st August 1975, against which the dealer deposited only Rs. 2,76,968 within the prescribed time. The balance amounts of Rs. 21,000 and of Rs. 15,488 were deposited in January and March 1978, respectively. Thus, the dealer became liable for payment of interest of Rs. 23,972 for the period June 1975 to March 1978 for the belated payment of the balance of the tax due. However, while allowing the refund the recovery of interest which had already become due was not taken into account.

On this being pointed out in audit (March 1981), the department recovered Rs. 23,972 (May 1981).

Government, to whom the matter was reported in March 1981, confirmed the facts (December 1981).

TAX ON SALE OF MOTOR SPIRITS AND LUBRICANTS

2.15. Non-levy of tax at the point of first purchase of alcohol in the State

Under the U. P. Sales of Motor Spirit and Diesel Oil Taxation Act, 1939, as amended in 1974 and 1975, tax is levied on the first sale of alcohol in the State at the rate of 40 paise per litre with effect from 2nd May 1974. It was held by the High Court of Judicature at Allahabad in July 1975 that the above amendments to the Act were unconstitutional and the amounts recovered from the parties concerned should be refunded. Thereafter, the Act was amended in 1976, providing for levy of tax with retrospective effect from 2nd May 1974 at the point of first purchase of alcohol in the State, at the rate of 40 paise per litre for the first million litres and at the rate of 20 paise per litre for the remaining quantity, payable by the purchaser, and the same was to be collected and paid in the prescribed manner to the State Government.

In the course of audit of a distillery at Modinagar (district Ghaziabad), it was noticed (December 1976) that various dealers purchased from the distillery 4.61 lakh bulk litres of rectified spirit between May 1974 and March 1976 and 1.90 lakh bulk litres of ordinary denatured spirit between August 1975 and March 1976. The distillery had realised tax amounting to Rs. 2.48 lakhs on sales of rectified spirit and ordinary denatured spirit between May 1974 and July/August 1975 from the purchasers and had deposited the same into the treasury, but an amount of Rs. 1.27 lakhs collected as sales tax from different parties for the period August 1975 to 18th April 1976 was retained by the distillery which also asked (August 1975) for refund of the amount of Rs. 2.48 lakhs already deposited, on grounds of the decisions of the High Court.

The department, however, had not raised (till May 1978) the demand of purchase tax of Rs. 1.27 lakhs under the Act as amended in 1976.

Government, to whom the matter was reported in January 1977, stated (June 1981) that of the total tax of Rs. 4.12 lakhs due on purchases of 4.61, 4.12 and 1.56 lakh bulk litres of rectified spirit, ordinary denatured spirit and special denatured spirit, respectively, from the distillery between May 1974 and March 1976, a sum of Rs. 2.48 lakhs earlier deposited as sales tax would be adjusted and that orders for the recovery of Rs. 1.64 lakhs had been issued.

CHAPTER 3
EXCISE DEPARTMENT

STATE EXCISE

3.1. Results of test audit in general

During the year 1980-81, test audit of the accounts records of the State Excise Offices revealed non-levy/short levy of duties and fees to the extent of Rs. 23.58 lakhs, broadly categorised as under :

	Number of items	Amount (In lakhs of rupees)
1. Non-collection/short collection of licence fee	60	12.56
2. Non-levy/short levy of duty on wastage of spirit	32	6.64
3. Non-collection of auction money in respect of country spirit shops	1	2.36
4. Miscellaneous	105	2.02
Total	198	23.58

A few important cases are mentioned in the following paragraphs.

3.2. Non-recovery of licence fee

Under the U. P. Excise Act, 1910 and the Rules made thereunder, licence fee for the retail vend of country spirit under the auction system is fixed by public auction. The Rules, *inter alia*, provide that (a) no person shall be allowed to bid at the auction sale of a district other than that in which he permanently resides unless he produces a solvency certificate granted by the Tahsildar of the *tahsil* in which he resides. When the bid of a person of another district is accepted without such a certificate, the officer conducting the auction is to record reasons for adopting this course, (b) where the shops are auctioned in favour of a group of

persons they should be allotted to all the joint bidders involved in the successful bid, as they are jointly and severally responsible for the fulfilment of the contract, and (c) a sum equal to one-sixth of the annual licence fee is to be paid by the successful bidder on the conclusion of the auction and the balance in ten monthly instalments. In case default in payment of licence fee threatens to equal or exceed the advance deposit, the licence is required to be cancelled and the shops re-auctioned at the risk and cost of the contractor and the loss, if any, is recoverable from the defaulter through a civil suit.

(i) In the course of audit of the District Excise Office, Varanasi, it was noticed (April 1980) that licences for 22 country spirit shops for the year 1978-79 were settled in two groups—Misirpokhra group of ten shops (Misirpokhra, Kamachha, Golgadda, Lohatia, Chetaipur, Sarai Naka, Ramnagar, Shiva Dasspur, Tarapur and Bachah) and Nakhas group of twelve shops (Kundigarh Tola, Nakhas, Sarai Gobardhan, Dithorimohal, Shivapur, Harhna, Damodarpur, Kuraota, Hukulganj, Ashapur Parao and Rajabazar). The first group of shops was settled on the highest bid of Rs. 39.15 lakhs offered jointly by six persons, three of whom belonged to Agra, one to Basti and two to Lucknow. The second group of shops was settled on the highest bid of Rs. 49.20 lakhs offered jointly by six persons, four of whom belonged to Lucknow and one each to Basti and Agra.

All the bidders in both the groups of shops were from outside Varanasi district. But no solvency certificates were obtained from the bidders of the Misirpokhra group of shops. No reasons for allowing them to bid at the auction without producing requisite documents were also on record.

As regards the bidders of Nakhas group, one person of Basti district had furnished a solvency certificate for Rs. 11.70 lakhs, two persons of Lucknow had furnished solvency certificates for Rs. 5 lakhs each, one person of Agra had

furnished solvency certificate for Rs. 0.50 lakh and the remaining two had not furnished any such certificates. The said certificates obtained from them were insufficient to cover the risk. According to the Excise Commissioner's instructions, solvency certificates for half the amount of accepted bid should have been obtained.

After the settlement of the shops, the advance licence fee, *i.e.* one-sixth of the bid money payable in lump sum on the date of settlement was paid in 55 days in thirteen instalments in respect of Misirpokhra group and in 54 days in fourteen instalments in respect of Nakhas group.

The five-sixth of the bid was payable in 10 monthly instalments payable in full on the 1st of each successive month starting from April. Monthly instalments were, however, paid piecemeal each month on 7 to 19 occasions in respect of Misirpokhra group and 6 to 19 occasions in case of Nakhas group.

The default in payment of monthly licence fee in both the groups of shops exceeded the advance deposit in August 1978. The department, however, took no action to cancel the licences and re-auction the shops as required under the Rules. The shops were run by the licensees till the end of the year but licence fee to the tune of Rs. 4,99,280 in respect of the said groups of shops remained pending (April 1980).

The department issued recovery certificates to the Collectors, Agra, Basti and Lucknow in April 1979. The recovery certificates against the licensees of district Agra, of Misirpokhra group of shops and that in respect of the licensee of district Basti who had furnished solvency certificate for Rs. 11.70 lakhs of Nakhas group of shops were returned by the Collectors, Agra and Basti, in June and July 1979, respectively, stating that neither the defaulters resided nor did they possess any movable or immovable property in their names at the given addresses. The reply from the Collector, Lucknow, is awaited (January 1982).

The sale of licences in respect of 22 country liquor shops for the year 1978-79 without obtaining solvency certificates and verifying financial standing of the parties concerned and non-enforcement of the rules on the default of the licensees to pay the instalments of licence fee resulted in non-recovery of licence fee to the tune of Rs. 4,99,280 (Rs. 2,14,630 in respect of Misirpokhra group and Rs. 2,84,650 in respect of Nakhas group of shops).

The matter was reported to Government in November 1980; their reply is awaited (January 1982).

(ii) In the course of audit of the District Excise Office, Faizabad, in March 1981, it was noticed that 15 country spirit shops at Chowk, Rakabganj, Bhupatpur, Jalalabad, Darshannagar, Ranibazar, Balda, Begamganj, Deokali, Fatehganj, Naka, Raiganj, Saadatganj, Sahabganj and Maudaha were auctioned for the year 1976-77 on 25th March 1976 in one group and were settled on the highest bid of Rs. 16.71 lakhs which was offered jointly by a group of 8 persons. Out of these persons involved in the successful bid, six belonged to Ballia, one to Jaunpur and one to Azamgarh. The solvency certificate was obtained only from one bidder from Ballia though all the eight were allowed to bid. No reasons for allowing them to participate in the auction without furnishing the requisite documents were on record. Solvency certificate furnished by the said bidder was for Rs. 7.50 lakhs only which was not sufficient to cover the risk. The reasons for acceptance of this solvency certificate which was for insufficient amount were also not on record.

All the joint bidders involved in the successful bid were jointly and severally responsible for the fulfilment of the contract. However, in the licence register maintained by the department, the name of only one of the eight joint bidders belonging to district Ballia who had furnished solvency certificate for insufficient amount of Rs. 7.50 lakhs was recorded.

After the auction, the total licence fee of the group was apportioned by the District Excise Officer among its consti-

tuent shops. The advance licence fee, being one-sixth of the auction money payable on the date of settlement, was paid during the period 30th March 1976 to 28th April 1976. The monthly instalments of licence fee payable on the 1st of each month beginning from April were also paid late. The default in payment of monthly licence fee in respect of six (out of the fifteen shops of the group) at Rakabganj, Jalalabad, Bhupatpur, Darshannagar, Chowk and Ranibazar started from April 1976 and exceeded the advance licence fee on 1st June 1976. The department, however, took no action to cancel the licence and re-auction the shops as required under the Rules. The shops were run by the licensee for the full year, i.e. upto March 1977. However, licence fee to the tune of Rs. 1,59,707 remained to be recovered at the end of the year in respect of six shops at Rakabganj, Jalalabad, Bhupatpur, Darshannagar, Chowk and Ranibazar.

The department issued recovery certificate against only one licensee mentioned above to the Collector, Ballia, on 30-8-1977. No reply had been received till the date of audit (March 1981). In October 1981, the department intimated that recovery certificates had been issued against the remaining seven bidders also and efforts were being made to recover the dues from them.

The sale of licences of 15 country spirit shops for the year 1976-77, without taking into consideration the financial standing of the parties and non-enforcement of the rules on default of licensee to pay the licence fee, resulted in non-recovery of licence fee to the tune of Rs. 1,59,707.

The matter was reported to Government in May 1981; their reply is awaited (January 1982).

(iii) In the course of audit of the District Excise Office, Saharanpur, it was noticed (May 1981) that three country spirit shops of Chhutmalpur, Behat and Dhanpura were auctioned individually for the year 1978-79 and settled on

the highest bids of Rs. 5.10 lakhs, Rs. 5 lakhs and Rs. 2.75 lakhs respectively. The highest bidder in respect of the first two shops was a person from Agra district who had furnished a solvency certificate from the Collector, Agra. In the case of the third shop, the highest bid was offered by the same person of Agra along with another person whose address was not on record. The licensee/licensees started running the shops but defaulted every month in timely payment of the monthly licence fee. By June 1978 the default exceeded the two months' advance deposits in respect of all the three shops. The department, however, did not issue notices either for payment of monthly licence fee due or for cancellation of licences and re-auction of the shops, as provided in the Rules. At the end of the year, one month's (January 1979) licence fee in respect of each of the first two shops amounting to Rs. 42,500 and Rs. 41,600 respectively, and Rs. 35,800 (over one and a half months' fee) for the third shop remained unpaid.

Recovery certificates were issued in August 1979 to the Collector, Agra, who intimated in June 1980 that the defaulter had sold all his movable and immovable property in November and December 1979 and shifted out of Agra. Hence no recovery could be effected. The department had not issued recovery certificate against the co-licensee of the third shop for want of his address. Thus, delay in action on the part of the department resulted in non-recovery of licence fee of Rs. 1,19,900.

Government, to whom the matter was reported in July 1981, confirmed the above facts in October 1981.

3.3. Non-levy of duty on storage wastage of spiced spirit

Under the U. P. Excise Act, 1910, and the Rules framed thereunder, free allowance is admissible for the actual loss of plain and spiced spirit (excluding bottled spirit) stored in a distillery during a calendar month subject to a maximum of 0.7 per cent. If the total wastage on any kind of spirit

does not exceed 1.5 per cent, duty is to be charged on the net wastage in excess of the free allowance. But if the total wastage exceeds 1.5 per cent, duty is to be charged on the whole wastage without any free allowance on (i) plain spirit, at the highest rate of duty leviable on country spirit and on (ii) spiced spirit, at the rate of duty leviable on such spirit.

The plain spirit is high strength spirit and unfit for human consumption while the spiced spirit is potable and its strength is prescribed by Government—25 per cent by volume in 1978-79 and 36 per cent by volume from April 1979.

In the course of audit of the accounts of a distillery at Nawabganj (district Gonda), it was noticed (October 1980) that the monthly storage wastage of spiced spirit ranged between 2.2 and 7.3 per cent of the total quantity of the spiced spirit stored during September to November 1978, February and May 1979 and January, February, June and July 1980. As the wastage exceeded the limit of 1.5 per cent, no free allowance was admissible and duty was chargeable on the spiced spirit at the rate leviable on such spirit. However, though the department had taken the position of stock of plain and spiced spirit separately, it had combined both kinds of spirit for working out the percentage of admissible storage wastage which (by doing so) fell within the permissible limit of 0.7 per cent. Non-application of wastage limits separately for the two kinds of spirits resulted in non-levy of duty on 8,000.5 litres of alcohol representing wastage of spiced spirit during the above mentioned months. The excise duty leviable worked out to Rs. 1.96 lakhs (at the rate of Rs. 32 per litre of alcohol on wastage of 1,821.1 litres of alcohol and at the rate of Rs. 22.22 per litre of alcohol on wastage of 6,179.4 litres of alcohol).

The matter was reported to the department/Government in November 1980. In this regard the department has

communicated to Government that for want of explicit orders, wastage allowance is being worked out by taking together the stock of the two types of spirit and the recovery as pointed out by Audit will be possible only at that stage when it is specifically provided in the rules that wastage allowance should be computed separately for each type of spirit. The department's contention is not acceptable. The two kinds of spirit are different in nature and separate rates of duty are prescribed under the rules as mentioned in sub-para 1.

Government's reply is still awaited (January 1982).

3.4. Non-levy of duty on loss of spiced spirit and defence rum in transit under bond

Under the U. P. Excise Act, 1910, and the Rules framed thereunder, an allowance for the actual loss in transit, by leakage, evaporation or other unavoidable causes, of spirit transported or exported under bond in wooden casks or metal vessels is admissible upto a maximum of 0.5 per cent of the quantity of spirit contained in each wooden cask or metal vessel comprised in a consignment, despatched from the distillery. If the wastage exceeds the allowable limit, the officer in-charge of the distillery is required to obtain the explanation of the distiller or the person executing the bond and forward the same, together with a full report of the circumstances, to the higher departmental authorities as prescribed. There is no provision in the Rules for grant of allowance for any loss of spirit transported in bottles in which the products are ultimately sold.

(i) It was noticed in the course of audit of a distillery at Unnao (November 1980) that during the period October 1978 to July 1980: (a) a total loss of 393.9 alcoholic litres of spirit, constituting 3.29 per cent of the total quantity transported, occurred in 20 consignments sent in metal drums,

out of which 334.1 alcoholic litres of spirit was in excess of allowable percentage; and (b) a loss of 563.6 alcoholic litres of spirit, constituting 1.49 per cent of total quantity transported, occurred in 55 consignments in glass bottles, for which no allowance was admissible.

However, the officer in-charge of the distillery had not taken any action for sending a report of the wastages of spirit to the appropriate authority. This resulted in non-levy of duty to the extent of Rs. 21,603 (at the rate of Rs. 32 per litre of alcohol on wastage of 169.3 litres of alcohol during the period October 1978 to March 1979 and at the rate of Rs. 22.22 per litre of alcohol on wastage of 728.4 litres of alcohol during the period April 1979 to July 1980).

On this being pointed out in audit (November 1980), the officer in-charge stated that the statement of excess wastage of spirit would be sent to the competent authority.

The Excise Commissioner, Uttar Pradesh, intimated in June 1981 that the duty of Rs. 21,603 had been levied.

Government, to whom the matter was reported in January 1981, confirmed the above facts (July 1981).

(ii) In another case of a distillery at Unnao, it was noticed (November 1980) that during the period October 1978 to September 1980, a loss of 487.7 alcoholic litres of spirit occurred in 41 consignments of defence rum transported under bond to the various Canteen Stores Department in the State in glass bottles. The officer in-charge of the distillery had not taken any action for sending any report of the wastages of spirit to the appropriate authorities. This resulted in non-levy of duty of Rs. 16,335 (at the rate of Rs. 41.25 per litre of alcohol on wastage of 151.5 litres of alcohol during the period October 1978 to March 1979 and at the rate of Rs. 30 per litre of alcohol on wastage of 336.2 litres of alcohol during the period May 1979 to May 1980).

When the matter was taken up in audit (November 1980), the officer in-charge sent a statement in respect of the above wastages of spirit to the distillers on 25th February 1981 for furnishing their explanations.

The Excise Commissioner, Uttar Pradesh, intimated in June 1981 that the duty of Rs. 16,335 had been levied.

Government, to whom the matter was reported in January 1981, confirmed the above facts (July 1981).

3.5. Non-levy of duty on country spirit exported outside Uttar Pradesh

Under the U. P. Excise Act, 1910, and the Rules framed thereunder, duty of Rs. 1.75 per litre of alcohol should be levied on country spirit exported to any part of India outside Uttar Pradesh, from any distillery or bonded warehouse in Uttar Pradesh, before a pass covering any consignment of spirit for export is issued. The Rules further require that an application for issue of spirit for such purpose should, *inter alia*, be accompanied by a treasury receipt in proof of payment of the export duty.

In the course of audit of a distillery at Lucknow, it was noticed (October-November 1980) that in four cases of issues of country spirit for export to a private limited company of Madhya Pradesh, the applications submitted by the distillery were not accompanied by treasury receipts in proof of payment of duty, but such applications were accepted by the officer in-charge of the distillery and export of 38,338 bulk litres of country spirit containing 34,100.5 litres of alcohol was allowed in 4 consignments during June to October 1980 without levying any duty on the consignments. This resulted in non-levy of duty of Rs.59,675.

On this being pointed out in audit (November 1980), the department raised a demand for the above amount against the distillery and collected it in the same month.

In May 1981, the Excise Commissioner, Uttar Pradesh, further intimated that the officials concerned had been warned.

Government, to whom the matter was reported in November 1980, concurred with the Excise Commissioner, Uttar Pradesh (June 1981).

3.6. Short levy of duty on Indian made foreign liquor

Under the U. P. Excise Act, 1910 and the Rules framed thereunder, Indian made foreign liquor may be imported by a person holding a licence for the vend of foreign liquor, on payment of duty at the rates in force in Uttar Pradesh on such liquor.

Under a Government notification issued on 21st August 1980, the rate of duty on Indian made foreign liquor in Uttar Pradesh was enhanced from Rs. 40 to Rs. 55 per litre of alcohol, effective from 21st August 1980.

In the course of audit of the District Excise Office, Varanasi, it was noticed (October 1980) that Indian made foreign liquor containing 2,272.7 litres of alcohol were imported on 1st September 1980 but excise duty in respect of the same was realised at the pre-revised rate of Rs. 40 instead of at the enhanced rate of Rs. 55 per litre of alcohol resulting in short levy of duty of Rs. 34,091.

When this was pointed out in audit (October 1980), the department raised additional demand of duty in October 1980. Particulars of recovery are awaited (January 1982).

Government, to whom the matter was reported in November 1980, stated (June 1981) that orders for the recovery of the dues as arrears of land revenue had been issued in April 1981.

3.7. Short realisation of assessed fee

Rules framed under the U. P. Excise Act, 1910 provide that a bidder who is granted a licence for the wholesale vend

of foreign liquor to wholesale and retail vendors for an excise year (April to March) is required to pay (a) the bid money and in addition, (b) an assessed fee computed on the total sales of liquor to licensed vendors at the rates prescribed per reputed quart bottle. One-fourth of the bid money is required to be paid by successful bidder immediately at the close of the auction and the balance in 9 equal monthly instalments. As regards assessed fee, an amount sufficient to cover the assessed fee on the volume of business likely to be transacted during the quarter is required to be paid by a licensee in advance for the first quarter, and adjustments are made at the end of the quarter on the basis of a statement (showing sales of foreign liquor during the quarter and the amount of assessed fee payable for the quarter), required to be submitted by the Excise Inspector in charge to the Collector within one week of the close of the quarter. For the second and subsequent quarters, assessed fee paid for the previous quarter is realised in advance and adjustments made later, on the basis of assessed fee payable on actual sales of foreign liquor during the respective quarters.

In the course of audit of the District Excise Office, Varanasi, it was noticed (April 1979) that a contract for a shop for wholesale vend of foreign liquor was awarded for 1977-78 for bid money of Rs. 22,500. While the licensee paid bid money according to schedule, he paid an amount of Rs. 30,800 only against the total assessed fee of Rs. 64,429 payable during the year on sales of liquors.

It was observed that the department failed to levy assessed fee for each quarter and realise the same in advance and the licensee paid instalments towards assessed fee at his own will—Rs. 10,000 on 5th May 1977; Rs. 5,800 on 2nd January 1978; Rs. 5,000 each on 11th and 20th February 1978 and Rs. 5,000 on 2nd March 1978.

A statement of the accounts of the licensee was prepared on 15th February 1979 (10 months after the close of the

year 1977-78) and due to wrong calculations, the total amount of assessed fee payable by the contractor was shown as Rs. 30,297. As the licensee had already paid an amount of Rs. 30,800 no amount was shown as recoverable from him.

When Audit pointed out (April 1979) that the total amount of assessed fee due on sales of foreign liquor worked out to Rs. 64,429, the department stated that the recovery certificate for the correct amount would be issued. The recovery certificate for the short realisation of Rs. 33,629 was issued on 16th June 1979, but the Tahsildar concerned returned the same in March 1980 stating that the defaulter had no movable or immovable property in his name. There were thus no prospects of recovery of the Government dues of Rs. 33,629.

Government while confirming the facts of the case stated (August 1981) that investigations were in progress to fix responsibility for the lapse.

3.8. Non-realisation of excess excise establishment charges

Rules framed under the U. P. Excise Act, 1910, provide that where annual charges on account of excise establishment posted in a brewery exceed ten per cent of the duty leviable on the issues made from the brewery to the districts within the State, the excess should be realised from the brewery.

In the course of audit of a brewery at Nawabganj (district Gonda), it was noticed (October 1980) that the annual charges on account of excise establishment at the said brewery for the years 1978-79, 1979-80 and 1980-81 exceeded ten per cent of the amount of duty levied on beer issued to the licensed vendors within the State by Rs. 14,285, Rs. 12,194 and Rs. 13,479 respectively, but no action was taken to realise from the brewery excess establishment charges amounting to Rs. 39,958.

On this being pointed out in audit (October 1980), the department stated that action was being taken to recover the amount from the brewers.

The matter was reported to Government in October 1980; their reply is awaited (January 1982).

CHAPTER 4
TRANSPORT DEPARTMENT
TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1. Results of test audit in general

Short levy of tax amounting to Rs. 9.27 lakhs was brought out in the course of test audit of the offices of the Transport Department during 1980-81. Category-wise break-up there-of is given below :

	Amount (In lakhs of rupees)
1. Short levy of road tax	1.46
2. Short levy of passenger tax including additional passenger tax	2.66
3. Short levy of goods tax	0.62
4. Miscellaneous	4.53
Total ..	9.27

A few important cases are mentioned in the following paragraphs.

4.2. Deficiencies in maintenance of records of deposits made by operators and authentication of such deposits with treasury figures

4.2.1. Transport Department collects tax and fees under various fiscal statutes, such as, the Motor Vehicles Act, 1939, the United Provinces Motor Vehicles Taxation Act, 1935, the Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962 and the Uttar Pradesh Motor Gadi (Mal-Kar) Adhiniyam, 1964.

4.2.2. Tax dues are deposited by the operators either with the cashier of the Regional Transport Office or directly into the treasury through challans. Deposits in about

50 to 55 per cent cases, involving about 30 to 35 per cent of the total amounts deposited, are made directly into the treasury. The amounts collected by the cashier daily are deposited into the treasury the next day. Apart from the operators, deposits of tax directly into the treasury are also made by (a) various officers of the region such as Assistant Regional Transport Officers (Enforcement), Passenger Tax Officers, Passenger Tax Superintendents, Goods Tax Officers, Goods Tax Superintendents and Officer in-charge of the check posts, (b) Officers of the U. P. State Road Transport Corporation, (c) Revenue Officers, in respect of amounts collected as arrears of land revenue and (d) operators of other regions in respect of vehicles pertaining to other regions. Ultimately, all Government dues are credited into the various district treasuries in the region under relevant receipt heads.

4.2.3. In the collection of taxes and other dues, the departmental officers are, *inter alia*, required to ensure that taxes and dues assessed are collected and are eventually remitted into the treasury and that credits allowed in individual accounts of the operators are verified with the amounts actually deposited into the treasury. To ensure this, the following procedure has been prescribed:

(i) According to the general financial rules of Government, the treasury officer is required to forward to the departmental officers departmental copies of treasury challans and at the end of the month, a copy of the monthly receipt schedule. In 1976, Government had issued orders that departmental copies of challans should be collected by the departmental authorities themselves through their representatives twice a month. It has to be ensured by the departmental authorities that departmental copies of all challans as per receipt schedules are received, for verification of credits given to individual operators in Demand and Collection Registers.

(ii) To facilitate reconciliation of departmental figures of receipts with the amounts booked in the accounts, the Transport Commissioner issued orders in 1964, providing for maintenance by each Regional Transport Officer separately for each major head, (a) a treasury-wise challan register and (b) a general treasury challan register in respect of all the treasuries of the regions. If all challans for a month are received from the treasuries and are duly posted in the above registers, the monthly totals of the treasury-wise challan registers should agree with the totals of the receipt schedules for the respective months received from the treasuries as well as the total of the general treasury challan register for the month.

(iii) In July 1975, the Transport Commissioner issued instructions that the Regional Transport Officers should prepare and submit to him separately for each major head, two monthly statements in prescribed form, based on the entries made in the two challan registers mentioned in item (ii) above; one in respect of each treasury and the other for the entire region, showing for each major head, departmental figures of receipts, refunds and net collections. These statements were to be submitted to the Transport Commissioner by the 10th of the following month, after verifying the figures shown therein with the treasury figures. These statements were intended to enable the head of the department (a) to maintain a record of monthly and progressive figures of receipts, region-wise and treasury-wise, for reconciliation with the figures booked in accounts and (b) to submit to Government monthly reports regarding the position of collection of taxes and fees.

(iv) For deposits made with the cashier, he accepts each amount on the basis of an application on which the dealing tax section first records the amount payable by the operator. The cashier notes the amount received in subsidiary cash books kept separately for various major heads. The daily totals of the subsidiary cash books are struck

and the total amount collected is noted in the main cash book and the cash is then deposited into the treasury on the following day. Each application, bearing particulars of the receipt number and amount received, is then forwarded to the Tax Section.

Similarly, on receipt of challans from the treasury and their posting in the registers mentioned in item (ii) above, challans in respect of direct deposits into the treasury are to be forwarded to the dealing sections.

The dealing sections are required to note the amounts in their respective subsidiary cash books from where entries are posted in the Demand and Collection Registers in which separate pages are set apart for each vehicle. The postings in the Demand and Collection Registers are done under the attestation of an officer who simultaneously attests the entries in the subsidiary cash books.

If the documents in respect of amounts received by the cashier (and deposited daily into the treasury) and other challans for direct deposits made into the treasury and posted in the two registers mentioned in item (ii) above are duly received and posted by the dealing sections, the monthly totals of the subsidiary cash books should agree with the monthly totals of the two registers, for various heads.

(v) Two other monthly statements are required to be furnished to the Transport Commissioner—one by the Accounts Department on the basis of the amounts deposited into the treasury and reflected in the general challan register and the other by the statistical section on the basis of the entries made in the Demand and Collection Registers of the various sections. If all challans/documents passed on to sections as mentioned in item (iv) above are correctly posted in subsidiary cash books and Demand and Collection Registers, the figures in two sets of statements should agree and would also ensure that the credits given to the operators in the Demand and Collection Registers

monthly/annually, agree with the total amount deposited into the treasury.

4.2.4. A test check of the records in the offices of the Regional Transport Officers at Agra, Allahabad, Faizabad and Kanpur brought out the following:—

(i) Neither receipt schedules nor departmental copies of challans were being obtained or collected from the treasuries in any of the above regions. Thus, credits to the operators in their respective accounts maintained in the Demand and Collection Registers in the various sections were neither posted on the basis of treasury records nor verified with reference to them.

(ii) Treasury-wise challan registers were not maintained in Faizabad and Allahabad regions. Besides, the general treasury challan registers of all the four regions and the treasury-wise challan registers of Agra and Kanpur regions were also not maintained properly and did not serve the purpose for which they were intended. In these registers, entries were made from the copies of the treasury challans presented by the various operators during a month in the order of such presentation (before passing on these challans to the dealing sections for their posting in subsidiary cash books/Demand and Collection Registers). No entries were also made in challan registers in respect of daily deposits made by the cashier and other departmental officers even on the basis of their copies of the challans.

(iii) Monthly statements of the treasury-wise and region-wise figures of receipts under different major heads were being submitted only at Kanpur, while in other regions only one statement showing region-wise figures was prepared. However, these statements, which were prepared on the basis of the general treasury challan register/subsidiary cash books of the cashier, were not authentic record of the amount deposited in the treasury and appearing in government accounts nor were the statements verified with the figures booked in the treasuries.

(iv) The postings in the subsidiary cash books of the sections and the Demand and Collection Registers were made only on the basis of (a) the depositors' copies of the challans forwarded by the cashier after noting them in the general challan register and (b) the notings made on the applications in the case of deposits received by the cashier from the operators. Thus, there was no means to ensure that all the credits given to the individual operators, particularly on the basis of depositors' copies of challans, agreed with the deposits made into the treasury. The possibilities of operators being given credits on the basis of forged challans could not be ruled out. The deposits of daily collections by the cashier into the treasury were also not verified independently.

(v) Similarly, monthly statements submitted by accounts and statistical branches referred to in para 4.2.3(v) above, did not represent the amounts actually deposited into the treasury. Apart from this, there were huge differences in the two sets of figures relating to Allahabad and Kanpur as shown in Appendix III.

(vi) Financial rules of Government also require that the departmental officers should be nominated for each district for signing the last column of the treasury challans before their presentation to the bank/treasury. Officers are required to be nominated (a) for ensuring regular and timely receipt of the monthly list of credits from all treasuries of the regions and (b) for collecting departmental copies of the treasury challans each month in two instalments from all the treasuries of the regions. Specimen signatures of officers authorised to sign the last column of the challans are required to be furnished to the bank/treasury officers concerned.

No such nominations had been made in any region nor had signatures of any official been sent to the banks/treasuries. Treasury challans were also not generally presented

to any departmental officer for signing the last column before their presentation to the bank/treasury.

The matter was reported to Government in May 1981; their reply is awaited (January 1982).

4.3. Short levy of fee for countersignature of temporary permits issued on inter-State routes

Under the provisions of the Motor Vehicles Act, 1939, no transport vehicle can ply in any public place except on a permit granted by a Regional Transport Authority or a State Transport Authority. Permits are issued for a period not less than 3 years and not more than five years. Temporary permits are also issued which are effective for limited periods not exceeding four months. The permit granted in any one State is not valid in any other State unless countersigned by the Transport Authority of the latter State. In Uttar Pradesh, the fee for countersignature of permits for heavy transport vehicles is prescribed as under:

(a) Rs. 36 for the first year and Rs. 24 for each subsequent year;

(b) In the case of temporary permits, Rs. 18 for the first week and Rs. 6 for every subsequent week or part thereof.

In the course of audit of the office of the Regional Transport Officer, Agra, it was noticed (December 1978) that in respect of 1,682 temporary permits—each for a period of 120 days—issued by the Rajasthan and Punjab State Transport Authorities during July 1973 to July 1978 for plying vehicles in Uttar Pradesh, fee for countersignature was charged at the rate of Rs. 36 for each permit instead of applying the rates prescribed for temporary permits. This resulted in short levy of fee to the extent of Rs. 1.31 lakhs.

On this being pointed out by Audit in March 1979, the department while accepting the short levy of fee to the

tune of Rs. 1.11 lakhs stated (July 1981) that Rs. 16,208 had been realised and recovery of balance amount was in progress.

Government stated (July 1981) that the difference of Rs. 0.20 lakh was being reconciled; their final reply is awaited (January 1982).

4.4. Under-assessment of road tax

Under the U. P. Motor Vehicles Taxation Act, 1935, the assessment of road tax on a motor vehicle plying for hire for the conveyance of passengers and their light personal luggage depends, *inter alia*, on the class of route on which it plies. For the purpose of levy of road tax, routes are classified into four categories: special, A, B and C, and the rate of tax is highest for special class route and is gradually lower for A, B and C class routes.

In the course of audit of the Regional Transport Offices at Bareilly (September 1977) and at Jhansi (November 1979), it was noticed that for different periods between April 1977 and December 1977, (a) in respect of 29 stage carriages in Bareilly region and six vehicles in Jhansi region, plying on various 'A' class routes, road tax was charged at rates applicable to 'B' class routes, and (b) in respect of two vehicles in Jhansi region, plying on 'special' class route, road tax was charged at the rates applicable to 'A' class route. Application of incorrect rates resulted in short charge of road tax of Rs. 23,113.

On this being pointed out in audit, the department recovered the entire amount of short charge of Rs. 12,523 pertaining to Bareilly region. In respect of Jhansi region, demand notices were reported to have been issued in November 1979. Particulars of recovery are awaited (January 1982).

The matter was reported to Government in November 1977 and December 1979; their reply is awaited (January 1982).

4.5. Under-assessment of passenger tax

In accordance with the Uttar Pradesh Motor Gadi (Yatri-Kar) Niyamawali, 1962, framed under the Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962, passenger tax payable under lump sum agreement is calculated on the basis of a formula having as its factors: fare, number of trips, load factor and rate of passenger tax.

(i) In the course of audit of the office of the Regional Transport Officer, Meerut, it was noticed (May 1980) that Meerut-Khajuri-Asifabad route of the region was extended from Khajuri to Tatina but 20 stage carriages permitted in May 1977 to ply on the extended route were not assessed to passenger tax. Failure on the part of the department to assess the passenger tax on the extended route resulted in escapement of tax of Rs. 21,193 during the period June 1977 to April 1980.

On this being pointed out in audit (May 1980), the department is reported to have realised a sum of Rs. 11,352 and as regards the balance amount certain investigations were in progress (January 1982).

The matter was reported to Government in June 1980; their reply is awaited (January 1982).

(ii) In the course of audit of the office of the Regional Transport Officer, Kathgodam, it was noticed (March 1978) that (a) 34 stage carriages plying on Kichcha-Khattima route were taxed on the basis of 50 trips instead of 51 trips per month per stage carriage and the fare was reckoned at Rs. 3.13 instead of Rs. 3.15 and (b) 10 stage carriages plying on Dineshpur-Gadarpur route were charged tax taking fare as Rs. 1.50 instead of Rs. 2.00. This resulted in short charge of passenger tax of Rs. 21,074 during different periods between May 1975 and March 1978.

On this being pointed out in audit (April 1978), the department recovered an amount of Rs. 20,807 (August

1978 to November 1979). The recovery of the balance amount of Rs. 267 was reported to be in progress.

The matter was reported to Government in April 1978; their final reply is awaited (January 1982).

4.6. Omission in computing passenger tax on standing capacity of passengers

The Uttar Pradesh Motor Gadi (Yatri-Kar) Niyamawali, 1962, provides that 50 per cent of the authorised standing capacity in a stage carriage should be taken into account for the purpose of calculation of passenger tax payable under lump sum agreement.

In the course of audit of the Sub-Regional and Regional Transport offices at Moradabad and Jhansi, it was noticed (May 1976 and December 1978) that 35 stage carriages were authorised by the department on different dates between October 1975 and January 1978 to carry standing passengers to the extent of 25 per cent of their seating capacities. But passenger tax was not assessed on 50 per cent of such authorised standing capacity resulting in short levy of tax of Rs. 22,770 during the period October 1975 to December 1978.

On this being pointed out in audit (April 1977 and April 1979), the department recovered Rs. 22,206 and the recovery of the balance amount was in progress (March 1981).

The matter was reported to Government in April 1977 and April 1979; their final reply is awaited (January 1982).

4.7. Escapement of goods tax due to lack of co-ordination

Under the Uttar Pradesh Motor Gadi (Mal-Kar) Adhiniyam, 1964, read with the U. P. Motor Vehicles Taxation Act, 1935, an operator of a goods vehicle is required to pay goods tax as also road tax at the prescribed rates on the authorised carrying capacity of the vehicle.

In the course of audit of the office of the Assistant Regional Transport Officer, Banda, it was noticed (November 1980) that three private goods vehicles belonging to Jal Nigam were registered in June 1977 on which both road tax and goods tax were leviable. While the road tax was realised, the goods tax was omitted to be assessed due to lack of co-ordination amongst different sections of the office. The amount of goods tax which thus escaped assessment worked out to Rs. 27,000 for the period from June 1977 to November 1980.

On this being pointed out in audit (November 1980), the department realised the entire amount of tax (August 1981).

Government, to whom the matter was reported in January 1981, confirmed the recovery (October 1981).

CHAPTER 5
SUGAR INDUSTRY AND CANE DEVELOPMENT
DEPARTMENT

TAX ON THE PURCHASE OF SUGARCANE

5.1. Results of test audit in general

During the year 1980-81, test audit of the documents of sugar factories and *khandsari* units revealed non-levy/short levy of tax to the extent of Rs. 73.84 lakhs broadly categorised as under:

	Amount (In lakhs of rupees)
1. Removal of sugar without payment of purchase tax	23.70
2. Irregular remission of purchase tax granted to sugar factories/ <i>khandsari</i> units	24.97
3. Short assessment/incorrect remission of purchase tax	21.32
4. Miscellaneous	3.85
Total ..	<u>73.84</u>

A few important cases are mentioned in the following paragraphs.

5.2. Unauthorised clearance of sugar without payment of purchase tax

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, no sugar factory shall remove any sugar produced therein outside the factory until the purchase tax leviable on the purchase of sugarcane consumed in the production of sugar has been paid. Any contravention of the provisions renders the factory liable to pay, in addition to the tax payable, a further sum not exceeding one hundred per cent of the tax payable by way of penalty.

In the course of audit, it was noticed (April 1980 and December 1980) that during the period January 1979 to October 1980 two sugar factories—one at Nawabganj (Gonda) and the other at Siswa Bazar (Gorakhpur)—removed 1,62,834 bags of sugar produced from the sugarcane crushed during the seasons 1977-78 to 1979-80 without payment of purchase tax due thereon amounting to Rs. 22.84 lakhs. Though the Nawabganj factory had been exhibiting removal of sugar without payment of tax in the monthly returns submitted to the assessing authority, no action had been taken for recovery of tax and initiating penalty proceedings for default in payment of tax.

The above two cases were reported to Government in July 1980 and February 1981; their final reply is awaited (January 1982).

5.3. Loss of purchase tax due to irregular acceptance of options

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, and the Rules framed thereunder, a *khandsari* sugar manufacturing unit owner has the option to pay tax on the purchase of sugarcane either on the quantity of sugarcane actually purchased or on the assumed quantity of such purchases as per prescribed schedule based on the crushing capacity of the unit and other relevant factors. For availing of the benefit of the option, an owner of the unit has to send a declaration in the prescribed form specifying therein, *inter alia*, the date of start of the unit, to the Sugar Commissioner and the assessing authority so as to reach them on or before 31st January each year or 15 days before the start of the working of the unit, whichever is earlier. No such declaration is to be accepted thereafter.

In the course of audit of the office of the Khandsari Inspector, Gajraula (Moradabad), it was noticed (December 1978) that 7 units had not submitted timely declarations for the season 1975-76. These were furnished 6 days before

the start of the unit in the case of one unit, 9 days in the case of 3 units, 11 days in the case of 2 units and 13 days in the case of another unit. The declarations were, however, accepted by the assessing officer and the units were assessed to tax as option units on the basis of assumed quantity of sugarcane.

Had these units been assessed on the basis of the actual quantities of sugarcane purchased, the department would have derived revenue of Rs. 3.46 lakhs as against collection of Rs. 1.70 lakhs made on the basis of assumed quantities. This resulted in loss of purchase tax of Rs. 1.76 lakhs to Government.

The matter was reported to Government in February 1979. In May 1981, it was intimated by Government that rejection of option at such a late stage would invite litigation.

5.4. Short realisation of tax due to non-observance of rules

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, and the Rules framed thereunder, in the case of option units, *i.e.*, *khandsari* sugar manufacturing units, exercising option to pay tax on purchase of sugarcane on assumed quantity of purchases as provided in Schedule I to the Rules, the units would be deemed to have commenced purchases of sugarcane from the dates specified for the start of operations in the declarations filed under Rule 13-A, unless notices of postponement had been furnished in the prescribed manner. The units would be liable to pay tax on the purchases computed from that date. Intimation regarding change, if any, in the specified date of start of unit should reach the Sugar Commissioner and the assessing authority at least one week before the date specified; otherwise the assessee is liable to pay tax from the date of start of the unit specified earlier.

(i) In the course of audit, it was noticed (September 1979 and February 1980) that during the seasons 1977-78 and 1978-79, three option units under the jurisdiction of the Khandsari Inspector, Muzaffarnagar, and one under the

jurisdiction of the Khandsari Inspector, Moradabad, had not started crushing operations from the dates specified in their declarations nor had they sent intimations of postponement in the prescribed manner. Nevertheless, the units were assessed to tax on the assumed purchases computed from the dates of actual commencement of crushing instead of from the specified dates resulting in short assessment of tax amounting to Rs. 89,333.

The matter was reported to the department in December 1979 and March 1980 and to Government in July 1981; their replies are awaited (January 1982).

(ii) In the course of audit of the offices of the Khandsari Inspectors at Akbargarh (district Muzaffarnagar), Sambhal-I (district Moradabad), Moradabad, Khandhala (district Muzaffarnagar) and Chandausi (district Moradabad), it was noticed (January 1979, August 1979, February 1980, May 1980 and January 1981) that during the sugar seasons 1977-78 and 1978-79, seven *khandsari* manufacturing units were allowed to pay tax on the quantity of sugarcane assumed, although the units were not eligible for being assessed as such, as the declarations filed by the units were incomplete inasmuch as the dates of commencement of crushing operations were not specified. Irregular assessment of tax on assumed basis resulted in loss of revenue amounting to Rs. 2.15 lakhs; based on the sugarcane actually purchased, the units would be liable to pay tax amounting to Rs. 4.07 lakhs as against Rs. 1.92 lakhs paid on assumed basis.

Government accepted the objection in December 1980 and directed the department to fix responsibility for the loss. Further developments are awaited (January 1982).

5.5. Excess remission of purchase tax allowed to a sugar factory

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, and the Rules framed thereunder, tax is leviable on the purchase of sugarcane. By a notification dated February 19, 1980,

Government remitted the purchase tax payable on sugarcane purchased by vacuum pan sugar factories in the assessment year 1979-80 to the extent the sugar factories pay above Rs. 17 per quintal as cane price for the sugarcane purchased by them after February 15, 1980, provided that the remission shall not exceed Rs. 1.25 per quintal.

In the course of audit of the office of the Sugarcane Inspector-cum-Assistant Sugar Commissioner, Saharanpur, it was noticed (March 1981) that a vacuum pan sugar factory of Dehra Dun purchased 55,585 quintals of sugarcane at Rs. 17.25 per quintal during 16-2-1980 to 28-2-1980 but was allowed remission of tax amounting to Rs. 69,481 at the maximum rate of Rs. 1.25 per quintal against the permissible rate of Re. 0.25 per quintal resulting in excess remission of Rs. 55,585.

The matter was reported to Government in July 1981; their reply is awaited (January 1982).

5.6. Loss of revenue due to late revision and incorrect fixation of final rates of purchase tax

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, the assessing authority shall, at the end of the crushing season or immediately after the closure of the factory for the crushing season, work out and specify a revised rate of payment of tax per bag of sugar by taking into account the quantity of sugarcane purchased and the sugar produced. Shortfall/excess on the payment of tax, if any, arising from such revision shall be spread over the stocks of sugar in hand and the amount of tax payable before removal of each bag of sugar shall be refixed. Further, after such refixation of rate if any part of sugar in stock is no longer available for any reason and the tax due against such part has not been paid, the assessing authority may direct the shortfall to be recovered by spreading it over the sugar in stock at that time.

(i) In the course of audit of a sugar factory in Saharanpur, it was noticed (May 1978) that the assessing authority revised the rate of payment of purchase tax for the 1975-76 season in respect of the sugar factory in November 1976. While fixing the revised rate, the assessing authority did not exclude the bags of unsaleable sugar in stock from the stock of sugar on hand. Consequently, tax liability amounting to Rs. 59,464 remained undischarged even after all the sugar stock had been cleared.

On the omission being pointed out in audit (June 1978), the factory deposited Rs. 59,464 (March 1979).

The matter was reported to Government in June 1978; their reply is awaited (January 1982).

(ii) In the course of audit of a sugar factory at Saharanpur, it was noticed (January 1979) that the sugar factory purchased 17,45,329 quintals of sugarcane during the crushing season 1976-77 and the purchase tax payable at the rate of Rs. 1.25 per quintal of sugarcane amounted to Rs. 21,81,661. The assessing authority fixed the provisional rate of Rs. 13.50 per bag for the realisation of tax for the season 1976-77. On 1st August 1977, the final rate of Rs. 10.95 per bag was fixed for the clearance of the remaining stock of sugar for the season. The factory cleared the entire remaining stock of sugar for the aforesaid season at this revised rate by April 1978, when the tax liability amounting to Rs. 42,411 still remained unpaid.

On the omission being pointed out in audit (February 1979), the factory deposited the balance amount of tax of Rs. 42,411 in May 1979.

The matter was reported to Government in July 1981; their reply is awaited (January 1982).

5.7. Non-levy of interest and penalty on belated payment of tax

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, and the Rules framed thereunder, option units are required to

pay tax by twenty-fifth day of the month immediately preceding the month for which the tax is due. In the event of default, they are liable to pay interest at the rate of 12 per cent per annum from such date till the date of payment and also penalty where tax payable, or interest thereon, or both, as the case may be, remains unpaid for a period exceeding 15 days beyond the date prescribed for payment thereof at rates ranging from 5 to 10 per cent of the total sum payable, depending on the period of default.

In the course of audit of the offices of the Khandsari Inspectors at Roorkee (North), Nighasan (Lakhimpur Kheri) and Bijnor II, it was noticed (August 1976, November 1976 and January 1979) that 13 option units had not paid the instalments of tax on the due dates and delays in these cases ranged between 24 and 1,062 days but interest (Rs. 21,048) and penalty (Rs. 22,421) amounting to Rs. 43,469 had not been realised.

On the omission being pointed out in October 1976, January 1977 and February 1979, Rs. 28,143 were realised to the end of December 1980. Particulars of recovery of the balance amount are awaited (January 1982).

The matter was reported to Government in July 1981; their reply is awaited (January 1982).

CHAPTER 6
FINANCE DEPARTMENT

STAMP DUTIES AND REGISTRATION FEES

6.1. Results of test audit in general

Test audit of the offices of District Registrars and Sub-Registrars during 1980-81 revealed short levy of stamp duty and registration fee amounting to Rs. 6.00 lakhs broadly categorised as under :

	Amount (In lakhs of rupees)
1. Short levy of stamp duty and registration fee due to under-valuation of properties	3.81
2. Irregular exemption from levy of stamp duty and short levy due to misclassification of documents	0.82
3. Miscellaneous	1.37
Total ..	<u>6.00</u>

A few important cases are mentioned in the following paragraphs.

6.2. Short levy of stamp duty and registration fee due to adoption of reduced rates of land revenue for valuation of land

Under the Uttar Pradesh Stamp (First Amendment) Rules, 1976, for purposes of levy of stamp duty, the minimum value of *bhumidhari* land forming the subject of an instrument of conveyance is not to be less than that determined at 800 times of the annual land revenue payable on such land. The rates of land revenue were rationalised with effect from 1st July 1976 by the Uttar Pradesh Land Laws (Amendment) Act, 1976 and the land revenue payable by a *bhumidhar* was to be computed at double the hereditary

rates applicable to unirrigated and irrigated lands, subject to the prescribed minimum and maximum. The rationalised rates of land revenue were later reduced to half by an Ordinance issued in February 1977 but the Ordinance lapsed in July 1977 as it could not be ratified by an Act.

In the course of audit of the office of Sub-Registrars, Faridpur and Aonla (district Bareilly), it was noticed (September 1978) that despite the lapsing of the Ordinance in July 1977, the *bhumidhari* lands forming the subject matter of 50 deeds of conveyance, registered during the period September 1977 to February 1978, were valued by applying the multiple of 800 to half the rationalised rates of land revenue instead of the full rationalised rates. This resulted in short levy of stamp duty and registration fee of Rs. 69,873.

On this being pointed out in audit in November 1978, the department intimated (between May 1979 and May 1980) that amounts of Rs. 53,384 on account of stamp duty and registration fee and Rs. 6,155 as penalty had been recovered in 39 cases and that recovery in the remaining 11 cases pertaining to the office of Sub-Registrar, Aonla was in progress.

The matter was reported to Government in November 1978; their final reply is awaited (January 1982).

6.3. Short levy due to under-valuation of *bhumidhari* lands

Under the Indian Stamp Act, 1899, as applicable to Uttar Pradesh, stamp duty on a deed of conveyance is charged on the market value of the property forming the subject matter of the deed or on the consideration set forth therein, whichever is higher. Further, an instrument transferring *bhumidhari* land should fully and truly set forth the annual land revenue for the assessment of market value. According to the U. P. Stamp Rules, 1942, as amended from time to time, the market value of *bhumidhari* land should not be less than that arrived at 800 times of the land revenue.

In the course of audit of the offices of the Sub-Registrar, Hathras (district Aligarh) and Akbarpur (district Faizabad), it was noticed (May 1979 and June 1979) on verification from the Tahsil records that land revenue was not fully and truly set forth in 12 instruments of conveyance registered during the period August 1977 to May 1979 for the transfer of *bhumidhari* lands. Incorrect/non-exhibition of land revenue resulted in under-valuation of lands involving short charge of stamp duty and registration fee of Rs. 23,919.

On this being pointed out in audit (July 1979 and August 1979), the department recovered Rs. 5,815 in 4 cases, recovery of Rs. 10,752 in 5 cases was under progress and in the remaining 3 cases, proceedings for determining the correct valuation had not been finalised (January 1982).

The matter was reported to Government in July and August 1979; their final reply is awaited (January 1982).

6.4. Short levy due to under-valuation of non-agricultural lands

Under the Uttar Pradesh (First Amendment) Rules, 1976, effective from 1st July 1976, the value of non-agricultural land situated within the limits of any local body should, for the purposes of payment of stamp duty, be equal to the value worked out on the basis of average price prevailing in the locality on the date of execution of the instrument.

In the course of audit of the office of the Sub-Registrar, Haldwani (district Naini Tal), it was noticed (March 1979) that in the case of six instruments of conveyance executed during the period April 1977 to November 1978, non-agricultural lands were sold at the rate of Re. 1 to Rs. 2 per square foot in three cases and at about Rs. 30 per square metre in the other three cases. These rates were much below the average price of Rs. 8 to Rs. 10 per square foot and Rs. 90 per square metre respectively, prevailing in the locality as ascertained from a scrutiny of other sale deeds executed during the same period.

On this being pointed out in audit (July 1979), the department sent (September 1979) copies of the documents to the Collector, Naini Tal, who determined short charge of Rs. 16,677 on account of stamp duty and registration fee in respect of 5 documents out of which Rs. 4,788 were reported (October 1981) to have been recovered. His decision in respect of the sixth document involving short charge of Rs. 29,392 is awaited (January 1982).

The matter was reported to Government in July 1979; their reply is awaited (January 1982).

6.5. Short charge due to non-application of the market rates

Under the Indian Stamp Act, 1899, as applicable to Uttar Pradesh, stamp duty on a deed of conveyance is leviable on the market value of the property forming the subject matter of the deed or on the consideration set forth therein, whichever is higher.

In compliance with a Government order of July 1974, the Collector, Bulandshahr, fixed market rates of various categories of lands in February 1975, for the guidance of the registering authorities for assessment of market value of agricultural lands.

In the course of audit of the office of the Sub-Registrar, Anupshahr (district Bulandshahr), it was noticed (August 1975 and June 1976) that in the case of 24 instruments of conveyance registered during the period February 1975 to March 1976, the value of lands amounting to Rs. 3.71 lakhs as shown in the instruments was adopted by the Sub-Registrar for levy of stamp duty and registration fee, while the value of those lands worked out to Rs. 6.28 lakhs in accordance with the rates fixed by the Collector. Omission to value the lands at the market rates fixed by the Collector resulted in short charge of stamp duty (Rs. 19,612) and registration fee (Rs. 2,615) amounting to Rs. 22,227.

On this being pointed out in audit (November 1975 and July 1976), the department recovered Rs. 11,411 besides

penalty of Rs. 1,095 in respect of 12 documents (May 1981). Report of recovery in respect of the remaining documents is awaited (January 1982).

The matter was reported to Government in November 1975 and July 1976; their reply is awaited (January 1982).

6.6. Short levy due to under-valuation of immovable properties

Under the Indian Stamp Act, 1899, as applicable to Uttar Pradesh, stamp duty in respect of a conveyance deed for immovable property is to be charged on the market value of the property or on the consideration set forth in the instrument, whichever is higher. In accordance with the U. P. Stamp Rules, 1942, as amended from time to time, the market value of a building should not be less than that arrived at on the basis of 25 times of the actual or assessed annual rental value, whichever is higher. In case where the market value has been stated in accordance with the multiples concerned but the registering officer has reason to believe that the correct valuation of the property cannot be arrived at without having recourse to local enquiry or extraneous evidence, he may refer the instruments in question after registration to the Collector for determination of the actual market value of the property.

(i) In the course of audit of the office of the Sub-Registrar, Allahabad, it was noticed (June 1977) that in 3 deeds of conveyance registered during the period August 1976 to November 1976 for effecting the transfer of 3 buildings, the stamp duty was levied on the total sale value of properties amounting to Rs. 1.11 lakhs even though the assessed annual rental value as given in the documents and the valuation of the documents at the aforesaid multiple of annual rental value worked out to Rs. 2.31 lakhs. Omission to adopt this higher valuation for levy of stamp duty led to short charge of stamp duty and registration fee of Rs. 12,600.

On this being pointed out in audit in July 1977, the department recovered (February 1980) the amount of short charge involved.

Government, to whom the matter was reported in July 1977, confirmed the position in March 1981.

(ii) In the course of audit of the office of the Sub-Registrar, Bareilly, it was noticed (December 1977) that through 3 conveyance deeds registered during the period July 1976 to November 1976, three buildings were transferred at a total valuation of Rs. 1.25 lakhs. However, the cost of land measuring 2,033 square yards covered by the buildings alone worked out to Rs. 2.03 lakhs calculated at the rate of Rs. 100 per square yard fixed by the Collector for the locality wherein the buildings were situated. Therefore, there was sufficient ground available to the registering officer to believe that for the purpose of stamp duty, the documents were assessable at a value higher than that set forth therein.

On this being pointed out in audit in January 1978, the department intimated (April 1978) that the copies of the documents had since been sent to the Collector for correct valuation. The Collector adjudged (April 1979) the documents as under-valued, involving short charge of stamp duty and registration fee of Rs. 15,435 and penalty of Rs. 6,162. Rupees 1,152 (including Rs. 50 as penalty) were reported to have been recovered in respect of one document (April 1979). Report of recovery in respect of the remaining documents is awaited (January 1982).

The matter was reported to Government in January 1978; their reply is awaited (January 1982).

6.7. Short levy due to misclassification of registered documents

(i) Under the Transfer of Property Act, 1882, 'gift' means a transfer of certain existing movable or immovable property made voluntarily and without consideration and

'sale' is a transfer of ownership in exchange for a price paid or promised to be paid, whereas 'release' under the Indian Stamp Act, 1899, as applicable to Uttar Pradesh, is renunciation of claim against a specified property.

The stamp duty on a deed of gift/sale is charged on the value/consideration set forth therein or on the market value, whichever is higher, at the rate of Rs. 75 for the first Rs. 1,000 and Rs. 37.50 for every Rs. 500 or part thereof in excess of Rs. 1,000 without any maximum limit; in the case of 'release', the rate is lower, subject to a maximum of Rs. 100.

In the course of audit of the offices of the District Registrar, Lucknow, and Sub-Registrar, Kanpur, it was noticed (June 1979) that five instruments were registered during the period July 1978 to October 1978 as instruments of 'release' but four of them were 'gift deeds' as properties were transferred voluntarily without consideration in favour of a person who had no claim on them and the fifth document was 'sale' as the property was transferred for consideration.

On this being pointed out in audit (August 1979), the department issued recovery certificates for realisation of the short charge of stamp duty and registration fee of Rs. 11,895. Report of recovery is awaited (January 1982).

The matter was reported to Government/department (August 1979); their reply is awaited (January 1982).

(ii) Under the Indian Stamp Act, 1899, stamp duty on a deed of mortgage with possession is leviable on the amount of consideration equal to the amount secured by such deed, while in the case of an instrument of sale it is leviable on the market value of the property or the consideration set forth in the instrument, whichever is higher. The duty in the latter case can thus be higher than in the former if the market value is higher than the amount shown in the instrument.

According to the provisions of section 164 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, any transfer of holding by a *bhumidhar* including that by which the possession is transferred to the transferee for the purpose, *inter alia*, of securing any payment of money advanced or to be advanced by way of loan and existing or future debt, is to be deemed at all time and for all purposes to be sale to the transferee; this is the position notwithstanding anything contained in the document of transfer or any law for the time being in force. Thus, stamp duty on an instrument of mortgage with possession in respect of *bhumidhari* land is to be levied as per instrument for sale.

In the course of audit of the office of the Sub-Registrar, Saharanpur, it was noticed (December 1977 and June 1979) that 16 instruments of mortgage with possession in respect of *bhumidhari* land registered during the period February 1977 to March 1979 were assessed to stamp duty at the considerations set forth in the respective instruments and not at the market value of the lands, which was higher. This resulted in short levy of stamp duty and registration fee of Rs. 14,660.

On this being pointed out in audit (January 1978 and August 1979), the department recovered Rs. 11,345 on account of stamp duty and registration fee along with penalty of Rs. 7,485 in 15 cases. In one case, the decision of the Board of Revenue is awaited (January 1982).

The matter was reported to Government in January 1978 and August 1979; their final reply is awaited (January 1982).

CHAPTER 7
OTHER TAX RECEIPTS
 SECTION—A
REVENUE DEPARTMENT
 LAND REVENUE

7.1. Results of test audit in general

Test audit of the offices of Revenue Department during 1980-81 disclosed under-assessment and short collection of land revenue and land development tax amounting to Rs. 11.22 lakhs. Category-wise details are given below:

	Amount (In lakhs of rupees)
1. Non-levy and short levy of land revenue and land development tax	4.64
2. Short recovery of collection charges	2.21
3. Miscellaneous	4.37
Total ..	11.22

Some interesting cases are mentioned in the following paragraphs.

7.2. Short levy of premium in regularisation of cases of unauthorised occupation of land

For regularising the cases of prolonged unauthorised occupation of Government estates in Tarai and Bhabhar areas of Naini Tal district, the State Government had been issuing orders from time to time so that Government derived some revenue from such occupants who were reaping fruit by way of utilisation of such lands. The State Government prescribed different rates of premium for different categories in June 1974, which were further liberalised in September 1975. Accordingly, cases of occupants whose legitimate holding alone was 10 acres were required to be regularised

after taking premium of Rs. 2,000 per acre for unauthorised occupation of land, subject to maximum of ceiling limit.

In the course of audit of Tahsil Gadarpur (district Naini Tal), it was noticed (March 1980) that in 15 cases of regularisation of unauthorised occupation of land after the issue of the said order, premium was charged at rates lower than Rs. 2,000 per acre, though legitimate holding of such occupants was more than 10 acres in each case. This resulted in short levy of premium of Rs. 0.74 lakh.

On this being pointed out in audit (March 1980), the department stated (March 1980) that full amount of premium would be realised along with the balance amount due.

The matter was reported to Government in May 1980; their reply is awaited (January 1982).

7.3. Non-assessment of land revenue on land where zamindari had not been abolished

According to the provisions of the U. P. Land Revenue Act, 1901, all land to whatever purpose applied and wherever situate is liable to payment of revenue to the State Government except such land as has been wholly exempted from such liability by special grant of, or contract with, the State Government, or by the provisions of any law for the time being in force.

In the course of audit of the Tahsil office, Orai, in Jalaun district, it was noticed (November 1979) that land revenue had not been assessed on land measuring 98 hectares where *zamindari* had not been abolished.

On this being pointed out in audit (January 1980), the department intimated (January 1981) that a demand of Rs. 23,600 had since been raised for the period 1360 *fasli* to 1387 *fasli* (July 1952 to June 1980) and included in the *Jamabandis* for the *fasli* year 1387 (July 1979 to June 1980).

An amount of Rs. 225 had since been recovered; particulars of recovery of the balance amount are awaited (January 1982).

The matter was reported to Government in March 1981; their reply is awaited (January 1982).

7.4. Non-levy/short levy of land development tax on lands held by intermediaries

Under the Uttar Pradesh Land Development Tax Act, 1972, land development tax at prescribed rates was leviable, *inter alia*, on the lands held by an intermediary for his personal cultivation or as 'Sir', 'Khudkash' or grove with effect from July 1, 1971. This tax ceased to exist with effect from July 1, 1977, after introduction of the rationalised rates of land revenue with effect from July 1, 1976.

The normal incidence of land development tax during the various years it was in force was as below :

(a) From July 1, 1971 to June 30, 1974 (<i>fasli</i> years 1379 to 1381)	150 per cent of the deemed land revenue payable
(b) From July 1, 1974 to June 30, 1976 (<i>fasli</i> years 1382 and 1383)	250 per cent of the deemed land revenue payable
(c) From July 1, 1976 to June 30, 1977 (<i>fasli</i> year 1384)	100 per cent of the deemed land revenue

Cases of non-levy of land development tax on intermediaries were reported in paragraphs 7.7 and 7.2 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the years 1976-77 and 1978-79 respectively.

(i) In the course of audit of the office of the Tahsildar, Sadar, district Kanpur, it was noticed (July 1980) that the rates of land development tax mentioned above were not applied correctly by the department during the period 1379 *fasli* to 1384 *fasli* (July 1971 to June 1977). This resulted in short levy of Rs. 44,433.

On this being pointed out in audit (December 1980), the department intimated (August 1981) that 122 *khatas* in 16 villages were erroneously exempted from land development tax owing to adoption of rates which were applicable to the areas where *zamindari* had been abolished and the tax in respect of 9 *khatas* in 8 villages escaped assessment of land development tax. As a result, additional demand of Rs. 46,575 in respect of the years 1379 *fasli* to 1384 *fasli* was raised by the department in the *Jamabandis* for recovery in 1388 *fasli* (July 1980 to June 1981).

Government, to whom the matter was reported in December 1980, stated (September 1981) that the arrears would be recovered in 6 half-yearly instalments in case the loss due to flood/drought was 50 per cent and above in any of the *fasal*, Rabi 1387 *fasli* or Kharif 1388 *fasli* (January 1980 to June 1980 or July 1980 to December 1980) and in 3 half-yearly instalments if the loss was less than 50 per cent in Rabi 1387 *fasli* and Kharif 1388 *fasli*.

(ii) In the course of audit of Tahsil Mohamdabad Gohna (Azamgarh district) in September 1979, it was further observed that the said tax had not been levied from the intermediaries of 16 villages for the period July 1, 1971 to June 30, 1977. When this was pointed out in audit (November 1979), the department intimated (August 1980) that a demand of Rs. 10,099 had since been created and included in the arrear demand for the *fasli* year 1387 (period 1st July 1979 to 30th June 1980); but the realisation had been stayed due to drought conditions.

Government, to whom the matter was reported (November 1979), confirmed the facts in October 1980 and further intimated (July 1981) that in consideration of the past floods/drought, orders had been issued in December 1980 to recover the aforesaid agricultural dues in half-yearly instalments during one and a half to three years' period and that the entire amount was expected to be recovered.

7.5. Short raising of demand of land revenue

Under the U. P. Zamindari Abolition and Land Reforms Act, 1950, as amended by the U. P. Land Laws (Amendment) Act, 1978, the land holders (Khatedars) possessing land not more than 3.125 acres were granted exemption from payment of land revenue with effect from the agricultural year beginning 1st July 1977 (1385 *fasli*). There has been no change in the rates and conditions during the *fasli* years 1385 and 1386; as such the total demand of land revenue of a *tahsil* should approximately be the same in both the years.

In the course of audit of the office of the Tahsildar, Derapur (district Kanpur), it was noticed (March 1979) that the demand of land revenue pertaining to the agricultural year 1st July 1977 to 30th June 1978 (1385 *fasli*) was Rs. 15,44,401 and the demand of land revenue as raised for the agricultural year 1st July 1978 to 30th June 1979 (1386 *fasli*) was Rs. 15,60,889. The demand of land revenue in the year 1385 *fasli* as compared to 1386 *fasli* was raised short by Rs. 16,488.

On this being pointed out in audit (May 1979), the department intimated (July 1981) that demand for land revenue of Rs. 16,488 in respect of 663 *khatas* in 61 villages which erroneously escaped from being raised for the year 1385 *fasli* had since been included for recovery in *Jamabandis* (Demand Register) of the year 1388 *fasli* (July 1980 to June 1981).

The matter was reported to Government in August 1981. Government intimated (December 1981) that due to flood/drought the recovery of these agricultural dues was to be made in 6 to 3 six-monthly instalments and that out of Rs. 16,488, a sum of Rs. 2,748 being the first instalment had been recovered and action was being taken against the officials responsible for short assessment of land revenue.

SECTION—B
POWER DEPARTMENT
ELECTRICITY DUTY

7.6. Under-assessment of electricity duty on consumption of electrical energy for domestic purposes

Under the Uttar Pradesh Electricity (Duty) Act, 1952, electricity duty is leviable on energy sold to a consumer by an appointed authority, for purposes other than industrial or motive power, at the rate of 25 per cent of the energy charge if the energy charge is upto 24 paise per unit.

In the course of audit of the accounts of electricity duty of two appointed authorities in Kanpur Zone, it was noticed (December 1980) that duty of only 2 paise per unit was levied on energy consumed for domestic purposes in the residential premises of the Defence Department officers, whereas duty should have been levied at the rate of 5.5 paise per unit, being 25 per cent of the energy charge of 22 paise per unit levied for such supply. Application of lower rate of duty resulted in short levy of duty of Rs. 37,666 in respect of the period July 1975 to July 1980, calculated on consumption of 10.76 lakh units of energy in respect of premises for which records of meter readings were available.

The matter was reported to Government in January 1981; their reply is awaited (January 1982).

7.7. Non-realisation of interest on delayed payment of electricity duty

Pursuant to a notification issued by Government under the Uttar Pradesh Electricity (Duty) Act, 1952, as amended with effect from 1st September 1970, electricity duty is leviable on consumption of energy by a person from his own source of generation at the rate of one paise per unit. The duty is payable within two calendar months following the close of the month in which meter readings are recorded.

Where, however, energy is consumed by persons not having installed meters, the duty payable is to be computed by the Deputy Electrical Inspector and the same is to be paid regularly at monthly intervals in the same manner as is done in cases where meters are installed. If the amount of electricity duty is not paid to the State Government within the prescribed period, interest is chargeable at the rate of 18 per cent per annum on the amount of duty remaining unpaid and is payable within seven days of the close of each month for which interest is chargeable.

In the course of audit of the office of the Assistant Electrical Inspector, Gonda, it was noticed (October 1980) that two sugar mills consuming energy from their own source of generation filed writ petitions in 1975 challenging the statutory provisions for payment of electricity duty on energy generated and consumed by them from their own source of generation. These petitions were dismissed by the Allahabad High Court on 9th November 1978, and the mills deposited between May and August 1980 electricity duty amounting to Rs. 0.52 lakh relating to the period October 1974 to November 1978. However, no action was taken by the department to demand the amount of interest due on the amount of electricity duty for the period from which it was originally due till the date of payment. The amount of such interest worked out to Rs. 0.31 lakh.

On this being pointed out in audit (October 1980), the department stated that necessary action to effect recovery of interest would be taken. Particulars of recovery are awaited (January 1982).

The matter was reported to Government in November 1980; their reply is awaited (January 1982).

CHAPTER 8
FOREST DEPARTMENT
FOREST RECEIPTS

8.1. Introductory

The total geographical area of the State of Uttar Pradesh is 2,94,413 square kilometres. The area under forest as on 31st March* 1979 was 51,092.33 square kilometres which constituted 17.35 per cent of the total area of the State.

The distribution of forest area in the State as on 31st March* 1979 is indicated below:

	Area (Square kilo- metres)	Percentage to total geogra- phical area of the State
1. Area under the control of the forest department		
Reserved	34,411.39	
Protected	216.77	
Unclassed and vested	6,177.41	
Total	40,805.57	13.86
2. Area not under the control of the forest department		
Civil and soyam forests	7,606.50	
Panchayat forests	2,447.64	
Private forests	166.27	
Municipal, cantonment and other forests	66.35	
Total	10,286.76	3.49
Grand Total	51,092.33	17.35

*NOTE—Figures upto 1978-79 only have been supplied by the Forest Department (October 1981).

The forest revenue is derived mainly from sale of major and minor forest produce. The major forest produce includes timber and fuel and minor forest produce includes resin, *tendu* leaves, *katha*, grass, bamboo, boulder, *bajri*, stones, etc. The comparative figures of out-turn and value of major and minor forest produce for the years 1976-77 to 1978-79 are given below:—

Year	MAJOR FOREST PRODUCE					
	Out-turn		Value		Value of total forest produce (In lakhs of rupees)	Percentage which value of timber bears to the value of total forest produce
	Timber	Fuel	Timber	Fuel		
(In lakhs of cubic metres)	(In lakhs of rupees)	(In lakhs of rupees)	(In lakhs of rupees)			
1976-77	1,18,72.93	2,09,17.42	27,31.64	1,29.19	37,54.18	72.96
1977-78	1,18,38.31	2,45,65.53	33,24.26	1,23.69	43,19.09	76.96
1978-79	1,14,94.14	2,35,52.74	36,19.49	1,42.41	47,79.76	75.72

Item	MINOR FOREST PRODUCE					
	Out-turn			Value		
	(In lakhs of quintals)			(In lakhs of rupees)		
	1976-77	1977-78	1978-79	1976-77	1977-78	1978-79
Resin	2.10	1.56	1.30	3,37.81	3,24.69	3,70.01
Tendu leaves	1.85	1.73	2.35	2,70.74	2,58.91	2,48.98
Katha and Khair Gilta	0.31	0.52	0.67	36.14	86.41	1,30.33
Other miscellaneous forest produce	—	—	—	2,48.67	2,01.13	2,68.57

Timber is the main source of forest revenue of the State. Though the total revenue receipts of timber for the year 1978-79 registered an increase of 27.32 per cent over those in 1976-77 due to higher price obtained in auction of lots, the out-turn of timber for the year (1,14,94.14 lakh cubic metres) showed a decline of 3.19 per cent over that in 1976-77 (1,18,72.93 lakh cubic metres).

Resin is an important minor forest produce. There has been a continuous fall in the out-turn of resin. In one circle alone, the out-turn of resin came down (from 0.48 lakh quintals in 1975-76 to 0.10 lakh quintals in 1978-79) and in three other divisions the extraction of resin had been suspended for five years from 1975 crop. In these

divisions, the resin extraction rules in regard to size and spacing of the channels on the stems of the trees and also for making channels on tender trees were not observed and a breathing time for their recoupment was considered necessary.

Tendu leaves are another important source of revenue to the department. Despite increase in demand and out-turn of *tendu* leaves as will appear from the table below, the realisation of revenue per quintal had gone down:

Year	Realisation per quintal (Rupees)
1976-77	146.20
1977-78	150.00
1978-79	105.95

During the year 1980-81, test audit of the divisional records revealed several instances of irregularities which could be broadly categorised as under:—

	Number of items	Amount (In lakhs of rupees)
1. Allotment of forest produce at concessional rates	2	1,13.08
2. Non-levy/short levy of penalties	15	20.58
3. Irregularities in extraction and disposal of resin	3	6.22
4. Irregularities in collection and disposal of <i>tendu</i> leaves	7	6.90
5. Miscellaneous	24	23.88
Total ..	51	1,70.66

A few interesting cases noticed in audit are given in the following paragraphs.

8.2. Misappropriation of Government revenue

Under the Transit of Timber and other Forest Produce Rules, 1978, the Government of Uttar Pradesh notified (September 1978) that no forest produce shall be moved into or from or within the State of Uttar Pradesh without payment of transit fees at forest check posts/depots established under the Rules. The Divisional Forest Officer, North Mirzapur, established such a forest check post in Allahabad Range at Gohania, the junction of Allahabad—Rewa and Allahabad—Banda roads. The export *Moharrir* at the check post was provided with transit receipt books and was authorised by the department to issue receipts therefrom for the amounts received by him as transit fees which was being charged at Rs. 35 per lorry load of forest produce. In order to have a cross check over the collection of transit fees, another check post known as "Rewa Check Post" near Jamuna bridge was established to keep a record of all carriages passing through Gohania check-post and heading towards Allahabad.

In July 1980, the Range Officer, Allahabad, reported to the Divisional Forest Officer, North Mirzapur, that one receipt book which was found to have been stolen from the Range Office, Allahabad, was utilised at Gohania barrier and revenue collected against it was misappropriated. The matter was not reported to the Police. After the departmental investigation, the Divisional Forest Officer reported to the Conservator of Forests in January 1981 that Government revenue amounting to Rs. 1.64 lakhs realised by the export *Moharrir* against 42 forged receipt books and about 476 receipts issued on duplicate books had been misappropriated by the export *Moharrir* who had since been transferred.

A test check in audit (April 1981) of the records kept at the said two check posts along with those of the Divisional and Range offices disclosed that Government revenue to the extent of Rs. 3.21 lakhs realised by the export *Moharrir*

between November 1979 and July 1980 as per details given below had not been accounted for and had thus been misappropriated:

Sl. no.	Category of misappropriation	Number of receipt books involved	Revenue collected on receipt books	Revenue deposited in account	Revenue misappropriated
<i>(In lakhs of rupees)</i>					
1.	Revenue collected on forged printed receipt books not issued by the Division/Range office to Gohania check post	51	1.78	0.14	1.64
2.	Revenue collected on duplicate set of receipt books utilised concurrently with genuine receipt books	45	1.57	Nil	1.57
	Total ..	96	3.35	0.14	3.21

The misappropriation was facilitated because the procedure prescribed (February 1979) by the Chief Conservator of Forests in regard to procurement, issue and utilisation of receipt books was not followed in so far as:—

(i) The forms of receipt book were got printed (February 1979 and July 1980) locally by the Division and not at the level of the Conservator of Forests. No separate and distinct code number was provided in the receipt books as required under the standing orders of the Chief Conservator of Forests.

(ii) A certificate of page counting of receipt books was not recorded by the sub-divisional officer on the fly leaf. The receipt books were also not kept under his personal custody.

(iii) The account of the receipt books was maintained by the store-keeper and not by the sub-divisional officer.

(iv) Divisional stamp and signatures of the sub-divisional officer were not affixed on each page of the receipt book before issue.

(v) The unstamped and unsigned receipt books were issued by the store-keeper without obtaining indents of the Range Officer and approval of the sub-divisional officer and also without ensuring that proper account of the books already issued had been received and counter-foils of the used books were returned.

Apart from the above procedural lapses at divisional level, it was observed that no proper system of the receipt and issue of receipt books to be followed by the Range Office had been evolved. The receipt books were issued by the Range Clerk and not by the Range Officer to the export *Moharrir* and also to unauthorised persons like gateman and casual labour posted in Gohania check post. Further, the receipt books were issued by the Range Office to Gohania check post having the stamp of the Range office affixed but without signature of the Range Officer and without ensuring that the receipt books already issued had been utilised and revenue collected on those books had been properly deposited in the Range Office. No checks were exercised by the Range Officer on the proper maintenance of the account of receipt books and also on the collection and remittance of revenue by the export *Moharrir* as was evident from the fact that transit fees collected at the check post were being deposited with the Range office two to six months after the date of such collection.

The Divisional Forest Officer reported (April 1981) that the Range Officer, the Range Clerk, one Forester and three

export *Moharrirs* had been placed under suspension (July 1980) and that the matter was under investigation.

The matter was reported to Government in August 1981; their reply is awaited (January 1982).

8.3. Loss of revenue due to non-observance of rules and orders

(i) A *tendu patta* unit of a forest division at Mirzapur (estimated quantity: 1,000 standard bags) was sold (April 1979) for Rs. 0.75 lakh to the highest tenderer who had signed the agreement deed in May 1979. The tenderer paid (May 1979) Rs. 0.11 lakh in advance. The balance of Rs. 0.64 lakh was payable in three equal instalments due in June, October and November 1979. On advance payment of Rs. 0.11 lakh towards sale price, the tenderer was allowed (May 1979) to keep the *tendu* leaves in a godown, the control of which vested with the divisional officer.

According to clause 17(2) of the tender notice, the tenderer was required to deposit Rs. 0.22 lakh as security in cash or in the form of National Plan Certificate or other form of investment under Small Saving Schemes of Government duly pledged in the name of the Divisional Forest Officer. In contravention of these provisions, the divisional officer accepted (May 1979) the security in the form of a bank guarantee of Rs. 0.22 lakh furnished by the tenderer.

Between June 1979 and February 1980, the tenderer paid Rs. 0.42 lakh against the balance of the purchase price amounting to Rs. 0.64 lakh. An amount of Rs. 0.22 lakh remained unpaid as on 28th February 1980.

According to the standing orders (July 1971) of the Conservator of Forests, Southern Circle, no export from any lot should be allowed without payment of dues in advance

and the amount of security is not to be reckoned against sales price. Contrary to these orders, it was noticed (April 1981) that the tenderer was allowed (between June 1979 and January 1980) to export all the leaves (1,000 standard bags) from the godown even when the sale price amounting to Rs. 0.22 lakh had remained unpaid by him.

The bank guarantee of Rs. 0.22 lakh could not be encashed as the same was found to have not been issued by the bank to the said contractor. The revenue authorities to whom recovery certificate was issued (July 1980) intimated that recovery could not be effected as the contractor was reported to have no movable or immovable property in his name.

According to the departmental orders, tenders are to be received only from such contractors as are registered with the department after verification of their identity, address and financial status. Had these orders been followed, the department would have had no difficulty in locating the contractor and recovering the dues in this case.

No civil or criminal proceedings have been instituted in the case so far (March 1981).

The matter was reported to Government in July 1981, their reply is awaited (January 1982).

(ii) In another case, two *tendu patta* units of a forest division at Obra (estimated quantity: 2,100 standard bags) were sold (February 1979) to a single contractor for Rs. 2.20 lakhs. According to the tender notice, the tenderer was required to deposit Rs. 0.66 lakh as security in cash or in the form of National Plan Certificates or other forms of investments under Small Savings Schemes of Government, duly pledged in the name of Divisional Forest Officer. Contrary to these provisions, the Divisional Officer accepted the security in the form of a bank guarantee for Rs. 0.66 lakh furnished by the tenderer. The agreement was executed in April 1979 and work orders for the two units were

issued in April and May 1979 respectively. On payment of Rs. 0.33 lakh in advance towards sale price, the contractor was allowed to keep the *tendu* leaves in his godown, the control of which vested with the department. The residual balance of sale price aggregating Rs. 1.87 lakhs was to be paid by the contractor in three equal instalments due in June, October and November 1979. In June 1979, 2,270 standard bags of *tendu* leaves were kept in the storage godown.

The contractor did not pay any of the instalments on due dates. In December 1979, however, the tenderer paid Rs. 0.19 lakh towards sale price of one unit against which export of 266 standard bags of *tendu* leaves was allowed to him. Thereafter, the lock of the godown was sealed (28th December 1979) by a bank (other than that which issued the bank guarantee) of Mirzapur owing to non-payment of dues of the bank by the contractor. The division took up the matter with the bank but the seal was not removed.

The Divisional Officer requested (January 1980) the bank authorities to encash the bank guarantee furnished by the contractor and remit the amount through bank draft, but the bank stated (February 1980) that the matter was under correspondence with the party concerned. In the meantime, the contractor presented (20th February 1980) to the Divisional Officer three treasury challans for Rs. 1.96 lakhs duly signed by the godown in-charge in support of payment of outstanding dues in the treasury and requested for return of the bank guarantee. Although there was no provision in the rules for refund of the security until six months after the contract was over and the claim for the material kept in the storage godown in dispute was settled, the Divisional Officer handed over the bank guarantee to the godown in-charge on the day of presentation of challans, *i.e.*, 20th February 1980, with

instructions to deliver it to the contractor and also to release the stock material seized in the godown after due verification of genuineness of deposits. The godown in-charge reported (22nd February 1980) that while he was going for verification from Obra to Mirzapur along with the contractor in his jeep on 20th February 1980 the contractor managed to take away the bank guarantee from his bag and got it encashed from the bank on 21st February 1980. Three challans for Rs. 1.96 lakhs furnished by the contractor were found to be fake as reported (August 1980) by the Divisional Officer to the Conservator of Forests.

The Divisional Officer issued (April 1980) a recovery certificate to the Collector, Mirzapur for realising Rs. 2.00 lakhs (sale price: Rs. 1.68 lakhs, sales tax: Rs. 0.15 lakh and late fee: Rs. 0.17 lakh) from the contractor as arrears of land revenue. But the recovery certificate was received back (November 1980) from the Collector stating that the contractor had died, the details of property, names and addresses of partners were not recorded therein and no punitive action was possible against the deceased till the recovery certificate was revised. The recovery of dues had not been made so far (August 1981).

The Divisional Officer stated (September 1981) that for the bank guarantee paid by the bank without a release order, the Reserve Bank of India had expressed their inability to help the department in the matter and that the opinion of the District Government Counsel was being obtained for legal redress. It was further stated (January 1982) that when the godown was opened in November 1980 by the commission appointed by the court, only 184 standard bags of *tendu* leaves (the value of which was nil because of its storage in the godown for long period) were found which were still in the custody of the court. The loss of *tendu* leaves from the godown was reported to be under dispute for

which a case had been filed in the court against the bank in January 1981.

The department suffered a loss of revenue to the extent of Rs. 2.66 lakhs in the case.

The matter was reported to Government in September 1981; their reply is awaited (January 1982).

8.4. Outstanding revenue due to non-registration of saw mills

The Uttar Pradesh Saw Mills Establishment and Regulation Rules, 1978, promulgated and published by Government on 1st August 1978, prescribed that within the radius of 80 kilometres of any reserved or protected forest, no person shall establish, erect or operate any existing saw mill or machinery for converting or cutting timber and wood without obtaining a licence from the Divisional Forest Officer concerned. Every licence granted or renewed under the rules shall remain valid for one calendar year or a period not beyond 31st day of December next following the date of issue or renewal. An annual fee of Rs. 250 per unit of saw mill for grant or renewal of licences is also payable by the applicants/licensees which is to be credited to the revenue of the Forest Department.

In the course of audit, it was noticed (between January 1981 and October 1981) that orders of Government issued in August 1978 were not expeditiously implemented by the forest divisions. Survey carried out by fifteen forest divisions (between 1980 and 1981) revealed that about 1,100 saw mills were operating without obtaining licences from the Divisional Forest Officers concerned. Thus, annual fee (Rs. 250 per unit) for grant or renewal of licences had not been realised from such mill owners with the result that the department was deprived of reve-

The matter was reported to Government in June 1981; their reply is awaited (January 1982).

8.5. Loss of revenue due to over-estimation of the price of timber lots

Twenty timber lots (estimated price: Rs. 22.30 lakhs) of a Forest Division at Haldwani could not be sold during 1978-79 working season as the individual bids (Rs. 15.03 lakhs) obtained (October 1978) in general auction were substantially lower than the estimated price. The same lots were again notified in the sale list for 1979-80 working season. But the price estimates of these lots were lowered to Rs. 9.31 lakhs (42 per cent of 1978-79 estimates) as according to the Divisional Forest Officer (January 1980) the estimates prepared for auctions held in 1978-79 were unrealistic for the following reasons:—

(a) they were based on the royalty of adjoining lots instead of comparable lots sold during the preceding year as prescribed by the department;

(b) the individual variations of adjoining and comparable lots were not taken into account for making the royalty of adjoining lots comparable;

(c) deductions for difference in market price due to allotment of fuel, coal, etc., at concessional price from the lots were not made.

All the lots except one were sold (October 1979) in the main auction of 1979-80. A comparison of the bids obtained in the main auction of 1978-79 with those accepted in the auction of 1979-80 revealed that the bids obtained for 12 out of 19 lots in question in October 1979 were lower than those obtained in the auction held in 1978-79, whereas in the remaining 7 lots the bids in October 1979 were marginally higher than the bids obtained in 1978-79 as per details given in the following table:—

Sl. no.	Total number of lots	Estimated price for 1978-79 auction	Revised estimated price for 1979-80 auction	Bids obtained in 1978-79 auction	Actual price received in 1979-80 auction	Increase of revenue(+)/ Decrease of revenue(-)
1	2	3	4	5	6	7
			(In lakhs of rupees)			
1.	12	16.56	6.82	12.42	9.28	(-)3.14
2.	7	5.11	2.22	2.43	3.21	(+)0.78
Total	19	21.67	9.04	14.85	12.49	(-)2.36

Thus, over-estimation of the price of the lots listed for 1978-79 auction resulted in the postponement of auction and consequential net loss of revenue to the extent of Rs. 2.36 lakhs since the bids received in 1978-79 were higher than the revised estimated prices except in case of one lot.

The matter was reported to Government in June 1980; their reply is awaited (January 1982).

8.6. Loss of revenue due to non-acceptance of highest tender

Tenders for the collection of *sal* seeds for a period of four years (1977—80) were invited by the Conservator of Forests, Utilisation Circle, Lucknow, on 12th January 1977 on behalf of 14 Forest Divisions. Tenders were to be received by 7th February and were to be opened on 8th February 1977.

In the case of one of the Divisions (West Dehra Dun Forest Division), only one tender for Rs. 0.72 lakh was received by 7th February but three more tenders despatched on 7th February were received on 8th February 1977 before opening of the tenders. The details of these tenders are given below:—

Name of tenderer	Date of receipt of tender	Amount of tender (Rs.)	Remarks
A	7.2.1977	72,000	
B	8.2.1977	1,25,000	
C	8.2.1977	1,10,000	Earnest money not furnished
D	8.2.1977	75,000	

The State Government, to whom the matter was referred by the Conservator of Forests for decision, directed (March 1977) the Conservator to award the contract to the tenderer 'D' at the highest valid rate. The Conservator of Forests awarded the contract to the contractor at Rs. 0.72 lakh as against Rs. 0.75 lakh offered by him. Since the selected tenderer's offer was also received late, i.e., on 8th February 1977, the contract could as well have been awarded to the tenderer 'B' offering the highest rate of Rs. 1.25 lakhs whose offer was also received on the same date.

Government, to whom the matter was reported in January 1979 stated (September 1981) that in view of the demand of the members of the "U. P. Solvent Extractor's Association" that instead of awarding the work of collection of *sal* seeds to parties outside the State the same might be given to the parties of the State so that the State Government might earn more revenue by way of sales tax, Government decided to offer the work in some of the forest divisions to the members of the association for the highest amount of the tenders received. It was also stated that as the contractor 'A' from whom the tender of Rs. 0.72 lakh was received in time was not interested to carry out the work, the same was allotted to contractor 'D' who was also a member of the association at his willingness at the same price (Rs. 0.72 lakh).

The difference in the amount of the only tender received in time and those received after due date but taken into account by the department was significant but no steps were taken to avail of the benefit of competitive rates by calling for fresh tenders, etc. It may also be added that the tenderer 'B' whose offer was the highest (Rs. 1,25,000) among those received on 8th February 1977, was also from U. P. State.

8.7. Export of material without realisation of sale price

In terms of the standard agreement with the contractors,

the contractors can take the timber or other forest produce out of the forest areas only after payment of sale price in advance. The Divisional Forest Officer is required to stop the removal of forest produce from forest area if the value of the material removed by the contractor up to any time exceeds the amount deposited by him.

In the course of audit, it was noticed (between December 1979 and December 1980) that in the case of 53 forest lots (in five forest divisions) sold at an aggregate price of Rs. 23.42 lakhs, the contractors had been allowed to take away the entire material without payment of the full amount of sale price in advance; they had paid Rs. 16.90 lakhs, leaving a balance of Rs. 6.52 lakhs awaiting recovery as per details given below:—

Sl. no.	Name of Division	Total number of lots and year	Sale price recoverable	Sale price realised including security	Net outstanding balance
<i>(In lakhs of rupees)</i>					
1.	Dudhi Forest Division, Mirzapur	28 (1978-79)	9.94	7.29	2.65
2.	Tarai Central Forest Division, Haldwani	10 (1978-79)	3.68	1.90	1.78
3.	South Gorakhpur Forest Division, Gorakhpur	10 (1978-79)	5.31	4.29	1.02
4.	South Pilibhit Forest Division, Pilibhit	3 (1977-78)	1.03	0.49	0.54
5.	Lansdowne Forest Division, Lansdowne	2 (1978-79)	3.46	2.93	0.53
Total ..		53	23.42	16.90	6.52

In the last two cases, recovery certificates were issued (March and November 1979, respectively) to the concerned Collectors for realising Rs. 1.24 lakhs (including late

fee of Rs. 0.17 lakh till March and November 1979) as arrears of land revenue. No movable or immovable property having been found to be owned by the contractors, the dues remained unrecovered (April 1981). In the remaining three divisions, no action had been taken even to issue recovery certificates so far (April 1981).

The cases were reported to Government between March 1980 and May 1981; their reply is awaited (January 1982).

8.8. Short levy of penalty for illicit felling

With a view to preventing illicit felling of trees in forests, the State Government enhanced (April 1977) the rates of penalty as under and directed (April 1977) that the same should be rigidly followed from the main auction of 1977.

(a) If illicit felling is done intentionally, Rs. 1,000 per tree in addition to the cost of a tree.

(b) If illicit felling is done unintentionally and without any motive, penalty could be reduced to the extent of three times the value of a tree subject to a maximum of Rs. 1,000.

These rates were also incorporated as a specific clause in the Sale Rules for 1977-78 of Tehri/Garhwal Circle which formed part of the agreement executed by the contractors.

It was noticed in the audit (September 1979) of Lansdowne Forest Division that two contractors, who were working in 3 forest lots of 1977-78, were found (May 1978) by the Divisional Forest Officer to have intentionally felled 251 trees for which they became liable to pay a penalty of Rs. 2.75 lakhs including the cost of trees. As against this, the division imposed a penalty of Rs. 0.81 lakh including the value of trees (Rs. 0.24 lakh). This resulted in short levy of penalty amounting to Rs. 1.94 lakhs.

The Divisional Forest Officer stated (January 1981) that penalty was imposed according to the subsequent orders

(August 1978) of the Additional Chief Conservator of Forests (Management) under which a penalty equal to five times of the value of a tree not exceeding Rs. 1,000 was to be imposed. But as the lots pertained to the year 1977-78, the penalty should have been imposed according to the terms and conditions prescribed in the Sale Rules and agreement deed relevant to the year 1977-78. In fact, even on the basis of revised orders the penalty should have been levied at Rs. 1.20 lakhs as against Rs. 0.57 lakh imposed by the department.

The matter was reported to Government in May 1981; their reply is awaited (January 1982).

8.9. Non-levy of late fee

According to the conditions of the Sale Rules, forest contractors are required to deposit instalments of sale price by specified dates and in case of default, they are liable to pay late fee at 2 paise per Rs. 100 per day for delays exceeding 30 days but not exceeding 60 days and at 5 paise per Rs. 100 per day for delays exceeding 60 days.

In Dudhi Forest Division, Mirzapur, contractor delayed the payment of instalments of sale price (Rs. 5 lakhs and Rs. 3.5 lakhs) of two timber lots of 1977-78 by 48 to 549 days and was liable to pay late fee amounting to Rs. 0.30 lakh which was not realised. He was, however, allowed to export the entire material from the lots. The amount of security deposited by the contractor was also adjusted towards payment of sale price of the lots.

When the omission was pointed out in audit (December 1978), it was stated by the Divisional Forest Officer that the contractor was working in the division in 1979-80 also and that the late fee would be recovered from him. The recovery had not been effected so far (April 1981).

The matter was reported to Government in March 1980; their reply is awaited (January 1982).

8.10. Loss of revenue due to non-disposal of minor forest produce lots

(a) Auction of three lots of minor forest produce, viz., stones, *bajri* and sand (estimated price: Rs. 0.31 lakh) was put off from general auction (July 1979) as Government, on an application moved by a quarry firm at Kotdwara, advised (July 1979) the Conservator of Forests, Siwalik Circle, to allot these lots in favour of the said firm subject to the condition that it agreed to pay the cost of these lots as might finally be fixed by Government. The allottee accepted the terms and agreed to deposit twenty-five per cent of the tentative cost as royalty and another 25 per cent as security money before starting quarrying. But instead of asking the firm to pay interim cost and security money as agreed to, for issuance of work order, the Conservator of Forests directed (September 1979) the Divisional Forest Officer, Bijnor Plantation Division, to allot these lots in favour of the said party at an interim cost of Rs. 0.81 lakh (estimated value of Rs. 0.31 lakh raised on the basis of price received in respect of such lots sold in open auction) after obtaining an undertaking from the firm to pay the cost as may be finally approved by Government.

Till January 1980, neither the final cost had been decided by Government nor had any action been initiated by the department to obtain the consent of the firm and complete formalities for the commencement of quarrying by the firm. In February 1980, however, the Divisional Forest Officer asked the party to start the work after depositing the requisite amount of security and royalty for the lots (fixed at Rs. 0.81 lakh by the Conservator of Forests) failing which the lots would be auctioned and the party held responsible for the loss, if any, suffered by the department on this account. But the party had neither deposited the amount and started the work nor had any action been taken by the department to auction these lots (June 1980).

As the lots remained unsold till the close of the working season, *i.e.*, June 1980, and there was no scope for the department to re-sell the seasonal lots in the auction of next working season, the department suffered a loss of Rs. 0.81 lakh on this account. The Conservator of Forests reported (May 1981) that action against the quarry firm would be taken on receipt of orders from Government.

The matter was reported to Government in August 1980; their reply is awaited (January 1982).

(b) Similarly, one lot of minor forest produce, *viz.*, *bajri* and boulder (estimated price: Rs. 0.39 lakh) of Divisional Forest Officer, East Dehra Dun, was not sold in the main auction of minor forest produce lots (July 1979) as the Conservator of Forests, on the recommendation of the Divisional Forest Officer, allotted (August 1979) the lot in favour of a co-operative society of Dehra Dun. Since the society had not worked and had not deposited the security amount, the allotment was cancelled (September 1979). Subsequently, the lot was put to auction twice in September 1979 and November 1979 but the highest offers of Rs. 0.20 lakh and Rs. 0.10 lakh respectively, received from one and the same contractor were not approved on the ground that the amount was much below the estimated price of the lot.

As per standing orders (January 1978) of the Chief Conservator of Forests, the sale of lots of minor forest produce should not be postponed even if the price offered for such lots is less than the estimated value. Thus, non-acceptance of the highest offer for a lot which remained unsold till the end of the working season resulted in loss of Rs. 0.20 lakh, worked out with reference to the highest offer received in September 1979.

The matter was reported to Government in June 1980; their reply is awaited (January 1982).

8.11. Inadequate arrangements for internal audit of forest receipts

A reference was made in paragraph 8.9 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year 1979-80 to inadequate internal audit organisation in the Forest Department. In March 1977, Government desired that audit of revenue and stores should be done annually in seven circles and biennially in the remaining circles. Subsequently, Government decided that audit of each office should be done once in three years. But the prescribed quantum and periodicity of audit had not been adhered to, reportedly because the additional staff demanded (August 1977) by the Chief Conservator of Forests for the purpose had not been sanctioned by Government so far (September 1981). As a result, internal audit of only 18 units (out of 114 units) including special audit of 5 units involving 139 days was carried out by the internal audit organisation during 1980-81.

Out of 2,537 objections raised by the internal audit organisation, 1,554 objections remained outstanding at the end of March 1981.

CHAPTER 9
OTHER DEPARTMENTAL RECEIPTS
REVENUE DEPARTMENT

9.1. Non-realisation of deficiency in stamp duty, court fees and penalties

Under section 48 of the Indian Stamps Act, 1899, all duties, penalties and other sums required to be paid thereunder are recoverable by the district collectors as arrears of land revenue.

In the course of audit of the records of the Inspector General of Registration, U. P. (April 1980), it was noticed that the total amount recoverable on account of deficiency in stamp duty and court fees pointed out by the Inspectors of Stamps from time to time and penalties imposed thereon amounted to Rs. 1,39.02 lakhs as on 31st March 1980.

The department did not state any reason(s) for delay in recovery of the outstanding dues.

The matter was reported to Government in April 1981; their reply is awaited (January 1982).

9.2. Management of Government estates

(1) *Introductory*

The immovable properties belonging to the State Government and placed under the control of Land Reforms Commissioner (now Board of Revenue), Uttar Pradesh, are managed and administered through the district collectors. The district officers may entrust the management of such government properties/estates either to the court of wards or to the *tahsil* staff. The district officers are required to ensure proper maintenance of record of government properties at *tahsils*. They should also see that no

rights of adverse possession are allowed to grow up in favour of private persons, by imposition of a suitable rent or in such other manner as the circumstances of each property may require.

Some important and interesting points noticed (October 1980 to April 1981) during test check of the records of government estates management of which was entrusted to the *tahsil* staff in five district offices (Agra, Allahabad, Mirzapur, Naini Tal and Rampur) and their *sadar tahsils* are given in the succeeding paragraphs.

(2) *Maintenance of records*

During departmental inspection conducted by the Board of Revenue, it was pointed out (June 1980) that full details of government estates were not mentioned in the register of properties at each *tahsil* and that a consolidated register should also be maintained at the district headquarters. It was, however, noticed that the consolidated register of properties had not been maintained (November 1980) at the district headquarters of Naini Tal and Rampur. In Allahabad, Agra and Mirzapur districts, the consolidated register was noticed to have not been maintained properly as the entries had not been verified and details of government properties transferred elsewhere had also not been noted.

(3) *Outstanding dues*

At the close of March 1980, the outstanding dues on account of lease rent, premium and auction money of government estates pertaining to the year 1955-56 onwards amounted to Rs. 24.20 lakhs in five districts (Naini Tal: Rs. 21.66 lakhs; Allahabad: Rs. 1.73 lakhs; Agra: Rs. 0.56 lakh; Mirzapur: Rs. 0.15 lakh and Rampur: Rs. 0.10 lakh). The year-wise break-up of the outstanding amounts and reasons for non-realisation could not be given (January 1982) by the district officers.

In Allahabad district, the collection of dues declined from Rs. 0.54 lakh in 1975-76 to Rs. 0.12 lakh in 1979-80 resulting in increase in arrears from Rs. 0.82 lakh in 1975-76 to Rs. 1.73 lakhs in 1979-80. The departmental inspection conducted by the Board of Revenue in July 1973 had revealed that the collection of Rs. 0.15 lakh was embezzled during March 1963 to July 1969 by the *ex-ziledar*, Allahabad, from whom the required amount of security of Rs. 5,000 had also not been obtained. Although embezzlement was detected in June 1970, the first information report was lodged only on 31st May 1972 after termination of the *ex-ziledar's* services on 28th May 1972 as a result of the departmental enquiry. No action was noticed, however, to have been taken (March 1981) against seven supervisory officers (3 officers in-charge and 4 *naib tahsildars*) as desired (December 1977) by the Board of Revenue, who were also held responsible for the loss.

(4) *Renewal of leases*

In three districts (Allahabad, Agra and Naini Tal), 1,798 leases involving 1,108.10 acres of land had not been renewed (March 1981) as detailed below:—

Name of the district	Total number of leases	Number of expired leases	Area involved (In acres)
1. Allahabad	1,662	1,327	969.30
2. Agra	220	220	86.60
3. Naini Tal	Not available	251	52.20
Total ..	1,882*	1,798	1,108.10

In Mirzapur district, the leases were given on auction basis annually. Information pertaining to Rampur was not made available.

(a) *Allahabad*

(i) In 1967, the State Government had ordered renewal of the expired leases and also fixed the rates of premium

* Excluding Naini Tal

to be charged on renewal of such leases. These rates, along with the rates of annual rents, were again revised in 1975. No reasons for non-renewal of expired leases were, however, given (November 1980).

(ii) In 384 cases, the dates of expiry of the original leases were not known and no action had been taken to ascertain the same.

(iii) If the expired leases were renewed at the rates prescribed by Government in 1975, Government would have earned Rs. 39.45 lakhs by way of premium and Rs. 11.39 lakhs as annual rent from 676 leases. In respect of the remaining 651 leases, the amount of premium could not be worked out for want of details. No action in this regard had been taken (March 1981).

(b) Rampur

Four plots measuring 70.15 acres were leased out to a private company during the period June 1944 to August 1952 at a total annual rent of Rs. 1,260. The period of all the leases had expired by August 1976 but no action for their renewal had been taken (November 1980). In the absence of relevant details, the amount of premium and arrears of rent at the revised rates could not be worked out. There was also no record to show that the annual rent (at the old rates) in respect of these leases had been realised during the last ten years 1970-71 to 1979-80.

(5) Encroachments/unauthorised possessions

(i) In Allahabad, 34 gardens covering 58.92 acres of land in Soraon Tahsil had not been auctioned since long (exact details were not available). An on-the-spot inspection carried out by the District Magistrate in 1971 had revealed that most of the lands were being used by unauthorised persons for agricultural and residential purposes. No action had been taken (November 1980) for

their eviction as also for the auction of at least the un-occupied portion of the property.

(ii) Similarly, an on-the-spot inspection carried out by the Additional Deputy Land Reforms Commissioner of plot no. 136 at Naseebpur Bakhtiara, Allahabad City, in February 1980 revealed that the lessee had illegally sold the land to 14 persons who had constructed houses thereon. The Additional Deputy Land Reforms Commissioner had recommended that the concerned Lekhpal be suspended and disciplinary action taken against the concerned Naib Tahsildar. No action had been taken to realise the premium and rent from the occupants.

(iii) At Dudhi (Mirzapur district), 37 cases of encroachments/unauthorised possessions had been reported upto 1976-77. Neither any information for the period thereafter nor action taken for getting the encroachments vacated in these cases was available.

(6) *Court cases*

Neither the register of ejectments and relinquishments was maintained in any of the districts test checked in audit nor was any record of the cases pending in the courts kept. Consequently, the correct position of the cases pending in the courts for ejectment and realisation of the dues could not be ascertained.

(a) A scrutiny of the records at Allahabad (November 1980) revealed the following:

(i) No inspection or survey of the land involved in the cases was carried out before filing suits in the courts of law.

(ii) Cases involving 61.1 acres of land had been decided (upto March 1981) in favour of the State but no action had been taken for taking possession of the land.

(b) At Naini Tal, out of 1,774 cases decided in favour of Government (upto September 1980), possession in 865 cases involving 1,805 acres of land had not yet been taken (October 1980). Year-wise break-up of these cases could not be furnished by the department.

(c) At Mirzapur, 88 cases were filed in the court for ejection during November 1974 to May 1977. Of these, 58 cases were subsequently withdrawn for reasons not on record. The latest position in respect of the remaining 30 cases could also not be furnished (April 1981) by the department.

The matter was reported to Government in July 1981; their reply is awaited (January 1982).

ANIMAL HUSBANDRY DEPARTMENT

9.3. Non-recovery of dues from local bodies

According to the Government orders (May 1944), local bodies are required to pay to Government at the rate of Rs. 40.25 per month per doctor for the services rendered by the veterinary assistant surgeons attached to the veterinary hospitals run by the local bodies.

It was noticed during test check (August 1979 to September 1980) of the records of the Deputy Director, Animal Husbandry, Gorakhpur and Livestock Officers of Aligarh, Azamgarh, Bahraich, Ballia, Basti, Deoria, Faizabad, Gorakhpur and Pauri Garhwal districts that the dues amounting to Rs. 1.58 lakhs were awaiting recovery from the *Zila Parishads* as on 31st March 1980, as detailed below:—

Zila Parishad	Period	Amount (In lakhs of rupees)
1. Aligarh	April 1976 to March 1979	0.44
2. Azamgarh	March 1969 to March 1979	0.18

3. Bahraich	October 1971 to March 1979	0.07
4. Ballia	April 1974 to March 1980	0.19
5. Basti	March 1973 to March 1979	0.15
6. Deoria	April 1972 to March 1980	0.15
7. Faizabad	April 1972 to August 1980	0.21
8. Gorakhpur	March 1973 to March 1979	0.10
9. Pauri Garhwal	April 1961 to March 1980	0.09
		Total .. 1.58

The rate of Rs. 40.25 per month per doctor fixed 36 years back on the basis of the then scale of pay (Rs. 80—Rs. 150) of a veterinary assistant surgeon had not been revised (September 1980) although the pay scales had been revised a number of times; the scale of pay of a veterinary assistant surgeon during the year 1980-81 is Rs. 550—Rs. 1,200.

The matter was reported to Government in March 1981; their reply is awaited (January 1982).

FINANCE DEPARTMENT

9.4. Non-recovery of audit fees from Co-operative Societies

Under the Uttar Pradesh Co-operative Societies Rules, 1968, every Co-operative Society has to pay to Government a fee at the prescribed rates for the audit of their annual accounts by the auditors of the department within 60 days of the receipt of the note of assessment. In the case of defaulters, the rules also provide for recovery of the dues as arrears of land revenue.

A test check (September 1980) of the records of the Chief Audit Officer, Co-operative Societies and Panchayats, U. P., revealed that audit fees amounting to Rs. 10.00

lakhs was outstanding as on 31st March 1980 against 1,391 Co-operative Societies, as detailed below:—

Period	Amount (Rupees in lakhs)
1953-54 to 1959-60	0.07
1960-61 to 1964-65	0.05
1965-66 to 1969-70	0.13
1970-71 to 1974-75	0.73
1975-76 to 1978-79	4.00
1979-80	5.02
Total ..	10.00

A sum of Rs. 0.09 lakh had been written off between April 1980 and March 1981 in respect of 47 Co-operative Societies which had become defunct until March 1980.

The effective arrears stood at Rs. 9.91 lakhs as on 31st March 1981.

The department stated that claims had been preferred by them in time in all cases but the amounts could not be paid by most of the Co-operative Societies due to their unsound financial position. It was further stated that recovery certificates had been issued by them to revenue authorities for Rs. 2.16 lakhs from time to time (year-wise details were not made available). No reason could be given for not issuing recovery certificates for the remaining amounts where the Societies had failed to deposit the fees within the prescribed period. The extent of recoveries effected against the recovery certificates issued was also not known to the department.

The matter was reported to Government in May 1981; their reply is awaited (January 1982).

IRRIGATION DEPARTMENT

9.5. Non-imposition of punitive charges for unauthorised use of canal water

Under the provisions of the Northern India Canal and Drainage Act, 1873 and the Rules framed thereunder and

the Manual of Orders of the Irrigation Department, punitive charges are leviable for waste or misuse of canal water. Before ordering the levy of punitive charges in a case, the Divisional Officer has to satisfy himself that the case has been promptly and immediately investigated by a responsible officer not below the rank of a Zildar. The punitive charges so levied are to be treated as assessment of occupier's rate and are to be included in the demand statement (Jamabandi) for recovery by the Revenue Department as arrears of land revenue.

Cases of non-levy of punitive charges for misuse of canal water and unauthorised irrigation were earlier reported in paragraphs 8.3, 9.9 and 9.3 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the years 1977-78, 1978-79 and 1979-80 respectively. The department issued instructions in 1978 to all the Divisional Officers to the effect that each year at the time of finalising the *jamabandi* for each crop it should be ensured that the investigations for irregular use of water are finalised and punitive charges therefor included in the *jamabandis* for that year as far as possible.

In the course of audit of the Lower Ganga Canal Division, Etawah, however, it was noticed (September 1980) that 6,057 cases of misuse of canal water covering unauthorised irrigation of 97,512 acres of land and involving punitive charges amounting to Rs. 34.13 lakhs pertaining to the years 1971-72 to 1979-80 had not been investigated/ finalised.

The matter was reported to Government in November 1980; their reply is awaited (January 1982).

9.6. Non-levy of charges for irrigation at prescribed rates

By a notification of March 1969, issued under the Northern India Canal and Drainage Act, 1873, the Government of Uttar Pradesh fixed the charges for irrigation from 3 to 5 cusecs capacity State tube-wells with effect from *kharif* 1969 as given under:

(i) A fixed charge of Rs. 20 per acre of irrigated area recoverable at Rs. 10 per acre per 'fasal', and

(ii) In addition to (i) above, Rs. 10 per acre of land per watering for paddy and sugarcane and Rs. 8 per acre per watering for *rabi* and other *kharif* crops

The above rates were revised in September 1976 and September 1977.

In the course of audit of the Tube-well Division, Chandausi, it was noticed (July 1980/August 1981) that during the years 1977-78 to 1980-81 charges for irrigation from 13 State tube-wells with a capacity of 3 to 5 cusecs were levied at the pre-revised rates of 1969 instead of at the revised rates applicable with effect from April 1977. This resulted in short levy of irrigation charges amounting to Rs. 3,02,784.

The matter was brought to notice of the department and Government in September 1980; their reply is awaited (January 1982).

PUBLIC WORKS DEPARTMENT

9.7. Under-assessment of rent of residences allotted to special allottees

By a Government notification of September 1976 under the Pooled Housing Scheme Niyamawali, the houses constructed for the State Government employees under the said scheme were to be allotted by the District Magistrate to the employees of the Government of Uttar Pradesh excluding the employees of the Central Government, the Local-Self Government, autonomous bodies and Corporations and the State Government employees on deputation or on foreign service. Prior approval of the State Government for allotment of houses, in unavoidable circumstances, to the excluded categories was to be obtained and the rent chargeable from such persons was to be at the market rates which would not be less than double the standard rent.

In the course of audit of three Provincial Divisions, Public Works Department, at Bijnor, Rampur and Pratapgarh during 1980-81, it was noticed that pooled residences were allotted to 30 persons belonging to the excluded categories. These persons paid rent at 10 per cent of pay or standard rent only. The Divisions did not demand and charge higher rent as stipulated in the Government notification. This resulted in short assessment and short realisation of rent of Rs. 82,348.

On this being pointed out in audit, the Collectors of Rampur and Bijnor stated (August 1981) that prior permission of Government for allotment of the pooled housing residences was not obtained due to late receipt of the Pooled Housing Scheme Niyamawali of 1976. The information in respect of the Provincial Division, P. W. D., Pratapgarh, is awaited (January 1982).

The matter was reported to Government in August, September 1980 and February 1981; their reply is awaited (January 1982).

91. 01. 1982

ALLAHABAD,

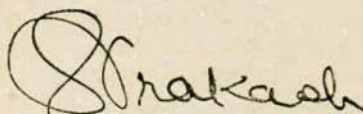
(S. N. TRIPATHI)

The

Accountant General-III, Uttar Pradesh

28 MAY 1982

Countersigned



NEW DELHI,

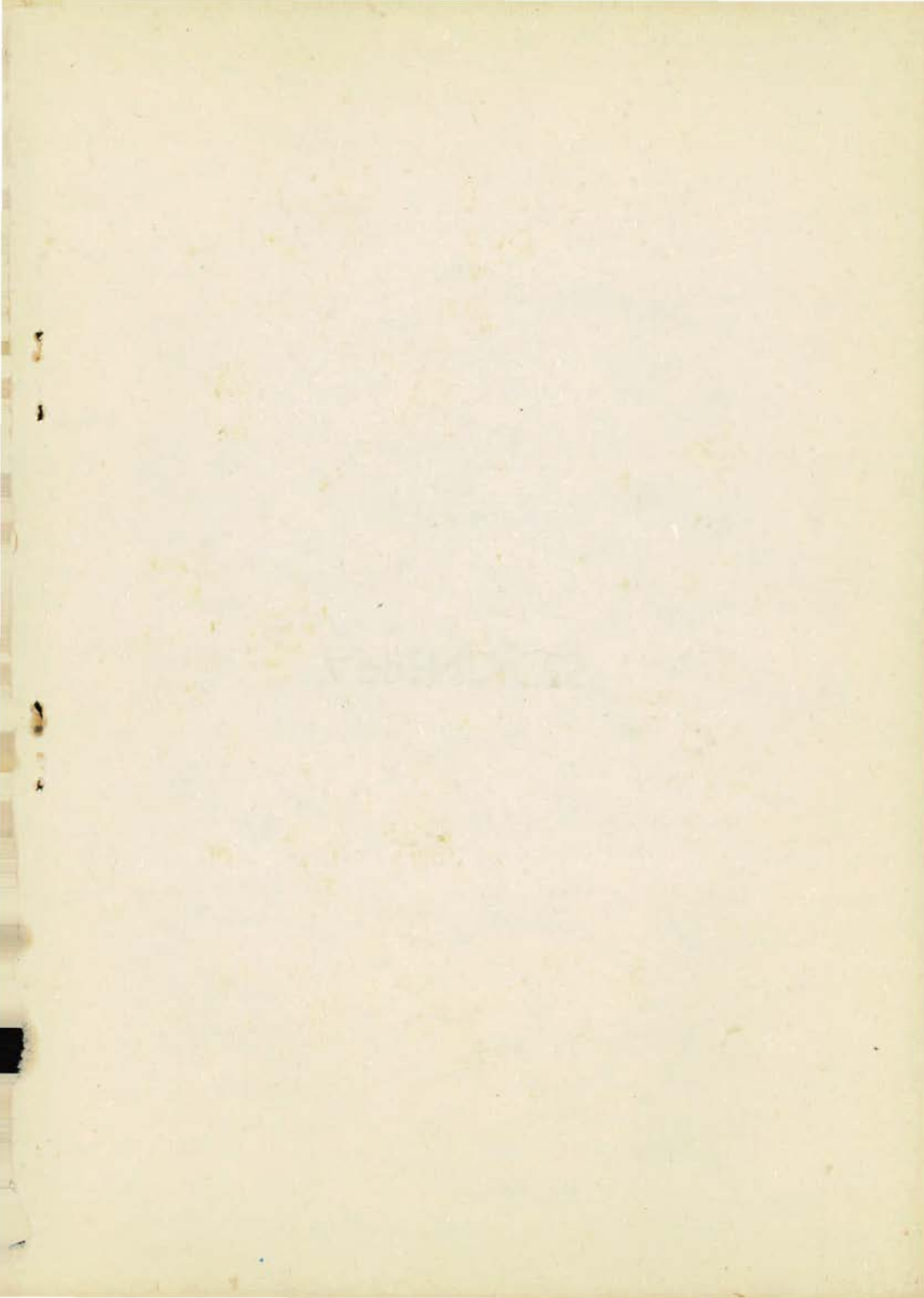
(GIAN PRAKASH)

The

Comptroller and Auditor General of India

31 MAY 1982

APPENDICES



APPENDIX I

[Reference: PARAGRAPH 1.2(c); page 4]

Statement showing details of item 4 "Others"

	1978-79	1979-80	1980-81	Increase(+) or decrease(-) with reference to 1979-80
<i>(In crores of rupees)</i>				
1. Minor Irrigation, Soil Conservation and Area Development	14.84	11.34	7.03	-4.31
2. Education	8.15	9.54	12.73	+ 3.19
3. Medical	4.89	4.75	5.02	+ 0.27
4. Other Administrative Services	5.41	33.25	6.61	-26.64
5. Roads and Bridges	3.67	3.98	3.76	-0.22
6. Miscellaneous General Services	8.59	6.57	7.41	+ 0.84
7. Agriculture	3.32	3.14	5.27	+ 2.13
8. Police	3.20	3.13	2.52	-0.61
9. Dividends and Profits	2.81	5.98	4.10	-1.88
10. Mines and Minerals	2.43	2.56	3.93	+ 1.37
11. Stationery and Printing	2.36	2.56	2.46	-0.10
12. Public Works	2.15	1.95	2.42	+ 0.47
13. Social Security and Welfare	1.33	1.18	2.33	+ 1.15
14. Animal Husbandry	1.46	1.35	1.51	+ 0.16
15. Labour and Employment	1.09	1.13	1.34	+ 0.21
16. Co-operation	2.10	1.79	2.62	+ 0.83
17. Housing	1.26	1.49	1.57	+ 0.08
18. Other General Economic Services	1.04	1.02	1.04	+ 0.02
19. Miscellaneous	7.00	6.54	8.90	+ 2.36
Total ..	77.10	1,03.25	82.57	-20.68

APPENDIX II

(Reference: PARAGRAPH 1.8; page 14)

Statement showing cost of collection under the principal heads of revenue

Head of account	Year	Gross collection	Expenditure on collection	Percentage of expenditure on collection
<i>(In crores of rupees)</i>				
1. Land Revenue	1978-79	46.86	10.16	22
	1979-80	25.95	10.85	42
	1980-81	22.73	11.23	49
2. Stamps and Registration Fees	1978-79	56.70	1.05	2
	1979-80	64.23	1.15	2
	1980-81	68.96	1.42	2
3. State Excise	1978-79	51.45	1.24	2
	1979-80	70.44	1.37	2
	1980-81	89.87	1.57	2
4. Sales Tax	1978-79	2,72.25	4.45	2
	1979-80	3,02.52	5.33	2
	1980-81	3,50.85	6.11	2
5. Taxes on Vehicles	1978-79	21.60	0.37	2
	1979-80	24.39	0.40	2
	1980-81	26.09	0.57	2
6. Taxes on Goods and Passengers	1978-79	27.28	0.21	1
	1979-80	36.61	0.19	1
	1980-81	41.05	0.47	1
7. Taxes and Duties on Electricity	1978-79	6.96	0.21	3
	1979-80	7.52	0.21	3
	1980-81	12.47	0.27	2
8. Other Taxes and Duties on Commodities and Services	1978-79	24.83	0.25	1
	1979-80	30.19	0.28	1
	1980-81	33.05	0.32	1
9. Forests	1978-79	42.26	2.79	7
	1979-80	45.18	3.21	7
	1980-81	49.13	6.84	13

APPENDIX III

[Reference: PARAGRAPH 4.2.4(v); page 67]

Statement showing difference between figures of statements prepared by Accounts and Statistical branches

Month	Figures as per Accounts Branch (Rs.)	Figures as per Statistical Branch (Rs.)	Difference (Rs.)
ALLAHABAD REGION			
July 1980	36,52,335.58	41,34,686.63	-4,82,351.05
August 1980	12,98,935.49	13,93,305.49	-94,370.00
September 1980	15,25,830.06	16,87,767.12	-1,61,937.06
October 1980	45,28,541.75	50,13,555.09	-4,85,013.34
November 1980	12,52,327.51	18,39,877.16	-5,87,549.65
December 1980	15,87,743.55	23,17,801.65	-7,30,058.10
January 1981	59,20,679.78	52,95,140.07	+6,25,539.71
February 1981	21,58,279.55	21,31,417.44	+26,862.11
KANPUR REGION			
April 1980	81,47,953.51	77,19,367.59	+4,28,585.92
May 1980	36,27,143.71	27,32,399.65	+8,94,744.06
June 1980	35,29,904.13	47,27,847.18	-11,97,943.05
July 1980	91,83,686.97	85,89,138.10	+5,94,548.87
August 1980	28,53,615.09	31,75,734.87	-3,22,119.78
September 1980	30,24,648.55	31,03,474.20	-78,825.65
October 1980	88,81,810.56	87,14,858.94	+1,66,951.62
November 1980	32,30,106.27	35,60,670.48	-3,30,564.21
December 1980	45,53,075.56	45,33,347.79	+19,727.77
January 1981	1,12,14,422.77	1,09,06,339.05	+3,08,083.72

