Report of the Comptroller And Auditor General of India

For the Year Ended : 31 March, 1998

No. 1 (REVENUE RECEIPTS)



Government of Uttar Pradesh



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Prefatory Remarks

This Report for the year ended 31st March, 1998 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 1997-98 as well as those which came to notice in earlier years but could not be included in previous years' Reports.









Overview

This report contains 35 paragraphs and 3 reviews relating to non/short-levy of taxes, duties, fees, interest and penalties etc. involving Rs. 463.72 crore. Some of the major findings are mentioned below:

1. General

- During the year 1997-98, revenue raised by the State Government, both tax (Rs. 6998.17 crore) and non-tax (Rs. 1291.71 crore) amounted to Rs. 8289.88 crore as against Rs. 7624.46 crore during the previous year. Receipts from Government of India including Grants-in-aid, during the year aggregated Rs. 9281.23 crore. Receipts under Trade Tax (Rs. 3083.44 crore) and State Excise (Rs. 1404.09 crore) accounted for a major portion (64.12 per cent) of tax revenue receipts. Under non-tax revenue, main receipts came from Interest Receipts (Rs. 484.34 crore), Non-ferrous Mining and Metallurgical Industries (Rs. 151.97 crore), Forestry and Wild Life (Rs. 113.26 crore) and Education, Sports, Art and Culture (Rs. 95.89 crore).
- Although tax revenue during the year registered a slight increase (11 per cent) over the previous year, non-tax revenue fell by 2 per cent over the same period. There has been considerable decrease (59.45 per cent) in receipt under the head Major and Medium Irrigation.

(Paragraph 1.1)

During 1997-98 State Government could not collect tax and non-tax revenue as estimated in Budget estimate at current rate of taxation.

(Paragraph 1.2)

Overview

Test check of records of Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration fees, Land Revenue, Electricity Duty, Tax on Purchase of Sugarcane, Forest Receipts and other Departmental Receipts conducted during 1997-98 revealed under-assessment, short-levy, loss of revenue, etc. amounting to Rs. 616.91 crore in 12962 cases. During the course of year 1997-98, the concerned Department accepted under assessments etc. of Rs. 34.81 crore in 286 cases of which 209 cases involving Rs. 26.53 crore had been pointed out in audit during 1997-98 and the rest in earlier years.

(Paragraph 1.8)

4733 Inspection reports (issued upto 31 December 1997) containing 11147 audit observations with money value of Rs. 391.84 crore were not settled upto June 1998. Of these, 2015 inspection reports containing 5040 audit observations with money value of Rs. 142.30 crore were outstanding for more than five years.

(Paragraph 1.9)

2. Trade Tax

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A review on "Trade Tax Exemption to New Units" revealed the following:

• Tax exemption availed of by 224 closed units resulted in undue financial benefit of Rs. 35.15 crore.

(Paragraph 2.2.7(ii))

Delay in assessment resulted in non-realisation of tax amounting to Rs. 8.18 crore.

(Paragraph 2.2.8(A) (a))

• 2 units engaged in production of tax free goods were granted Eligibility Certificates resulting in inadmissible exemption of tax of Rs. 62.43 crore.

(Paragraph 2.2.8. (B)(i)(a))

 Due to irregular computation of fixed capital investment, 6 new industrial units were given undue benefit of Rs. 15.66 crore.

(Paragraph 2.2.8(B) (ii))

 6 units not entitled for exemption were granted ECs resulting in incorrect exemption of tax of Rs. 14.49 crore.

(Paragraph 2.2.8. (B) (iii) (a))

• 6 units which had not completed 5 consecutive assessment years of their production after establishment were allowed incorrect exemption of Rs. 7.63 crore.

(Paragraph 2.2.8. (B) (iii) (b))

Non-computation/non-adjustment of tax resulted in excess exemption of Rs. 3.04 crore.

(Paragraph 2.2.8 (B) (iv))

 11 units set up with machinery already used or acquired for use were granted ECs resulting in loss of revenue amounting to Rs. 7.59 crore.

(Paragraph 2.2.9 (i))

 19 units claimed exemption of tax amounting to Rs. 5.95 crore even in the absence of ECs.

(Paragraph 2.2.9. (ii))

 Penalty amounting to Rs. 5.59 crore for mis-use of raw materials was not imposed on 7 units.

(Paragraph 2.2.9 (iii))

• Tax amounting to Rs. 123.55 crore was not credited under the Trade Tax head.

(Paragraph 2.2.10)

 Short-levy of tax on xerographic machine and misclassification of goods resulted in short-levy of tax amounting to Rs. 19.41 crore.

(Paragraph 2.3 & 2.4)

Overview

 Irregular grant of Recognition Certificates and mis-use of declaration forms and non-imposition of penalty resulted in loss of revenue amounting to Rs. 3.37 crore.

(Paragraph 2.5, 2.6 & 2.11)

• Application of incorrect rate of tax, irregular exemption from tax and short-levy of tax resulted in loss of revenue amounting to Rs. 1.13 crore.

(Paragraph 2.7, 2.9 & 2.12)

There was a loss of revenue of Rs. 1.55 crore on account of various factors such as turnover escaping assessment, non-levy of purchase tax, irregular issue of notifications and non-observance of prescribed procedures etc.

(Paragraphs 2.8, 2.10, 2.13, 2.14 & 2.15)

 Application of incorrect rate of interest on admitted tax resulted in short-charge of interest amounting to Rs. 5.58 crore.

(Paragraph 2.16)

3. State Excise

A review on "Working of Distilleries" revealed the following:

 The Government was deprived of excise revenue of Rs. 31.73 crore due to nonachievement of prescribed norms of yield from molasses.

(Paragraph 3.2.7)

Penalty amounting to Rs. 6.12 crore was not levied on whole sale vendor of country liquor.

(Paragraph 3.2.10)

 Duty amounting to Rs. 24.95 crore was less realised on account of redistillation of rectified spirit.

(Paragraph 3.2.12)

4. Stamp Duty and Registration Fees

 Undervaluation of agricultural/non-agricultural land, resulted in short-levy of stamp duty and registration fees amounting to Rs. 24.55 lakh.

(Paragraph 5.2)

5. Land Revenue

 Government was deprived of revenue amounting to Rs. 52.45 lakh due to nonrecovery of collection charges.

(Paragraph 6.2)

6. Tax on Purchase of Sugarcane

• Sugar was cleared without payment of purchase tax of Rs. 1.03 crore by Co-operative sugar factory at Mau.

(Paragraph 7.4)

7. Forest Department

• Shortfall of 25098 quintals in extraction of resin resulted in loss of revenue of Rs. 4.47 crore.

(Paragraph 8.5)

8. Other Departmental Receipts

A. Public Works Department

 Centage charges of Rs. 1.79 crore on contribution works valued at Rs. 14.92 crore undertaken on behalf of Central/State Government were not levied and realised during 1994-95 to 1996-97.

(Paragraph 9.4)

Overview

B. Mines and Mineral Department

Government was deprived of revenue of Rs. 6.77 crore due to non-levy of royalty and application fee on brick earth.

(Paragraph 9.10)

C. Police Department

A review on "Collection of Receipts in Police Department" revealed the following:

Reimbursement of Police cost of Rs. 4.67 crore on agency functions was not claimed and Rs. 126.56 crore for deployment of police in other States was not reimbursed to the Police Department by the respective States.

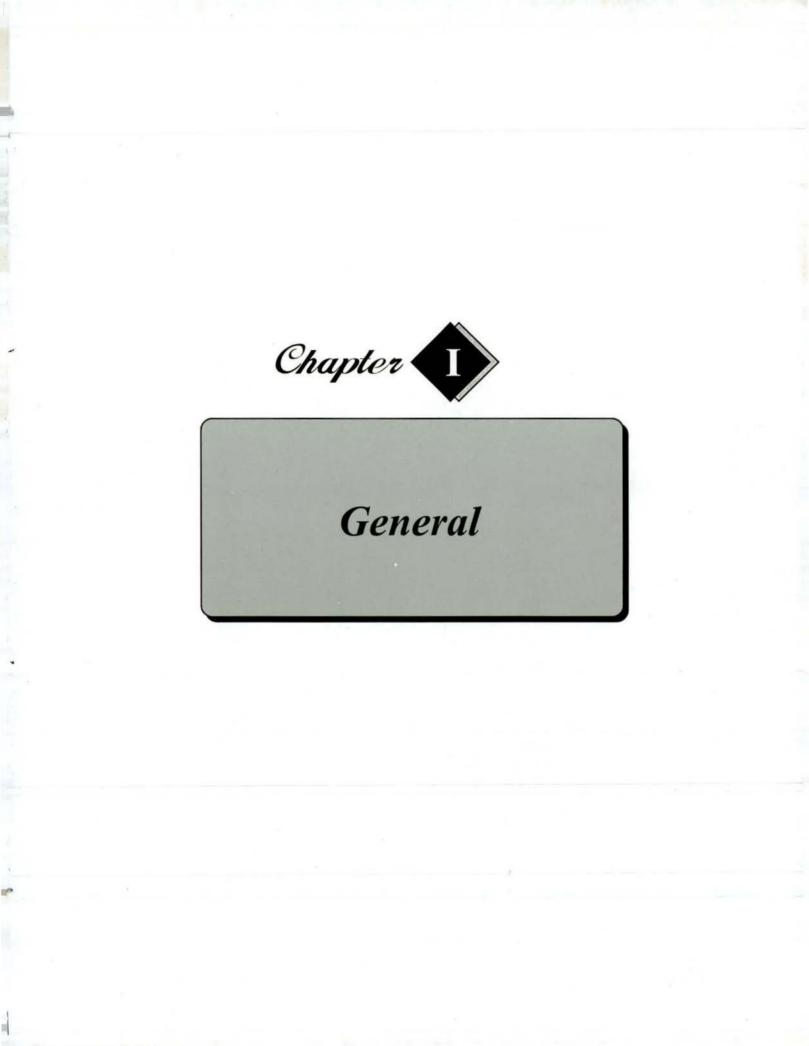
(Paragraph 9.12.7)

Police cost of Rs. 24.53 crore remained unrecovered from Railways.

(Paragraph 9.12.9(i))

• An amount of Rs. 13.49 crore for the period 1992-93 to 1996-97 pointed out by internal audit was not realised by the Department.

(Paragraph 9.12.13)



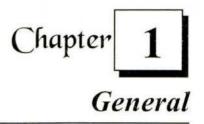


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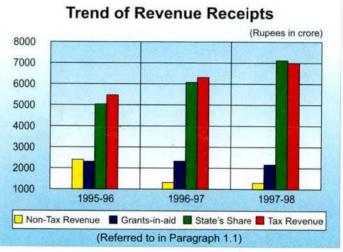
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1.1 Trend of revenue receipts

The tax and non-tax revenue raised by Government of Uttar Pradesh during the year 1997-98, State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and corresponding figures for the preceding two years are given in the table and also exhibited in the chart.



(Rupees in crore)

	1995-96	1996-97	1997-98
I. Revenue raised by the State Government		-	
(a) Tax revenue	5468.92	6305.97	6998.17
(b) Non-tax revenue	2399.41	1318.49	1291.71
Total	7868.33	7624.46	8289.88
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	5034.02	6072.38	7114.70*
(b) Grants-in-aid	2312.86	2331.73	2166.53
Total	7346.88	8404.11	9281.23
III. Total receipts of the State (I + II)	15215.21	16028.57	17571.11
IV. Percentage of I to III	52	48	47.18

For details, please see Statement No. 11-Detailed Accounts of revenue by Minor-Heads' in the Finance Accounts of the Government of Uttar Pradesh for the year 1997-98. Figures under the head "0021 Taxes on Income other than Corporation Tax share of net proceeds assigned to State" booked in the Finance Accounts under 'A-Tax Revenue' have been excluded from Revenue raised by the State and included in State's share of divisible Union Taxes in this statement.

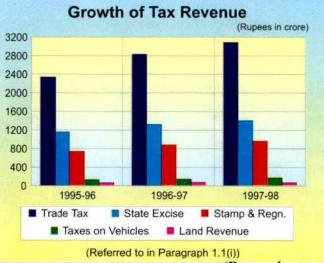
Chapter I

The State Government raised only 47 per cent of the receipts for the year 1997-98 and the remaining 53 per cent came from the Union Government. The percentage of revenue raised by the State Government has been gradually coming down from 52 per cent in 1995-96 to only 47.18 per cent in 1997-98.

It would be seen that receipts from "Non-Tax revenue" registered a decrease of 26.78 crore over the receipts of previous year in 1996-97 during which the receipts had

already suffered a decrease of Rs 1080.92 crore as compared to 1995-96. Thus the decrease in "Non-tax revenue" in 1997-98 as compared to 1995-96 comes to Rs 1107.70 crore.

 The details of tax revenue for the year 1997-98 along with the figures for the preceding two years are given in the following table and also exhibited in the chart.



	(R	upees	in	crore)	ł
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SI. No.	Revenue Head	1995-96	1996-97	1997-98	Increase (+) or decrease (-) in 1997-98 with reference to 1996-97	Percentage of increase or decrease with reference to 1996-97
1	Trade Tax	2335.38	2827.41	3083.44	(+) 256.03	(+) 9.05
2	State Excise	1158.61	1322.91	1404.09	(+) 81.18	(+) 6.14
3	Stamp Duty and Registration Fees	734.78	875.06	956.00	(+) 80.94	(+) 9.25
4	Tax on sale of Motor Spirit and Lubricants	558.52	590.77	815.55	(+) 224.78	(+) 38.04
5	Taxes on Goods and Passengers	228.37	221.43	222.36	(+)0.93	(+) 0.42
6	Taxes on Vehicles	125.46	139.54	166.60	(+)27.06	(+) 19.39
7	Tax on Purchase of Sugarcane	72.87	55.01	35.95	(-) 19.06	(-) 34.64
8	Taxes and Duties on Electricity	75.71	78.32	110.88	(+) 32.56	(+) 41.57
9	Land Revenue	62.53	72.62	66.57	(-) 6.05	(-) 8.34
10	Other Taxes on Income and Expenditure	0.03		0.21	(+) 0.21	(+) 100

General

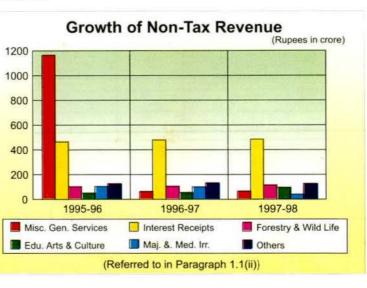
SL No.	Revenue Head	1995-96	1996-97	1997-98	Increase (+) or decrease (-) in 1997-98 with reference to 1996-97	Percentage of increase or decrease with reference to 1996-97
11	Taxes on Immovable Property other than Agricultural Land	0.87	1.20	3.33	(+) 2.13	(+) 177.50
12	Other taxes and Duties on Commodities and Services	112.97	115.56	126,84	(+) 11.28	(+) 9.76
13	Others (Hotel receipts and Corporation tax etc.)	2.82	6.14	6.35	(+)0.21	(+) 3.42
Tota	ıl	5468.92	6305.97	6998.17	(+) 692.20	(+) 10.98

The growth in tax revenue has declined from 15.30 per cent in 1996-97 to 10.98 per cent in 1997-98. Receipts under the State Excise and Stamp Duty and Registration Fees rose by 6.14 and 9.25 per cent respectively as against the rise of 14.18 and 19.09 per cent respectively in 1996-97.

There has been substantial increase in receipts under the heads "Taxes on Immovable Property other than Agricultural Land" (177.50 per cent), "Taxes and Duties on Electricity" (41.57 per cent), "Tax on Sale of Motor Spirit and Lubricants" (38.04 per cent) and "Taxes on Vehicles" (19.39 per cent) while the receipts under the head "Tax on Purchase of Sugarcane" (34.64 per cent) registered substantial decrease in 1997-98 as compared to the receipts during 1996-97.

The reasons for variations where it was substantial, though called for from the State Government, have not been received (September 1998).

(ii) The details of non-tax revenue for the year 1997-98 along with the figures for the preceding two years are exhibited in the following table and also exhibited in the chart.



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Chapter I

(Rupees in crore)

Revenue Head	1995-96	1996-97	1997-98	Increase (+) or decrease (-) in 1997-98 with reference to 1996-97	Percentage of increase/ decrease with reference to 1996-97
1. Misc. General Services	1162.15	62.07	63.88	(+)1.81	(+) 2.92
2. Interest Receipts	463.77	478.97	484.34	(+)5.37	(+) 1.12
3. Forestry and Wild Life	101.08	104.51	113.26	(+)8.75	(+) 8.37
4. Major and Medium Irrigation	103.95	100.78	40.86	(-)59.92	(-) 59.45
5. Education, Sports, Art and Culture	49.38	54.65	95.89	(+)41.24	(+) 75.46
6. Other Administrative Services	83.58	33.03	36.15	(+)3.12	(+) 9.45
7. Non-ferrous Mining and Metallurgical Industries	148.11	159.00	151.97	(-)7.03	(-) 4.42
8. Police	30.62	59.58	47.83	(-)11.75	(-) 19.72
9. Crop Husbandry	21.21	19.55	17.91	(-)1.64	(-) 8.39
10. Social Security and Welfare	5.73	16.09	12.12	(-)3.97	(-) 24.67
11. Medical and Public Health	13.79	18.85	21.78	(+)2.93	(+) 15.54
12. Minor Irrigation	40.58	36.75	34.10	(-)2.65	(-) 7.21
13.Roads and Bridges	16.02	20.09	19.13	(-)0.96	(-) 4.78
14. Public Works	25.85	17.94	23.08	(+)5.14	(+) 28.65
15.Co-operation	9.21	5.96	4.29	(-)1.67	(-) 28.02
16. Others	124.38	130.67	125.12	(-)5.55	(-) 4.25
Total	2399.41	1318.49	1291.71	(-)26.78	(-) 2.03

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Receipts from non-tax revenue during the year 1997-98 which constituted 15.58 per cent of the revenue raised by the State, registered a decrease of 2.03 per cent over the previous year during which the receipts had already registered a decrease of 45.05 per cent as compared to 1995-96. Thus, the decrease in 1997-98 as compared to 1995-96 worked out to 46.17 per cent.

Though there has been substantial increase in receipts under the head "Education, Sports, Art and Culture" (75.46 per cent), "Public Works" (28.65 per cent) and "Medical and Public Health" (15. 54 per cent) in the year 1997-98, as compared to the previous year, but the growth was lower as compared to the increase in 1996-97 under the head "Medical and Public Health" (36.69 per cent). There has been abnormal fall in the receipts under the heads "Major and Medium Irrigation" (59.45 per cent), "Police" (19.72 per cent), "Social Security and Welfare" (24.67 per cent) and "Co-operation" (28.02 per cent) as compared to the previous year.

The reasons for variation where it was substantial, though called for from the State Government, have not been received (September 1998).

1.2 Mobilisation of additional resources

The non-plan and plan requirements of the State are normally financed from four major sources, namely, (i) budgetary resources at current rates of taxation, (ii) receipts from Government of India as State's share of divisible Union Taxes and Grants-in-aid, (iii) extra budgetary resources of State enterprises, and (iv) additional resources mobilisation. Mobilisation of additional resources is envisaged through enhanced rates of taxation, rationalisation of tax system, withdrawal of incentives whose purpose has been fulfilled or return is not commensurate with the revenue loss, and compression of non-plan expenditure etc.

The additional resources mobilisation estimated by the State Government in the Budget estimates for the last five years ended March 1998 are indicated in the table given on the next page: Chapter I

(Rupees in crore)

Year	Budget	estimates	Total	Actual	Excess/	Percentage
	Budgetary Resources	Additional Resources Mobilisation		collection	shortfall	of excess/ shortfall
1993-94	5760.52	62.59	5823.11	5849.51	(+) 26.40	(+) 0.45
1994-95	6110.82	357.17	6467.99	6767.64	(+) 299.65	(+) 4.63
1995-96	6795.28	175.42	6970.70	7868.33	(+) 897.63	(+) 12.87
1996-97	6970.74	396.31	7367.05	7624.46	(+) 257.41	(+) 3.49
1997-98	8646.51	7.00	8653.51	8289.88	(-) 363.63	(-) 4.20

It is evident that not only the amount of additional resources proposed to be mobilised but also the amount actually collected during 1997-98 was considerably less than that of the previous year.

The additional collection of revenue was proposed to be raised by the State Government from the following sources:

Sl. No.	Sources of revenue	1993-94	1994-95	1995-96	1996-97	1997-98
1.	Rationalisation and additional collection of tax revenue/non-tax revenue	NIL	185.17	22.06	30.00	7.00
2.	Other sources	62.59	172.00	153.36	366.31	NIL
	Total	62.59	357.17	175.42	396.31	7.00

(Rupees in crore)

Though the collection of revenue receipts was more than the Budget estimates for the years 1993-94 to 1996-97, there was a sharp decline in the percentage of achievement in 1996-97 (3.49 per cent) with reference to the year 1995-96 (12.87 per cent). During the year 1997-98, State Government could not even collect revenue as estimated in the Budget estimates.

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Budget estimates, actual receipts and shortfall/excess under the major heads of revenue during the year 1996-97 and 1997-98 was as under :

(Rupees in crore)	(Ru)	pees	in	crore)
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		1996-97			1997-98	
Revenue Head	Budget estimate	Actual receipts	Shortfall/ Excess	Budget estimate	Actual receipts	Shortfall/ Excess
1. State Excise	1325.50	1322.91	(-) 2.59	1521.30	1404.09	(-) 117.21
2. Trade Tax	2579.20	2827.41	(+) 248.21	2988.70	3083.44	(+) 94.74
3. Tax on Purchase of Sugarcane	100.05	55.01	(-) 45.04	105.00	35.95	(-) 69.05
4. Major and Medium Irrigation	105.98	100.78	(-) 5.20	113.95	40.86	(-) 73.09
5. Taxes on Goods and Passengers	252.89	221.43	(-) 31.46	292.13	222.36	(-) 69.77
6.Taxes and Duties on Electricity	76.18	78.32	(+) 2.14	130.00	110.88	(-) 19.12

From the above it is evident that the proposed additional resources mobilisation for the year 1997-98 was unrealistic as the State Government failed to even achieve the target to collect revenue as estimated at current rates of taxation.

1.3 Variations between Budget estimates and actuals

(a) The variations between Budget estimates and actuals of tax and non-tax revenues during the year 1997-98 are given in the table below :

(Rupees in crore)

	Budget estimates 1997-98	Actuals 1997-98	Variations Increase(+) Shortfall(-)	Percentage of variation
A. Tax Revenue	7075.91	6998.17	(-) 77.74	(-) 1.10
B. Non-tax Revenue	1577.60	1291.71	(-) 285.89	(-) 18.12

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Chapter I

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

Revenue Head	Budget estimates	Actuals	Variation Increase (+) short fall(-)	Percentage of variations
A. Tax Revenue				
1. Trade Tax	2988.70	3083.44	(+) 94.74	(+) 3.17
2. State Excise	1521.30	1404.09	(-) 117.21	(-) 7.71
3. Stamp duty and Registration fees	923.68	956.00	(+) 32.32	(+) 3.50
4. Tax on Sale of Motor Spirit and Lubricants	773.53	815.55	(+) 42.02	(+) 5.43
5. Taxes on Goods and Passengers	292.13	222.36	(-)69.77	(-) 23.88
6. Taxes on Vehicles	157.00	166.60	(+) 9.60	(+) 6.11
7. Other Taxes and Duties on Commodities and Services, Entertainment Tax	131.41	126.84	(-) 4.57	(-) 3.50
8. Tax on Purchase of Sugarcane	105.00	35.95	(-) 69.05	(-) 65.76
9. Taxes and Duties on Electricity	130.00	110.88	(-) 19.12	(-) 14.71
10. Land Revenue	46.75	66.57	(+) 19.82	(+) 42.39
B. Non-Tax Revenue				
1. Misc. General Services	400.16	63.88	(-) 336.28	(-) 84.04
2. Interest Receipts	429.41	484.34	(+) 54.93	(+) 12.79
3. Forestry and Wild Life	114.32	113.26	(-) 1.06	(-) 0.93
4. Major and Medium Irrigation	113.95	40.86	(-) 73.09	(-) 64.14
5. Education, Sports, Art and Culture	51.87	95.89	(+) 44.02	(+)84.90
6. Non Ferrous Mining & Metallurgical Industries	165.00	151.97	(-) 13.03	(-) 7.90

(Rupees in crore)

The substantial variation between Budget estimates and actual receipts in a large number of heads indicates that either the Budget estimates had been prepared in an unrealistic and unscientific manner, or that the concerned departments have defaulted in proper revenue realisation. Either way, it calls for better monitoring and greater efforts at revenue realisation. There was substantial fall in actual receipts against Budget estimates under the heads Misc. General Services (84.04 per cent), Major and Medium Irrigation (64.14 per cent), Taxes on Goods and Passengers (23.88 per cent), Taxes and Duties on Electricity (14.71 per cent) and Tax on Purchase of Sugarcane (65.76 per cent), while the receipts under the heads Education, Sports, Art and Culture (84.90 per cent) and Land Revenue (42.39 per cent) registered substantial increase during the year.

The reasons for variations where it was substantial, though called for from the State Government, have not been received (September 1998).

1.4 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 1995-96, 1996-97 and 1997-98 along with the relevant all India average percentage of expenditure on collection to gross collection for 1996-97 are given below :

Revenue Head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India Average for the year 1996-97
1. Trade Tax	1995-96	2335.38	62.95	2.7	
	1996-97	2827.41	45.90	1.6	1.19
	1997-98	3083.44	85.32	2.8	
2. Taxes on Vehicles,	1995-96	353.83	11.14	3.1	
Goods and Passengers	1996-97	360.97	10.91	3.0	2.60
	1997-98	388.96	15.00	3.8	
3. State Excise	1995-96	1158.61	13.40	1.2	
	1996-97	1322.91	16.36	1.2	3.53
	1997-98	1404.09	18.78	1.3	
4. Stamp Duty and Registration fees	1995-96	734.78	9.54	1.3	
	1996-97	875.06	11.94	1.4	3.37
	1997-98	956.00	16.43	1.7	

(Rupees in crore)

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The expenditure on collection under the head "Taxes on Vehicles, Goods and Passengers" and "Trade Tax" increased from 3 per cent to 3.8 per cent and 1.6 per cent to 2.8 per cent respectively of gross collection in 1997-98 as against the year 1996-97.

As would be further evident from the table above, the expenditure incurred on collection and percentage of such expenditure to the gross collection under the heads "Trade Tax" and "Taxes on Vehicles, Goods and Passengers" has been steadily higher than the all India average percentage of cost of collection.

The reasons for the increasing trend in expenditure on revenue collections as also the measures adopted to curb the same, though called for from the State Government, have not been received (September 1998).

1.5 Performance of assessment work in Trade Tax Department

(a) Arrears in assessments

(I) The number of assessments pending at the beginning of the year, cases becoming due during the year, cases disposed of during the year and the number of cases pending finalisation at the end of the year, as reported by the Trade Tax Department for the years 1993-94 to 1997-98 are given below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
1993-94	7,41,996	3,94,868	11,36,864	3,94,102	7,42,763	65.0
1994-95	8,01,418	4,11,320	12,12,738	3,72,718	8,40,020	69.0
1995-96	9,41,134	4,28,990	13,70,124	8,07,277	5,62,847	41.0
1996-97	5,62,847	5,26,778	10,89,625	4,86,648	6,02,977	55.3
1997-98	6,69,353	4,51,315	11,20,668	7,30,551	3,90,117	34.8

It was seen that while the number of cases finalised during 1993-94, 1994-95 and 1996-97 was less than the number of cases due for assessment during those years, the number of cases finalised by department during 1995-96 and 1997-98 was appreciably higher than the number due for assessment during those years, which indicated clearance of pending cases.

It was also seen that the closing balance of the years 1993-94, 1994-95 and 1996-97 differs from the opening balance of the succeeding years. The department stated that this was due to scrutiny, information received from other departments during the year and rectification of mistakes. The reply of department is not tenable, as even then the opening balance of a particular year cannot be different from the closing balance of the preceding year. The department needs to correct the system of maintenance of records to ensure consistency and correctness of statistics.

(II) The comparative position of assessments finalised during the first three quarters as against the last quarter in the years 1996-97 and 1997-98, is also given below:

Period		1996-97	n Starte	1997-98		
	Number of assessments finalised	Demands raised	Percentage of assessments finalised	Number of assessments finalised	Demands raised	Percentage of assessments finalised
April to December	262798	494.88	54	365460	1034.07	50
January to March	223850	1662.71	46	365091	3447.94	50
Total	486648	2157.59		730551	4482.01	

(Rupees in crore)

It would be seen that the rate of disposal of cases during April to December was more or less equal to that in the last quarter of the year. The additional demand raised (1034.07 crore) during the first three quarters of 1997-98 was appreciably lower than the demand raised (3447.94 crore) during the last quarter which showed an increase of 333.43 per cent over the first three quarters. The percentage of disposal of cases during the last quarter increased from 46 per cent in 1996-97 to 50 per cent in 1997-98 which indicates the increasing tendency of the Department to finalise large number of pending cases involving substantial amount of tax at the fag end of the assessment year.

(b) Appeal and revision cases

(i) The number of appeal and revision cases due for disposal and finalised by the Trade Tax Department during the years 1993-94 to 1997-98 together with the number of appeal and revision cases pending disposal at the end of 1997-98 as reported by the Department are indicated in the table given on the next page:

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Year	Opening balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to the total number of cases
Appeal cases						
1993-94	64,430	45,017	1,09,447	46,775	62,672	43
1994-95	62,672	30,150	92,822	36,520	56,302	39
1995-96	56,302	36,715	93,017	36,138	56,879	39
1996-97	56,879	42,166	99,045	32,913	66,132	33
1997-98	66,132	48,794	1,14,926	54,932	59,994	48
Revision cases						
1993-94	64,640	22,212	86,852	19,483	67,369	22
1994-95	67,369	16,442	83,811	16,458	67,353	20
1995-96	67,353	14,374	81,727	19,853	61,894	24
1996-97	61,894	8,444	70,338	13,226	57,112	19
1997-98	57,112	9,544	66,656	16,609	50,047	25

It would be seen that the number of pending appeal cases declined from 64430 at the beginning of 1993-94 to 59994 at the end of 1997-98. Similarly, the number of revision cases pending disposal declined from 64640 at the beginning of 1993-94 to 50047 at the end of 1997-98.

 (ii) Year-wise break-up of the appeal and revision cases pending as on 31st March 1998 is given below:

North Hards	Pending as on 31 st March 1998			
Year Up to	Appeal cases	Revision cases		
1992	731	11,754		
1993	457	6,832		
1994	825	6,840		
1995	4,220	6,480		
1996	12,687	6,839		
1997	27,092	7,873		
1998	13,982	3,429		
Total	59,994	50,047		

(Rupees in crore)

Delay in finalisation of assessment cases and large number of cases pending in appeal and revision results in blocking of revenue (additional demand raised during assessment) which not only affects the ways and means position of the Government, but also gives fortuitous benefit to the dealers by way of interest.

1.6 Analysis of collection

The break-up of total collection (at pre-assessment stage and after regular assessment) of Trade Tax Department during 1997-98 and corresponding figures for preceding two years as furnished by the Department are given in the following table :

Name of tax head	Year	Amount collected at pre-assessment stage	Additional amount collected after regular assessment	Amount refunded	Net collection of tax	Percentage of Col. 3 to 6
1	2	3	4	5	6	7
Trade Tax	1995-96	2212.38	135.66	17.33	2330.71	95
	1996-97	2640.23	130.12	13.15	2757.20	96
	1997-98	2937.78	156.85	21.06	3073.57	96

The position of revenue collected by Trade Tax Department during the last three years ending March 1998 shows that collection of revenue at pre-assessment stage ranged from 95 per cent to 96 per cent which indicates the awareness of voluntary compliance by tax payers and the limited role of the tax collecting machinery in achieving the higher tax collection. During the years 1996-97 and 1997-98, Rs 130.12 crore and Rs 156.85 crore respectively were realised by the Departmental machinery after assessment against the expenditure of Rs 45.90 crore and Rs 85.32 crore incurred on its collection. This worked out to 35 per cent and 54 per cent respectively of the net collection in those years.

1.7 Arrears of revenue

As on 31 March, 1998, arrears of revenue under principal heads of revenue, as reported by the concerned Department, were as given on the next page:

(Rupees in crore)

Heads of revenue	Arrears pending collection	Arre	ars more than 5 years old
1. Tradé Tax	6627.30		2781.65
recovery as arrears of land n 82.77 crore had been staye amounting to Rs 517.78 cro recovery of Rs. 3848.11 crore for Rs.136.79 crore were like restrict the increasing trend of crore in 1994-95 and have increase of 176 per cent. Spe	30 crore, demand for Rs. 982.5 revenue. Recoveries amounting ad by the courts and Governa re were held up due to rectific e, recovery certificates had been ely to be written off. The Trade farrears which have continuousl touched Rs 6627.30 crore in exific action taken in respect of by audit, has not been intimated b	to Rs. ment re ation/re issued a Tax d y been 1997-9 realise	1059.28 crore and Rs. espectively. Recoveries eview applications. For to other states. Demand epartment has failed to rising from Rs. 2401.10 98, thus registering the ation of arrears, though
2. Cane Purchase Tax (Su Factories)	gar	13.98	1.15
recovery as arrears of land re- by courts. Specific action tak	28 crore, demand for Rs. 0.48 venue. Recoveries amounting to ten in respect of remaining arre- and not been intimated by the De	Rs. 0.2 ars of l	3 crore had been stayed Rs. 13.27 crore, though
3. Forestry and Wild life		16.93	
recovery as arrears of land re by the courts. Demand for Rs	3 crore, demand for Rs. 7.02 evenue. Recovery amounting to a 0.14 crore is likely to be writt ars of Rs. 9.08 crore, though cap partment.	Rs. 0.69 en off.	9 crore had been stayed Specific action taken in
4. Entertainment Tax		7.95	1.79
as arrears of land revenue. R been stayed by the courts and remaining arrears of Rs. 0.2 intimated by the Department.	rore, demand for Rs. 1.76 crore accoveries amounting to Rs. 5.5 d Government respectively. Spe 32 crore, though called for (Se	8 crore cific ac eptembe	e and Rs.0.29 crore had tion taken in respect of er 1998) had not been
5. Electricity Duty		3.97	NATION IN CO.
	crore, recovery of Rs. 0.12 crore o sick units has been stayed by H overy.		
6. State Excise		87.44	69.60
recovery as arrears of land re by the courts. Recovery of I	4 crore, demand for Rs. 10.74 venue. Recovery amounting to F Rs. 1.99 crore was held up due the remaining arrears of Rs. 0.4 by the Department.	Rs. 74.7 to deale	0 crore had been stayed ers becoming insolvent.

In respect of other departments the position of arrears, though called for (June 1998), has not been received (September 1998).

1.8 Results of audit

Test-check of the records of Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration Fees, Land Revenue, Electricity Duty, Tax on Purchase of Sugarcane, Forest Receipts and Other Departmental Receipts conducted during the year 1997-98 revealed under-assessments/short-levy/loss of revenue amounting to Rs 616.91 crore in 12962 cases. During the course of the year 1997-98, the concerned departments accepted under-assessments etc. of Rs 34.81 crore involved in 286 cases, of which 209 cases involving Rs 26.53 crore had been pointed out in audit during 1997-98, and the rest in earlier years.

This report contains 35 paragraphs and 3 reviews relating to non-levy, short-levy of tax, duty, interest, penalty etc. involving Rs 463.72 crore. The Departments/Government have accepted audit observations involving Rs 11.27 crore in 18 cases of which Rs 0.03 crore had been recovered till September 1998. No replies have been received in the remaining cases (September 1998).

1.9 Outstanding Inspection Reports and audit observations

Audit observations on incorrect assessments, short-levy of taxes, duties, fees etc. as also defects in initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. The more important irregularities are reported to the heads of departments and Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of two months.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1997, which were pending settlement by the departments as on 30 June, 1998, along with corresponding figures for the preceding two years are given on the next page:

Chapter I

(At the end of June)

	1996	1997	1998
1. Number of inspection reports pending settlement	3964	4537	4733
2. Number of outstanding audit observations	11078	11630	11147
3. Amount of revenue involved (in crore of rupees)	397.56	496.68	391.84

Year-wise break-up of the outstanding inspection reports and audit observations (as on 30 June, 1998) is given below:

Year (in which Inspection Reports were issued)	Number of outstanding		
	Inspection Reports	Audit observations	Revenue involved (in crore of rupees)
Upto 1993-94	2015	5040	142.30
1994-95	523	1361	61.54
1995-96	816	1656	73.27
1996-97	769	1820	48.97
1997-98	610	• 1270	65.76
Total	4733	11147	391.84

Department-wise break-up of the inspection reports and audit observations outstanding as on 30 June 1998 is given below:

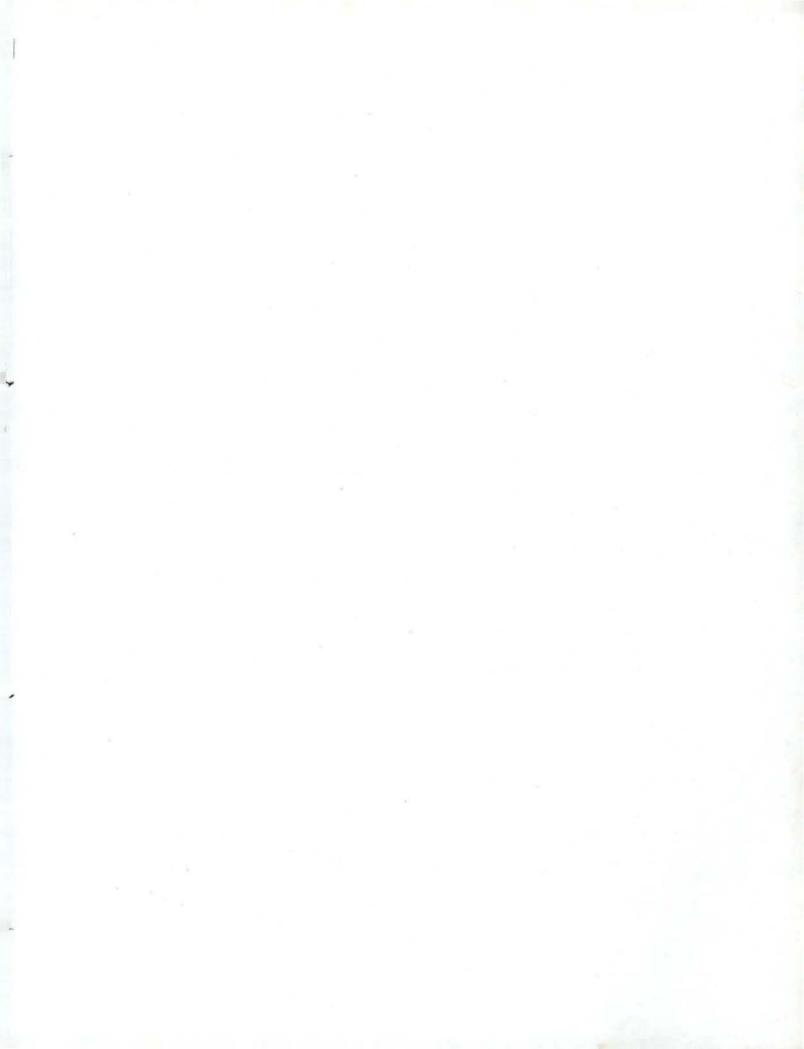
Nature of receipts	Number of outstanding Inspection Reports	Number of outstanding Audit observations	Amount of revenue involved (in crore of rupees)	Year to which the observations relate
1. Forestry and Wild Life	317	556 (335)	173.31	1988-89 to 1997-98
2.Trade Tax	1099	4414	86.75	1989-90 to 1997-98
3. Irrigation	158	274	27.65	1984-85 to 1997-98

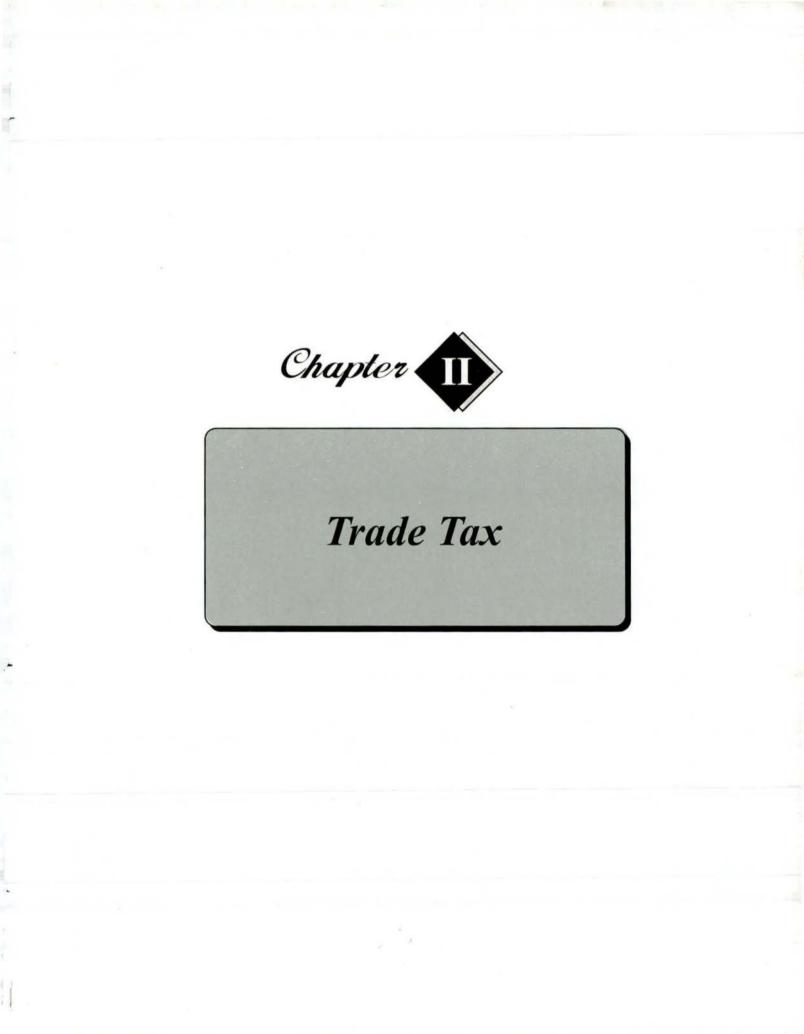
General

Nature of receipts	Number of outstanding Inspection Reports	Number of outstanding Audit observations	Amount of revenue involved (in crore of rupees)	Year to which the observations relate
4. State Excise	530	778 (60)	20.18	1984-85 to 1997-98
5. Land Revenue	659	1122	16.36	1984-85 to 1997-98
6. Taxes on Vehicles, Goods and Passengers	640	1302	10.63	1984-85 to 1997-98
7. Public Works	171	521	13.35	1984-85 to 1997-98
8. Tax on Purchase of Sugarcane	91	105	6.04	1985-86 to 1997-98
9. Stamp Duty and Registration Fees	664	1534	11.31	1984-85 to 1997-98
10. Other Departments				
a. Agriculture	89	159	9.30	1989-90 to 1997-98
b. Electricity Duty	201	231 (40)	5.07	1985-86 to 1997-98
c. Food and Civil Supplies	22	36	0.22	1985-86 to 1997-98
d. Co-operation	70	90	10.83	1985-86 to 1997-98
e. Entertainment Tax	22	25 (25)	0.84	1986-87 to 1997-98
Total	4733	11147	391.84	

Note:- Figures in brackets in column 3 indicate the number of inspection reports to which even first reply had not been received.

This was brought to the notice of Government in April 1998; intimation regarding steps taken by the Government to clear the outstanding inspection reports and audit observations has not been received (September 1998).







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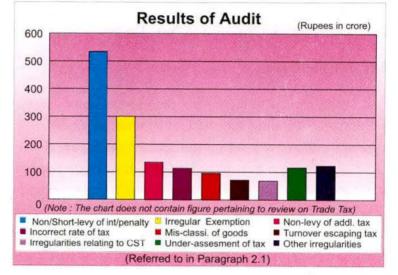
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Chapter 2

Trade Tax

2.1 Results of audit

Test-check of assessments and other records of Trade Tax offices conducted in audit during 1997-98 revealed under-assessments of tax and non/short-levy of penalty and interest amounting to Rs. 308.81 crore in 1406 cases, which broadly fall under the following categories:



(Rupees in lakh)

SI. No.	Categories	No. of Cases	Amount
1.	Non/Short-levy of interest/penalty	521	534.45
2.	Irregular exemption	266	300.60
3.	Non-levy of additional tax	81	134.99
4.	Incorrect rate of tax	171	113.55
5.	Mis-classification of goods	58	95.55
6.	Turnover escaping tax	17	71.33
7.	Irregularities relating to Central Sales Tax	32	68.52
8.	Under-assessment of tax	45	116.57
9.	Other irregularities	121	123.32
10.	Review on Trade Tax Exemption to New Units	94	29322.00
	Total	1406	30880.88

During the year 1997-98, the Department accepted under-assessment etc. of Rs. 61 lakh involved in 93 cases, of which 62 cases involving Rs. 13.31 lakh had been pointed out in audit during 1997-98 and the rest in earlier years, of which a sum of Rs. 11.91 lakh involved in 53 cases had been recovered up to September 1998.

A few illustrative cases including a review on "Trade Tax Exemption to New Units" involving a financial effect of Rs. 200.70 crore are mentioned in the following paragraphs:

2.2 Trade Tax Exemption to New Units

2.2.1 Introduction

With a view to increasing the production of certain goods or for promoting the development of industries, the Government of Uttar Pradesh introduced tax incentive schemes for the newly set-up industrial units for specified period under the provisions contained in Section 4-A of the Uttar Pradesh Trade Tax Act, 1948. The schemes offered several incentives and relief from taxation including exemption from or reduction in the rate of tax, moratorium from payment of admitted tax, exemption from levy of sales or purchase tax on purchase of raw materials, grant of interest free loan to the manufacturers holding Eligibility Certificate granted in accordance with such procedure as may be specified.

2.2.2 Organisational set-up

The overall control and direction of the Trade Tax Department vests with the Commissioner Trade Tax. The benefit of incentive schemes to a new industrial unit is available on the basis of Eligibility Certificate (EC) issued by the competent authority. The schemes so approved by the Government are implemented by the Commissioner Trade Tax through Deputy Commissioners (Executive) Trade Tax (39), Assistant Commissioners (Assessment) Trade Tax (179), and Trade Tax Officers (535).

2.2.3 Scope of audit

With a view to ascertaining whether exemptions to new industrial units were granted according to provisions of the Uttar Pradesh Trade Tax Act, 1948, the Uttar Pradesh Trade Tax Rules, 1948 and the instructions issued by the State Government and the Commissioner Trade Tax from time to time, records of 16^{*} out of 39 Administrative

 ^{*} Agra (2), Allahabad, Bareilly, Bulandshahar, NOIDA, Ghaziabad, Kanpur (2), Lucknow (2), Meerut, Moradabad, Saharanpur, and Varanasi (2).

Trade Tax

Ranges (particularly the Eligibility Certificates issued and the cases assessed during the period from 1992-93 to 1996-97) were test-checked during September 1997 to June 1998. Cases relating to incentive scheme for the period from 1 October 1982 to 31 March 1990, which were assessed prior to 1992-93, were also test-checked.

2.2.4 Salient features of the schemes

The salient features of schemes formulated by Government from time to time are as under:

SI. No.	Scheme	Quantum of Trade Tax relief	Period .	Conditions for availing the benefits
1.	Pre 1990 Scheme Exemption to the new units established between 1 October 1982 and 31 March 1990.	 (i) Exemption from payment of trade tax on turnover of sales from the date of starting production. (ii) Special relief in tax on the purchase of raw materials, packing materials etc. from 29 January 1985. 	3 to 7 years	 (i) The new units should be registered under the Factories Act, 1948 or an application for registration should have been made. (ii) The unit should not discontinue production for a period exceeding 6 months at a stretch. (iii) The unit should not use machinery, accessories or components already used or acquired for use in any other factory or workshop in India.
2.	Post 1990 scheme Exemption/reduc- tion to the new units established between 1 April 1990 and 31 March 1995.	 (i) No tax or tax payable at the reduced rate on the turnover of sales. (ii) Facility also available for expansion, diversification or modernisation. (iii) Special relief in tax on purchase of raw materials, packing materials etc. 	8 to 10 years.	 (i) The new unit is licenced or a letter of intent has been issued. (ii) The monetary limit of exemption/reduction shall be upto 125, 150 and 175 per cent of the fixed capital investment. (iii) The unit has not used machinery, plant, equipment, apparatus or components already used or acquired for use in any other factory or workshop in India. (iv) Exemption/reduction not admissible to 27 industries upto 31 July 1993 and to 16 industries from 1 August 1993.

2.2.5 Highlights

 (i) 224 units in 10 circles closed their business during the period of exemption or soon after the expiry of specified period of exemption which resulted in undue financial benefit of Rs.35.15 crore to the units.

(Para 2.2.7(ii))

 Delay in assessment resulted in non-realisation of tax amounting to Rs. 8.18 crore from 6 units in 5 circles.

(Para 2.2.8(A)(a))

(iii) 6 units in 4 circles were given exemption for Rs.92.58 lakh even though these units were not engaged in manufacturing activities.

(Para 2.2.8(A)(b))

 (iv) 2 units in 2 circles engaged in production of tax-free goods were granted Eligibility Certificates resulting in inadmissible exemption of Rs. 62.43 crore.

(Para 2.2.8(B)(i)(a))

(v) 5 units in 3 circles were allowed benefit of exemption of Rs. 2.52 crore even though these units were not eligible for exemption.

(Para 2.2.8(B) (i)(b))

 (vi) Due to irregular computation of fixed capital investment, 6 new industrial units in 3 circles were given undue benefit of Rs. 15.66 crore.

(Para 2.2.8(B)(ii))

(vii) 6 units in 2 circles, not entitled for exemption, were granted Eligibility Certificates resulting in incorrect exemption of Rs.14.49 crore.

(Para 2.2.8(B)(iii)(a))

(viii) 6 units in 2 circles which had not completed 5 consecutive assessment years of their production after establishment were allowed incorrect exemption of Rs. 7.63 crore.

(Para 2.2.8(B)(iii)(b))

(ix) Non-computation/non-adjustment of tax in respect of 18 units in 7 circles resulted in excess exemption of Rs. 3.04 crore.

(Para 2.2.8(B)(iv))

 (x) 11 units in 6 circles set-up with machinery already used or acquired for use were granted Eligibility Certificates resulting in loss of revenue amounting to Rs. 7.59 crore.

(Para 2.2.9(i))

 (xi) 19 units in 6 circles claimed exemption of tax amounting to Rs.5.95 crore even in the absence of Eligibility Certificates. Penalty of Rs.0.51 crore was also leviable in such cases.

(Para 2.2.9(ii))

(xii) 7 units in 6 circles were liable to pay penalty amounting to Rs.5.59 crore for misuse of raw materials but it was not levied.

(Para 2.2.9(iii))

 (xiii) Non-reconciliation of trade tax receipts resulted in non-credit of tax amounting to Rs.123.55 crore.

(Para 2.2.10)

2.2.6 System and procedure for issue of Eligibility Certificate

The facility of exemption from or reduction in the rate of tax is available to a new industrial unit only if it furnishes to the Assessing Authority an Eligibility Certificate (EC) issued by the Industries Department. The EC specifies the name of goods to be manufactured, investment in fixed capital assets, installed annual production capacity, the quantum of tax relief and the period for which it can be availed of by the unit.

Upto 26 December 1985, the EC was issued by the Industries Department except in the case of NOIDA, where it was issued by the authorities^{*} empowered for the purpose. The Trade Tax Department did not have any direct role in the issue of EC.

The procedure was, however, changed with effect from 26 December 1985. The new procedure envisaged the issue of the Eligibility Certificate by Committees set up at various levels (District/Zonal/State Level Committees) in which a representative of Trade Tax Department was also a member. In case of mis-use or breach of any of the conditions subject to which the facility of exemption from or reduction in the rate of tax was granted, the Commissioner could cancel or amend the Eligibility Certificate.

2.2.7 Statistical data relating to exemption

As per information supplied by the Director of Industries, the position of grant of Eligibility Certificate under the various tax incentive schemes as on 31 March 1998, is given below:

SI. No.	Scheme	No. of applications received	No. of applications rejected	No. of applications pending	No. of E.Cs. issued	No. of units closed after availing exemptions
1	2	3	4	5	6	7
1.	Pre 1990 Scheme (1 October 1982 to 31 March 1990)	7295	1523	25**	5747	611
2.	Post 1990 Scheme (1 April 1990 to 31 March 1995)	4037	624	602	2811	79
	Total	11332	2147	627	8558	690

Following comments are offered in this regard:

(i) The figures could not be verified from the Trade Tax Department as neither centralised records were kept for this purpose nor data was furnished to audit on demand. The Commissioner issued instructions (July 1989 and October 1993) to

^{*} Chairman, New Okhla Industrial Development Authority.

^{**} The applications were stated to be pending in the courts.

maintain registers in respect of new units (showing the address of the unit, nature and period of exemption, year-wise and upto date turnover/tax, amount of exemption etc.) to study the effect of new units on the industrialisation of the State. Testcheck revealed that these registers were either not maintained or where maintained, full particulars were not noted. The department, therefore, could not watch the revenue effect of the new units.

(ii) Out of 8558 units, 690 units were closed either during the period of exemption or soon after the expiry of the period of exemption after availing the amount of exemption. However, during test-check information was collected in respect of 224 closed units (in 10 circles) and it was noticed that these units were closed after availing exemption of Rs.35.15 crore during the period from 1985-86 to 1997-98 as detailed below:

SI. No.	Name of circle	No.of units closed during the period of exemption.	Amount of exemption (Rs. in lakh)	No. of units closed after the expiry of the period of exemption.	Amount of exemption (Rs. in lakh)
1.	Allahabad	2	4.58	5	25.77
2.	Aligarh	1	9.20		
3.	Bareilly	5	47.27	3	11.08
4.	Bulandshahar	4	30.02	5	707.84
5.	Kanpur	5	34.40	· 1 ·	15.35
6.	Lucknow			1	15.96
7.	Meerut	15	57.58	13	48.80
8.	Noida	73	729.65	57	814.31
9.	Saharanpur	12	181.49	20	774.48
10.	Varanasi	2	6.76	-	
	Total	119	1100.95 Say Rs. 11.01 crore	105	2413.59 Say Rs. 24.14 crore

Total Rs. 35.15 crore

The amount of exemption so availed by the units cannot be set off as there is no provision in the Act/Rules to effect recovery from the closed units. Thus, the tax exemption availed of by the closed units resulted in undue financial benefit to them to the extent of Rs. 35.15 crore (Rs. 11.01 crore + Rs. 24.14 crore). It is, thus, evident that the purpose of incentive schemes to promote industrial growth was defeated.

2.2.8 (A) Pre 1990 Scheme

Grant of Eligibility Certificate to non-manufacturing units

Under Section 4-A of the U.P. Trade Tax Act, 1948, a unit engaged in manufacture of goods and holding an Eligibility Certificate, is entitled to the facility of exemption from or reduction in the rate of tax. Commissioner issued instructions (February 1985, February 1987 and May 1987) that facility of exemption will not be available to a new unit which shows manufacture only in technical sense without any contribution to industrialisation in the State. Further, regular survey was to be conducted and Eligibility Certificate of the new units not entitled for exemption or violating the conditions of exemption were to be got cancelled/amended to avoid loss of revenue.

(a) Test-check revealed that in 5 Circles,* Eligibility Certificates of 6 units which

were found (between March 1994 and September 1995) to have violated the conditions for exemption, were cancelled (between January 1996 and March 1998) by the Commissioner. However, assessments upto 1995-96 of these units were completed

Delay in assessment resulted in non-realisation of tax amounting to Rs. 8.18 crore, from 6 units in 5 circles.

(between April 1997 and November 1997) when the units had closed their business and as such tax levied against them could not be realised. The grant of Eligibility Certificate without proper and timely survey of the units resulted in nonrecovery of tax amounting to Rs. 8.18 crore for the period from 1989-90 to 1995-96.

(b) In 4 Trade Tax Circles,** it was noticed in audit that 6 units were granted Eligibility Certificate though they were not engaged in manufacturing activities but sold goods after purchasing them from

Six units in 4 circles were given exemption of Rs. 92.58 lakh, even though these units were not engaged in manufacturing activities.

^{*} Agra, Bulandshahar, Ghaziabad, Meerut and NOIDA

^{**} Ghaziabad, Kanpur, Lucknow and Varanasi

the market or after assembling not involving any manufacturing process. This resulted in grant of undue benefit of exemption amounting to Rs. 92.58 lakh during the period from 1988-89 to 1994-95.

(B) Post 1990 Scheme

(i) Exemption to ineligible units

(a) Under Section 4-A of the U.P. Trade Tax Act, 1948 read with notifications issued thereunder from time to time, the exemption from or reduction in the rate of tax to a new unit is admissible for manufacture of taxable goods only. It has been judicially held* that a unit engaged in the production of sugar (tax-free goods) is not entitled to any Eligibility Certificate for exemption on the sale of molasses/bagasse (by-products of sugar). Commissioner also issued instructions (December 1989) to departmental officers to take action in the light of above judgement.

Test-check revealed that in two Circles (Moradabad and Meerut), 2 units engaged in production of sugar (tax-free) were granted Eligibility Certificates (February 1995 and January 1996) for exemption on sale of molasses and bagasse. Non-adherence to provisions of the Act and non-compliance of departmental instructions resulted in inadmis-

Two units in 2 circles engaged in production of tax-free goods were granted Eligibility Certificates resulting in inadmissible exemption of Rs. 62.43 crore.

sible exemption of Rs. 62.43 crore as indicated below:

(Rupees in crore)

SI. No.	Name of circle	Name of unit	Period of exemption	Amount of exemption
1.	TTO Hasanpur (Moradabad)	M/s Oswal Agro Mills Ltd. Dhanaura, Moradabad	19 November 1994 to 18 November 2003	32.43
2.	AC (A)-3, Meerut	M/s Venus Sugar Ltd. Majhawali, Moradabad	3 August 1992 to 2 August 2001	30.00
	Total			62.43

M/s Kisan Sahakari Chini Mills Ltd. Nainital Vrs. State of U.P. (STI-1989-Alld.-H.C.-294)

On this being pointed out in audit, the department stated (May 1998) that action would be taken for cancellation of Eligibility Certificates.

(b) As per Government notification dated 27 July 1991, 27 industries established between 1 April 1990 and 31 March 1995 mentioned in Annexure-II to the notification, were not entitled to the facility of exemption from or reduction in the rate of tax.

Test-check revealed that 5 units (manufacturing smokeless coal and toffee) in 3 Trade Tax Circles (Meerut, Moradabad and Varanasi) though not entitled to the facility were allowed exemption/reduction of tax. This resulted in undue benefits amounting to Rs.2.52 crore. Details are given in the table below:

Five units in 3 circles were allowed exemption benefit of Rs. 2.52 crore, even though these units were not eligible for such exemption.

SI No.	Name of circle	Name of unit	Period of exemption	Amount of exemption
1.	AC(A) 2, Moradabad	M/s RK Coal Sales Pvt. Ltd. Moradabad.	6 January 1993 to 5 January 2002	80.54
2.	AC(A) 2, Varanasi	M/s Varelia Coal Industries Varanasi	29 October 1993 to 28 October 2003	66.83
3.	AC(A) 4, Varanasi	M/s Agarwal Coal Industries Varanasi	18 March 1995 to 17 March 2005	59.63
4.	AC(A) 3, Varanasi	M/s Ramco Confectionery Pvt. Ltd.Varanasi	9 August 1993 to 8 August 2001	17.60
5.	AC(A) 3, Meerut	M/s Varkha Confectionery Pvt. Ltd.Meerut.	27 June 1991 to 26 June1999	27.06
	Total			251.66

(Rupees in lakh)

(ii) Excess exemption due to incorrect computation of fixed capital investment

Under Section 4-A of the U.P. Trade Tax Act, 1948, read with Government notification dated 27 July 1991, the facility of exemption from or reduction in the rate of tax to a new unit established between 1 April 1990 and 31 March 1995 is admissible for manufacture of goods which are liable to tax. The monetary limit of exemption/reduction is determined on the basis of fixed capital investment as acquired on or before the date of commencement of exemption/reduction. Fixed capital investment includes such investment in land, building and plant and machinery as is necessary for the establishment or running of the factory or workshop of the unit.

- (a) In Trade Tax Circle, Ghaziabad, it was noticed that a unit (M/s Viniyoga Cloths Ltd. Ghaziabad) was granted Eligibility Certificate (February 1998) for the period from 2 February 1994 to 1 February 2002 for manufacture of knitting cotton fabrics and readymade garments. Based on the fixed capital investment, the monetary limit of exemption/reduction was allowed as Rs.14.98 crore (being hundred per cent of the fixed capital investment). This included Rs.11.57 crore towards machinery required for manufacture of knitting cotton fabrics (a tax-free good) which did not qualify for exemption/reduction. Thus, the exemption/reduction of Rs.11.57 crore was incorrect.
- (b) In Trade Tax Circle, Lucknow, an Eligibility Certificate was granted (July 1995) to a unit (M/s Rajshree Gases Ltd., Lucknow) for manufacture of argon (gas) for

the period from 23 November 1993 to 22 November 2003 and the monetary limit of exemption/reduction was Rs. 41.10 crore, being one hundred and fifty per cent of the fixed capital investment of Rs. 27.40 crore. Testcheck revealed that the fixed capital investment included an investment of

Due to incorrect computation of fixed capital investment, 6 new industrial units in 3 circles were given undue benefit of Rs. 15.66 crore.

Rs. 2.17 crore towards machinery (equipments and components) made during the period from 10 December 1993 to 9 February 1994 i.e. after commencement of exemption/reduction (23 November 1993). The allowance of ineligible investment resulted in undue benefit of exemption/reduction amounting to Rs 3.25 crore to the unit.

(c) As per notification dated 27 July 1991, exemption from or reduction in the rate of tax is admissible upto a monetary limit of 150 per cent of the fixed capital invest-

ment in the case of small scale units (where fixed capital investment does not exceed Rs. 60 lakh) and 125 per cent of the fixed capital investment in case of other units.

During the test-check it was noticed that in NOIDA Circle, 4 industrial units whose fixed capital investment exceeded Rs. 60 lakh were granted Eligibility Certificate allowing exemption/reduction upto a monetary limit of 150 per cent treating them as small scale units instead of at 125 per cent of the fixed capital investment. This resulted in excess exemption of Rs. 84 lakh being 25 per cent of fixed capital investment of Rs. 3.37 crore, as given below:

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SI No.	Name of circle	Name of unit	Period of exemption	Amount of exemption
1.	TTO Sector-4, NOIDA	M/s Fixwell Footwears Pvt. Ltd., NOIDA	31 August 1992 to 30 August 2001	28.28
2.	do	M/s Kelwin Rubbers Ltd., NOIDA	24 September 1992 to 23 September 2001	17.03
3.	do	M/s Techno Photo Pvt. Ltd., NOIDA	20 April 1992 to 19 April 2001	16.53
4.	AC(A) -4, NOIDA	M/s Virmani Steel Strips Ltd., NOIDA	29 May 1991 to 28 May 2000	22.48
	Total			84.32
				Say Rs. 84 lak

On being pointed out in audit, the department stated (April 1998) that the matter has been taken up with higher authorities.

(iii) Incorrect Exemption

(a) Under Section 3AAAA of the U.P. Trade Tax Act, 1948, the sale of dressed hides and skins or tanned leather after dressing or tanning raw hides and skins purchased shall be deemed to be in the same form and condition. As such a unit engaged in tanning of leather is not a manufacturing unit and is not entitled to grant of Eligibility Certificate for exemption or reduction in the rate of tax.

In 2 Trade Tax Circles (Agra and Kanpur), it was noticed that 6 new units were granted Eligibility Certificates for exemption from or reduction in the rate of tax on sale of tanned (finished) leather, though no manufacturing was involved as per provision of the

Six units in 2 circles not entitled to exemption were granted eligibility certificates resulting in incorrect exemption of Rs. 14.49 crore.

Act. The exemption granted to these units was incorrect and resulted in incorrect exemption of Rs.14.49 crore as given below:

SI No.	Name of circle	Name of unit	Period of exemption	Amount of exemption
1	AC (A) 5, Kanpur	M/s Prachi Leather Pvt. Ltd., Kanpur	19 February 1996 to 18 February 2008	974.97
2	AC (A) 14, Kanpur	M/s Mirza Tanners Ltd., Kanpur	26 March 1995 to 30 March 2004	173.98
3	AC (A) 2, Kanpur	M/s Homera Tanning Ind. Pvt. Ltd., Kanpur	22 January 1996 to 21 January 2004	71.15
4	AC (A) 13, Kanpur	M/s Sikander Tanners Ltd., Kanpur	25 January1995 to 24 January 2003	66.86
5	AC (A) 17, Kanpur	M/s Jaz Sons Pvt. Ltd., Kanpur	26 August 1991 to 25 August 1999	45.35
6	AC (A) 8, Agra	M/s Roser Exports Pvt. Ltd., Mathura	4 October 1991 to 3 October 2000	116.67
	Total	10		1448.98 Say Rs. 14.49 crore

(Rupees in lakh)

(b) Under section 4-A of the U.P. Trade Tax Act, 1948 read with Government notification dated 27 July 1991, exemption from or reduction in the rate of tax on the sale of goods manufactured in a unit which has undertaken expansion on or after 1 April 1990, shall be admissible only when the production capacity has increased in excess of the base production and additional fixed capital investment is at least twenty five per cent. Further, as per Commissioner's circular dated 26 September 1996 a unit undertaking expansion will not be entitled to exemption before completion of production during the preceding five consecutive assessment years after its establishment.

In 2 Trade Tax Circles (Ghaziabad and Kanpur), it was noticed that 6 units which had not completed five consecutive assessment years of their production after establishment were granted Eligibility Certificate for expansion during August 1993 to August 1996. This resulted in irregular exemption/reduction of tax amounting to Rs.7.63 crore as given below:

Six units in 2 circles which had not completed 5 consecutive assessment years of their production after establishment were allowed incorrect exemption of Rs. 7.63 crore.

SI Name of circle Name of unit Period of Amount of exemption No. exemption 1. AC(A) 5, Kanpur M/s Propin Products 24 March 1993 to 478.81 Pvt. Ltd., Kanpur 23 March 2000 2. -----do-----M/s Net Plast Ltd., 1 January 1992 to 11.07 31 December 1999 Kanpur AC (A) 11, M/s KR Foods Ltd., 17 October 1994 to 96.42 3. Ghaziabad Ghaziabad 16 October 2002 M/s Vijay Plastic, 19 July 1993 to 52.80 4. -----do-----Ghaziabad 18 July 2001 5. ----do-----M/s Apsara Food Ind., 28 August 1991 to 34.30 Ghaziabad 27 August 1999 6. AC (A) 6, M/s UP Ceramics & 27 September 1994 89.15 Ghaziabad Potteries Ltd., to 26 September Ghaziabad 2002.

(Rupees in lakh)

762.55

Say Rs. 7.63 crore

40

Total

(iv) Non-computation/non-adjustment of tax

Under Section 4-A of the U.P. Trade Tax Act, 1948, read with Government notification dated 27 July 1991, a new unit (established between 1 April 1990 and 31 March 1995) holding Eligibility Certificate, is entitled to the facility of exemption from or reduction in the rate of tax on the sale of goods upto the specified period and monetary limit.

In 7 Trade Tax Circles,^{*} it was noticed that 18 units holding Eligibility Certificates for manufacture and sale of goods contained therein, were entitled for exemption/reduction of tax upto a monetary limit of Rs. 47.01 crore. However, tax amounting to Rs. 3.04 crore on

Non-computation and non-adjustment of tax resulted in excess benefit of exemption/reduction of Rs. 3.04 crore.

a turnover of Rs. 74.01 crore for the period from 1991-92 to 1995-96 was not computed/ adjusted by the assessing authorities against the monetary limit of exemption/reduction of tax of those units. Non-computation and non-adjustment of tax resulted in excess benefit of exemption/reduction of Rs. 3.04 crore.

On this being pointed out in audit, the department stated that assessment orders would be revised to set right the effect of non-computation and non-adjustment of tax.

2.2.9 (i) Incorrect exemption to units using old machinery

Under Section 4-A of the U.P. Trade Tax Act, 1948, a new unit is not entitled to the facility of exemption from or reduction in the rate of tax if it uses machinery (accessories, plant, equipment, components etc.) which have already been used or were acquired for use in any other factory or workshop in India. Proper inquiry was to be made by the department to ensure that a unit was not set up with old machinery.

In 6 Trade Tax Circles^{**} it was noticed that 11 units which had been set up with machinery already used or acquired for use in another factory or workshop in India, were granted Eligibility Certificates for exemption/reduc-

11 units in 6 circles set up with machinery already used or acquired for use in another factory were granted Eligibility Certificates, resulting in loss of revenue amounting to Rs. 7.59 crore.

^{*} Agra, Bareilly, Bulandshahar, Ghaziabad, Kanpur, Lucknow and Muzaffarnagar.

^{**} Ghaziabad, Kanpur (A) & (B), Lucknow, Moradabad and Varanasi.

tion of tax. Lack of proper inquiry/survey on the part of the department before issuance of Eligibility Certificates during 1988-89 to 1997-98, resulted in loss of revenue amounting to Rs. 7.59 crore, being tax leviable on the sale of goods manufactured by the said units.

(ii) Exemption without Eligibility Certificate

Section 4-A of the U.P. Trade Tax Act, 1948, provides for exemption from or reduction in the rate of tax to a new industrial unit holding an Eligibility Certificate on sale of goods manufactured by it for specified period on fulfilment of certain conditions. Commissioner Trade Tax issued instructions (4 March 1985 and 20 November 1991) to all assessing authorities to ensure prompt action for final assessment or imposition of penalty where the unit was not eligible for exemption/reduction of tax. In case of default for non payment of admitted tax, penalty shall also be leviable under the Act.

In 6 Trade Tax Circles*, it was noticed that 19 new industrial units continued their business without payment of tax even in the absence of Eligibility Certificate. Assessments of these units for the years from 1987-88 to 1994-95 were completed with delay ranging from one to three years when they had stopped their business and disap-

19 units in 6 circles claimed exemption of tax amounting to Rs. 5.95 crore, even in the absence of Eligibility Certificates.

peared. Failure to take timely action for assessment of tax or imposition of penalty resulted in loss of revenue amounting to Rs. 6.46 crore (Tax Rs. 5.95 crore + penalty Rs. 0.51 crore).

(iii) Irregular grant of Recognition Certificate/misuse of raw materials

Section 4-B of the U.P. Trade Tax Act, 1948 read with Government notifications dated 31 December 1976 and 29 August 1987 provides for special relief in tax to manufacturers on the purchase of raw materials, packing materials etc. required for use in the manufacture of notified goods on fulfilment of certain conditions. If the raw materials/ packing materials so purchased were not used in the manufacture of notified goods, the dealer shall be liable to pay, by way of penalty, a sum which shall not be less than the amount of relief in tax secured by him but shall not exceed three times of such relief. As per Commissioner's circular dated 17 May 1983, the element of interest is also to be considered while levying penalty.

^{*} Ghaziabad, Kanpur, Lucknow, Moradabad, NOIDA and Varanasi.

In 6 Trade Tax Circles^{*}, it was noticed that 7 units holding recognition certificates for manufacture of goods specified therein, purchased raw materials for Rs. 77.55 crore tax-free during the period from 1988-89 to 1995-96 and disposed of the same without using in manufacture. The units were, therefore, liable to pay penalty amounting

7 units in 6 circles were liable to pay penalty amounting to Rs. 5.59 crore for misuse of raw material, but was not levied.

to Rs. 5.59 crore (including interest for Rs. 2.94 crore) which was not levied by the department. The details are given below:

SI. No	Name of circle	Name of the new unit	Assessment year	Value of goods purchased	Amount of relief secured in tax	Total amount of penalty
1.	AC(A), Bulandshahar	M/s Village Steel Tube Pvt.Ltd., Bulandshahar	1992-93 to 1995-96	6111.51	197.86	412.46
2.	TTO Sector-2, NOIDA	M/s Navaneet Engg.Pvt.Ltd. ,NOIDA	1988-89 to 1994-95	634.16	25.37	54.33
3.	3. T.T.O. Sector-5, NOIDA M/s Bansal Forging Pvt.Ltd., Meerut		1993-94 to 1994-95	602.43	24.10	48.28
4.	4. AC(A)-8, Agra M/s Bhagwan Oil Industries, Agra		1990-91 to 1993-94	265.63	9.83	24.03
5.	T.T.O. Sector- 10, Agra	M/s K. J. Electrodes, Agra	1993-94	28.83	1.15	2.23
6.	T.T.O. Sector-11, Lucknow	M/s Lucknow Foam Industries, Lucknow	1990-91 to 1993-94	61.18	6.03	13.92
7.	T.T.O. Sector-9, Ghaziabad	M/s Kalptaru Udyog, Ghaziabad	1985-86 to 1987-88	50.98	2.04	3.85
		Total		7754.72	266.38	559.10 Say 5.59 crore

(Rupees in lakh)

^{*} Agra, Bulandshahar, Ghaziabad, Lucknow, Meerut and NOIDA.

2.2.10 Non-reconciliation of tax receipts

Government introduced (October 1995) a scheme for grant of moratorium to a manufacturer (a new unit) for payment of the admitted tax subject to such conditions as may be prescribed under Sections 4-A and 8(2-A) of the U.P. Trade Tax Act, 1948. The amount was not to be paid in cash but was to be given as interest-free loan. For this purpose, Government was to make advances of funds to two agencies; viz, (i) the Pradeshiya Industrial Corporation of Uttar Pradesh (PICUP) and (ii) the Uttar Pradesh Financial Corporation (UPFC) equal to the amount of trade tax to be booked under the major head "Loans and Advances made by Government". On receipt of advance, the amount was to be shown by book transfer under the corresponding receipt sub-heads of Trade Tax. The Industry Department was responsible for reconciliation of figures booked in the office of the Accountant General (A&E) I, U.P., Allahabad.

It was noticed that loans amounting to Rs.123.55 crore were sanctioned by the Government to Industry Department during 1995-96 and 1996-97 with instructions to credit it to Trade Tax Department through PICUP and UPFC, but no credit was afforded to specified sub-heads of Trade Tax. Besides, neither any records were maintained by the Industry Department nor figures were reconciled. The non-booking of receipts under the sub-heads of Trade Tax, resulted in non-credit of revenue amounting to Rs.123.55 crore.

These matters were reported to Department/Government (August 1998); their replies have not been received (September 1998).

2.3 Short-levy of tax on Xerographic machines

Under the U.P. Trade Tax Act 1948, tax on sale of duplicating machine etc. is leviable at the rate of 12 per cent with effect from 7 September 1981. Besides, additional tax at the rate of 25 per cent of the tax was also leviable from 1 Au-

Trade tax amounting to Rs. 15.68 crore was levied short on sale of Xerographic machines.

gust 1990. It has been judicially held² that Xerox machines are duplicating machines.

During the audit of the Assistant Commissioner (Assessment) Trade Tax, Rampur, it was noticed (August 1997 and April 1998) that a dealer sold self manufactured Xerographic machines worth Rs. 40.26 crore during the years 1993-94 and 1994-95. Tax on this sale was levied at the rate of 3.75 per cent upto 30 September 1994 and at the rate of

2. M/s Bhoji Products V/S State of Gujarat (1992) 84-3 P.C. 328 (GUJ).

4 per cent thereafter instead of at the correct rate of 15 per cent (including additional tax). This resulted in short-levy of tax amounting to Rs. 15.68 crore.

The matter was reported to the Department and Government (June 1997); their replies have not been received (September 1998).

2.4 Non/short-levy of tax due to mis-classification of goods

Under the U.P. Trade Tax Act, 1948, tax is levied as per the schedule of rates notified by the Government from time to time. In case of goods which are not classified, tax is leviable at the rate of 8 per cent with effect from 7 September 1981. Besides, additional tax is also leviable at the rate of 25 per cent of the tax with effect from 1 August 1990.

During audit of 15 Trade Tax offices, it was noticed (between July 1996 to January 1998) that due to mis-classification of goods, correct rates of tax were not applied which resulted in short-levy of tax amounting to Rs. 3.73 crore. Details are given below:

Mis-classification of goods resulted in short-levy of tax amounting to Rs. 3.73 crore.

(Rupees in lakh)

SI. No.	Name of office	Year of assessment	Name of commodity	Taxable turnover	Rate of tax leviable	Rate of tax levied	Tax short- levied
1.	Assistant Commissioner (Assessment)-8, Trade Tax, Ghaziabad	1991-92 and 1992- 93	Figured Glass	316.83	15	10	15.84
2.	Assistant Commissioner (Assessment)-3, Trade Tax, Varanasi	1992-93	Skimmed milk	75.29	7.5	-	5.65
3.	Assistant Commissioner (Assessment)-5, Trade Tax, Ghaziabad	1993-94	Refined mustard oil	1133.00	10	2.5	84.97
4.	Assistant Commissioner (Assessment)-4, Trade Tax, Meerut	1993-94 and 1994- 95	Refined Soyabean Oil	373.57	10	2.5	28.02

Remarks:- The Department revised the assessment order and raised additional demand of Rs. 28.02 lakh.

Chapter II

(Rupees in lakh)

SI. No.	Name of office	Year of assessment	Name of commodity	Taxable turnover	Rate of tax leviable	Rate of tax levied	Tax short- levied
5.	Trade Tax Officer, Modinagar	1991-92 to 1993-94	Sponge iron	2056.77	10	4	123.40
Rema	of Rs. 38.79 lakh.	sed the assess	sment order for the	e year 1991-	92 and rais	ed addition	nal demand
6.	Assistant Commissioner (Assessment)-2, Trade Tax, Kanpur	1991-92 to 1993-94	Liquid glucose	92.80	10	7.5	2.32
7.	Assistant Commissioner (Assessment)-1, Trade Tax, NOIDA	1993-94	Ice Cream	28.97	10	6.25	1.09
8.	Assistant Commissioner (Assessment)-13, Trade Tax, Kanpur	1993-94 and 1994- 95	Liquid glucose	60.78	10	7.5	1.52
9.	Assistant Commissioner (Assessment)-1, Trade Tax, Hapur	1993-94 and 1994- 95	do	78.71	10	7.5	1.97
10.	Assistant Commissioner (Assessment)-4, Trade Tax, Ghaziabad	1993-94	Sheetmetal components	131.78	10	5	6.59
11.	Assistant Commissioner (Assessment), Trade Tax, Rishik esh	1993-94	Refined oils	146.14	10	2.5	10.96
12.	Trade Tax Officer Sector III, Mathura	1991-92	Copper wire bar	39.94	10	5	2.00
13.	Trade Tax Officer Sector- 1, Bareilly	1991-92 and 1992- 93	Fabricated goods	22.03	10	6.25	0.83
14.	Assistant Commissioner (Assessment)-2, Trade Tax, Lucknow	1993-94	Baby dipper	36.29	10	5	1.81
15.	Assistant Commissioner (Assessment)-2, Meerut	1992-93 to 1995-96	Monofilament yarn	1151.32	10	2.5	86.35
	Total						373.32

On this being pointed out in audit, the Department revised the assessment order and raised additional demand of Rs. 66.81 lakh in cases at Sl. Nos. 4 and 5.

The cases were reported to the Government (between January 1997 and April 1998), their replies have not been received (September 1998).

2.5 Incorrect grant of Recognition Certificate

(a) Section 4-B of the U.P. Trade Tax Act, 1948, read with Government notification dated 29 August 1987, provides for special relief in tax to manufacturers on purchase of raw material required for use in the manufacture of notified goods (except paper, catechu, matches etc.) on fulfilment of certain conditions. No relief in tax is, however, admissible if the goods manufactured are exempt from levy of tax under the Act. Life saving drugs are exempt from levy of tax under the Act and as per judicial pronouncement craft paper comes within the category of paper.

During audit of Assistant Commissioner (A) Trade Tax, Faizabad and Rishikesh it was noticed (between July 1997 and January 1998) that the goods manufactured by two dealers during 1992-93 and 1993-94 were not notified for grant of Recognition Certificate. However, the depart-

Incorrect grant of Recognition Certificate resulted in loss of revenue amounting to Rs. 40.72 lakh.

ment issued Recognition Certificate authorising the dealers to purchase such raw materials at concessional rate/tax-free resulting in loss of revenue amounting to Rs. 40.72 lakh.

The matter was reported to the Department and Government (October 1997 and April 1998); their replies have not been received (September 1998).

(b) Section 4-B of U. P. Trade Tax Act, 1948, read with Government notification* dated 29 August 1987, provides for special relief in purchase of raw materials required for oils extracted by solvent extraction process. The purchases may be made tax-free by manufacturers holding Recognition Certificate. This facility was withdrawn by the Government notification** dated 31 March 1992. Thereafter, the raw materials may be purchased at concessional rate of 4 per cent and 2 per cent upto 31 July 1992 and 1 August 1992*** respectively.

^{*} S.T. II-4519/X dated 29.8.87

^{**} S.T. II-122/XI dated 31.3.92

^{***} S.T. II-3098/XI dated 31.7.92

During audit of Assistant Commissioner (A) IV, Trade Tax, Lucknow, it was noticed (July 1997) that a dealer purchased rice bran worth Rs. 199.72 lakh during the year 1992-93 tax-free against declaration in Form III-B for manufacture of oil by solvent extraction process. The dealer was liable to pay tax on purchase of rice bran at the rate of 5 per cent (including additional tax) upto 31 July 1992 and at the rate of 2.5 per cent thereafter. However, as the Recognition Certificate was not amended according to notifications issued on 31 March 1992 and 31 July 1992, the dealer availed incorrect exemption of tax on purchases of rice bran. This resulted in loss of revenue amounting to Rs. 5.01 lakh.

The matter was reported to the Department and Government (October 1997); their replies have not been received (September 1998).

(c) Section 4-B of the U.P. Trade Tax Act, 1948, read with Government notification dated 29 August, 1987, provides that no tax shall be payable by the manufacturers holding Recognition Certificate on the purchase of raw material required for use in the manufacture of notified goods on fulfilment of certain conditions. For manufacture of goods not specified in the notification issued by the Government, the dealer may avail of the benefit of concessional rate of tax on purchase of raw material.

During audit of 5 Trade Tax offices, it was noticed (between October 1996 and December 1997) that the goods manufactured by dealers were notified for grant of recognition certificate for the purchase of raw material (consumable stores) at concessional rate of tax only. The Department, however, issued recognition certificate authorising the dealers to purchase such raw material and consumable stores tax-free. This resulted in loss of revenue amounting to Rs. 18.67 lakh. Details are as under:

(Rupees in lakh)

SL No.	Name of the office	Year	Recognition Certificate for the manufact- ured item	Raw material purchased tax-free	Value of material	Loss
1.	Trade Tax Officer, Bijnor	1991-92 to 1994-95	Iron ingots	Refractories and C.I. Moulds	16.36	0.80
2.	Trade Tax Officer, Mughal- sarai.	1992-93	C.I. Sleepers	Pig Iron	82.05	3.28

Trade Tax

SI. No.	Name of the office	Year	Recognition Certificate for the manufact- ured item	Raw material purchased tax-free	Value of material	Loss
3.	Assistant Commissioner (Assessment) XIII, Trade Tax, Kanpur	1992-93 and 1993- 94	Rubber solution	Raw rubber	61.28	3.06
4.	Assistant Commissioner (Assessment) X Trade Tax, Agra	1989-90 to 1992-93	Rubber solution	Raw rubber	82.20	4 .11
5.	Assistant Commissioner (Assessment)-2 Trade Tax, Allahabad	1992-93	Atta, Maida and Suji	Wheat	371.42	7.42
	Total	×				18.67

(Rupees in lakh)

The cases were reported to the Department and Government (between February 1997 and December 1997); their replies have not been received (September 1998).

2.6 Non-imposition of penalty under

A. U.P. Trade Tax Act

1. Under the U.P. Trade Tax Act, 1948, read with Government notification dated 29 August 1987, provisions for special relief have been made in tax to manufacturers, on purchase of raw material required for use in the manufacture of notified goods on fulfilment of certain conditions. In case of use of the raw materials for a purpose other than that for which Recognition Certificate was granted or otherwise disposal, the dealer shall be liable to pay by way of penalty, a sum which shall not be less than the amount of relief in tax so secured by him, but shall not exceed three times of such relief.

During the audit of 5 Trade Tax Offices, it was noticed (between September 1994 and June 1997) that the dealers, holding Recognition Certificate for the manufacture of notified goods, purchased raw materials tax-free/at concessional rate of tax and utilised them for other purposes. The dealers were, therefore, liable to pay penalty amounting to Rs. 139.61 lakh. Details are given on the next page:

(Rupees in lakh)

SL No.	Name of office	Year	Holding Recognition Certificate for manufacture of	Name of raw material purchased	Tax-free/ Concessional rate	Value of material	Otherwise used/sold as such	Penalty leviable
1,	TradeTax Officer, Haridwar	1992- 93	Patti, Plate Channel & Gaurder	M.S. ingots	Tax-free	283.19	Saria	11.33
2.	Assistant Commissioner (Assessment) -IV Trade Tax, NOIDA	1991- 92	Metalised plastic	Polyester fibre	Tax-free	620.22	Metalised polyester	124.04
Rem	arks:- Department lo	evied pena	alty amounting t	o Rs. 124.98	lakh on 4.8.98.			
3.	Assistant Commissioner (A) III Trade Tax, Saharanpur	1993- 94	M.S. casting and M.S. ingots	Iron and steel	Tax-free	36.17	Agriculture implement	1.45
Rem	arks:- Department ir	nposed po	enalty amountin	g to Rs. 0.38	lakh on 13.2.98.			
4.	Trade Tax Officer, Sector III, Aligarh	1989- 90	Iron bars	Iron and steel	Tax-free	9.58	Iron plates	1.15
Rem	arks:- Department ir	nposed po	enalty amountin	g to Rs. 1.15	lakh on 10.3.95.			
5.	Trade Tax Officer, Sector-2, Kashipur	1990- 91 to 1993- 94	Rubber and Rubber product	Rubber & Chemical	Tax-free	16.37	Rubber solution	1.64
	Total							139.61

On this being pointed out in audit the department levied penalty amounting to Rs. 126.51 lakh in the cases at serial no. 2, 3 and 4.

The cases were reported to Department and Government (between March 1995 and February 1998), their replies have not been received (September 1998).

2. Under section 8-D of U.P. Trade Tax Act, 1948, every person responsible for making payment to any contractor for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of works contract, shall deduct an amount equal to 4 per cent of such sum payable under the Act on account of such works contract. If any such person fails to deduct the amount or fails to deposit the deducted amount into the Government Treasury, the assessing authority may direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount so deducted.

During audit of the office of Trade Tax Officer Sector XVIII, Kanpur, it was noticed (July 1996) that the Dy. Chief Engineer (Construction), Northern Railway, Kanpur deducted an amount of Rs. 5.10 lakh from payment made to contractors from March 1991 to December 1991 and deposited Rs. 1.75 lakh and Rs. 2.59 lakh in Government Treasury in February 1992 and March 1992 respectively. Recovery Certificate for the balance amount of Rs. 76,000 was issued by the Assessing Officer (February 1996), but penalty up to Rs. 10.20 lakh (twice the amount deducted as tax) was not imposed.

On being pointed out in Audit (July 1996), Department intimated (March 1997) that penalty of Rs. 8.23 lakh had been imposed by the Assessing Officer in December 1996.

The matter was reported to the Government (October 1997); their reply had not been received (September 1998). Non-imposition of penalty under U.P. Trade Tax Act resulted in loss of revenue to the tune of Rs. 224.21 lakh.

3. Under the provisions of Section 28-A of the U.P. Trade Tax Act, 1948 read with Rule 85 of the U.P. Trade Tax Rules, 1948 a registered dealer desirous of importing goods from outside the State shall obtain declaration in Form XXXI from the assessing authority. Where such goods are imported by a dealer from outside the State by road, one copy of such declaration is delivered by him at the check-post and the other copy of the declaration is produced to the assessing authority. For import of any goods in contravention of these provisions, the dealer shall pay, by way of penalty, a sum not exceeding 40 per cent of the value of goods so imported. It has also been judicially held* that contravention of provisions of the Act calls for imposition of penalty.

CST vs Bulaki Das Vinod Kumar (1987-UPTC Alld. H.C.-154).

It was noticed that in NOIDA circle a new unit whose review petition for Eligibility Certificate was pending, imported H.D.P.E. bags for Rs.1.86 crore from outside the State during 1986-87 and 1987-88 without declaration in Form XXXI and was, therefore, liable to pay penalty upto Rs.74.40 lakh which was not imposed.

On this being pointed out in audit, the department stated (April 1998) that order for levy of penalty would be issued.

B. Central Sales Tax Act

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

During audit of 15 Trade Tax offices, it was noticed that the dealers had purchased against declaration in form 'C' goods other than those covered by their Certificates of Registration, valued at Rs. 257.65 lakh. They were, therefore, liable to pay penalty amounting to Rs. 38.55 lakh which

Penalty of Rs. 38.55 lakh under the Central Sales Tax Act for irregular purchase of goods was not imposed.

was not imposed. Details of purchases are given in the table below:

(Rupees in lakh)

SI. No.	Name of office	Assessment year	Goods purchased	Value of goods	Amount of penalty leviable	
1.	Trade Tax Officer Gr. I Sector-2, Hapur	1989-90	Soap	5.75		

Trade Tax

(Rupees in lakh)

SL No.	Name of office	Assessment year	Goods purchased	Value of goods	Amount of penalty leviable
2.	Trade Tax Officer Gr. 1 Sector-2, Kanpur	1991-92	Electrical Goods, Rastalin, paste and chemicals	3.98	0.71
Remai	ks:- Department imposed per	alty amounting to	Rs. 0.71 lakh		
3.	Assistant Commissioner (Assessment)-3 Trade Tax, Varanasi	1991-92	Polythene bags	6.72	0.60
Rema	I rks:- Department imposed pen	l alty amounting to	Rs. 0.60 lakh.		
4.	Assistant Commissioner (Assessment) -3 Trade Tax, Aligarh	1993-94	Plastic films	6.72	1.00
5.	Assistant Commissioner (Assessment)-3 Trade Tax, Aligarh	1993-94	Gunny bags	13.00	1.95
6.	Assistant Commissioner (Assessment)-3 Trade Tax, Faizabad	1993-94	Wire, S. S. sheets, Spare parts, Bearings	23.74	3.56
7.	Assistant Commissioner (Assessment)-3 Trade Tax, Faizabad	1991-92	Wire cloth, Store spare, Machinery parts, Dies, P.B. wire, Electrical goods.	20.62	3.09
8.	Assistant Commissioner (Assessment)-3 Trade Tax, Faizabad	1993-94	Copper wire, Copper sheet, Paper, Rubber gasket, Eliphentid sheet, Cable wire, Diary, cotton tape, Brass rod.	10.93	1.64

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(Rupees in lakh)

SI. No.	Name of office	Assessment year	Goods purchased	Value of goods	Amount of penalty leviable	
9.	Assistant Commissioner (Assessment)-3 Trade Tax, Faizabad	1993-94	Varnish, Al. wire rod, Paper, elements	7.42	I.11	
10.	Assistant Commissioner (Assessment)-IV Trade Tax, Meerut	1991-92	Lamination polyester film, Craft paper, Brass, Machinery etc.	8.38	1.26	
	Remarks:- De	partment levied j	penalty amounting to Rs. 1.	26 lakh.		
11.	Trade Tax Officer, Sector- 3, Mathura	1991-92	Copper wire Bar	41.39	6.21	
12.	Trade Tax Officer, Sector- 4, Lucknow.	1991-92 to 1995-96	Oleum, Dolomite powder	6.46	0.97	
13.	Trade Tax Officer, Sector- 10, Lucknow.	1993-94 to 1994-95	Cans/crates	20.27	3.04	
14.	Trade Tax Officer, Sector- 10, Lucknow.	1991-92	Generator	2.75	0.62	
15.	Trade Tax Officer, Sector- 3, Lucknow.	1990-91 to 1992-93	Paper	79.52	11.93	
	Total			257.65	38.55	

On being pointed out in audit (between March 1995 to July 1997), the Department stated that penalties amounting to Rs. 3.43 lakh had been imposed in cases at serial No. 1. to 3 & 10 between December 1995 and January 1997.

The matter was reported to the Department and Government (between 4 April 1996 and October 1997); their replies have not been received (September 1998).

2.7 Short-levy of tax due to application of incorrect rate

During audit of 10 Trade Tax offices, it was noticed (between May 1996 and September 1997) that incorrect rate of tax was levied. This resulted in short-levy of tax amounting to Rs. 13.84 lakh as given below:

Application of incorrect rate of tax on commodities resulted in short-levy of tax amounting to Rs. 13.84 lakh.

(Rupees in lakh)

SI. No.	Name of the office	Assessment year	Name of commodity	Taxable turnover	Rate of tax leviable including additional tax (per cent)	Rate of tax levied (per cent)	Tax short- levied
1.	Assistant Commissioner (Assessment), Bahraich	1990-91	Timber	17.94	15	4	1.97
2.	Assistant Commissioner (Assessment)-2, Varanasi	1990-91	Metal Scrap	25.49	5	2.5	0.64

Remarks: Department revised the assessment order and raised an additional demand of Rs. 0.64 lakh.

3.	Assistant Commissioner (Assessment)-I, Trade Tax, Saharanpur	1994-95 and 1995-96	Refined Oil	39.76	10	2.5	2.98
4.	Assistant Commissioner (Assessment)-2, Trade Tax, Saharanpur	1994-95	Defective Gram	16.07	5		0.80
5.	Trade Tax Officer, Sector- II Varanasi	1991-92	Sanitary goods	10.60	15	10	0.53

Remarks : Department revised the assessment order and raised an additional demand of Rs. 0.53 lakh.

(Rupees in lakh)

SI. No.	Name of the office	Assessment year	Name of commodity	Taxable Turnover	Rate of tax leviable including additional tax (per cent)	Rate of tax levied (per cent)	Tax short- levied
6.	Assistant Commissioner (Assessment)-I, Trade Tax, Kanpur	1994-95	Drugs	45.07	10	7.5	1.23
7.	Assistant Commissioner (Assessment)-I, Trade Tax, Kanpur	1993-94	Electrical Goods	19.11	10	4	1.15
8.	Trade Tax Officer, Sector- III Aligarh	1992-93 to 1994-95	Number printing machine	18.69	15	6.25 7.5 10	1.30
9.	Assistant Commissioner (Assessment)-I, Trade Tax, NOIDA	1993-94	Fast food	137.44	7.5	6.25	1.72
10.	Assistant Commissioner (Assessment)- II, Trade Tax, Saharanpur	1994-95	Acrylic yarn	50.72	5	2	1.52
	Total						13.84

On being pointed out in audit (between June 1996 and September 1997), the department raised an additional demand of Rs. 1.17 lakh in the cases at serial numbers 2 & 5.

The cases were reported to the Department and Government (August 1996 to November 1997); their replies have not been received (September 1998).

2.8 Loss of revenue due to non-observance of prescribed procedure of registration

Under the provisions of the U. P. Trade Tax Act, 1948 and Rules framed thereunder, a dealer, liable to pay tax under the Act, shall get himself registered. For this purpose, he shall submit an application in the prescribed form to the

Non-observance of prescribed procedure of registration resulted in loss of revenue to the tune of Rs. 89.28 lakh.

registering authority with full particulars of his trade. The registering authority, after satisfying himself by conducting spot enquiry about the bonafides of the dealer, his correct and complete local and permanent addresses, antecedents and financial status etc., shall issue a registration certificate. To safeguard Government revenue, security and additional securities are also obtained from the dealer before the issue of registration certificate. Similar procedure is also applied for registration of a dealer under the Central Sales Tax Act.

During the audit of Trade Tax Officer, Grade-I, Sector III, Ghaziabad, it was noticed (August 1997) that in the case of a dealer the prescribed procedures were not carried out by the Department before the issue of registration certificate. As a result, the dealer after getting himself registered (1 December, 1989), obtained a large number of statutory forms (668 Form XXXI and 557 Form 'C' during the period from 1990-91 to 1994-95) and carried out business to the extent of Rs. 20.82 crore and disappeared (31 March 1994) after closing down his business. The security of Rs. 20,000 in the shape of bank guarantee taken by the Department to safeguard the Government revenue expired on 26 March 1993. Besides, no fresh security was obtained from the dealer and the statutory forms were issued without obtaining the accounts of forms previously issued. After the dealer closed down his business, the department made a spot survey of his business (2 August 1994) and found that the address furnished by him was fake. Consequently tax to the tune of Rs. 89.28 lakh payable by the dealer for assessment years 1990-91 to 1994-95 (assessed after closing down the business) remained unrealised. Recovery certificate was issued on the address known to the Department but it did not serve any purpose as the address given was fake.

The case was reported to the Department and Government (October 1997); their replies have not been received (September 1998).

2.9 Incorrect Exemption

(a) Under the Central Sales Tax Act, 1956, export of goods is exempted from tax, provided that the goods are the same which were purchased by the dealer to fulfil

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his export obligation. Any change in the purchased goods by way of processing or engraving (as judicially held)* disqualifies the dealer from getting the benefit of exemption of tax.

During audit of Trade Tax Officer, Sector-I, Bareilly, it was noticed (February 1997) that a dealer purchased semi-finished brass art wares against form 'H' from other than Karkhanedars during the years 1991-92 to 1993-94 and exported the goods worth Rs. 329.11 lakh after ornament-

Incorrect exemption to an exporter resulted in loss of revenue to the tune of Rs. 32.91 lakh.

ing (polishing and engraving). Thus, the goods agreed to be supplied to foreign buyers were different from those goods which were actually purchased for export. The dealer, therefore, was not entitled to get exemption from tax and was liable to pay tax amounting to Rs. 32.91 lakh which was not imposed.

On this being pointed out in audit, the Assessing Officer intimated (August 1998) that the case has been reopened under Section 10-B of the Act, for re-examination.

The case was reported to the Government (July 1997); their reply has not been received (September 1998).

(b) Under the U. P. Trade Tax Act, 1948 where goods are liable to tax only at the point of sale to consumer, every sale by the dealer shall be deemed to be sale to consumer, unless the dealer furnishes to the Assessing Authority a declaration in Form 'III-A' obtained from the purchasing dealer. Waste products are taxable at the rate of 4 per cent with effect from 1 April 1992 at the point of sale to consumer. Additional tax at the rate of 25 per cent of tax is also leviable. According to a circular of Commissioner Trade Tax, U. P., broken glass is a waste product and is taxable at the point of sale to consumer.

During the audit of Assistant Commissioner (Assessment) Trade Tax, Modi Nagar (Ghaziabad), it was noticed (August 1997) that a dealer sold broken glass purchased from unregistered dealers for Rs. 130.28 lakh during 1994-95. This was exempted from levy of tax by the Assessing Officer treating that broken glass was taxable at the point of sale by manufacturer or importer. This resulted in incorrect exemption of Rs. 6.51 lakh.

Vijay Laxmi Cashew Company and others vs Deputy Commercial Tax Officer and others (S.C. 32 STI 1996).

The matter was reported to the Department and Government (September 1997); their replies have not been received (September 1998).

2.10 Cross verification of consignment sale

Under Section 6 A of the Central Sales Tax Act, 1956, where a dealer claims that he is not liable to pay tax under this Act, in respect of any goods on the ground that movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or his agent or principal as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the Assessing Authority a declaration in form 'F' duly filled and signed by consignee for availing exemption from tax. Further, under U.P. Trade Tax Act, 1948, if a dealer has deliberately furnished inaccurate particulars of his turnover, he shall pay, by way of penalty, in addition to tax a sum not less than 50 per cent of tax but not exceeding 200 per cent.

A cross verification of some forms 'F' by A.G. (Audit)-II Bihar pertaining to consignments by dealers of U.P. to dealers of Bihar revealed as under:

- (a) M/s Bhavani Paper Mills, RaeBareli in 1989-90 consigned paper worth Rs. 40.60 lakh and Rs. 100.53 lakh to dealers of Bihar against declaration in form 'F' but consignee had accounted for only for Rs. 33.52 lakh and Rs. 16.73 lakh respectively in their accounts. Thus, the turnover of Rs. 7.08 lakh and Rs. 84.77 lakh was an intra-State sale of M/s Bhavani Paper Mills. This resulted in short-levy of tax amounting to Rs. 1.59 lakh and Rs. 19.07 lakh (including penalty).
- (b) The same dealer consigned paper to dealers of Bihar for Rs. 86.68 lakh during the year 1992-93 against declaration in forms 'F' (14 forms). During cross verification it was noticed that all the 14 forms 'F' had been declared invalid by Commissioner, Commercial Tax, Bihar as the forms were reported to be stolen. Thus, the dealer escaped turnover of Rs. 86.68 lakh on which tax of Rs. 19.50 lakh (including penalty) was leviable.
- (c) M/s Amrit Vanaspati Company Ltd. Ghaziabad, made stock transfer of Mustard Oil and Vanaspati valued at Rs. 195.94 lakh to its depot in Bihar against declaration in forms 'F' during the year 1993-94 but it was accounted for as Rs. 179.39 lakh only in the accounts of depot; thus, turnover of Rs. 16.55 lakh was not disclosed. On this escaped turnover tax amounting to Rs. 3.06 lakh (including penalty) was leviable.

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Despite circular of Commissioner Trade Tax, U.P., consignments to Bihar were not verified by Dy. Commissioner (S.I.B.) Varanasi, who was entrusted with the work of verification of form 'F' issued by dealers of Bihar.

Dy. Commissioner (S.I.B.), Varanasi, however, intimated (January 1997) that no case of stock transfer by M/s Bhavani Paper Mills, RaeBareli/Allahabad had been received by him for cross-verification.

The case was reported to the Department and Government (May 1998); their replies have not been received (September 1998).

2.11 Misuse of declaration forms

Section 3 B of U.P. Trade Tax Act, 1948 provides that in the event of issue of false or wrong declaration forms by reason of which tax on sale or purchase of goods ceases to be leviable, the dealer shall be liable to pay a sum equal to the amount of relief in tax secured by him on purchase of such material.

During audit of 8 Trade Tax circles, it was noticed (August 1996 to March 1997) that dealers purchased raw materials, processing materials and machinery free of tax by issuing declaration forms, for which they were not authorised. The dealers were therefore, liable to pay an

Non-imposition of penalty for misuse of declaration forms to the tune of Rs. 9.75 lakh.

amount of Rs. 9.75 lakh equal to relief in tax secured by them, which was not imposed. Details are as under:

SI. No.	Name of office	Assessment year	Name of notified goods manufactured	Cost of raw materials	Rate of tax leviable (per cent)	Tax levied (per cent)	Tax saved
1.	A.C. (A) IX Trade Tax, Agra	1991-92 and 1992- 93		26.20	5	-	1.31
2.	T.T.O. Gr. l, Barabanki	1993-94	Iron steel	16,80	5		0.84
3.	T.T.O. Gr. I, Shikohabad		Glass wares and Glass Tube	12.88	5 7.5	-	1.02

(Rupees in lakh)

Trade Tax

SI. No.	Name of office	Assessment year	Name of notified goods manufactured	Cost of raw materials	Rate of tax leviable (per cent)	Tax levied (per cent)	Tax saved
4.	A.C. (A), Chandausi	1990-91 to 1992-93	Packing materials	7.15	10	-	0.71
5.	T.T.O. Gr. I Sector IV, NOIDA	1991-92	Steel Balls	65.75	5	-	3.29
6.	Trade Tax Officer Sector-12, Agra	1994-95	Corrugated boxes	9.37	7.5		0.70
7.	Trade Tax Officer Sector-9 Varanasi	1988-89	Plastic bags	9.43	8.8	-	0.83
8.	Trade Tax Officer Sector-9, Lucknow	1992-93 and 1993- 94	Iron casting	26.20	4	-	1.05
	Total			173.78			9.75

(Rupees in lakh)

The cases were reported to the Department and Government (November 1996 to June 1997); their replies have not been received (September 1998).

2.12 Short-levy of Central Sales Tax

Under the Central Sales Tax Act, 1956, tax on inter-State sale of goods not covered by declaration in Form 'C' or 'D' is leviable at the rate of 10 per cent or at the rate applicable on sale or purchase of goods inside the appropriate State, whichever is higher.

During the audit of 8 Trade Tax offices, it was noticed (between November 1996 and November 1997) that incorrect rates of tax were levied on inter-State sale of goods not covered by declaration in Form "C" or "D". This resulted in short-levy of tax amounting to Rs. 59.37 lakh. The details are as given on the next page :

Application of incorrect rates of tax under CST resulted in shortlevy of tax amounting to Rs. 59.37 lakh. Chapter II

(Rupees in lakh)

SL No.	Name of office	Assessment year	Name of commodity	Taxable turnover	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Tax short - levied
1.	A.C.(A) Trade Tax, Fatehgarh	1992-93	Alcohol	108.43	32.5	55	35.24
2.	Trade Tax Officer Sector-5, Meerut	1994-95	Iron and steel	300.00	8	4	12.00
3.	Assistant Commissioner (Assessment)-4, Trade Tax, NOIDA	1992-93	HDPE Fabrics	36.16 127.00	4 and 8	2.5	7.53
4.	A.C. (A) IX Trade Tax, Agra	1993-94	Tractors	10.54	10	2	0.84
5.	A.C. (A) X Trade Tax, Lucknow	1992-93 and 1993-94	Tractor parts	10.67 13.31	10	2.5 2.00	0.80 1.07
6.	A.C. (A) I Trade Tax, Allahabad	1992-93	Staple fibre yarn and P.V. Yarn	137.98	2.5	2	0.69
7.	T.T.O. Sector 3, Mathura	1990-91 to 1993-94	Dori	29.79	4	2	0.60
8.	T.T.O. Sector, IX Agra	1992-93 and 1993- 94	Tractor parts	7.51	10	2	0.60
	Total						59.37

The cases were reported to the Department and Government (between June 1997 and February 1998); their replies have not been received (September 1998).

2.13 Turnover not assessed

Under the U.P. Trade Tax Act 1948, tax on sale of molasses is leviable at the rate

of 12 per cent with effect from 7 September 1981. Besides, additional tax at the rate of 25 per cent of the tax is also leviable with effect from 1 August 1990.

During the audit of Assistant Commissioner (Assessment), Baharaich, it was noticed (May 1997) that a dealer was assessed to tax on sale of molasses worth Rs. 6.58 lakh during the year 1993-94 and charged tax accordingly. However, the sales account of the assessee furnished with the return revealed that the actual sale of molasses was Rs. 70.94 lakh during this period. Thus, the turnover of molasses worth Rs. 64.36 lakh escaped assessment. This resulted in short-levy of tax amounting to Rs. 9.65 lakh.

The case was reported to the Department and Government (August 1997); their replies have not been received (September 1998).

2.14 Non-levy of purchase tax

Under the U.P. Trade Tax Act, 1948, where any goods liable to tax at the point of sale to consumer are sold to a dealer and the seller does not pay sales tax in view of any provisions of the Act, the purchasing dealer shall be liable to pay tax on such purchases at the rate at which tax is leviable on sale of such goods to the consumer within the State, if he does not resell such goods within the State or in the course of inter-State trade or commerce in the same form and condition in which he has purchased them.

During audit of Assistant Commissioner (Assessment) VII Trade Tax, Agra, it was noticed (September 1997) that a dealer purchased raw hides worth Rs. 125.84 lakh from registered dealers against declaration in form III-A and from unregistered dealers without payment of tax during the year 1993-94 and manufactured shoe uppers and upper components which were exported out of India. The dealer did not resell hides purchased without payment of tax in the same form and condition in which those were purchased. The dealer was, therefore, liable to pay tax on this purchase amounting to Rs. 5.03 lakh which was not imposed.

The matter was reported to the Department and Government (January 1997); their replies had not been received (September 1998).

2.15 Short-levy of tax due to irregular notification

Under Section 8 of the Central Sales Tax Act, 1956, tax on inter-State sale of goods not covered by declaration in Form 'C' is leviable at the rate of 10 per cent or at

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the rate applicable on sale or purchase of such goods inside the appropriate State, whichever is higher. It has judicially been held* that State Governments are not empowered to dispense with the requirement of Form 'C' under Section 8 (5) of the Central Sales Tax Act. Government of U.P. issued two notifications** dated 1 October 1994 and 31 January 1995 dispensing with the requirement of furnishing declaration in Form 'C' on inter-State sale of commodities taxable at the rate of 4 per cent in the State.

During audit of Assistant Commissioner (Assessment)-I Trade Tax, Aligarh, it was noticed (May 1997) that in 1994-95 and 1995-96 (after 1 October 1994) three dealers made inter-State sale of locks worth Rs. 122.87 lakh without declaration in Form 'C' and the tax was levied at the rate of 4 per cent on the ground of irregular notification issued by U.P. Government instead of correct rate of 10 per cent. This resulted in short-levy of tax amounting to Rs. 7.37 lakh.

The cases were reported separately to the Government who in reply stated (October 1997) that as the said notification has not been challenged in any court of law, it is regular. The reply of the Government is not tenable in the light of judicial pronouncement of the Supreme Court.

2.16 Short-levy of interest on admitted tax

Every dealer liable to pay tax under the U.P. Trade Tax Act, 1948 is required to submit return of his turnover at prescribed intervals and to deposit the amount of tax due within the time prescribed. Tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of 2 per cent per month on the unpaid amount. Tax other than the tax admittedly payable, however, attracts interest at the rate of one and half per cent per month if it remains unpaid for three months after expiry of the period specified in the notice of demand. Tax not paid by a dealer within the time prescribed, is recoverable as arrears of land revenue. As per Commissioner's circular dated 4 November 1991, it is necessary to mention the rate of interest on the admitted tax in the recovery certificate.

^{*} India Cement Ltd. Vs State of Andhra Pradesh (1988 S.T.J.-367).

^{**} U.P. Government notification No. 3407 dt. 1.10.94 and No. 147 dated 31.1.95.

In 8 Trade Tax circles, it was noticed that 15 new units (whose Eligibility Certificate were either not issued or were cancelled) were issued recovery certificates relating to the assessment years from 1988-89 to 1995-96. The rate of inter-

Short-levy of interest on admitted tax resulted in short-charge to the tune of Rs. 5.58 crore.

est on the admitted tax of Rs. 5.52 crore was charged at one and half per cent per month instead of 2 per cent. This resulted in short-charge of interest amounting to Rs. 5.58 crore for the period between 1988-89 and 1994-95.



A.L. of spirit demanded by licensed retail vendors within the time adjudged reasonable by the Collector. The required quantity of spirit was arranged by the Collectors of Meerut and Saharanpur from Simbhauli distillery, Ghaziabad.

Penalty amounting to Rs. 611.61 lakh was not levied to wholesale vendors of country liquor.

As the required quantity of spirit was not supplied, action to impose and realise a penalty up to a maximum of Rs. 611.61 lakh leviable on the wholesale vendors, was not initiated by the department.

3.2.11 Non-realisation of excise duty on maturation wastage

Rules regarding maturation of spirit for manufacture of Indian made foreign liquor entail that no wastage allowance is permissible for transportation and storage of spirit maturing in wooden casks for IMFL. Distillers would be liable to pay full excise duty on such wastage during the maturation of spirit calculated on quarterly statement i.e. 30th June, 30th September, 31st December and 31st March of each year. As per provisions of the above Rules, distillers are also required to deposit Rs. 5 lakh as security in the form of NSC or FDR pledged to the Government.

During the test-check of the records of 5 distilleries^{*}, it was noticed that during the period from 1st November 1994 to 31st March 1998, 114515.4 alcoholic litres rectified/malt spirit was lost during maturation in wooden vats.

Under the Rules, no wastage allowance is admissible and as such duty amounting to Rs. 47.19 lakh was leviable which was neither levied nor realised. Duty amounting to Rs. 47.19 lakh on maturation wastage and security money of Rs. 25 lakh was not realised from the distillers.

Further, it was also noticed that the required security money of Rs. 5 lakh from each distiller amounting to Rs. 25 lakh was not obtained in the form of NSC/FDR.

3.2.12 Loss of duty on account of redistillation

Under U.P. Excise Act, 1910 and Rules made thereunder, rectified spirit comes under the category of Foreign Liquor. Rectified spirit may be redistilled for the purpose of manufacture of Extra Neutral Alcohol (ENA) required for production of better quality

Mohan Nagar (Ghaziabad), Simbhauli (Ghaziabad), Pilkhini (Saharanpur), Ajudhiya (Moradabad), Rampur.

Chapter III

Indian Made Foreign Liquor (IMFL). The Act does not provide for any differential rates of duty on IMFL produced from rectified spirit and that produced from ENA. No norms have been prescribed for production of ENA from rectified spirit.

Duty amounting to Rs. 24.95 crore was less realised on account of re-distillation of rectified spirit.

During test-check of 10 distilleries*, it was noticed that 123061801.8 alcoholic litres (AL) of rectified spirit were used for redistillation during the years 1994-95 to 1997-98, for producing ENA required for production of better quality of IMFL. Duty of Rs. 490.39 crore was charged on 85088782.3 AL of the IMFL produced from ENA and 35676225.2 AL of impure spirit obtained therefrom after allowing wastage of 2296794.3 AL. The rectified spirit if utilised for production of IMFL directly without redistillation would have earned excise duty of Rs. 515.34 crore. The absence of higher rates of duty for better quality of IMFL produced from ENA and applicable to IMFL, to the spirit left behind (impure spirit) after redistillation resulted in loss of revenue of Rs. 24.95 crore.

3.2.13 Failure to issue licences

Under the Act, and Rules made thereunder for supply of country liquor under contract supply system, CL-1 licence is granted by the Excise Commissioner to contractors on payment of licence fees for the year or part thereof, prescribed by the Government from time to time for each district having minimum guaranteed quantity in bulk litres. Before granting C L-1 licence to contractors, tenders in Form CL-23 are invited by the Excise Commissioner vide notice in Form CL-22.

During the year 1997-98, 15 additional new districts were carved out from the existing 64 districts in Uttar Pradesh. As per letter dated 3 October 1997 of Excise Commissioner, U.P. Allahabad, it was decided that the same distillery which was supplying country liquor to the erstwhile district would continue to supply to the

Country liquor was supplied to the new districts without CL-1 licence, which resulted in loss of revenue amounting to Rs. 45 lakh.

Karam Chand Thapar, Unnao. 2. Daurala Distillery, Daurala, Meerut. 3. Saraiya Distillery, Gorakhpur.
 Simbhauli Distillery, Ghaziabad. 5. Pilkhini Distillery, Saharanpur. 6. Narang Industries Ltd. Distillery Nawabganj, Gonda. 7. Shamli Distillery, Muzaffarnagar. 8. Baheri Distillery, Bareilly. 9. Rampur Distillery, Rampur. 10. Bajpur Co-operative Distillery, Udhamsinghnagar.

newly created districts also. As per Rules, CL-1 licence was required to be obtained by suppliers to supply country spirit to the new contract areas (districts) after approval of the Government. Country spirit was supplied to the new districts without separate CL-1 licences while there was sufficient time (August 1997 to March 1998) for calling tenders and to finalise the issue of CL-1 licence. This resulted in loss of revenue amounting to Rs. 45 lakh.

These matters were reported to the Department/Government (August 1998), their replies have not been received (September 1998).

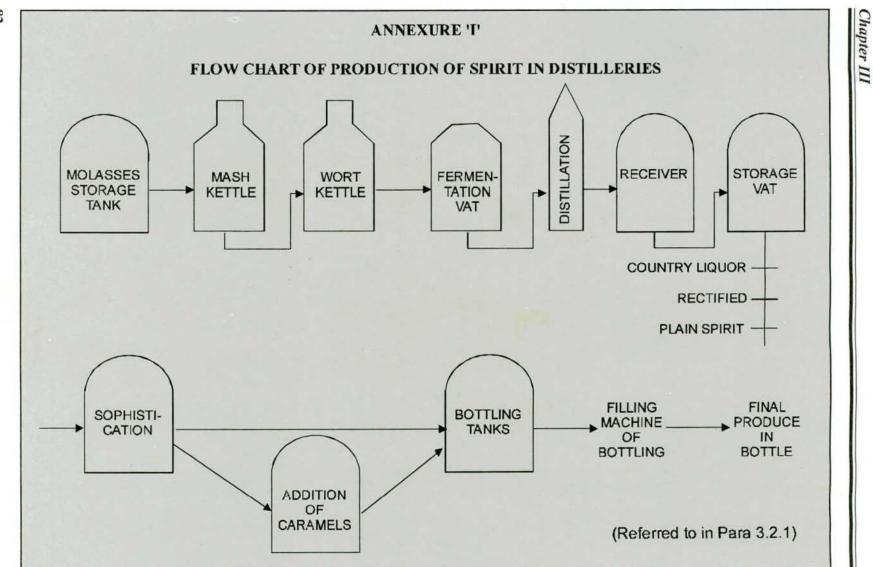
3.3 Non-levy of interest on belated payments

Under the provisions of the U. P. Excise Act, 1910, as amended from 29 March, 1985 where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent per annum is recoverable from the date such excise revenue becomes payable, till the date of actual payment. In respect of excise revenue which had become payable prior to the date of amendment in the Act and is not paid within three months of the date of amendment, interest at the same rate is required to be charged from 29 March, 1985.

During audit of 4 District Excise offices*, it was noticed (between the period January 1997 and July 1997) that the excise revenue of Rs. 6.39 lakh pertaining to the period 1974-75 to 1992-93 was deposited (between January 1995 to March 1997) late ranging from 41 to 144 months. However, interest amounting to Rs. 9.11 lakh on the belated payments was not levied and realised.

The cases were reported to the Department and Government (between July 1997 and July 1998); their replies have not been received (September 1998).

Muzaffarnagar, Meerut, Jaunpur and Pratapgarh





Taxes on Vehicles, Goods and Passengers



Chapter IV : Taxes on Vehicles, Goods and Passengers

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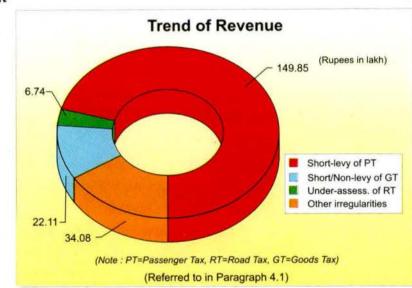


Taxes on Vehicles, Goods and Passengers

4.1 Results of audit

Test-check of records of various offices of the Transport Department, conducted in audit during 1997-98 revealed short-levy or non-levy of taxes/fees amounting to Rs. 212.78 lakh in 106 cases which broadly fall under the following categories :

e,



SI. No.	Categories	Number of cases	Amount
1	Short-levy of passenger tax/additional passenger tax	56	149.85
2	Under-assessment of road tax	7	6.74
3	Non-levy or short-levy of goods tax	7	22.11
4	Other irregularities	36	34.08
	Total	106	212.78

(Rupees in lakh)

Chapter IV

During the year 1997-98, the Department accepted under-assessments etc. of Rs. 43.24 lakh involved in 9 cases pointed out in audit in 1997-98. Of these a sum of Rs. 0.99 lakh has been recovered. A few illustrative cases highlighting important observations involving Rs. 43.24 lakh are given in the succeeding paragraphs.

4.2 (a) Non/Short-realisation of passenger tax

Under the U.P. Motor Gadi (Yatrikar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax at the prescribed rate of 16 per cent is levied on the fare payable to the operator by a passenger in respect of his journey in the State by a stage carriage. The tax is collected by the operator and paid to the State Government. The State Government may accept or agree to accept a lump sum amount in lieu of the amount of tax that may be payable by the operator.

During audit of the Sub Regional Transport Office, Etawah, it was noticed (August 1997) that though 12 stage carriages were plying on Bhartna-Juhikha route under

valid permits granted by State Transport Authority between the period from June 1994 and January 1996, the department failed to realise passenger tax amounting to Rs. 5.84 lakh payable on the said route in respect of 4 vehicles and an amount of Rs. 11.41 lakh was short realised in respect of

During the period between June 1994 and July 1997, passenger tax amounting to Rs. 17.25 lakh was non/short realised.

the remaining 8 vehicles. This resulted in non/short-realisation of revenue amounting to Rs. 17.25 lakh during various periods between June 1994 and July 1997.

The matter was reported to the Department and Government (December 1997, March 1998 and again in July 1998); their replies have not been received (September 1998).

4.2 (b) Incorrect computation of lump-sum passenger tax

Under the U.P. Motor Gadi (Yatrikar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax payable under a lump sum agreement in respect of any stage carriage on a particular route depends on the basis of the total fare payable for the entire route, the number of one way trips allowed or expected to be made by the stage carriage and the load factor. Any change in the route, number of trips, seating or standing capacity or fare, renders the lump-sum agreement void from the date of

Incorrect computation of Passenger Tax resulted in shortrealisation of Rs. 10.64 lakh.

such change and thereafter fresh agreement in respect of the unexpired period of the agreement is required to be executed.

During audit of the Regional Transport Office, Moradabad, and Sub-Regional Transport Office Ghazipur, it was noticed (November 1996 and July 1997) that on Hasanpur-Gajraula route under Moradabad Office, operators of 22 stage carriages were charging more fare than that adopted for lump-sum agreement of passenger tax during period from 1 July 1992 to 13 August 1993. Similarly, it was found on survey of route Jamnia-Bara via Dildarnagar under Ghazipur office that fare, single trips and load factor were much more than that adopted for lump-sum agreement of passenger tax during the period from 8 June 1994 to 30 June 1997 in respect of 9 vehicles but the lump-sum agreements of passenger tax were not revised in both the cases and passenger tax continued to be realised at lower rates. This resulted in short-realisation of tax amounting to Rs. 10.64 lakh.

The matter was reported to the Department and Government (March 1997 and December 1997) followed by a reminder (February 1998, March 1998 and in July 1998); their replies have not been received (September 1998).

4.3 Non-assessment of passenger tax in respect of contract carriages

Under the U.P. Motor Gadi (Yatrikar) Adhiniyam, 1962 passenger tax is leviable at the rate of 16 per cent of the fare payable to the operator by a passenger in respect of his journey in the State by a stage carriage (including contract carriage). Further, under the Uttar Pradesh Motor Gadi (Yatrikar) Niyamawali, 1962, assessment of passenger tax under a lump-sum agreement in respect of a contract carriage (excluding motor cab), depends on the fare payable and distance expected to be covered during a month. It has been further provided that the fare to be reckoned for levy of passenger tax shall not be less than 85 per cent of the maximum rate prescribed under the Motor Vehicles Act, 1988 and the distance expected to be covered in a month shall not be less than 4,000 kilometres.

Chapter IV

During audit of 3 Sub-Regional offices*, it was noticed (March 1997 and August 1997) that permits for 6 contract car-

riages and 2 maxi cabs were granted for 5 years by the State Transport Authority. Operators of these vehicles were paying road tax in their sub-regional offices, but passenger tax was neither assessed nor

Non-assessment of passenger tax in respect of contract carriages amounting to Rs. 8.27 lakh, during the period between December 1992 and July 1997.

realised. This resulted in non-realisation of revenue amounting to Rs. 8.27 lakh calculated on the basis of lump-sum agreement for the period between December 1992 and July 1997.

The matter was reported to the Department and Government (July 1997, March 1998 and again in July 1998); their replies have not been received (September 1998).

4.4 Irregular exemption of passenger tax

By notification dated 30 September 1962, stage carriages owned by recognised educational institutions have been exempted from payment of passenger tax.

In two sub-regions (Bijnor and Jaunpur) three vehicles (belonging to Co-operative Sugar Mills Nazibabad, State Sugar Corporation Chandpur and Shri Baldeo Singh) were registered as school buses between August 1989 and September 1996 and were being used

During the period between 3rd February 1995 and 30th April 1997, passenger tax amounting to Rs. 7.08 lakh was incorrectly exempted.

to carry children from their houses to school and back. As the vehicles were not owned by any recognised educational institutions, these vehicles were not entitled for exemption from passenger tax. This resulted in non-levy of passenger tax amounting to Rs. 7.08 lakh. Details are given on the next page :

^{*} Etawah, Mirzapur and Lakhimpur Kheri.

Taxes on Vehicles, Goods and Passengers

Name of sub region	Owner of the vehicle	Months of registration	Vehicles involved	Period to which non- levy relates	Non-levy of tax involved
1. A.R.T.O Bijnor	 Co-operative Sugar Mills Nazibabad, U.P. State Sugar Corporation Chandpur, U.P. 	February 1995 September 1996	1	3 February 95 to 30 April 97 3 September 96 to 30 April 97	2.79
2. A.R.T.O. Jaunpur	Shri Baldeo Singh	August 1989	1	1 August 89 to 31 January 96	4.29
	Total		3		7.08

(Rupees in lakh)

The cases were reported to the Department and Government (between May and January 1998); their replies have not been received (September 1998).





Stamp Duty and Registration Fees



Chapter V: Stamp Duty and Registration Fees

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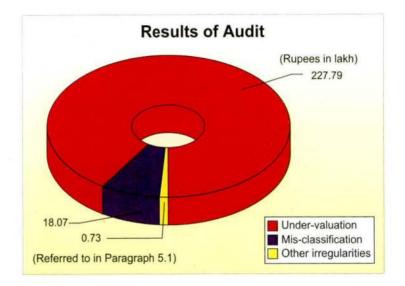




Stamp Duty and Registration Fees

5.1 Results of audit

Test-check of records of District Registrars, Sub-Registrars and District Stamp Officers, conducted in audit during the year 1997-98, revealed short-levy of stamp duty and registration fees amounting to Rs. 246.59 lakh in 258 cases, which broadly fall under the following categories:



Sl. No.	Categories	Number of cases	Amount
1	Short-levy of stamp duty and registration fees due to under-valuation of properties	233	227.79
2	Short-levy of stamp duty due to mis- classification of documents	12	18.07
3	Other irregularities	13	0.73
	Total	258	246.59

Chapter V

During the year 1997-98, the Department accepted under-assessment etc. of Rs. 33.35 lakh involved in 51 cases pointed out in 1997-98. A few illustrative cases high-lighting important observations involving Rs. 37.57 lakh are mentioned in the following paragraphs.

5.2 Short-levy of stamp duty and registration fees due to undervaluation of agricultural/non-agricultural land

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance in respect of agricultural land is chargeable on the market value or on the value of the consideration set forth therein, whichever is higher. Further, stamp duty, in respect of a deed of conveyance relating to transfer of non-agricultural land, situated within the municipal limit of any Town Area, Nagar Palika, Nagar Mahapalika is leviable on the basis of average price per square metre prevailing in the locality on the date of execution of the instrument by the Collector in his district.

During audit of 10 Sub-Registrar Offices (14 cases), it was noticed (between October 1995 and April 1997) that stamp duty and registration fees amounting to Rs. 24.55 lakh and Rs. 0.16 lakh respectively was short-levied because land was not valued at the rates fixed by the Collectors. Details are given in Annexure-II.

Short-levy of Stamp duty and Registration fees due to undervaluation of agricultural/nonagricultural land, amounted to Rs. 24.71 lakh.

The matter was reported to the Department and Government (August 1996, April 1998 and in July 1998); their replies have not been received (September 1998).

5.3 Short-levy of stamp duty due to mis-classification of documents

Under the Indian Stamp Act, 1899 the stamp duty on an instrument depends upon the real nature or substance of the transactions recorded in the instrument and not on any title, description or nomenclature given by the parties which execute the instruments.

During audit of offices of Sub-Registrar NOIDA (Gautam Buddha Nagar), it was noticed (January 1997) that 19 instruments were registered as agreement to sale instead of agreement to lease and stamp duty was charged accordingly. Thus mis-classification of instruments resulted in short-

Short-levy of stamp duty due to misclassification of documents amounted to Rs. 12.86 lakh.

levy of stamp duty amounting to Rs. 12.86 lakh, as given on the next page:

Stamp Duty and Registration Fees

SI. No.	Name of registering offices	Details of lease holding	Value of property as per provisions of Article 35 (b) of Schedule 1-B	Stamp duty due on Agreement to lease @ Rs.125/- per thousand	Stamp duty paid on Agreement to sale @ Rs. 62.50 per thousand	Stamp duty short levied
1	Sub-Registrar II, Noida (Gautam Buddha Nagar)	Plot Nos. C-79, A-48, A-70 C-12, C-66	43.70	5.46	2.74	2.72
2do		C-75, 104, D- 97,F-13,A-17, P- 100, A-60, F- 28,C-167, A-12, & M-5	133.71	16.71	7.20	9.51
3	Sub-Registrar III, Noida (Gautam Buddha Nagar)	В-202	10.00	1.25	0.62	0.63
	Total		187.41	23.42	10.56	12.86

(Rupees in lakh)

The matter was reported to the Department and Government (February, April and July 1998); their replies have not been received (September 1998).

Chapter V

Annexure-II

(Referred to in Para 5.2)

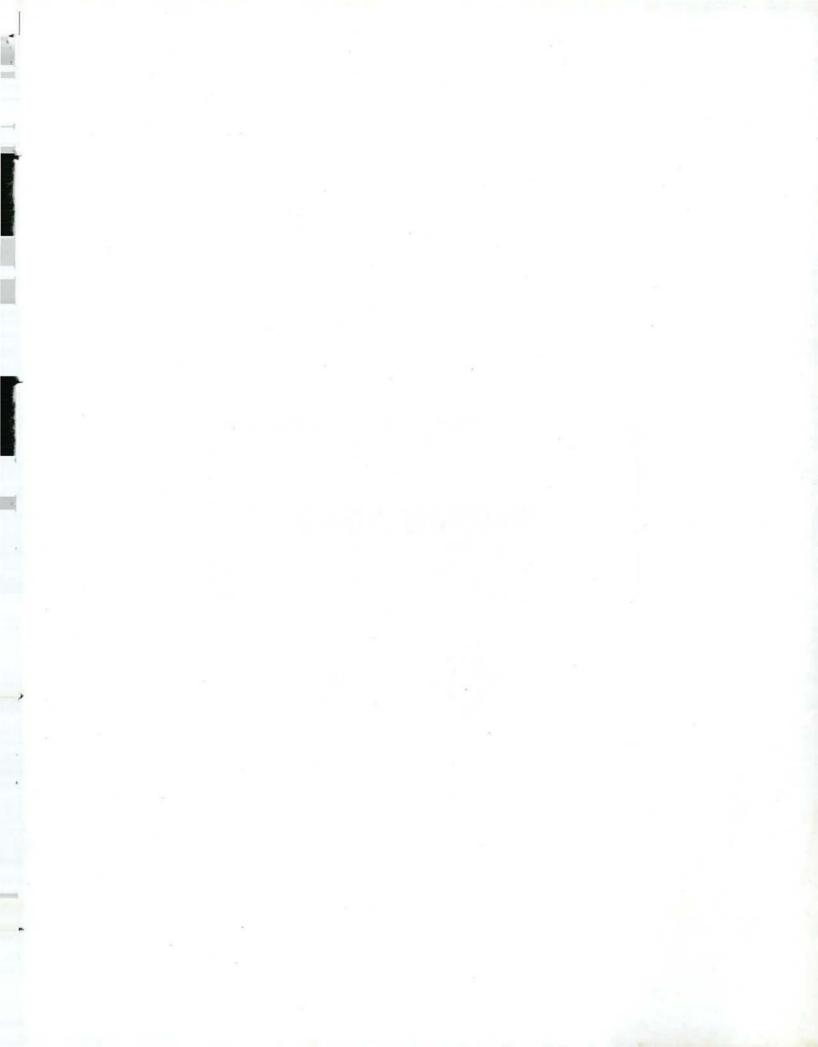
(Rupees in lakh)

SL No.	Name of the Registering offices	Nature of property	Value of the property as per rates fixed by Collector	Value adopted in the documents	Stamp Duty short levied	Registr- ation Fees to be realised	Registra- tion Fees realised	Registra- tion Fees short levied
1	Sub-Registrar II Kanpur City	Non- agricultural land	49.91	12.30	5.45			
2	Sub-Registrar II, Kanpur City	do	31.20	2.80	4.12			
3	Sub-Registrar III, NOIDA (Gautam Buddha Nagar)	do	21.52	1.54	2.50	0.05	0.03	0.02
4	Sub-Registrar III, NOIDA (Gautam Buddha Nagar)	do	22.77	4.00	2.35	-		
5	District-Registrar, Bijnor	do	23.00	6.21	2.10			
6	Sub-Registrar III, NOIDA (Gautam Buddha Nagar).	do	13.66	2.40	1.41			
7	Sub-Registrar II, Varanasi	do	9.79	1.13	1.26	0.05	0.02	0.03
8	Sub-Registrar II, NOIDA (Gautam Buddha Nagar)	do	11.39	1.65	1.22			
9	Sub-Registrar IV, Ghaziabad	do	9.36	2.64	0.84			
10	Sub-Registrar II, Bulandshahar	do	8.33	2.78	0.80			
11	Sub-Registrar, Derapur Kanpur (Dehat)	do	6.70	0.58	0.77	0.05	0.01	0.04
12	Sub-Registrar, Bijnor	Agricultur- al land	6.28	1.17	0.74			
13	Sub-Registrar II, NOIDA (Gautam Buddha Nagar)	Non agricultural land		0.49	0.56	0.05	0.01	0.04
14	Sub Registrar, Lakhimpur Kheri	do	5.35	0.90	0.43	0.05	0.02	0.03
	Total		224.20	40.59	24.55	0.25	0.09	0.16

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Land Revenue



Para	Particulars	Page
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Chapter VI : Land Revenue

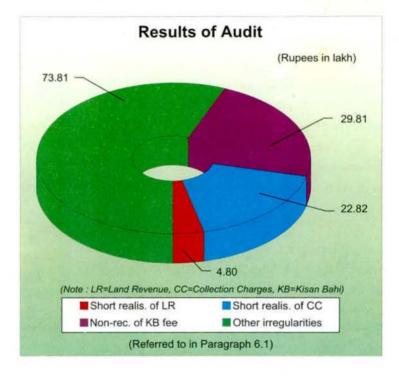




Land Revenue

6.1 Results of audit

Test-check of records of offices of the Revenue Department conducted in audit during the year 1997-98 revealed short-realisation of collection charges, non/ short-realisation of land revenue, non-recovery of fee for supplying 'Kisan Bahi' and other irregularities amounting to Rs. 131.24 lakh in 113 cases which broadly fall under the following categories:



(Rupees in lakh)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short-realisation of land revenue	11	4.80
2.	Short-realisation of collection charges	22	22.82
3.	Non-recovery of fee for supplying Kisan Bahi	17	73.81
4.	Other irregularities	63	29.81
	Total	113	131.24

Chapter VI

During the year 1997-98, the Department accepted under-assessment etc. of Rs. 52.34 lakh involved in 15 cases, of which 12 cases involving Rs. 49.21 lakh had been pointed out in audit during 1997-98 and the rest in earlier years.

A few cases involving financial effect of Rs. 52.45 lakh are mentioned in the following paragraph.

6.2 Non-recovery of collection charges

In terms of U.P. Public Moneys (Recovery of Dues) Act, 1972 and State Government orders issued from time to time, the revenue authorities, on receipt of certificates of recovery from a Corporation, Board, Banking Company or local body, shall proceed to recover the amount stated therein together with cost of proceedings (collection charges) as arrears of land revenue. Collection charges at the rate of 10 per cent of the dues collected are realised by the revenue authorities. In case recovery certificates are returned to the concerned bodies on their own request, or the dues are deposited by the defaulters direct with the concerned bodies, even then the collection charges at the same rate shall be realised.

During audit of 12 Tehsil offices, it was noticed (between August 1996 and October 1997) that collection charges amounting to Rs. 52.45 lakh were not realised as detailed below: Non-realisation of collection charges amounting to Rs. 52.45 lakh in respect of recovery certificates pertaining to other Government/Local Body.

(Rupees in lakh)

SI. No.	Name of Tehsil	Dues recoverable	Dues recovered	Dues for which recovery certificate returned/ directly deposited	Collection charges due	Collection charges recovered	Collection charges recoverable
1	Kannauj (Farrukhabad)	7.00		7.00	0.70		0.70
2	Mahmoodabad (Sitapur)	5.38	4.49	0.89	0.54		0.54
3	Sikandararao (Aligarh)	9.07	-	9.07	0.91	×	0.91
4	Pilibhit	18.05		18.05	1.81		1.81

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Land Revenue

(Rupees in lakh)

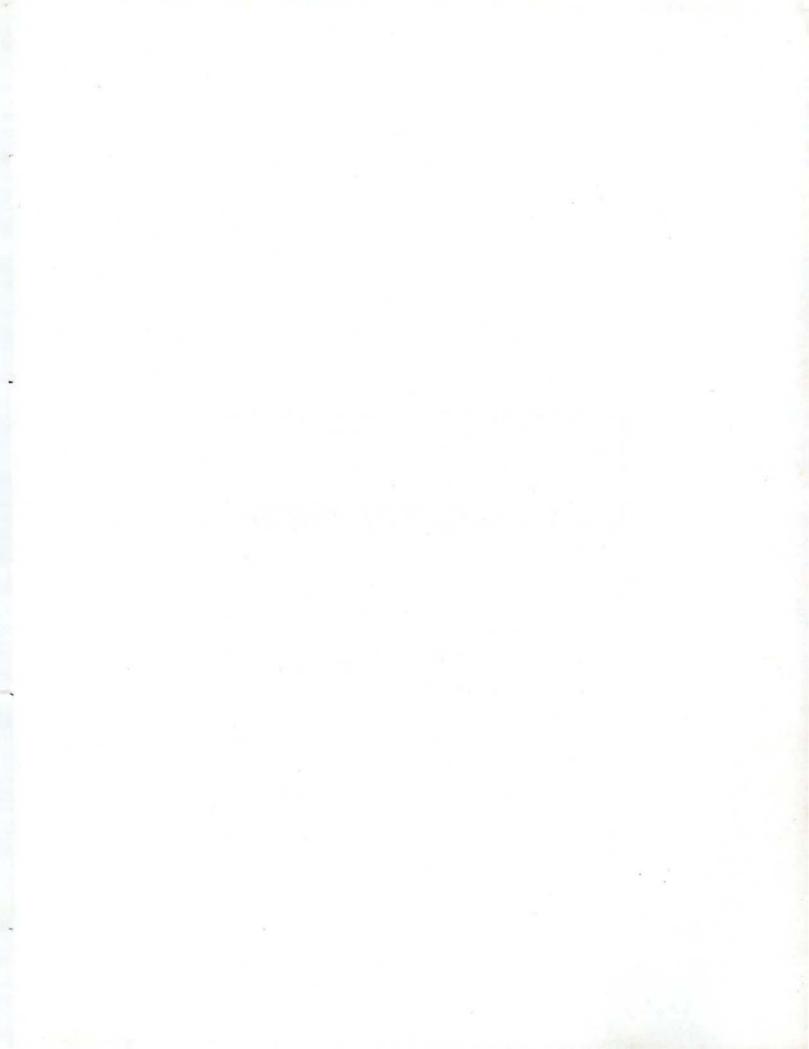
SI. No.	Name of Tehsil	Dues recover- able	Dues recovered	Dues for which recovery certificate returned/ directly deposited	Collection charges due	Collection charges recovered	Collection charges recoverable
5.	Meerut	14.99		14.99	1.50		1.50
6.	Sitapur	9.63	1.59	8.04	0.96		0.96
7.	Aligarh	223.01	=	223.01	22.30		22.30
8.	Mishrikh (Sitapur)	7.43	-	7.43	0.74		0.74
9.	Lalganj (Azamgarh)	15.59	4.60	10.99	1.56	0.46	1.10
10.	Zamania (Ghazipur)	172.16	0.11	172.05	17.22		17.22
11.	Nagina (Bijnor)	37.93		37.93	3.79		3.79
12.	Bijnor	8.76		8.76	0.88		0.88
	Total	529.00	10.79	518.21	52.91	0.46	52.45

The matter was reported to the Department and Government (January 1997, February 1998 and in July 1998); their replies have not been received (September 1998).



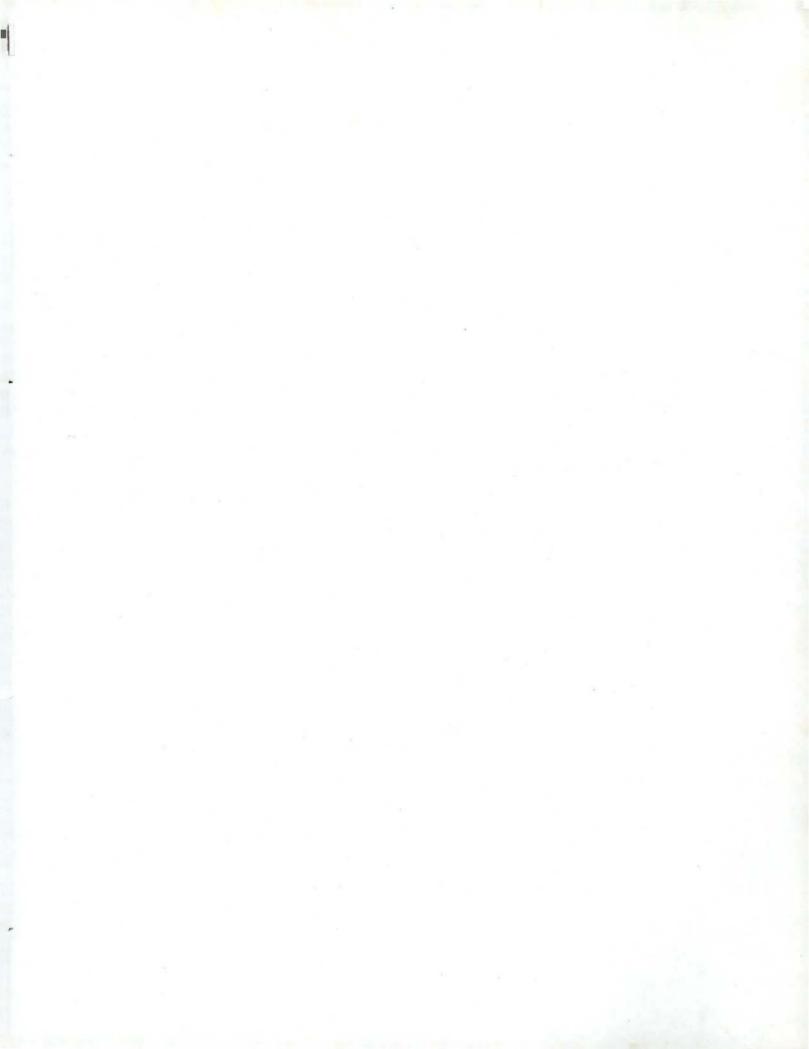


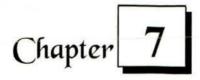
Other Tax Receipts



Chapter VII : Other Tax Receipts

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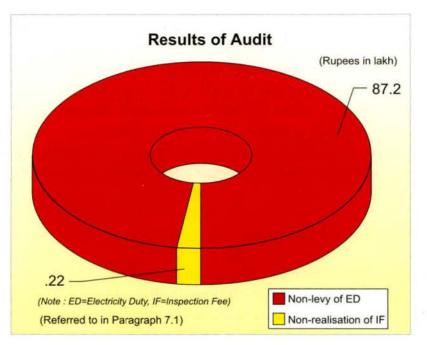


Other Tax Receipts

A-ELECTRICITY DUTY

7.1 Results of audit

Test-check of the accounts of Assistant Directors (Electrical Safety), Appointed Authorities conducted in audit during the year 1997-98, revealed non/ short-levy of electricity duty and inspection fee amounting to Rs. 87.42 lakh in 50 cases which broadly fall under the following categories:



(Rupees in lakh)

SI. No.	Categories	No. of cases	Amount
1	Non-levy of electricity duty	41	87.20
2	Non-realisation of inspection fee	9	0.22
	Total	50	87.42

Chapter VII

A few cases involving a financial effect of Rs. 17.91 lakh are mentioned in the following paragraph.

7.2 Non-observance of prescribed procedure

V (a)

Under the U.P. Electricity (Duty) Act, and the Rules made thereunder, any sum due on account of electricity duty or interest/penal duty, if not paid within the prescribed period to the State Government, shall be recoverable as arrears of land revenue.

It was noticed (July 1997) that U.P. Sugar Corporation acquired three Sugar Mills in July 1971 and six in October 1984. At the time of acquisition, these mills were defaulters in payment of electricity duty of Rs. 5.21 lakh and interest/penal duty of Rs. 7.35 lakh for the period between September 1970 and October 1984 which were to be recovered as arrears of land revenue, as required under the Rules. In contravention of the prescribed procedure, the realisable amounts were allowed to be adjusted from the compensation to be paid to these Sugar Mills. However, it has not been adjusted from the compensation till March 1998. Non-observance of prescribed procedure resulted in nonrealisation of electricity duty and interest/penal duty amounting to Rs. 12.56 lakh.

The matter was reported to the Government (May and July 1998); reply has not been received (September 1998).

(b) Under the provisions of Indian Electricity Act, 1910 read with Uttar Pradesh Electricity (Duty) Act, 1952 and the Rules framed thereunder, a licensee is required to deposit in the Government treasury the amount of duty payable by him within two calendar months following the close of the month in which the readings of meter are recorded and shall submit to the concerned Assistant Director (Electrical Safety) a copy of the treasury challan under intimation to the Director (Electrical Safety) in order to reach the latter within ten days of the expiry of two months. Interest at the rate of 18 per cent per annum shall be chargeable on the unpaid amount of electricity duty. If the amount of electricity duty or interest is not paid to the Government within the prescribed period, the electric supply line would be disconnected and arrears would be recoverable as arrears of land revenue.

During the audit of the office of the Divisional Electrical Engineer (Northern Railway) Moradabad, it was noticed (February 1997) that electricity duty amounting to Rs. 5.35 lakh, payable for energy consumed in residential colonies of two Railway stations (Hapur and Moradabad) during the period from January 1995 to December 1996

was not paid. The department neither disconnected the supply line nor issued recovery certificates to recover the amount of Electricity Duty and interest accrued thereon as arrears of land revenue.

The matter was reported to the Department and Government (May and July 1998). The department stated in its reply (July 1998) that a sum of Rs. 32.91 lakh (Electricity Duty payable for the month upto March 1996) has since been deposited on 8 August 1997 vide treasury challan No. S-5 (total amount deposited vide said treasury challan was Rs. 112.52 lakh which includes the above amount). The reply of Government has not been received (September 1998), although reminder had been issued again on 30 July 1998.

B. TAX ON PURCHASE OF SUGARCANE AND ADMINISTRATIVE CHARGES ON SALE OF MOLASSES

7.3 Results of audit

Test-check of accounts and relevant records of sugar factories and khandsari units, conducted in audit during the year 1997-98, brought out non-levy/short-levy of tax on purchase of sugarcane and administrative charges on sale and supply of molasses amount-ing to Rs. 0.87 lakh in 14 cases.

During the year 1997-98 the Department accepted under-assessment etc. of Rs. 5.83 lakh in 8 cases which were pointed out in audit in earlier years. A case involving financial effect of Rs. 103.44 lakh is given below:

7.4 Clearance of sugar without payment of purchase tax

Under Section 3-A of the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961, no owner of a sugar factory shall remove or cause to be removed any sugar produced in factory until he has paid the tax leviable on the purchase of sugarcane so consumed in the manufacture of sugar. Any contravention of the above provision makes the owner of the factory liable to pay, by way of penalty, in addition to the amount of tax, a sum not exceeding one hundred per cent of the total sum so payable. There is no provision in the Act empowering the Government to defer the payment of tax. The State Government, however, issued orders (December 1988) to defer the payment of tax on new sugar factories in Co-operative/Public sector during the first five years of their production, subject to the condition that a fund would be created every year and that the deferred tax will be paid in five equal instalments after the expiry of deferment period.

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During audit of the records of cane purchase tax of a Co-operative Sugar factory, in district Mau, it was observed (between September 1990 and June 1997) that the factory had cleared the sugar without payment of tax during the period 1984-85 to 1988-89 and 1992-93 to 1996-97

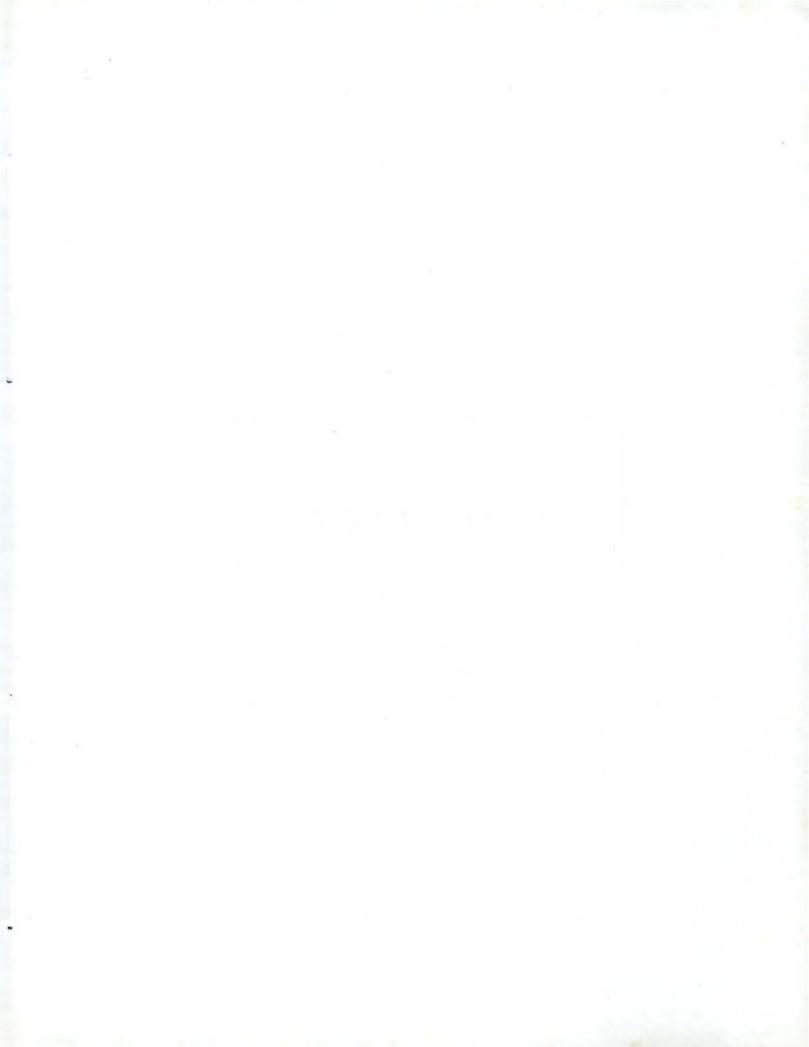
Sugar was cleared without payment of purchase tax of Rs. 1.03 crore by Co-operative Sugar Factory at Mau.

of Rs. 50.33 lakh and 147.95 lakh respectively, as being deferred by the Government (December 1988 and March 1993, from 1984-85 to 1988-89 and 1992-93 to 2005-06 respectively) without fulfilling the conditions of the deferment. The factory also continued to clear the sugar beyond the deferment period without payment of regular tax amounting to Rs. 53.11 lakh for the period 1889-90 to 1991-92 which was in contravention of the provisions of the Act. The outstanding tax of Rs. 103.44 lakh for the period 1984-85 to 1991-92 has not been paid so far (June 1998) besides, irregular deferment for the period 1992-93 to 2005-06 and nonfulfilling of the condition of deferment.

The matter was reported to the department/Government (March 1998); their replies have not been received (September 1998).



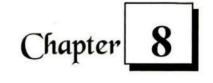
Forest Receipts



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Forest Receipts

8.1 Results of audit

Irregularities noticed during test-check of divisional records of Forest Department conducted in audit during 1997-98 broadly fall under the following categories:

SI.No.	Categories	No. of cases	Amount
1	Irregularities in extraction of resin	18	1016.15
2	Incorrect fixation of royalty	40	733.28
3	Loss of revenue due to non-registration of saw mills	09	19.25
4	Non-levy/short-levy of penalty	10	336.56
5	Irregularities in collection and disposal of tendu leaves	02	1.91
6	Non-realisation of lease rent	11	619.11
7	Miscellaneous irregularities	86	1458.50
	Total	176	4184.76

(Rupees in lakh)

During the course of the year 1997-98 the concerned department accepted underassessment etc. of Rs. 3154.73 lakh involved in 85 cases of which 66 cases involving Rs. 2428.92 lakh had been pointed out in audit during 1997-98 and rest in earlier years. A few illustrative cases involving Rs. 609.20 lakh are given in following paragraphs.

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8.2 Loss due to non-working of bamboo lots

According to General Conditions of Sale Rules for Vindhya Circle issued by Forest Department, U.P., the Uttar Pradesh Forest Corporation (UPFC) has to pay full royalty to the Forest Department for all the lots allotted to it whether it works on all, some or none of the lots.

Test-check of the records of Sonebhadra Forest Division, Mirzapur revealed (September 1997) that out of 20 bamboo lots allotted during the year 1996-97, the UPFC did not work on 16 lots. Thus against an estimated out turn of 122894.25 kori bamboos valued at Rs.43.71 lakh,

Loss of royalty amounted to Rs. 40.14 lakh due to non-working of bamboo lots.

it felled only 10027.25 kori and paid Rs.3.57 lakh towards royalty. The balance amount of Rs.40.14 lakh was not paid by the UPFC by way of mandatory royalty.

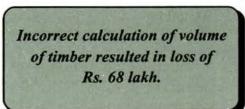
On this being pointed out (March 1998), the department raised the demand of Rs. 38.82 lakh in July 1998.

The matter was referred to Government in March 1998; reply had not been received (September 1998).

8.3 Loss of revenue due to incorrect calculation of volume of timber

For commercial exploitation, lots of timber are allotted to the Uttar Pradesh Forest Corporation (UPFC) and royalty is paid by the Corporation to the Forest Department at prescribed rates. Calculation of volume of timber is done on the basis of quality of species as approved in the working plan of the division. However, in case of fractional quality class the average of quality classes of timber will be taken for calculation of outturn.

During test-check of the records of the Divisional Forest Officer, South Gonda it was observed (February 1997), that during 1993-94 to 1995-96, twenty seven lots of sal trees were allotted to UPFC. As per the working plan these were categorised as II/III quality class and accordingly the volume should have been calculated as



average of categories II & III. But the volume of these lots was calculated by treating the

lots as of quality III. This resulted in short-calculation of volume of timber to the tune of 1781 cubic metre valued at Rs. 68 lakh.

The Government stated (July 1998) that wherever fractional quality class is mentioned in working plan, lower quality class will be used. The contention of the Government is not tenable in view of working plan already approved by the Government. This fact has further been confirmed by the Conservator of Forests, Working Plan Circle II, U.P. Nainital.

8.4 Illicit felling of trees

According to Conditions of Sale of Forest Produce the Uttar Pradesh Forest Corporation (UPFC), like other contractors, is liable to pay cost of the timber and penalty for the trees illicitly felled. The rate of penalty is three to five times the value of the trees depending on whether the felling was intentional or unintentional subject to a maximum of Rs.1000 per tree.

Test-check of the records of the Divisional Director, Social Forestry Division Jaunpur and Divisional Forest Officer, Garhwal Forest Division, Pauri-Garhwal revealed (January 1997 and May 1997) that the UPFC illicitly felled 1274 trees during the years 1992-93 to 1995-96. The department raised a demand of Rs.16 lakh (cost

Illicit felling of trees by UPFC resulted in loss of Rs. 26.88 lakh.

of timber Rs.14.05 lakh and penalty of Rs.1.95 lakh) against Rs.26.88 lakh (cost of timber Rs.18.24 lakh and penalty Rs.8.65 lakh). The demand raised by the department had also not been realised (March 1998).

The matter was referred to Government in August 1997 and May 1998; reply had not been received (September 1998).

8.5 Short-extraction of resin

Forest Division select trees for extraction of resin as per their working plan. Resin is extracted by setting up specified number of channels in the selected trees.

Test-check of records of nine divisions revealed (April 1997 to June 1997) that as per departmental norms, a total quantity of 44443 quintals of resin was to be extracted during the resin year 1996. The divisions could, however, extract only 19345 quintals of resin. This resulted in shortfall in extraction of 25098 quintals of resin valued at Rs. 4.47

Chapter VIII

crore at the rate of Rs. 1780 per quintal fixed by the department.

The Government stated (August 1998) that the shortfall in the production of resin was mainly due to adopting new system (rill system) of extraction of resin. The Government accepted the decrease of 11029 quintals in production. It was further stated that resin in those trees which could not be tapped is not destroyed but preserved in the trees.

The contention of the Government is not correct as the rill system was initially

started in the State since 1992 and these targets were fixed in accordance with the norms. Contention of the Government about preservation of resin in untapped trees was also not correct because Forest Research Institute (FRI), Dehradun had clarified that "The channels remaining untapped in a season do not give double

Short-extraction of resin resulted in loss of revenue of Rs. 4.47 crore.

the yield on tapping in the next season. In fact, there will hardly be any difference in the yield of resin."

8.6 Non-levy of royalty

With a view to increase the revenue of the department and to improve the management of forests, the Chief Conservator of Forests (Management) Uttar Pradesh, Nainital issued guidelines (June 1978) for calculation of outturn of timber lots allotted to Uttar Pradesh Forest Corporation (UPFC) as per volume factor given therein and to fix the royalty accordingly.

Test-check of records of Divisional Forest Officer, South Gonda revealed (Janu-

ary 1998) that 44577 trees of different species (36257 trees of 0-10 and 8320 trees 10-20 cm. diameter) were allotted during 1995-96 and felled by UPFC without paying any cost/royalty to Forest Department. The cost of these trees amounted to Rs. 27.18 lakh at the concessional rates prescribed by Conservator of Forest (CF)

Non-levy of royalty/cost against UPFC resulted in loss of Rs. 27.18 lakh.

Saryu Circle, Faizabad for villagers as well as commercial concerns.

The Government stated (August 1998) that timber is not found in the trees of 0-10 and 10-20 cm. diameter. These are allotted to UPFC for silviculture* of the forest. The Government also took the plea that the schedule of rates approved by CF in December 1993 was with a view to recover the cost of damages to forest by villagers and that these rates could not be applied to the UPFC.

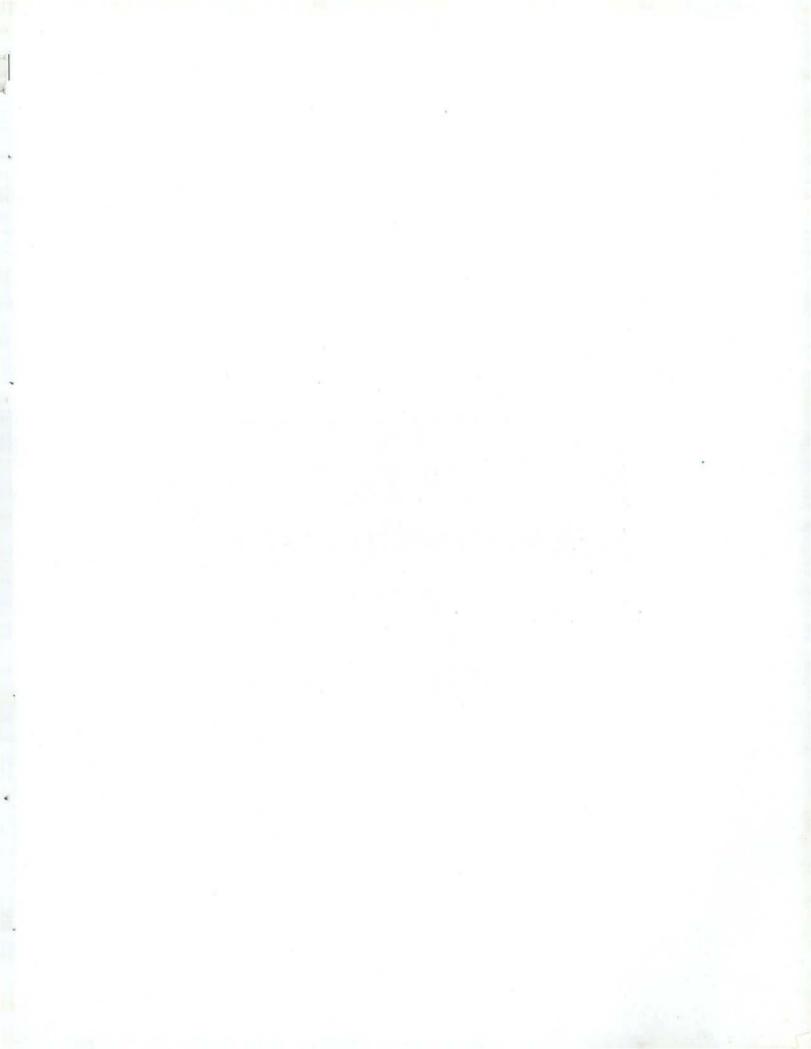
The reply is not tenable as the timber volume in 0-20 cm diameter trees is provided in the standing orders.

^{*} Thinning and pruning of forest for development of trees.





Other Departmental Receipts



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Other Departmental Receipts

A. CO-OPERATION DEPARTMENT

9.1 Results of audit

Test-check of records of the offices of Assistant Registrar, Co-operative Societies, conducted in audit during 1997-98 revealed irregularities involving Rs. 225.83 lakh in 35 cases which broadly fall under the following categories:

(Rupees in lakh)

SI. No.	Categories	No. of cases	Amount
1.	Non-deposit of collection charges	24	170.04
2.	Other irregularities	11	55.79
	Total	35	225.83

A few illustrative cases involving a financial effect of Rs. 131.74 lakh are mentioned below:

9.2 Non/short-deposit of collection charges

Under the U. P. Co-operative Societies Act, 1965 and the Rules framed thereunder, as amended from time to time, 10 per cent of the collection charges realised by the Co-operative societies from the beneficiaries of loans is to be deposited into the treasury under the appropriate head.

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During audit of 11 offices of Assistant Registrar, Co-operative Societies, it was noticed (between June 1996 and July 1997) that a sum of Rs. 11.38 lakh only was credited to Government account against Rs. 143.12 lakh (being 10 per cent of the total collection charges). The bal-

Rs. 131.74 lakh was kept out of Government account which was incorrect in terms of relevant Act.

ance of Rs. 131.74 lakh was, however, kept out of Government account which was incorrect in terms of relevant Acts and Rules. Details are given below:

SI. No.	Name of office	Period	Amount creditable to Government Account	Amount credited to Government Account	Amount short credited
1.	Assistant Registrar, Muzaffarnagar	1994-95 to 1996-97	11.94	1.19	10.75
2.	Assistant Registrar, Sitapur	1982-83 to 1996-97	11.06	0.56	10.50
3.	Assistant Registrar, Farrukhabad	1982-83 to 1996-97	16.82	0.97	15.85
4.	Assistant Registrar, Moradabad	1993-94 to 1996-97	10.61	0.79	9.82
5.	Assistant Registrar, Ghazipur	1982-83 to 1996-97	11.68	0.87	10.81
6.	Assistant Registrar, Chamoli	1992-93 to 1996-97	1.20	NIL	1.20
7.	Assistant Registrar, Dehradun	1994-95 to 1996-97	0.93	0.02	0.91
8.	Assistant Registrar, Nainital	1981-82 to 1996-97	30.69	2.40	28.29
9.	Assistant Registrar, Saharanpur	1982-83 to 1996-97	31.26	3.12	28.14
10.	Assistant Registrar, Hardoi	1982-83 to 1996-97	7.45	0.64	6.81
11.	Assistant Registrar, Hamirpur.	1979-80 to 1995-96	9.48	0.82	8.66
	TOTAL		143.12	11.38	131.74

(Rupees in lakh)

The matter was reported to the Department and Government (during December 1996, May 1997 and July 1998); their replies have not been received (September 1998).

B. PUBLIC WORKS DEPARTMENT

9.3 Results of audit

Test-check of the accounts and relevant records of Public Works Department, conducted in audit during the year 1997-98 revealed irregularities involving Rs. 304.44 lakh in 45 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	Number of cases	Amount
1.	Misutilisation of departmental receipts	4	3.52
2.	Non/short-levy of stamp duty	4	1.25
3.	Non-levy of centage charges	3	243.27
4.	Loss of revenue due to non-auction of empty maxphalt drums/gunny bags	6	4.63
5.	Other irregularities	28	51.77
	Total	45	304.44

A case involving a financial effect of Rs. 1.79 crore is mentioned in the following paragraph.

9.4 Short-levy of centage charges on contribution works

Under the provisions of the Financial Hand Book Volumes V and VI issued by the State Government to regulate financial matters, centage charges at uniform rate of 15 per cent of the actual outlay on works are to be levied and credited to Government account monthly in respect of all classes of contribution works undertaken by the Public Works and Irrigation Department on behalf of commercial departments, local bodies and private bodies in the State. However, the Central Government, under a permanent ar-

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rangement have ordered collection of centage charges at the rate of 21 per cent on all Central Government works executed through the agency of the Uttar Pradesh Public Works and Irrigation Department.

During audit of National Highway Division, Faizabad, it was noticed (June 1997) that centage charges amounting to Rs. 1.79 crore on contribution works, (construction of roads) valued at Rs. 14.92 crore undertaken by the division on behalf of

Centage charges of Rs. 1.79 crore on contribution work valued at Rs. 14.92 crore, undertaken on behalf of Central/State Government was not levied and realised during the year 1994-95 to 1996-97.

the Central/State Government during the years from 1994-95 to 1996-97 were not levied and realised.

The matter was reported to the Department and Government (January, February and July 1998). The Department stated (August 1998) that directions of Government are being called for and if received, action will be taken accordingly. The reply of the Government has not yet been received (September 1998).

C. MINES AND MINERALS DEPARTMENT

9.5 Results of audit

Test-check of the accounts and relevant records of District Mines Offices conducted in audit during the year 1997-98, revealed short-levy of royalty on mines and minerals amounting to Rs. 908.54 lakh in 10524 cases which broadly fall under the following categories (1992-93 to 1996-97):

(Rupees in lakh)

Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation of royalty and fine	1	119.21
2.	Incorrect determination of lease amount	1	79.07
3.	Non-levy/short-levy of stamp duty against mining lease	1	25.17
4.	Non-levy of interest on belated payment of royalty	1	7.85
5.	Non-levy of royalty and application fee on brick earth in 15 districts	10520	677.24
	Total	10524	908.54

9.8.

A few illustrative cases involving Rs. 908.54 lakh are given below:

9.6 Non-realisation of royalty and fine

Under the provisions of Mines and Minerals (Regulation and Development) Act, 1957, whenever any person extracts without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral had already been disposed of, the price thereof, and may also recover from such person rent, royalty or tax as the case may be at the rate fixed by State Government from time to time for the period during which the land was occupied by such person without any lawful authority. Further, under the provisions of U.P. Minor Minerals (Concession) Rules, 1963, he shall be punishable with imprisonment of either description for a term which may extend upto six months or with fine which may extend to Rs 1000 or with both.

During the test-check of records of Mines Office at Sonebhadra and Orai districts it was noticed (November 1997) that in 319 cases various materials falling under minor minerals were extracted quarry illegally between the period from February 1992 to September 1997 without obtaining permit. The royalty and compounding fees

In two districts (Sonebhadra and Orai) royalty and compounding fees amounting to Rs. 119.21 lakh were neither assessed nor realised.

were neither assessed nor realised. This resulted in non-realisation of compounding and royalty of Rs. 119.21 lakh (including fine of Rs. 3.19 lakh).

The matter was reported to the Department and Government (May and July 1998); their replies have not been received (September 1998).

9.7 Incorrect determination of lease amount

Under the provisions of Rule 14 of U.P. Minor Minerals (Concession) Rules, 1963 as amended on 2 February 1995 and circular dated 25 May 1995, lease amount in respect of sand/morum shall be determined on the basis of the average of the amount received during the last three years from that area or the amount received in the preceding year from such area whichever is higher. In respect of sand, bazari and boulder as well as any of these in a mixed state, it is to be determined on the basis of the highest amount received during the last three years. Any area being mined for the first time or the revenue not being derived for the last three years from that area due to any reason, the lease amount will be calculated on the basis of dead rent as per rates in the Second Schedule.

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During audit of 4 District Mines Offices (Gorakhpur, Unnao, Jhansi, and Maharajganj), it was noticed (between November 1997 and January 1998) that lease

amounts for sand mining leases for various lease periods (between April 1994 and November 2000) were not calculated as per instructions and provisions of U.P. Minor Minerals (Concession) Rules, 1963 resulting in loss of revenue of Rs. 79.07 lakh.

Incorrect determination of lease amount resulted in loss of revenue of Rs. 79.07 lakh.

The matter was reported to the Department and Government (May and July 1998); their replies have not been received (September 1998).

9.8 Non-/short-levy of stamp duty against mining lease

An instrument of lease is chargeable with duty and fee under the Indian Stamp Act, 1899. Article 35 of Schedule I-B of the said Act provides that "where the lease is granted for a fine or premium or for money advanced and where no rent is reserved", the stamp duty will be charged as per rate of conveyance for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

During test-check of records of 6 District Mines Offices*, it was noticed (between September 1997 and January 1998) that 12 instruments of mining lease deed were executed between April 1993 and November 1997. Of these stamp duty of Rs.

Non-/short-levy of stamp duty against mining lease resulted in loss of Rs. 25.17 lakh.

19.95 lakh was levied short due to misclassification of 8 deeds and in four cases stamp duty amounting to Rs. 5.22 lakh was not levied at all. This resulted in short-levy/non-levy of revenue of Rs. 25.17 lakh.

The matter was reported to the Department/Government (May and July 1998); their replies have not been received (September 1998).

9.9 Non-levy of interest on belated payments of royalty and other Government dues

Uttar Pradesh Minor Minerals (Concession) Rules, 1963 lay down that the State Government or any officer authorised by it may determine the mining lease after serving a notice on the lessee to pay within thirty days after the receipt of the notice, any amount

^{*} Maharajganj, Kanpur city, Unnao, Gorakhpur, Mirzapur and Jhansi.

due on dead rent under the lease including the royalty due to the State Government and if it was not paid within fifteen days after the date fixed for such payments, simple interest at the rate of 24 per cent is leviable.

During audit of 6 District Mines Offices^{*} it was noticed (between October 1997 and December 1997) that in 45 cases, payments of royalty were made after delay of period ranging from 34 to 2251 days but interest was not levied, which resulted in loss of revenue to Government amounting to Rs. 7.85 lakh.

Non-levy of interest on belated payments of royalty and other Government dues resulted in loss of revenue of Rs. 7.85 lakh.

On this being pointed out in audit the Department stated that the interest in 36 cases amounting to Rs. 4.99 lakh would be realised. Reply in remaining cases has not been received (September 1998).

The mater was reported to the Government (July 1998); their replies have not been received (September 1998).

9.10 Non-levy of royalty and application fee on brick earth

By a notification issued in June 1958, Government of India declared brick earth as a minor mineral and royalty was fixed accordingly by the Industries Department, Government of U.P. through various notifications issued from time to time. Presently, a lump sum rate of royalty payable in advance has been fixed according to the location of the brick kiln (urban or rural) and the zone in which the kiln is located** in addition to an application fee of Rs. 400 for grant of mining permit for manufacturing bricks.

As per the circular of the Director, Geology & Mining dated 24 September 1997, the Mining Officer is to collect the list of brick kiln operators from the Trade Tax department and issue notices to defaulters***. A test-check of the records of 15 districts[#] revealed that 10520 brick kilns had been run-

Government was deprived of Rs. 6.77 crore due to non-levy of royalty and application fee on brick earth.

 ^{*} Lalitpur, Jhansi, Sonebhadra, Kanpur city, Hamirpur and Mirzapur.

^{**} Three zones i.e. western, central and eastern zones vide G.O. no. 1773/18-12-85/76 dt. 27.3.82

^{***} Who are running brick kilns without obtaining permit from Mines department.

[#] Maharajganj, Sonebhadra, Gorakhpur, Kanpur city, Kanpur Dehat, Lucknow, Allahabad, Jaunpur, Meerut, Ballia, Hamirpur, Mirzapur, Bareilly, Nainital and Varanasi.

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ning without obtaining proper permit from the department during the period 1992-93 to 1996-97 as per cross check of the records of Mines Department and the list procured by audit from the Trade Tax Department. The State Government was thus deprived of revenue of Rs. 677.24 lakh (royalty Rs. 635.16 lakh and application fee Rs. 42.08 lakh) and the department was unaware of this fact. On this being pointed out in audit the department stated (May 1998) that the royalty would be recovered after obtaining details of such brick-kiln owners from the Trade Tax Department.

D. POLICE DEPARTMENT

9.11 Results of audit

Test-check of accounts and relevant records of Police Department conducted in audit/review during the year 1997-98 revealed irregularity involving a financial effect of Rs. 177.70 crore involved in 43 cases which broadly fall under the following categories:

Sl. No.	Categories	No. of cases	Amount
1.	Non-reimbursement of police cost on agency functions and police deployed in other states.	2 1	466.70 12656.09
2.	Non-realisation of police cost and escort charges	14	430.45
3.	Non-assessment of police cost	11	108.17
4.	Non-reimbursement of cost of GRP deployed on Railways	2	2499.62
5.	Non-receipt of auction money of condemned vehicle from UPSRTC	1	145.47
6.	Non-recovery of amount pointed out in internal audit	1	1349.00
7.	Other irregularities	11	114.31
	Total	43	17769.81

(Rupees in lakh)

The details of the above mentioned cases are given in the succeeding paragraphs.

9.12 COLLECTION OF RECEIPTS UNDER POLICE DEPARTMENT

9.12.1 Introduction

Receipts of the Police Department comprise mainly recovery of expenditure on cost of police personnel provided to the Central Government, Public Undertakings, Banks or other bodies within the State of Uttar Pradesh towards guarding treasure/chest/remittances or performing "Watch and Ward" duties either permanently or as temporary measure. Incidence of recovery by the Department from other Governments also arises for discharging agency functions such as registration and surveillance of foreigners, international border check-post duties, maintenance of law and order in other states in unusual circumstances and at the time of elections.

Some other police receipts relate to recoveries under the Indian Arms Act, 1959, as well as those arising from sale of unserviceable goods/vehicles and unclaimed confiscated goods besides composition fee under the Police Act, 1861 for violation of traffic Rules.

The system of assessment, collection and accounting of receipts are governed by 5 principal Acts*, regulations made thereunder, Government orders issued from time to time and provisions of the Uttar Pradesh Treasury Rules. Cost of police personnel includes pay and allowances and other direct and indirect expenditure incurred on them. Demand for the cost of deployment of permanent police guard is raised in advance on quarterly basis while escort charges for providing police personnel as temporary measures are realised in advance.

9.12.2 Organisational set-up

Subject to overall control and superintendence of the Home (Police) Department, Government of Uttar Pradesh, the Director General of Police, Uttar Pradesh is the head of the Uttar Pradesh Police. The Director General of Police is assisted by the Additional Director General, Inspectors General at Zonal levels, Deputy Inspectors General in-charge of ranges and Superintendents of Police at district level. The responsibility for assessment and collection of police cost lies with the Director General of Police for deployment of police personnel for Railways and duties outside the State and with the Superintendents of Police of each district within the State.

^{*} The Police Act, 1861, Police Manual, Police Regulation, Indian Arms Act, 1959, and the Motor Vehicles Act, 1988.

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9.12.3 Scope of audit

With a view to evaluate the efficiency and effectiveness of the system and procedure for assessment and collection of receipts under the Police Department, records for the years 1993-94 to 1997-98 of eighteen districts of Superintendents of Police out of the 83 districts as on May 1997 in the State in addition to the offices of the Director General of Police, Uttar Pradesh, Inspectors General of P.A.C. and Government Railway Police were test-checked between April 1997 and November 1997.

9.12.4 Highlights

 Police cost of Rs. 4.67 crore on agency functions was not claimed for reimbursement and Rs. 126.56 crore for deployment of police in other States was not reimbursed by the respective Governments.

(Paragraph 9.12.7)

 (ii) Rates of police cost were revised in October 1992 but in 6 districts assessment was being done on pre-revised rates which resulted in short-billing of Rs. 38.21 lakh.

(Paragraph 9.12.8 (A))

(iii) In five districts assessment of police cost was not done which resulted in nonrealisation of revenue of Rs. 108.17 lakh in 8 cases.

(Paragraph 9.12.8 (B))

(iv) The cost of GRP was to be shared between State Government and Railways on 50:50 basis. A sum of Rs. 24.53 crore for the period from October 1991 to March 1998 remained unrecovered from Railways.

(Paragraph 9.12.9 (i))

 (v) Computation mistake of the cost of GRP led to short billing of Rs. 46.62 lakh to Railways.

(Paragraph 9.12.9 (ii))

(vi) Police cost amounting to Rs. 23.36 lakh in respect of 3 cases escaped assessment due to lack of co-ordination between two wings of the Police Department in 3 districts.

(Paragraph 9.12.10)

(vii) Recovery pointed out in Internal Audit amounting to Rs. 13.49 crore for the period 1992-93 to 1996-97 was not realised by the Drawing and Disbursing Officers.

(Paragraph 9.12.13)

(viii) Auction money of condemned vehicles amounting to Rs. 1.45 crore remained unrecovered from UPSRTC due to lack of follow up action.

(Paragraph 9.12.14)

9.12.5 Trend of revenue

The Budget estimates and amounts of revenue actually collected on account of police receipts during the last 5 years ended March 1997 are furnished below:

Receipts Sub heads	Budget Estimates(E) Actuals (A)	1992-93	1993-94	1994-95	1995-96	1996-97
Police supplied to other	E	743.12	837.52	945.54	2511.36	2613.01
Governments	A	974.36	690.59	Nil	937.55	2113.91
Fees, fines and forfeiture	E	31.00	31.00	34.00	40.00	40.00
	A	31.84	31.90	233.50	40.00	6.08
Receipts under the	E	25.00	18.00	25.00	30.00	30.00
Arms Act	A	25.00	18.01	134.88	30.00	30.00
Receipts of State Head quarters police	E A	0.01	0.03 0.63	0.03 101.31	0.03 0.03	30.00
Other receipts	E	646.45	700.00	1251.00	1431.00	1421.17
	A	1772.93	2029.03	1367.82	2101.18	3852.82
Total	E	1445.57	1586.55	2255.57	4012.39	4134.18
	A	2804.14	2770.16	1837.51	3108.76	6002.81

(Rupees in lakh)

(Rupees in lakh)

Receipts Sub heads	Budget Estimates(E) Actuals (A)	1992-93	1993-94	1994-95	1995-96	1996-97
Refunds	E A	NIL 26.65	NIL 28.94	NIL 45.19	NIL 46.77	45.40
Net Receipts	E A	1445.57 2777.49	1586.55 2741.22	2255.57 1792.32	4012.39 3061.99	4134.18 5957.41
Percentage of variation		(+) 92.14	(+)72.78	(-)20.54	(-)23.69	(+) 44.10

During the years 1992-93 to 1996-97, the variation between the budget estimates and actuals was more than ten per cent which indicates that the estimates were not framed properly.

9.12.6 Arrears

Government orders stipulate that the cost of police guards provided to banks/ units or for personal use should be recovered in advance. For recoveries other than the cost of guards, Police Act and Regulation do not prescribe any time limit for payment of demand. Provision for charging interest for delay in payment/non-payment of arrears dues as well as invoking the provisions of the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 do not exist in the Act and Rules governing police receipts. As a result, a sum of Rs.164.58 crore remained unrealised from other Governments, bodies and individuals, due to the aforesaid lacuna in the Acts and Rules as detailed below :

(Rupees in crore)

Category	Period	Amount
Other Governments	1966-67 to 1996-97	126.56
Railways	1991-92 to 1996-97	24.53
Individuals as pointed out in internal audit	1992-93 to 1996-97	13.49
Total		164.58

9.12.7 Non-reimbursement of police cost on agency functions and police deployed in other States

(A) Under the existing arrangement, the Government of Uttar Pradesh discharges agency functions on behalf of the Government of India by deploying additional police force on Indo-Nepal and Indo-Tibetan border check-posts. Expenditure incurred by the State Government on police personnel staff carrying agency functions is reimbursable by the Government of India.

Review of records revealed that Police Headquarters, Uttar Pradesh, had not preferred any claim for reimbursement of expenditure incurred by the State Government on police personnel performing agency functions* on behalf of the Central Government resulting in nonreimbursement of Rs. 4.67 crore for the period from 1991-92 to 1997-98.

Police cost of Rs. 4.67 crore on agency functions and Rs. 126.56 crore for deployment of police in other State was neither claimed nor reimbursement received.

(B) Cost of police personnel is reimbursable when the State Armed Police is deployed in other States for maintenance of law and order in unusual circumstances and at the time of elections. Rs. 126.56 crore pertaining to the period from 1966-67 to 1997-98 for deployment of Armed Police in other States was pending for recovery from other State Governments and Government of India.** Of this, bills for Rs.125.61 crore were not raised against the respective Governments.

9.12.8 Assessment of police cost

(A) According to the provisions of Police Regulations, the cost of deployment of police force permanently to different organisations shall consist of pay, special pay, dearness allowance, city com-

Realisation of Police cost at prerevised rates resulted in shortbilling of Rs. 38.21 lakh.

pensatory allowance, washing allowance, leave salary and pension contributions,

^{*} Deployment of police on Indo-Tibet border and at international border.

^{**} Bihar (Rs.93.72 lakh), Assam (Rs.483.41 lakh), Punjab (Rs.141.52 lakh), West Bengal (Rs.8.45 lakh), Meghalaya (Rs.19.30 lakh), Nagaland (Rs.40.44 lakh), Tripura (Rs.173.71 lakh), Rajasthan (Rs.20.64 lakh), Haryana (Rs. 78.07 lakh), Jammu and Kashmir (Rs. 40.44 lakh), Himachal Pradesh (Rs.37.06 lakh) and Government of India (Rs.11519.44 lakh).

hill compensatory allowance, clothing charges, adhoc bonus, leave compensation, etc. at the prescribed rates, applicable from time to time.

Uttar Pradesh Police Headquarters, Allahabad, fixed the rates for recovery of cost of police guards in September 1984. On the revision of pay scales of police personnel wef. 1 January 1986 the department should have revised the rates of police cost from that date but the rates were revised from October 1992 only.

In the course of test-check of records of the Superintendents of Police of six districts^{*}, it was further noticed that the assessment of police cost was still being done on the basis of pre-revised rates. This resulted in short-billing of Rs. 38.21 lakh from October 1992 to June 1997.

On this being pointed out, all the districts police heads stated that bills for revised claims would be issued to the respective units.

(B) Under the provisions of the Police Regulations, cost of police guards permanently deployed in different organisations like Banks, Central Government departments, Central and State

Non-assessment of Police cost in 5 districts resulted in non-realisation of revenue of Rs. 108.17 lakh.

Undertakings etc. is determined by the Superintendents of Police of the concerned districts and demand raised accordingly.

In the course of test-check of records of the Superintendent of Police of five districts^{**}, it was noticed that in 8 cases no action was taken to assess and recover the police cost for various periods between April 1987 and September 1997. This resulted in non-realisation of revenue amounting to Rs. 108.17 lakh.

In reply, it was intimated by the department that the assessment would be done and recovery effected.

^{*} Lucknow, Gorakhpur, Deoria, Faizabad, Bareilly and Meerut.

^{**} Lucknow, Faizabad, Moradabad, Varanasi and Aligarh.

9.12.9 Short/Non-reimbursement of cost of Government Railway Police (GRP) deployed on Railways

 (i) As per provisions of the Government Accounting Rules, 1990 read with Government of India, Ministry of Railways (Railway Board) letter dated 22 February 1993 with effect from 1 April 1979, the cost of GRP was to be shared be-

A sum of Rs. 24.53 crore for the period from October 1991 to March 1998 remained un-recovered from Railways.

tween the State Government and Railways on 50:50 basis provided that the strength of GRP was determined with the approval of Railways. Uttar Pradesh Police Department has claimed cost on the above basis from various Railway zones* but claims for the period from October 1991 to March 1998 amounting to Rs. 24.53 crore were still to be reimbursed (September 1998).

(ii) The cost of pensionary charges is also to be included while calculating the cost of pay and allowances to be shared between the Police Department and Railways with regard to GRP. During scru-

Computation mistake of the cost of GRP led to short billing of Rs. 46.62 lakh to Railways.

tiny of records of the office of Inspector General of Police (GRP), it was noticed that pensionary charges were being included at the rate of 10 per cent of the maximum of the time scales of each category of employees. However, while calculating the pensionary charges, a demand of Rs. 209.28 lakh was raised instead of Rs. 255.90 lakh. This resulted in short-billing of Rs. 46.62 lakh for the period from 1 July 1992 to 31 December 1996.

In reply, the Department stated (June 1997) that the sanctioned strength had changed frequently during the above period which was not taken into account while calculating the pensionary charges. Bills to concerned Railways were issued in November 1997 but payment was not received till date (September 1998).

9.12.10 Non-recovery of Police cost due to lack of co-ordination

According to sanction order issued by the Government from time to time, deployment of police force for permanent duty is made by the Reserve Inspectors of the

[#] Northern, North East, Central, Western and Eastern Railways.

Chapter IX

Police Lines of the districts while the assessment of cost and recovery is made by the Superintendents of Police in the districts.

During cross-verification of records of the Superintendents of Police and Reserve Inspectors of 3 districts, it was noticed that in 3 cases police forces were permanently deployed between April 1992 and March 1997. The assessing authorities had, however, taken no action to assess and recover the cost. Thus, due to lack of co-ordination between the two wings, police cost amounting to Rs. 23.36 lakh remained unassessed and unrecovered.

9.12.11 Under-assessment of Police cost due to short/non-inclusion of allowances

The cost of deployment of Police force to different organisations shall include DA, HRA, *paushtic aahar* (nutritious diet) allowance and interim relief, sanctioned by the Government from time to time. As and when the rates of these allowances are changed, the assessment of demand should have been done accordingly.

During the scrutiny of records of the offices of Superintendents of Police of seven districts^{*}, it was noticed that Police cost was claimed at pre-revised rates of DA during the period between October 1992 and June 1997, without taking into account the increase in the rates of DA. This resulted in short-realisation of Police cost amounting to Rs. 13.07 lakh.

In the offices of the Superintendents of Police, Sitapur and Aligarh, the amount of HRA was not taken into account, while claiming the Police cost from the organisations, during the period October 1992 to March 1997. Similarly, in the office of the Superintendent of Police, Dehradun, *paushtic aahar* allowance and interim relief were not included in the bills during January 1993 to December 1996. This resulted in short-billing to the extent of Rs. 9.30 lakh.

9.12.12 Non-realisation of police cost and escort charges

(A) Government orders stipulate that the cost of Police guards provided to Banks/ units or for personal use, should be recovered in advance. If armed guard is posted

^{*} Lucknow, Kanpur Nagar, Kanpur Dehat, Deoria, Sitapur, Dehradun and Aligarh.

for more than three months, the cost should be recovered in advance on quarterly basis. However, in the following cases, the Government orders were not implemented :

Nature of security	Beneficiaries	Period of arrears	Amount
Armed guards	Banks/Government institutions	April 84 to September 97	400.86
Escorts/gunners/shadows	Individuals	May 97 to December 97	7.05
Armed guards	Press	May 85 to March 87	2.20
Armed guard/shadow	Mill owner	January 86 to March 88	1.66
Total			411.77

(Rs. in lakh)

(B) A contingent of police force comprising 4 Additional Superintendents, 26 Deputy Superintendents, 19 Inspectors, 296 Sub Inspectors, 958 Head Constables, 223 Constables and 29 Platoons of PAC was deployed by the Senior Superintendent of Police, Agra for security of life, property, maintenance of law and order and to regulate traffic for the musical entertainment programme presented by the musician 'Yanni' at the Taj Mahal, Agra in March 1997.

As per Police Manual/Regulation deployment of police force for such private entertainment can be provided against payment, but no payment was charged for deployment of police force for the musical programme of 'Yanni'. The cost recoverable worked out to Rs. 18.68 lakh, for three days (21, 22 and 23 March 1997).

9.12.13 Non-recovery of amount pointed out in Internal Audit

Internal Audit Cell in the Police Headquarters, Allahabad has pointed out over payments/short-recoveries of Rs. 13.49 crore during the period 1992-93 to 1996-97. It was noticed in audit that no proper follow up action to recover the

Recovery pointed out in Internal Audit amounting to Rs. 13.49 crore for the period from 1992-93 to 1996-97 was not realised by the department.

amount/fix responsibility for overpayments/short-recoveries was taken by the department.

Chapter IX

9.12.14 Non-receipt of auction money of condemned vehicles from UPSRTC

Uttar Pradesh Government in their order dated 17 December 1990, formulated a procedure for disposal of condemned vehicles of Government departments. According to this order, condemned vehicles of Government departments were to be auctioned by the UPSRTC Regional Office, Lucknow/Meerut. Out of the bid money received, 10% was to be retained by the UPSRTC as service charges and the balance 90% was to be remitted immediately to respective departments for crediting the same under their respective receipts heads.

During the scrutiny of records of the Senior Superintendent of Police of the districts and Commandants of PAC battalions, it was seen that no records were maintained regarding vehicles handed over to UPSRTC for disposal. A consoli-

Auction money of condemned vehicles amounting to Rs. 1.45 crore remained un-recovered from UPSRTC due to lack of follow up action.

dated list of vehicles auctioned was also not available at UPSRTC Headquarters. A list of auctioned vehicles was compiled in audit on the basis of records available in UPSRTC Headquarters and their Regional Offices at Lucknow and Meerut and it was noticed that 401 vehicles of Police Department were auctioned during the period from September 1991 to May 1997 and a total amount of Rs. 161.64 lakh was realised but ninety per cent of auction money i.e. Rs. 145.47 lakh was not remitted to the police department. No monitoring was done by Police Department which resulted in non-recovery of this amount.

9.12.15 Non-receipt of cost of night armed guards from UPSRTC

On a request made by the Managing Director, UPSRTC in his letter dated 12 January 1988, the Government vide order dated 3 June 1988 decided to deploy armed guards on UPSRTCs night service buses on sensitive routes as specified by the Managing Director in his above referred letter. The expenditure on these guards was to be met by the UPSRTC through their respective Regions/Depots.

A sum of Rs. 30.37 lakh payable by the UPSRTC Regional Offices of Dehradun, Pauri Garhwal and Etawah for the period from April 1988 to September 1996 was still pending (September 1998).

The matters were reported to Department/Government (August 1998); their replies have not been received (September 1998).

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Countersigned

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