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REPORT

OF THE

**Comptroller and Auditor General
of India**

for the year 1987-88

(Revenue Receipts)

No. 1 of 1989

Government of Himachal Pradesh

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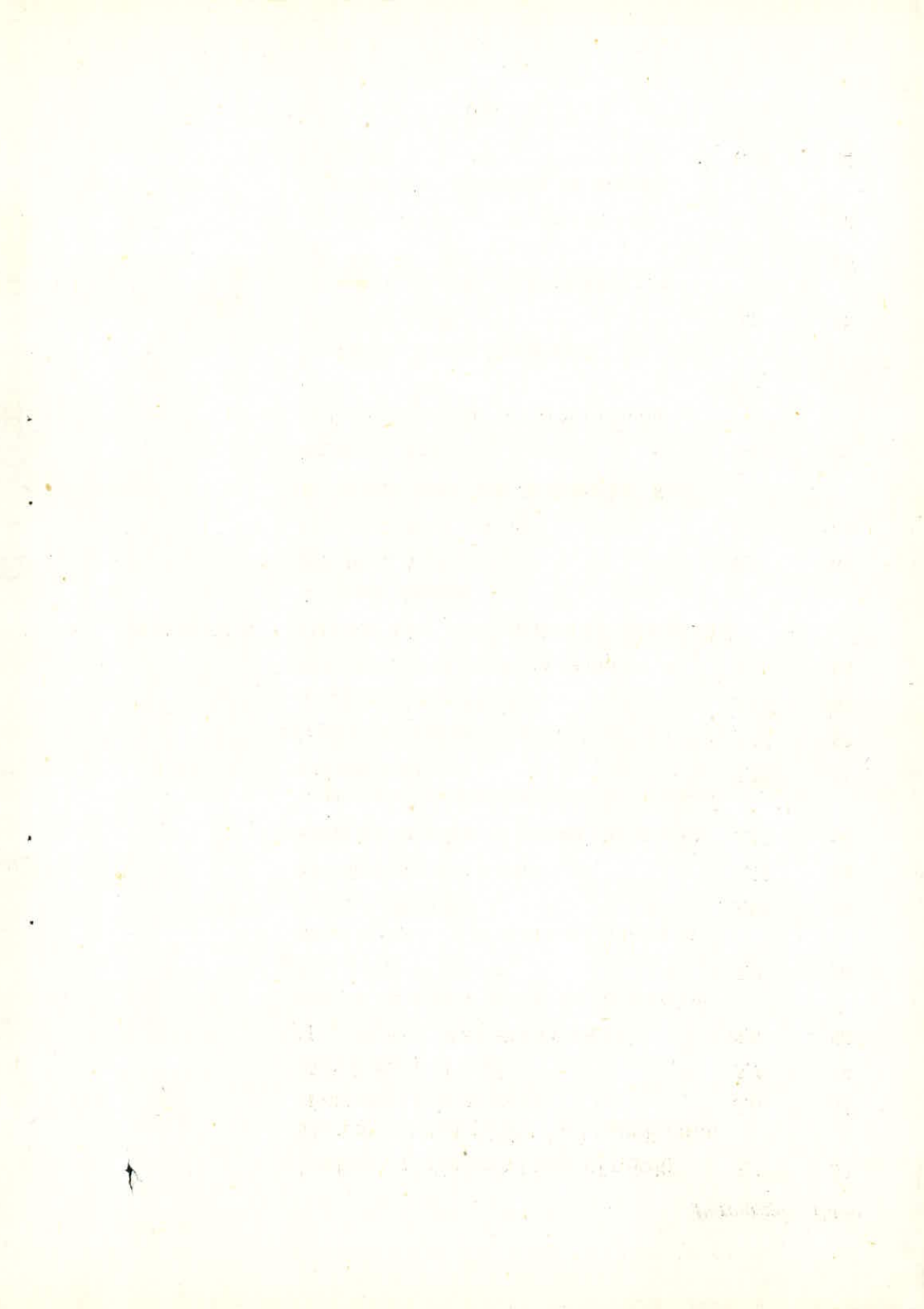
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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Himachal Pradesh for the year 1987-88 is presented in this separate volume. The Report has been arranged in the following order :—

- (i) Chapter 1 refers to the trend of revenue receipts, classifying them broadly under tax revenue and non-tax revenue, the variations between Budget estimates and the actual receipts under principal heads of revenue, the revenue in arrears for collection and the audit objections and inspection reports outstanding for settlement.
- (ii) In Chapters 2 to 6 are set out some of the interesting irregularities, which came to notice in audit during test check of records relating to Sales Tax, State Excise, Taxes on Goods and Passengers, Forest Receipts and Other Tax and Non-tax Receipts.



OVERVIEW

1. General

(i) The total receipts of the Government for the year 1987-88 were Rs. 649.81 crores. Revenue raised by Government during the year was Rs. 174.91 crores, of which Rs. 103.28 crores represented tax revenue and Rs. 71.63 crores non-tax revenue. Government also received Rs. 142.58 crores as State's share of divisible Union taxes and Rs. 332.32 crores as grants-in-aid from the Government of India. Receipts under Sales Tax (Rs. 39.16 crores) and State Excise (Rs. 30.67 crores) account for a major portion of receipts of tax revenue and under non-tax revenue, main receipts were from Forestry and Wild Life (Rs 26.27 crores). (Para 1.1.)

(ii) Sales tax assessment cases pending finalisation at the end of the year 1987-88 were 25,043. (Para 1.4.)

(iii) The arrears of revenue pending collection as on 31st March 1988 amounted to Rs. 46.60 crores, of which Rs. 35 crores pertained to the Forest Department. (Para 1.6.)

(iv) 1,972 audit inspection reports, containing 6,697 objections with money value of Rs. 52.60 crores, issued upto 31st December 1987 were not settled upto 30th June 1988. (Para 1.8.)

(v) As a result of test audit conducted during 1987-88, under-assessments and losses of revenue amounting to Rs. 6.69 crores were noticed. The under-assessments/losses of revenue relate to Sales Tax (Rs 0.72 crore), State Excise (Rs. 0.25 crore), Passengers and Goods Tax (Rs. 0.09 crore), Forest Receipts (Rs. 5.11 crores) and Other Tax and Non-tax Receipts (Rs. 0.52 crore).

(vi) This report includes representative cases of non-levy/short levy of tax, duty, interest, penalty etc. and findings of 2 reviews involving a financial effect of Rs 4.06 crores noticed during test check in 1987-88 and earlier years. Of this, under-assessment of Rs. 0.52 crore was accepted by the department of which Rs. 0.18 crore was recovered till December 1988.

(vii)

2. Sales Tax

(i) The review on "Delay in re-assessing remanded cases" brings out that no time limit has been prescribed under the Himachal Pradesh General Sales Tax Act, 1968, for completion of re-assessment of the cases remanded by appellate authorities. Out of 452 remanded cases, re-assessment of 189 cases involving tax of Rs. 19.33 lakhs was finalised after delay of one month to more than 5 years and re-assessment of 127 cases involving tax of Rs. 51.93 lakhs had not been finalised even though remand orders were passed one year to more than 5 years earlier. Besides, in 15 cases remanded during December 1978 to September 1984, the assessing authorities were not even aware of the remand orders till pointed out in audit in January 1988 to April 1988. (Paras 2.2.6 and 2.2.7.)

(ii) In Kangra district, a bogus dealer evaded sales tax amounting to Rs. 7.14 lakhs. (Para 2.3.)

(iii) Incorrect grant of exemption/concession to five industrial units resulted in tax being under-assessed by Rs. 6.99 lakhs. (Para 2.4.)

(iv) In seven districts, department's failure to detect suppression of purchases/sales by 16 dealers resulted in tax/penalty being under-assessed by Rs. 13.56 lakhs. On this being pointed out in audit, the department raised demands of Rs. 12.04 lakhs in respect of nine dealers, out of which a sum of Rs. 8.94 lakhs has since been recovered (December 1988). (Para 2.5.)

3. State Excise

As per norms fixed by Government, there was a shortfall in the production of whisky extracted from malt in a distillery during the year 1986-87 to the extent of 89,254 proof litres involving excise duty amounting to Rs. 19.64 lakhs. (Para 3.2.)

4. Taxes on Goods and Passengers

In respect of 342 private vehicles, in nine districts, which were registered with the Transport Department but were not got registered with the Excise and Taxation Department, goods tax amounting to Rs. 14.92 lakhs for years 1982-83 to 1986-87 remained unpaid. Penalty

upto Rs. 22.38 lakhs could also be levied for failure to get the vehicles registered with the Excise and Taxation Department. [Para 4.2(i).]

5. Forest Receipts

(i) The review on "Tapping of resin blazes by Himachal Pradesh State Forest Corporation" revealed that (a) defective/unscientific tapping during the period 1982-83 to 1986-87 of resin in ten divisions by the Corporation resulted in a loss of royalty of Rs. 1.88 crores, besides sales tax amounting to Rs. 51.75 lakhs, due to less realisation on sale of damaged trees sold in salvage marking, (b) purchase of resin blazes instead of extracted resin from private owners by the Corporation at higher rates than the rates paid for Government-owned blazes resulted in short realisation of royalty of Rs. 2.97 crores and (c) the delayed finalisation of royalty rates had led to accumulation of arrears of Rs. 2.83 crores due from the Corporation. [Paras 5.2.5 (a), 5.2.7 and 5.2.10.]

(ii) An amount of Rs. 43.15 lakhs on account of excess extraction of timber (attributable to illicit felling of trees) was not demanded from the Corporation. [Para 5.3(a).]

(iii) Royalty of timber amounting to Rs. 11.17 lakhs was recovered short from the Corporation. (Para 5.4.)

(iv) Due to application of incorrect rates of royalty for timber supplied to the Corporation, an amount of Rs. 7.68 lakhs was charged short. (Para 5.5.)

(v) In Parbati forest division, due to application of incorrect volume factor, royalty etc., amounting to Rs. 7.64 lakhs was less charged from the Corporation. (Para 5.6.)

(vi) Failure of the department to act in accordance with the lease terms resulted in non-recovery of Government dues amounting to Rs. 10.37 lakhs from the forest lessee. (Para 5.16.)

6. Other Tax and Non-tax Receipts

Deficient provisions in the State Stamp Act resulted in non-recovery/short recovery of stamp duty in 313 cases involving Rs. 6.26 lakhs for the periods between 1972 and 1986. (Para 6.4.)

the following provisions shall apply to the said provisions of the Act, namely:—

(a) The provisions of the Act shall apply to the said provisions of the Act, namely:—

(b) The provisions of the Act shall apply to the said provisions of the Act, namely:—

(c) The provisions of the Act shall apply to the said provisions of the Act, namely:—

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(r) The provisions of the Act shall apply to the said provisions of the Act, namely:—

(s) The provisions of the Act shall apply to the said provisions of the Act, namely:—

(t) The provisions of the Act shall apply to the said provisions of the Act, namely:—

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Himachal Pradesh during the year 1987-88, the share of taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below. The trend of revenue receipts during these years is also exhibited in Figure 1.

	1985-86	1986-87	1987-88
	(In crores of rupees)		
I. Revenue raised by the State Government			
(a) Tax revenue	73.65	92.40	103.28
(b) Non-tax revenue	65.48	53.26	71.63
Total	139.13	145.66	174.91
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	101.30	121.42	142.58
(b) Grants-in-aid	278.78	266.75	332.32
Total	380.08	388.17	474.90
III. Total receipts of the State Government (I and II)	519.21	533.83	649.81
IV. Percentage of I to III	27	27	27

(i) The details of the tax revenue raised during the year 1987-88, alongside figures for the preceding two years, are given below:—

	1985-86	1986-87	1987-88	
	(In crores of rupees)			
1. Sales Tax	30.30	39.85	39.16	(—)2
2. State Excise	23.18	26.49	30.67	(+)16
3. Taxes on Goods and Passengers	8.62	11.50	17.98	(+)56
4. Stamps and Registration fees	3.83	4.33	4.39	(+)1
5. Taxes on Vehicles	2.53	2.90	3.33	(+)15
6. Land Revenue	0.47	0.47	0.43	(—)9
7. Others	4.72	6.86	7.32	(+)7
Total	73.65	92.40	103.28	(+)12

(ii) The details of the non-tax revenue realised during the year 1987-88, alongside figures for the preceding two years, are given below:—

	1985-86	1986-87	1987-88	Percentage of increase (+) in 1987-88 over 1986-87
	(In crores of rupees)			
1. Forestry and Wild Life	30.98	21.37	26.27	(+)23
2. Interest Receipts	3.89	4.53	6.36	(+)40
3. Crop Husbandry (including Horticulture)	1.28	1.37	1.76	(+)28
4. Non-ferrous Mining and Metallurgical Industries	1.08	1.50	2.28	(+)52
5. Education, Sports, Art and Culture	0.85	0.87	1.02	(+)17
6. Others	*27.40	23.62	33.94	(+)44
Total	65.48	53.26	71.63	(+)34

The trend analysis of tax revenue and non-tax revenue raised during 1985-86 to 1987-88 is also exhibited in Figure 2.

1.2. Variations between Budget estimates and actuals

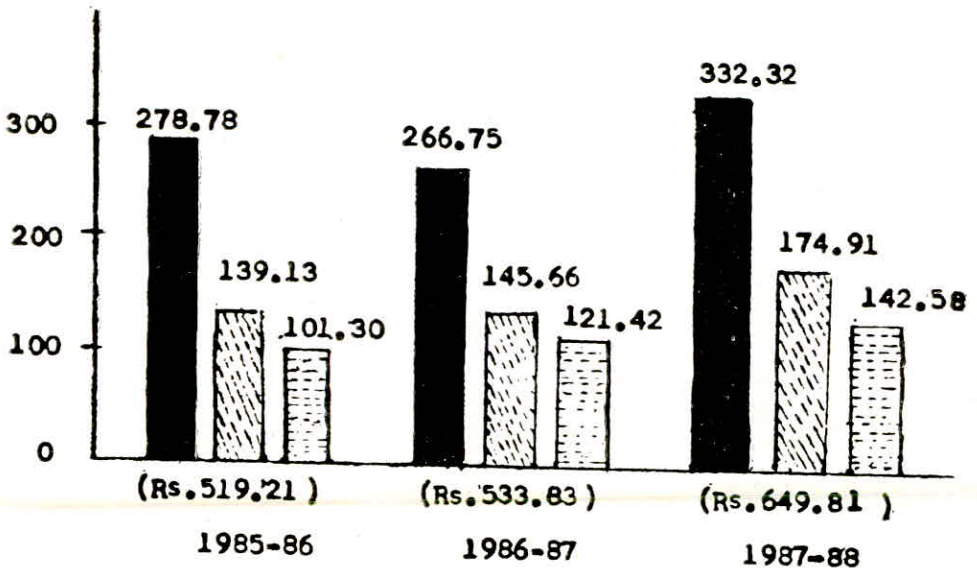
The variations between the Budget estimates of revenue for the year 1987-88 and the actual receipts under the principal heads are given below:—

Head of revenue	Budget estimates	Actual receipts	Variation increase(+) shortfall(-)	Percentage of variation
	(In crores of rupees)			
1. Sales Tax	38.70	39.16	(+)0.46	(+)1
2. State Excise	26.97	30.67	(+)3.70	(+)14
3. Taxes on Goods and Passengers	19.17	17.98	(-)1.19	(-)6
4. Stamps and Registration Fees	4.25	4.39	(+)0.14	(+)3
5. Taxes on Vehicles	3.40	3.33	(-)0.07	(-)2
6. Land Revenue	0.52	0.43	(-)0.09	(-)17
7. Taxes and Duties on Electricity	1.35	1.75	(+)0.40	(+)30
8. Other Taxes and Duties on Commodities and Services	3.82	5.57	(+)1.75	(+)46
9. Forestry and Wild Life	22.00	26.27	(+)4.27	(+)19
10. Interest Receipts	3.90	6.36	(+)2.46	(+)63
11. Crop Husbandry (including Horticulture)	1.35	1.76	(+)0.41	(+)30
12. Non-ferrous Mining and Metallurgical Industries	1.10	2.28	(+)1.18	(+)107
13. Education, Sports, Art and Culture	0.69	1.02	(+)0.33	(+)48

*Includes Rs. 0.10 crore in respect of "Water and Power Development".

Trend of revenue receipts

In crores of rupees



GRANTS-IN-AID RECEIVED FROM THE GOVERNMENT OF INDIA

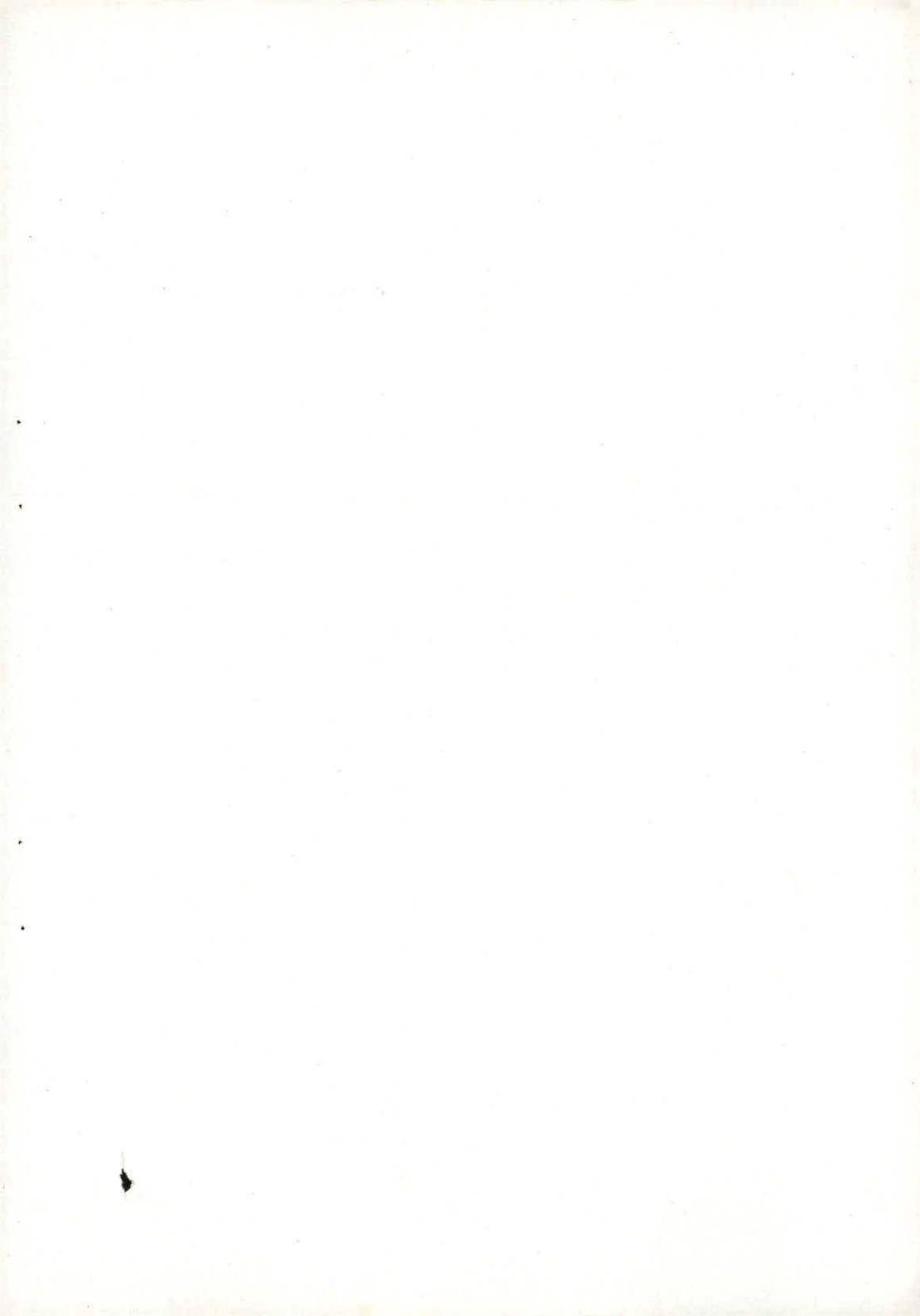


TAX & NON-TAX REVENUE RAISED BY THE STATE GOVERNMENT



STATE'S SHARE OF DIVISIBLE UNION TAXES

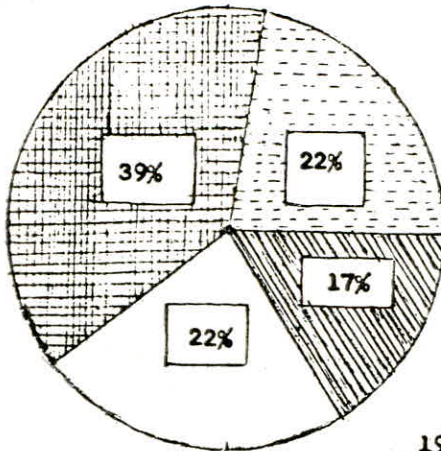
Figure 1
(Para 1.1)



Trend analysis of tax/non-tax revenue

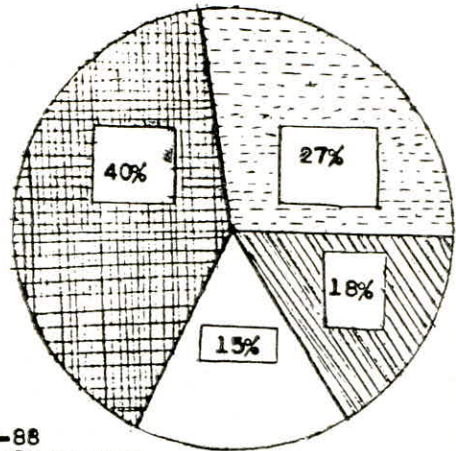
1985-86

Total: Rs. 139.13 crores



1986-87

Total: Rs. 145.66 crores



1987-88
Total: Rs. 174.91 crores

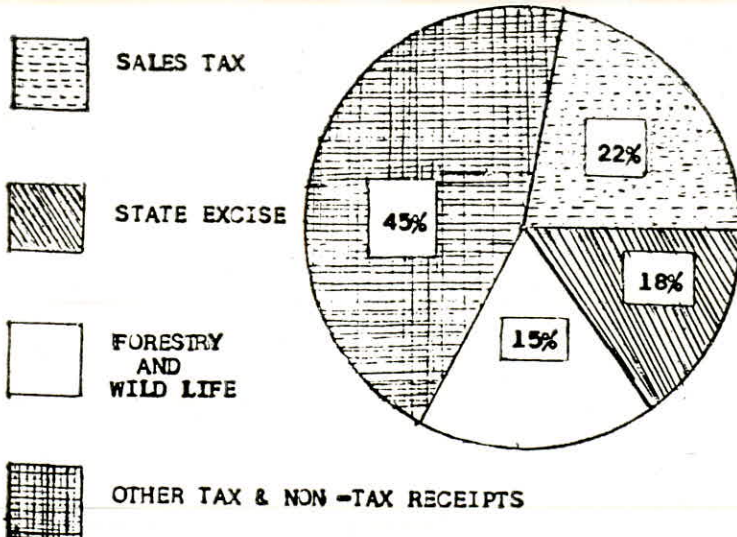
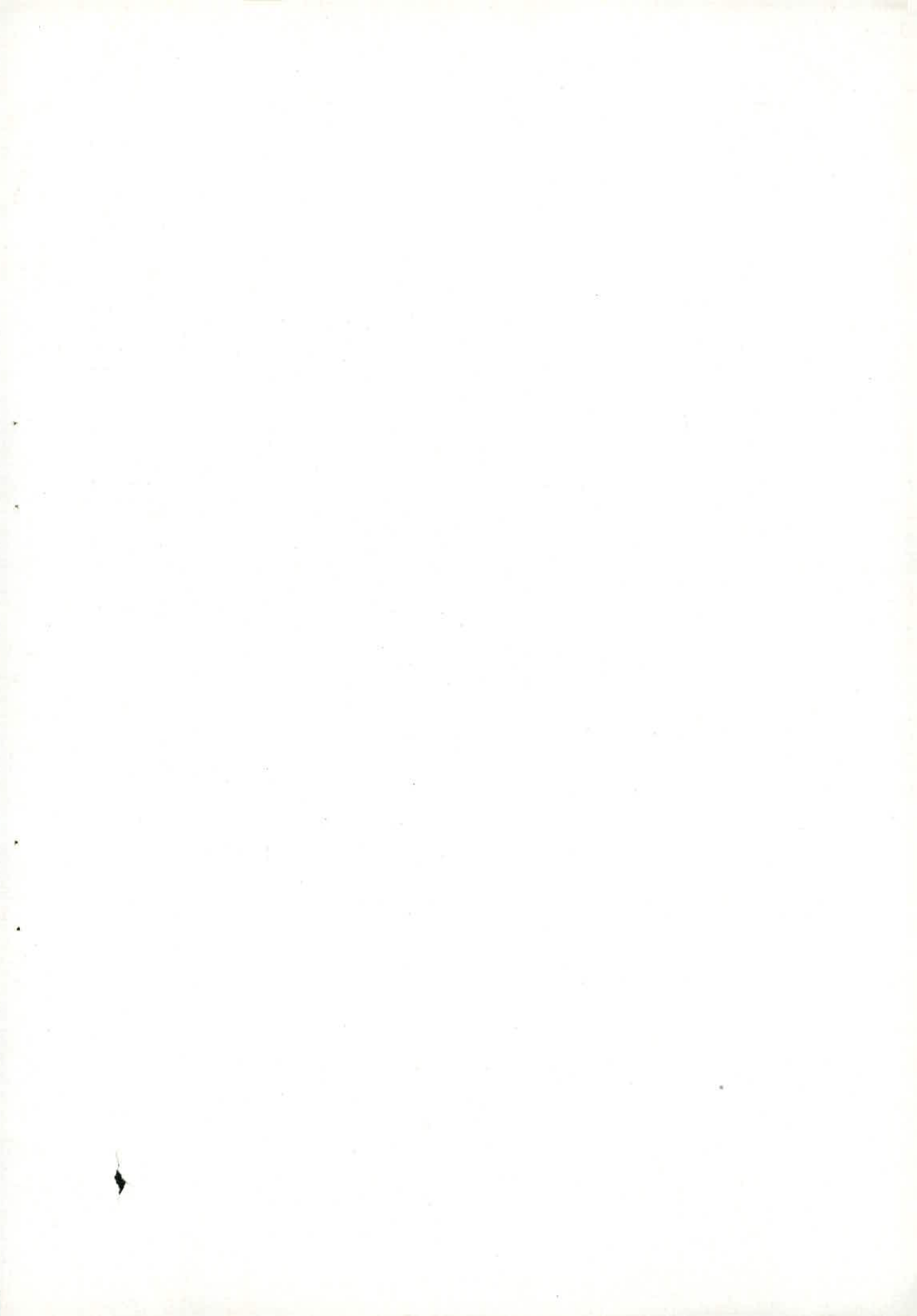


Figure 2
(Para 1.1)



The reasons for variations between the Budget estimates and the actuals, as reported (November 1988 and December 1988) by the Departments of Excise and Taxation, Agriculture and Forest Farming and Conservation, were as under:—

- (a) The increase under State Excise (14 per cent) was due to opening of more 'Indian made foreign liquor' shops and increase in the rate of excise duty on rum for supply to Defence personnel and Indo-Tibetan Border Police.
- (b) The increase under Other Taxes and Duties on Commodities and Services (46 per cent) was due to more receipts as a result of additional levy of tax on goods carried by road.
- (c) The increase under Crop Husbandry (excluding Horticulture), was mainly due to sale of seeds produced at the farms, additional receipts from auctions of stores/stock articles including condemned vehicles and recovery of over-payments, etc.
- (d) The increase under Forestry and Wild Life (19 per cent) was due to sale of more trees in salvage marking to the Himachal Pradesh State Forest Corporation.

The reasons for variations between the Budget estimates and the actuals called for in October 1988 have not been received from other departments (December 1988).

1.3. Cost of collection

Expenditure incurred on collection of the major revenue receipts during the year 1987-88 and in the preceding two years is given below:—

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
		(In lakhs of rupees)		
1. Sales Tax	1985-86	3030.19	59.80@	2
	1986-87	3985.30	70.93@	2
	1987-88	3916.38	75.59@	2

@Represent *pro-rata* basis figures as intimated by the department.

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
		(In lakhs	of rupee s)	
2. State Excise	1985-86	2318.06	45.72@	2
	1986-87	2649.30	47.15@	2
	1987-88	3066.68	59.19@	2
3. Taxes on Goods and Passengers	1985-86	861.89	17.00@	2
	1986-87	1149.83	20.44@	2
	1987-88	1797.94	34.75@	2
4. Stamps and Registration Fees	1985-86	383.36	14.69*	4
	1986-87	432.66	17.06*	4
	1987-88	439.27	11.52*	3
5. Taxes on Vehicles	1985-86	252.93	9.22*	4
	1986-87	289.55	9.59*	3
	1987-88	332.58	12.69*	4
6. Land Revenue	1985-86	47.16	639.87*	1,357
	1986-87	46.75	688.90*	1,474
	1987-88	43.06	899.15*	2,088
7. Forestry and Wild Life	1985-86	3098.35	49.50	2
	1986-87	2136.66	56.51	3
	1987-88	2626.96	63.68	2

1.4. Arrears in assessment of sales tax cases

As reported by the department, at the beginning of the year 1987-88, 27,623 sales tax assessments were pending finalisation. During the year, 26,766 more assessments became due for completion. Out of the total of 54,389 cases, assessments were completed in 29,346 cases, leaving a balance of 25,043 cases pending finalisation at the end of the year 1987-88. The year-wise break-up of the pending cases (by reference to the year in which the dealers became due for assessment in respect of annual turnover) was not made available (December 1988).

@Represent *pro-rata* basis figures as intimated by the department.

*In the Revenue and Transport Departments, the revenue collecting staff is engaged on other duties also. These departments were requested (June 1985 and July 1988) to work out the cost of collection on a *pro-rata* basis. This information has not been received (December 1988).

1.5. Frauds and evasions of tax

According to the information furnished by the Excise and Taxation Department, 1,345 cases of frauds and evasion of taxes (Sales Tax: 557; State Excise: 418 and Passengers and Goods Tax : 370) were detected by the departmental authorities during the year 1987-88. Besides, 1,284 such cases (Sales Tax : 648 ; State Excise: 2 and Passengers and Goods Tax : 634) detected in earlier years were pending investigation with the department as at the close of the previous year 1986-87. Out of the total of 2,629 cases, investigations/assessments were completed in 1,593 cases only (Sales Tax: 548; State Excise: 419 and Passengers and Goods Tax: 626) during the year and demands (including penalty) for Rs. 4,33,250 (Sales Tax: Rs. 1,56,848; State Excise: Rs. 2,31,698 and Passengers and Goods Tax: Rs. 44,704) raised against the dealers concerned. The remaining 1,036 cases (Sales Tax: 657; State Excise: 1 and Passengers and Goods Tax: 378) were pending investigation/assessment at the end of the year 1987-88.

1.6. Uncollected revenue

As on 31st March 1988, arrears of revenue pending collection under principal heads of revenue, as reported by the departments, were as under:—

Head of revenue	Arrears pending collection	Arrears more than five years old	Remarks
(In lakhs of rupees)			
1. Forestry and Wild Life	3500.20	843.30	Out of Rs. 3500.20 lakhs, demands for Rs. 113.48 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 69.79 lakhs were stayed by the Courts. Demands for Rs. 1.45 lakhs were likely to be written-off. The remaining arrears of Rs. 3315.48 lakhs were at other stages of action.

Head of revenue	Arrears pending collection	Arrears more than five years old	Remarks
(In lakhs of rupees)			
2. Sales Tax	586.97	59.45	Out of Rs. 586.97 lakhs, demands for Rs. 56.36 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 45.36 lakhs and Rs. 22.62 lakhs had been stayed by the Courts and Government respectively. Recoveries amounting to Rs. 0.27 lakh were held up due to insolvency of the dealers. Recoveries amounting to Rs. 7.70 lakhs were held up due to rectification/review applications. Demands for Rs. 0.39 lakh were likely to be written-off. The remaining arrears of Rs. 454.27 lakhs were at other stages of action.
3. State Excise	45.95	27.83	Out of Rs. 45.95 lakhs, demands amounting to Rs. 27.08 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 0.94 lakh had been stayed by the Courts. Recovery of Rs. 0.44 lakh was held up due to insolvency of the dealer. Demands amounting to Rs. 5.19 lakhs were likely to be written-off. Demands for Rs. 12.30 lakhs were at other stages of action.
4. Taxes on Goods and Passengers	36.44	6.43	Out of the arrears of Rs. 36.44 lakhs, demands for Rs. 0.99 lakh had been certified for recovery as arrears of land revenue. Demands for Rs. 0.07 lakh were likely to be written-off. The remaining arrears of Rs. 35.38 lakhs were at other stages of action.

Head of revenue	Arrears pending collection (In lakhs of rupees)	Arrears more than five years old	Remarks
5. Land Revenue	68.75	(Not received)	Information has not been received (December 1988).
6. Industries (including village and small scale industries)	39.83	9.04	Out of the total arrears of Rs. 39.83 lakhs, demands for Rs. 2.09 lakhs had been certified for recovery as arrears of land revenue. Demands for Rs. 0.03 lakh were likely to be written-off. The remaining arrears of Rs. 37.71 lakhs were at other stages of action.
7. Non-ferrous Mining and Metallurgical Industries	10.88	4.62	Out of the total arrears of Rs. 10.88 lakhs, demands for Rs. 5.35 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 1.15 lakhs had been stayed by the Courts. Demands for Rs. 0.11 lakh were likely to be written-off. The remaining arrears of Rs. 4.27 lakhs were at other stages of action.
8. Police	55.70	..	Out of Rs. 55.70 lakhs, a sum of Rs. 19.46 lakhs was recovered in April 1988 and May 1988. The remaining amount of Rs. 36.24 lakhs was recoverable from Government departments/undertakings/autonomous bodies on account of police guard supplied during the years 1985-86 to 1987-88.
9. Public Works	184.40	29.34	Out of the total arrears of Rs. 184.40 lakhs, demands for Rs. 11.94 lakhs had been certified for recovery as arrears of land revenue. Demands for Rs. 0.02 lakh were likely to be written-off. The remaining arrears of Rs. 172.44 lakhs were at other stages of action.

Head of revenue	Arrears pending collection	Arrears more than five years old	Remarks
(In lakhs of rupees)			
10. Taxes and Duties on Electricity	130.88	..	The arrears pertained to year 1987-88 and were recoverable from the Himachal Pradesh State Electricity Board.
Total	4660.00		

1.7. Remissions and writes-off of revenue

In the Excise and Taxation Department, the following demands were written-off during the year 1987-88, as reported by the department:—

	Number of cases	Amount of losses and irrecoverable revenue written-off (Rupees)
1. State Excise	3	43,843
2. Sales Tax	10	14,429
3. Taxes on Goods and Passengers	4	64,544

In the Horticulture Department, unrealised cost of fruit products and fruit plants amounting to Rs. 41,942 was written-off during the year 1987-88.

1.8. Outstanding inspection reports and audit objections

(i) Audit objections on incorrect assessments, short levy of taxes, duties, fees, etc., as also defects in initial accounts noticed during audit and not settled on the spot are communicated to 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.

(ii) The number of inspection reports and audit objections relating to revenue receipts issued upto 31st December 1987 and which were pending settlement by the departments as on 30th June 1988, alongside corresponding figures for the preceding two years (position as on 30th September), is given below:—

	At the end of September		At the end of June
	1986	1987	1988
Number of inspection reports pending settlement	1,848	1,869	1,972
Number of outstanding audit objections	6,838	6,514	6,697
Amount of revenue involved (In crores of rupees)	35.64	39.64	52.60

(iii) Yearwise break-up of the outstanding (as on 30th June 1988) inspection reports and audit objections is given below:—

Year (in which inspection reports were issued)	Number of outstanding		Amount of receipts involved (In crores of rupees)
	inspection reports	audit objections	
Upto 1983-84	978	2,479	16.46
1984-85	199	712	6.17
1985-86	204	807	6.01
1986-87	340	1,497	7.18
1987-88	251	1,202	16.78
Total	1,972	6,697	52.60

Note:—Figures in the table have been shown according to the year of issue of inspection reports.

(iv) Department-wise break-up of inspection reports and audit objections outstanding as on 30th June 1988, is given below:—

Department	Number of inspection reports outstanding	Number of audit objections outstanding	Amount of receipts involved (In crores of rupees)	Year to which objections relate	Number of inspection reports to which even first replies had not been received
1. Revenue	616	1,962	5.12	1972-73 to 1987-88	21
2. Forest Farming and Conservation	225	887	23.73	1968-69 to 1987-88	15
3. Excise and Taxation	408	1,900	9.62	1970-71 to 1987-88	20
4. Transport	283	624	3.41	1971-72 to 1987-88	21
5. Other departments (Public Works, Crop Husbandry including Horticulture, Co-operation, Food and Supplies and State Lottery)	440	1,324	10.72	1976-77 to 1987-88	40
Total	1,972	6,697	52.60		117

CHAPTER 2

SALES TAX

2.1. Results of Audit

Test check of sales tax assessments and other records, conducted in audit during the year 1987-88, revealed under-assessments of tax amounting to Rs. 71.98 lakhs in 156 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Incorrect grant of exemptions from tax	61	20.97
2. Application of incorrect rates of tax	46	14.71
3. Incorrect computation of turnover	10	18.67
4. Non-levy of interest	5	1.63
5. Other irregularities	34	16.00
Total	156	71.98

Some of the important cases noticed during 1987-88 and earlier years and findings of a review on "Delay in re-assessing remanded cases" are mentioned in the following paragraphs.

2.2. Delay in re-assessing remanded cases

2.2.1. Introduction

Under the provisions of the Himachal Pradesh General Sales Tax Act, 1968 and Central Sales Tax Act, 1956, any dealer, aggrieved by notice of assessment or by any order passed by the assessing authority or by an officer-in-charge of check post or barrier, may appeal to an appellate authority. The appellate authority may allow the relief sought or may remand the case back to the assessing authority for re-assessment if, in its view, either certain facts were not considered by the assessing authority or the dealer was not given reasonable

opportunity to present his case. When a case is remanded, the assessing authority is bound to follow the direction given by the authority remanding the case. The higher appellate/revisional authorities (Excise and Taxation Commissioner and Financial Commissioner) may also remand cases to the appellate authority/assessing authority, for re-assessment as per their directions. The department has not evolved any mechanism for watching the progress of re-assessment of cases remanded by the appellate authorities.

2.2.2. *Scope of Audit*

The records of all 11 district offices and 2 appellate authorities and one revisional authority in the State, for the years 1982-83 to 1986-87, were subjected to test-check between June 1987 and April 1988 with a view to examining whether the remanded cases had been re-assessed expeditiously as per directions of appellate/revisional authorities and in accordance with the provisions of the Act and the Rules made thereunder.

2.2.3. *Organisational set-up*

There are two appellate authorities in the State, one in South Zone (having jurisdiction over Bilaspur, Kinnaur, Shimla, Sirmaur and Solan districts) at Shimla and another in North Zone (having jurisdiction over Chamba, Hamirpur, Kangra, Kullu, Mandi and Una districts) at Palampur, who also function as Joint Excise and Taxation Commissioner and Deputy Excise and Taxation Commissioner respectively. The Excise and Taxation Commissioner/Financial Commissioner is revisional authority in respect of entire State.

2.2.4. *Highlights*

(i) No time limit has been laid down for completing re-assessment of cases remanded by appellate authority.

(ii) Out of 452 remanded cases, re-assessment of 189 cases involving tax of Rs. 19.33 lakhs was finalised after delay of one month to more than 5 years.

(iii) Re-assessment of 127 remanded cases involving tax of Rs. 51.93 lakhs had not been finalised even though remand orders were passed one year to more than 5 years earlier.

(iv) In 15 cases, remanded during December 1978 to September 1984, the assessing authorities were not even aware of the remand orders till pointed out in audit during January 1988 to April 1988.

(v) In 30 remanded cases involving tax of Rs. 14.83 lakhs, re-assessments were not framed within the period specified by the appellate authorities and delay ranged between 3 months to 72 months (till March 1988).

2.2.5. *Non-maintenance of record of remanded cases*

(a) The disposal of remanded cases had not been watched by all the assessing authorities in the State. In the absence of any record for the purpose, the assessing authorities were not aware of the exact number of cases remanded by the appellate authorities from time to time and pending with them for re-assessment.

(b) The number of appeal cases that were pending with the appellate/ revisional authorities at the beginning of the year, number of appeals received, number of appeals disposed of and number of cases remanded for re-assessment during the years 1982-83 to 1986-87, (*as supplied by the department), are given below:—

Year	Number of appeal/revision cases pending at the beginning of the year	Number of cases arising during the year	Total number of cases for disposal
1982-83	185	384	569
1983-84	286	223	509
1984-85	290	196	486
1985-86	287	228	515
1986-87	428	252	680
Total		1,283	

*Does not include cases disposed of by Financial Commissioner.

Number of cases disposed of	Number of cases pending at the end of the year	Number of cases remanded for re-assessment	Percentage of cases remanded out of total cases disposed of
283	286	99	35
219	290	33	15
199	287	56	28
87	428	20	23
159	521	58	36
947		266	28

It would be seen from the above table that on an average, 28 per cent cases of the total disposals were remanded for re-assessment during the years 1982-83 to 1986-87, against 35 per cent and 36 per cent cases remanded during 1982-83 and 1986-87.

As per information supplied by the department, 266 cases were remanded by the appellate/revisonal authorities during 1982-83 to 1986-87. A test check of the departmental records, however, revealed that actual number of cases remanded during 1982-83 to 1986-87 was 281 as against 266 cases intimated by the department.

2.2.6. Delay in re-assessment of remanded cases

In the Himachal Pradesh General Sales Tax Act, 1968 and the Rules made thereunder, no time limit has been laid down for completing re-assessment of remanded cases. No departmental instructions have also been issued in this regard.

It was noticed in audit that 171 remanded cases were pending for re-assessment at the beginning of the year 1982-83 and 281 cases were

remanded during 1982-83 to 1986-87. The position of these cases was as under:—

	Pendency at the end of March 1982	1982-83	1983-84	1984-85	1985-86	1986-87	Total
Number of cases remanded	171	119	43	39	33	47	452
Number of cases in which re-assessments were made	36	45	31	28	21	36	197
Number of cases pending	59	37	8	7	6	10	127
Number of cases in which information not furnished by department	76	37	4	4	6	1	128

Details of re-assessment made in respect of 197 cases, remanded between December 1977 and March 1987, are given below. Out of 197 cases re-assessed, in respect of 189 cases the delay in re-assessment ranged from one month to more than 5 years, resulting in demands amounting to Rs. 19.33 lakhs remaining unrealised for long periods.

Period of delay in re-assessing remanded cases	Number of cases re-assessed	Number of cases where no demand was created	Number of cases with additional demand	Amount of additional demand created on re-assessment (In lakhs of rupees)
Less than one month	8	..	8	0.05
Between one month and one year	78	12	66	11.41
Over one year but upto two years	59	6	53	5.59
Over two years but upto three years	18	..	18	0.18
Over three years but upto four years	22	1	21	0.59
Over four years but upto five years	4	3	1	0.01
Over five years	8	2	6	1.55
Total	197	24	173	19.38

2.2.7. *Non-finalisation of remanded cases*

(a) Re-assessment in 127 cases where additional demand of Rs. 51.93 lakhs was created at the time of original assessment (between January 1976 and December 1985) and which, on appeal, were remanded by the appellate authorities were not finalised till March 1988. The period of delay ranged as under:—

Period of delay	Number of cases	Amount of additional demand created at the time of original assessment (In lakhs of rupees)
Between 1 year and 2 years	10	16.14
Between 2 years and 3 years	6	2.87
Between 3 years and 4 years	7	0.75
Between 4 years and 5 years	9	3.96
Exceeding 5 years	95	28.21
Total	127	51.93

Delay in re-assessment had resulted in additional demands not being determined and realised in these cases.

(b) In 15 cases (Kangra : 3, Hamirpur :1, Nahan :1, Solan :5 and Shimla :5) relating to years 1961-62 to 1981-82, remanded during the period December 1978 to September 1984 for re-assessment, the assessing authorities were not even aware of the remand orders. On being pointed out during January 1988 to April 1988, the assessing authorities had been calling copies of the remand orders from the appellate authorities. Further progress to finalise these cases has not been received (December 1988).

2.2.8. *Re-assessments not framed within stipulated period*

In 30 cases, involving tax of Rs. 14.83 lakhs, of Kangra, Mandi and Shimla districts, remanded during the period January 1982 to February

1987, despite the directions of the appellate authorities to frame re-assessments within the specified period, re-assessments were not framed accordingly. In 14 cases, re-assessments were framed after the specified period and the delay ranged between 3 months to 41 months. In remaining 16 cases, re-assessments had not been framed (March 1988) and the delay ranged between 10 months to 72 months.

The foregoing paragraphs were reported to department and Government in July 1988 ; their replies have not been received (December 1988).

2.3. Evasion of tax by bogus dealer

Under the Himachal Pradesh General Sales Tax Rules, 1970 and the departmental instructions of April 1978, the appropriate assessing authority, before registering a dealer, shall satisfy itself after making any enquiry that he may think necessary, that the applicant is a *bona fide* dealer and has correctly given all the requisite information. Thereafter, the assessing authority shall register the dealer and issue a certificate of registration which shall be valid from the date of receipt of application for registration or from the date of commencement of the liability to pay tax, whichever is later.

In Kangra district, a dealer (registered in December 1979) purchased vegetable ghee valuing Rs. 84.29 lakhs, against 'C' forms, during the period January 1980 to March 1982 from a dealer of Ludhiana (Punjab) as was verified through the Assistant Excise and Taxation Commissioner—I, Ludhiana. The purchasing dealer had neither filed returns nor deposited any tax. To finalise assessments for the years 1979-80 and 1980-81, a notice was issued (September 1981), which could not be served as the dealer had closed down his business and was untraceable. The notices were issued (January 1982) to sureties, who filed (January 1982) affidavits stating that they did not know the dealer and their signatures on the surety bonds were forged. Grant of registration without examining the *bona fides* of the dealer and genuineness of the sureties led to a loss of revenue of Rs. 7.14 lakhs on the turnover of Rs. 92.72 lakhs (Rs. 84.29 lakhs plus ten *per cent* towards profit and incidental charges).

The loss was pointed out in audit in December 1987 ; reply of department has not been received (December 1988).

The case was reported to Government in March 1988; their reply has also not been received (December 1988).

2.4. Incorrect grant of exemption/concession

Under the Himachal Pradesh General Sales Tax Act, 1968, small scale industrial units are eligible for certain concessions in tax. A small scale industrial unit is one in which the capital investment (in plant and machinery) is not more than Rs. 7.5 lakhs. As per the Central Sales Tax Act, 1956, on inter-State sale of goods made by one dealer to another registered dealer and supported by prescribed declarations, tax is leviable at the rate of four *per cent*.

(i) In Sirmaur district, local sales of stainless steel ignots, special alloy steel and casting amounting to Rs. 85.77 lakhs made during the years 1984-85 and 1985-86 by an industrial unit were either exempted from levy of tax or taxed at concessional rate. The exemption/concession allowed was incorrect, as the unit was not eligible to be classified as a small scale industrial unit (its investment in plant and machinery being more than Rs. 7.5 lakhs, as noticed in audit from the assessment records filed with the assessing authority). The incorrect grant of exemption/concession resulted in non-levy of tax amounting to Rs. 3.25 lakhs.

Further, on inter-State sales of stainless steel ignots, special alloy steel and casting (supported by declarations in Form 'C') amounting to Rs. 33.98 lakhs made by the said unit to certain registered dealers during the years 1984-85 and 1985-86, tax was erroneously levied at the concessional rate of one *per cent*/two *per cent*, instead of at the correct rate of four *per cent*. The mistake resulted in tax being levied short by Rs. 1.01 lakhs.

The mistakes were pointed out (February 1988) in audit ; reply of the department has not been received (December 1988).

(ii) In Mandi district, sales of flour , *maida*, *suji* and *chokar* amounting to Rs. 52.86 lakhs made during the year 1986-87 by an

industrial unit were exempted from levy of tax. The exemption allowed was incorrect, as the unit was not eligible to be classified as a small scale industrial unit (its investment in plant and machinery being more than Rs. 7.5 lakhs, as noticed in audit from the schedule of fixed assets filed by the unit with the assessing authority). The incorrect grant of exemption resulted in non-levy of tax amounting to Rs. 1.74 lakhs.

On the mistake being pointed out (August 1987) in audit, department stated (April 1988) that the case had been sent to the Deputy Excise and Taxation Commissioner for taking *suo-motu* action in the matter. Report on further development has not been received (December 1988).

(iii) In Sirmaur district, local sales of cement amounting to Rs. 7.85 lakhs made during year 1985-86 by an industrial unit were erroneously taxed at concessional rate of 2 *per cent* instead of at the full rate of 7 *per cent* as the unit was not eligible to be classified as a small scale industrial unit with investment in plant and machinery exceeding Rs. 7.5 lakhs, as exhibited in balance sheet filed by the unit with the assessing authority. The incorrect grant of concession resulted in short levy of tax amounting to Rs. 43,192.

Further, on inter-State sales of cement (supported by declarations in Form 'C') amounting to Rs. 85,355 made by the said unit to certain registered dealers during year 1985-86, tax was erroneously levied at the concessional rate of one *per cent* instead of at the correct rate of four *per cent*. The mistake resulted in short levy of tax of Rs. 2,561.

The mistakes were pointed out (February 1988) in audit ; reply of the department has not been received (December 1988).

(iv) As per Government notification issued in July 1978 under the Himachal Pradesh General Sales Tax Act, 1968, no sales/purchase tax shall be levied for a period of five years commencing from the date of coming into existence of a small scale unit, in respect of goods (taxable at a rate less than seven *per cent*) manufactured and sold

by the unit. According to another notification also issued in July 1978, under the provisions of the Central Sales Tax Act, 1956, on inter-State sales of goods made by a small scale industrial unit to registered dealers, tax is leviable at the rate of one *per cent* during the first five years and at the rate of two *per cent* during the next span of five years, subject to declarations being furnished in prescribed form.

(a) A small scale industrial unit of Sirmaur district was engaged in the manufacture of stainless steel strips from August 1980 and was thus, entitled for full exemption from levy of tax upto July 1985. The assessing authority erroneously allowed tax exemption on sales of Rs. 7.88 lakhs made during the period August 1985 to March 1986. The mistake resulted in short levy of tax of Rs. 31,505.

Further, on inter-State sales (supported by declarations in prescribed form) amounting to Rs. 5.32 lakhs made by the said unit to certain registered dealers during period August 1985 to March 1986, tax was erroneously levied at concessional rate of one *per cent*, instead of at the correct rate of two *per cent*. The mistake resulted in short levy of tax of Rs. 5,318.

The mistakes were pointed out (February 1988) in audit; reply of department has not been received (December 1988).

(b) A small scale industrial unit of Una district was engaged in the manufacture of galvanised iron wires from December 1976 and was thus entitled for full exemption from levy of tax upto November 1981. The assessing authority erroneously allowed tax exemption on sales worth Rs. 4.12 lakhs made during the period from December 1981 to March 1982. The mistake resulted in tax being levied short by Rs. 16,494.

The mistake was pointed out (December 1986) in audit; reply of department has not been received (December 1988).

The cases were reported to Government between March 1987 and March 1988; their reply has also not been received (December 1988).

2.5. Evasion of tax as a result of suppression of purchases/sales

In two cases, involving under-assessment due to suppression of purchases/sales, an amount of Rs. 8.82 lakhs was recovered on being pointed out in audit. A few other cases are mentioned below.

Under the Himachal Pradesh General Sales Tax Act, 1968, a registered dealer can purchase goods from another registered dealer without payment of tax, subject to his furnishing a declaration in the prescribed form. As per departmental instructions issued in April 1978, the assessing authorities are required to cross-check the deductions claimed by the selling dealers on the basis of such declarations with the purchases reflected in the accounts and returns of the purchasing dealers. Further, with a view to checking evasion of sales tax, multi-purpose barriers have been set up at the strategic points on the borders of the State and Officers -in-charge of the barriers are required to collect bills of lading pertaining to the import of goods into the State and to send these to District Taxation Officer for further action. While examining accounts of the dealers the assessing authorities are also required to cross-check the barrier chits with the purchases entered in their purchase accounts. If a dealer has maintained false or incorrect accounts with a view to suppressing his sales or purchases, he is liable to pay, by way of penalty, (in addition to the tax to which he is assessed), an amount which shall not be less than 10 *per cent*, but which shall not be more than one and a half times the amount of tax to which he is assessed or is liable to be assessed.

(i) In Kinnaur and Shimla districts, assessments of 7 dealers for the years 1982-83 to 1985-86 were finalised (between October 1983 and March 1987), based on purchases amounting to Rs. 25.89 lakhs, as indicated by them in the returns and trading accounts. Cross-verification of declarations in Form ST XXIV furnished to other dealers of the State and scrutiny of barrier chits in Form ST XXVI-A placed on record, however, revealed that the dealers had effected purchases of Rs. 50.63 lakhs during these years. Thus, turnover amounting to Rs. 27.22 lakhs (after adding 10 *per cent* towards profit, freight, etc.) was suppressed by the dealers which escaped assessment. The assessing authorities' failure

to cross-check the sales with the purchases and to link-up the documents placed on record resulted in under-assessment of tax amounting to Rs. 2 lakhs including surcharge. Minimum penalty amounting to Rs. 20,000 was also leviable.

On the failure being pointed out (September 1987 and October 1987) in audit, department stated (October 1988) that in respect of two dealers, an additional demand for Rs. 1.12 lakhs (including penalty and interest) had been raised. Report on recovery and action taken in the remaining five cases has not been received (December 1988).

(ii) Cross-verification of declarations in Form ST XXIV furnished to other registered dealers of the State and scrutiny of Forms 'C' and 'ST XXVI-A' (barrier chits) placed on record, revealed that a *kiryana* dealer of Shimla district, had purchased taxable goods worth Rs. 3.69 lakhs, Rs. 12.96 lakhs and Rs. 9.63 lakhs during the years 1983-84, 1984-85 and 1985-86 respectively. Against these purchases, the dealer declared sales of taxable goods worth Rs. 2.40 lakhs, Rs. 2.32 lakhs and Rs. 2.90 lakhs during these years. Thus the dealer suppressed sales aggregating Rs. 21.28 lakhs (after adding 10 per cent towards profit, freight, etc.) during the above years. Failure to cross-check the sales with the purchases and to link-up the recorded documents resulted in tax being levied short by Rs. 1.64 lakhs (calculated at the general rate of 7 per cent). Minimum penalty of Rs. 16,385 was also leviable.

On being pointed out (September 1987) in audit, department stated (June 1988) that in respect of the years 1983-84 to 1985-86, an additional demand of Rs. 1.58 lakhs (including penalty and interest) had since been raised (October 1987). Report on recovery has not been received (December 1988).

(iii) (a) On cross-verification of sales with the purchases, it was revealed in audit that in Mandi district, a dealer had made local purchases of goods valuing Rs. 1.92 lakhs during the year 1983-84, but had accounted for purchases amounting to Rs. 0.70 lakh only in his books of accounts. As a result, the turnover amounting to Rs. 1.34 lakhs (after adding 10 per cent towards profit and freight) escaped assessment. The assessing authority's failure to cross-check the sales

with the purchases and other documents evidencing purchases and sales, resulted in short levy of tax by Rs. 10,312. Minimum penalty amounting to Rs. 1,031 was also payable by the dealer for suppression of the purchases.

On the failure being pointed out (August 1987) in audit, department stated (September 1988) that on re-assessment of the case, an additional demand for Rs. 11,400 had been raised. Report on recovery has not been received (December 1988).

(b) In Una, assessments of two dealers for the years 1982-83 and 1983-84 were based on purchases amounting to Rs. 98,113, as indicated by them in the trading accounts. A cross-linking in audit of declaration forms (ST-XXIV) and scrutiny of supporting documents, viz., Forms 'C' and ST XXVI-A (barrier chits), however, revealed that the dealers had purchased goods valuing Rs. 2.32 lakhs. The assessing authorities' failure to cross-check the declarations and to link-up the supporting documents with the dealers' trading accounts resulted in escapement of turnover amounting to Rs. 1.47 lakhs (after adding 10 per cent towards profit, freight, etc.) and consequent short levy of tax and surcharge amounting to Rs. 10,262. A minimum penalty of Rs. 1,026 was also leviable for the suppression of purchases.

On the omission being pointed out (December 1986) in audit, department stated (January 1988) that on re-assessment of the cases, additional demands for Rs. 17,702 had since been raised. Report on recovery has not been received (December 1988).

(iv) In Solan, assessment of a dealer for the year 1983-84, finalised in February 1986, was based, *inter alia* on the purchases of taxable goods amounting to Rs. 2,68,522 shown in the trading account filed by the dealer with the assessing authority. Cross-linking done (June 1987) in audit revealed that the dealer had disclosed the purchases of taxable goods at Rs. 4,16,697 in the trading account filed by him with the Income Tax Department. Thus, purchases of taxable goods amounting to Rs. 1,48,175 were suppressed by the dealer. The corresponding sale value of these goods worked out to Rs. 1,62,993 (after adding 10 per cent towards profit, freight, etc.), which had a tax effect of Rs. 12,557. Minimum

penalty amounting to Rs. 1,256 and interest of Rs. 7,119 were also leviable.

On this being pointed out (June 1987) in audit, department stated (January 1988 and October 1988) that on re-assessment (July 1987), an additional demand for Rs. 23,500 had been raised. Of this, an amount of Rs. 12,000 has been recovered (between September 1987 and July 1988). Report on recovery of the balance amount has not been received (December 1988).

(v) In Kullu district, assessment of a dealer for the year 1974-75 was finalised (June 1984) with gross turnover of Rs. 1.72 lakhs. A scrutiny in audit of assessment records, however, revealed (July 1986) that the bills of lading depicting purchases of gunny bags worth Rs. 2.27 lakhs had not been entered by the dealer in his purchase accounts. The assessing authority's failure to cross-check the bills of lading placed in the file resulted in escapement of turnover amounting to Rs. 2.49 lakhs (after adding 10 *per cent* towards profit, freight, etc.) from assessment and consequent short levy of tax by Rs. 17,459 (including surcharge).

The short levy was pointed out (July 1986) in audit ; reply of department has not been received (December 1988).

(vi) In Kangra district, a dealer issued declarations in Form 'ST XXIV' for purchasing food products valuing Rs. 30.87 lakhs and Rs. 35.74 lakhs during the years 1984-85 and 1985-86 respectively, but the dealer actually accounted for purchases amounting to Rs. 30.25 lakhs and Rs. 34.68 lakhs only in his books of accounts, during the above years after deducting some commission received by him. The dealer was required to account for the purchases to the extent for which Forms 'ST XXIV' were issued as the selling dealers had claimed deductions from their gross turnover of the sales for which forms were obtained from the purchasing dealer. The sale value of the purchases less accounted for by the dealer amounted to Rs. 1.84 lakhs (after adding 10 *per cent* towards profit and freight). The assessing authority's failure to check the accounts of purchases resulted in non-levy of tax of Rs. 14,206.

The failure was pointed out (December 1987) in audit ; reply of department has not been received (December 1988).

The cases were reported to Government between October 1986 and March 1988 ; their reply has not been received (December 1988).

2.6. Non-levy of surcharge

Under the Himachal Pradesh General Sales Tax Act, 1968, with effect from 1st April 1979, a surcharge is leviable at the rate of ten *per cent* on the total amount of tax payable under the Act. However, in relation to the sale of timber, the surcharge is deemed to have been levied with effect from 1st February 1979.

On sale of timber amounting to Rs. 21.18 lakhs made by the Divisional Forest Officer, Rajgarh (Sirmaur district), during the period from 1st February 1979 to 31st March 1979, the assessing authority levied (October 1986) sales tax amounting to Rs. 5,29,500, but omitted to levy surcharge. The omission resulted in non-levy of surcharge of Rs. 52,950.

On the omission being pointed out (February 1988) in audit, department stated (August 1988) that on re-assessment of the case, an additional demand for Rs. 1.73 lakhs had since been raised. Report on recovery has not been received (December 1988).

The case was reported to Government in March 1988 ; their reply has not been received (December 1988).

2.7. Non-registration of dealers

Under the Himachal Pradesh General Sales Tax Act, 1968, a dealer (other than an importer or manufacturer) is liable for registration under the Act and to pay sales tax, if his taxable quantum exceeds Rs. one lakh (Rs. 40,000 prior to 15th July 1980).

In Kangra district, during the year 1986-87, the taxable quantum of four dealers exceeded the prescribed limit of Rs. one lakh, but the assessing authority failed to take any action for their registration. The total taxable quantum of these dealers during 1986-87, as noticed from the survey register, amounted to Rs. 5.20 lakhs on which tax of Rs. 40,040 was leviable.

This was pointed out (December 1987) in audit; reply of department has not been received (December 1988).

The case was reported to Government in March 1988 ; their reply has also not been received (December 1988).

2.8. Non-levy of tax on printing charges

It has been judicially *held that if an assessee (printer) uses paper from his own stock and printing has been done according to the orders of the customer and the receipts showed separately for payment of paper and printing, the agreement is of a composite character and is indivisible and the assessee is, therefore, liable to pay sales tax on the entire amount.

In Shimla district, while finalising (between March 1984 and September 1985) the assessments of three printers for the years 1978-79 to 1984-85, deductions aggregating Rs. 8.28 lakhs were incorrectly allowed on account of printing and labour charges as the agreements for printing were of a composite character. The irregular allowing of the deductions resulted in tax amounting to Rs. 39,462 not being levied.

The mistakes were pointed out (September 1986) in audit ; reply of department has not been received (December 1988).

The cases were reported to Government in May 1987 ; their reply has also not been received (December 1988).

2.9. Escapement of turnover and short recovery of penalty

Under the Himachal Pradesh General Sales Tax Act, 1968, if in consequence of definite information which has come into his possession, the assessing authority discovers that the turnover of the business of a dealer has been under-assessed or escaped assessment in any year, he may proceed to re-assess the tax at any time within five years following the close of the year for which the turnover is proposed to be re-assessed. The Act also provides that if a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stocks of goods or has concealed any particulars of his sales or purchases, he is liable to

*State of Orissa Vs. D.N. Joshi (1971) 27 STC 100 (Orissa)

pay by way of penalty, in addition to the tax to which he is assessed, an amount which shall not be less than 10 *per cent*, but which shall not exceed one and a half times of the amount of the tax to which he is assessed or is liable to be assessed. Further, under the Himachal Pradesh General Sales Tax Rules, 1970, every assessing authority is required to maintain a demand and collection register for showing, *inter alia*, the amount of tax assessed and penalty imposed, payment and the balance amount thereof.

In Mandi district, a dealer was found to have suppressed purchases and sales of tyres and tubes amounting to Rs. 88,528 and Rs. 61,292 during the years 1980-81 and 1982-83 respectively. For the suppression of sales/purchases, the Excise and Taxation Officer (Enforcement) levied (July 1984) penalty amounting to Rs. 20,000, but omitted, to reassess the tax on the suppressed turnover, which resulted in non-levy of tax amounting to Rs. 17,454. Out of the penalty imposed, the dealer deposited (January 1985 and April 1985) only a sum of Rs. 4,000, because the department failed to keep track of the recovery of the balance amount of Rs. 16,000 as the amount of Rs. 20,000 of penalty imposed was not entered in the demand and collection register.

On the omission being pointed out (February 1987) in audit, department stated (October 1988) that on re-assessment of the case, an additional demand for Rs. 37,654 had been raised. Of this, an amount of Rs. 13,200 had been recovered (between January 1985 and September 1988). Report on recovery of the balance amount has not been received (December 1988).

The case was reported to Government in April 1987 ; their reply has not been received (December 1988).

2.10. Non-levy of interest

Under Section 17-A(1) of the Himachal Pradesh General Sales Tax Act, 1968, (with effect from 1st April 1979) if a dealer fails to pay the amount of tax due from him under the Act by the stipulated date, he is, in addition to the amount of tax due, liable to pay simple interest at the rate of one *per cent per month* for a period of one month from

the date immediately following the last date for submission of return and at the rate of one and a half *per cent* per month thereafter so long as the default continues. It has been held* judicially that either by delaying the filing of the return or not filing the return at all or by filing a return wrongly claiming that certain part of turnover is not taxable or by not disclosing a part of the taxable turnover in the return, an assessee cannot escape the liability to pay interest on the amount of tax withheld as a consequence of his own action or inaction from the date immediately following the last date on which it had to be paid.

In Una district, a dealer did not deposit the tax due correctly alongwith return filed for the period April 1981 to March 1982. On delayed payment, interest amounting to Rs. 32,908 was chargeable, but was not charged even at the time of re-assessment made (July 1987) on the remanded case.

The mistake was pointed out (January 1988) in audit; reply of department has not been received (December 1988).

The case was reported to Government in March 1988 ; their reply has also not been received (December 1988).

2.11. Mistake in computation of turnover

Under the Himachal Pradesh General Sales Tax Act, 1968, turnover includes the aggregate of the amounts of sales and purchases and parts of sales and purchases actually made by any dealer during the given period. It also includes any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof.

In one case, involving under-assessment due to mistake in computation of turnover, an amount of Rs. 27, 133 was recovered on being pointed out in audit.

*Associated Cement Co. Ltd. V. Commercial Tax Officer, Kota and others (1981) 48 STC 466 (SC)

2.12. Irregular deduction against invalid declaration

Under the Himachal Pradesh General Sales Tax Rules, 1970, the assessing authority shall register a dealer and issue a certificate of registration which shall be valid from the date of receipt of application for registration or from the date of commencement of the liability to pay tax, whichever is later. The dealers are entitled to purchase taxable goods from other registered dealers, against a valid declaration without payment of tax.

In one case, involving under-assessment due to irregular deduction against an invalid declaration, an amount of Rs. 14,703 was recovered on being pointed out in audit.

CHAPTER 3
STATE EXCISE

3.1. Results of Audit

Test check of the records relating to State Excise, conducted in audit during the year 1987-88, revealed non-levy and short levy of duty amounting to Rs. 25.03 lakhs in 25 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy and short levy of duty on excessive wastages	2	0.77
2. Non-levy of duty on spirit lost in re-distillation	1	1.38
3. Loss due to re-auction of vend	1	0.32
4. Other irregularities	21	22.56
Total	25	25.03

Some of the important cases noticed during 1987-88 are mentioned in the following paragraphs.

3.2. Low yield of spirit from malt

According to a Government notification issued in June 1979 under the provisions of the Punjab Excise Act, 1914 (as applicable to Himachal Pradesh), the calculation of the out-turn of whisky prepared from malt shall be based on the assumption that 19 kilograms of malt would yield 8.200 proof litres of whisky.

In a distillery of Solan district, during the year 1986-87, 12,30,416 proof litres of whisky was prepared from 30,69,000 kilograms of malt.

On the basis of the norms fixed by Government, there was shortfall in production of whisky to the extent of 89,254 proof litres involving excise duty amounting to Rs. 19.64 lakhs.

On this being pointed out (November 1987) in audit, department stated (June 1988) that as the management of the distillery is not in a position to procure barley (raw material for malt) of good quality, the distillery is not in a position to manufacture whisky in accordance with the norms. The department was told (January 1989) that their reply is not tenable as the norm for production of whisky has been fixed with reference to the quantity of malt and this has nothing to do with the quality of barley from which the malt is extracted. Their final reply has not been received (January 1989).

The case was reported to Government in January 1988 ; their reply has not been received (December 1988).

3.3. Non-levy of duty on spirit lost in re-distillation

The Punjab Distillery Rules, 1932, as applicable to Himachal Pradesh, do not provide for exemption from levy of excise duty on spirit lost in the process of re-distillation.

In a bottling plant-cum-distillery in Una district, 13,774 proof litres of spirit were lost in the process of re-distillation during the year 1986-87. On the quantity lost, excise duty amounting to Rs. 1.38 lakhs was leviable, but was not levied.

On this being pointed out (December 1987) in audit, department stated (September 1988 and November 1988) that for re-distillation no wastage allowance has been prescribed and the duty cannot be prescribed or levied until the spirit is fit for use/issued for consumption. The department in turn was told (October 1988 and December 1988) that their viewpoint was not acceptable as the spirit before re-distillation can be bottled (being fit for use). As no scale of wastage has been fixed for re-distillation, duty is leviable on quantity lost in the process of re-distillation. Final reply has not been received (December 1988).

The case was reported to Government in February 1988 ; their reply has not been received (December 1988).

3.4. Non-recovery of loss on re-auction

Under the Punjab Excise Act, 1914, (as applicable to Himachal Pradesh) and the Excise Announcement for the year 1986-87, a licensee was required to pay 15 per cent of the annual licence fee as security deposit. After adjustment of 13.5 per cent amount of security deposit towards the payment of annual licence fee, the remaining amount was refundable after deducting therefrom any kind of outstanding dues. The annual licence fee was payable in ten equal monthly instalments by the fifteenth of each month, commencing from the month in which the licensee begins his business. If the licensee fails to deposit the amount of security or refuse to accept the licence, the licence is liable to be cancelled and the loss, if any sustained by Government on its re-auction, is recoverable from the original licensee.

In Kangra district, during the year 1986-87, one vend of Indian made foreign liquor was sold to a licensee for Rs. 3.60 lakhs in an auction held in March 1986. The licensee paid instalments upto June 1986 and expressed (August 1986) his inability to run the vend. Licence fee remaining unpaid at the end of June 1986 amounted to Rs. 2.12 lakhs. The vend was re-auctioned in August 1986 for Rs. 1.80 lakhs resulting in loss of revenue amounting to Rs. 32,480.

On the loss being pointed out (May 1987) in audit, department stated (November 1988) that an amount of Rs. 29,015 had been recovered. Report on recovery of the balance amount of Rs. 3,465 has not been received (December 1988).

The case was reported to Government in July 1987; their reply has not been received (December 1988).

3.5. Non-levy of duty on wastage

In a case, involving non-levy of duty on excess wastage of spirit, an amount of Rs. 69,994 was recovered on being pointed out in audit.

In an another case, under the Punjab Liquor Permit and Pass Rules, 1932, as applicable to Himachal Pradesh, on transport of Indian made foreign liquor under bond, if liquor is lost in transit in excess of

the prescribed limit and the wastage is not satisfactorily explained, duty is leviable on the liquor wasted in excess of the limit. No wastage is, however, allowed where bottled spirit is transported.

Out of 2,96,446.500 proof litres of bottled spirit transported from a distillery in Kasauli(Solan district), during the year 1986-87, 567.797 proof litres spirit was lost in transit. As no wastage is permissible in respect of bottled spirit, duty amounting to Rs. 12,492 was leviable in respect of the spirit wasted in transportation, but was not levied.

On the non-levy of excise duty being pointed out (November 1987) in audit, department stated (June 1988) that all the cases had been sent to the Joint Excise and Taxation Commissioner for creation of demand. Further report has not been received (December 1988).

The case was reported to Government in January 1988 ; their reply has not been received (December 1988).

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CHAPTER 4

TAXES ON GOODS AND PASSENGERS

4.1. Results of Audit

Test check of accounts records in the departmental offices, conducted in audit during the year 1987-88, revealed non-levy/short levy of passengers and goods tax amounting to Rs. 9.23 lakhs in 42 cases, which broadly fall under the following categories:—

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of passengers and goods tax	32	8.79
2. Other irregularities	10	0.44
Total	42	9.23

Some of the important cases noticed during 1987-88 are mentioned in the following paragraphs.

4.2. Non-levy/short levy of goods tax

(i) Under the Motor Vehicles Act, 1939, read with the Himachal Pradesh Motor Vehicles Taxation Act, 1972, all vehicle owners are required to get their vehicles registered with the Registering and Licensing Authority concerned and pay vehicles tax. Under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, owners of public and private carriers are required to get their vehicles registered also with the Excise and Taxation Officer concerned and pay goods tax, at one-sixth (35 per cent with effect from 15th November 1986) of all freights in respect of goods transported by motor vehicles. At the option of the owner, goods tax may be paid at a compounded lump sum rate, depending upon the loading capacity of the vehicle. In case of failure to apply for registration,

penalty, not exceeding one and a half times the amount of tax, is also leviable. While the motor vehicles tax is administered by the Transport Department, the passengers and goods tax is administered by the Excise and Taxation Department. As per departmental instructions (December 1984), the Excise and Taxation Officers are required to ensure registration of all vehicles under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, with close co-ordination with the Registering and Licensing Authorities.

In respect of 342 vehicles registered with the Registering and Licensing Authorities of Bilaspur, Hamirpur, Kangra, Kullu, Mandi, Sirmaur, Shimla, Solan and Una districts, for which motor vehicles tax had been realised, goods tax pertaining to different periods falling between 1982-83 and 1986-87 had not been paid to the concerned taxation authorities. These vehicles were not got registered with the Excise and Taxation Department. As a result, goods tax amounting to Rs.14.92 lakhs (calculated at lump sum rates) was not realised. Penalty upto Rs. 22.38 lakhs could also be levied for failure to apply for registration.

On the irregularities being pointed out (between July 1987 and February 1988) in audit, department stated (January 1988) that in the case of Solan district, notices had been issued to the defaulters. The department further stated (October 1988) that in the case of Kangra district, the matter was under process. Reports on recovery and action taken in respect of vehicles relating to other districts have not been received (December 1988).

The cases were reported to Government between August 1987 and May 1988; their reply has not been received (December 1988).

(ii) In Hamirpur, Kangra, Mandi and Una districts, on 13 vehicles (with loading capacity exceeding 20 quintals each), goods tax at compounded rates, during the years 1982-83 to 1986-87, was levied at the rate of Rs. 1,000 per vehicle per annum, instead of at the correct rate of Rs. 2,500 per vehicle per annum. Similarly, in Kangra and Mandi districts, on 2 vehicles (having a loading capacity of 10 quintals each), goods tax, during the years 1985-86 and 1986-87, was levied at the rate of Rs. 500 per vehicle per annum instead of at the correct rate of Rs. 1,000 per

vehicle per annum. The mistakes resulted in tax being levied short by Rs. 35,375.

The mistakes were pointed out (between October 1987 and February 1988) in audit; reply of department has not been received (December 1988).

The matter was reported to Government in May 1988; their reply has also not been received (December 1988).

4.3. Non-deposit/short deposit of passengers tax and surcharge

(i) As per a notification issued (October 1985) under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, an owner of the mini bus (having seating capacity of not more than 25 passengers) is required to pay a lump sum tax of Rs. 10,000 and surcharge of Rs. 2,000 per annum in lieu of the tax and surcharge chargeable on fare. The rates of tax and surcharge were enhanced to Rs. 21,000 and Rs. 4,200 respectively per annum with effect from 5th December 1986.

(a) In Shimla district, tax and surcharge amounting to Rs. 2.46 lakhs for the year 1986-87 was payable by the owners of 15 mini buses as against Rs. 1.80 lakhs actually deposited. This resulted in short realisation of Rs. 66,000.

The short recovery was pointed out (July 1987) in audit; reply of department has not been received (December 1988).

(b) In Sirmaur district, it was noticed (September 1987) that one mini bus was registered with Registering and Licensing Authority for payment of token tax but was not registered with the Excise and Taxation Department resulting in passengers tax (including surcharge) amounting to Rs. 19,400 not being realised for the period January 1986 to March 1987.

The omission was pointed out (September 1987) in audit; reply of department has not been received (December 1988).

(ii) By a notification issued in October 1986, Government revised the rate of passengers and goods tax to 35 per cent of the fare or freight, as the case may be, with effect from 15th November 1986. In Chamba

district, scrutiny of the returns filed by the Himachal Road Transport Corporation for 15th and 17th November 1986 revealed (October 1987) that passengers tax amounting to Rs. 46,293 was payable by the Corporation against Rs. 29,051 paid, resulting in short realisation of Rs. 17,242. Surcharge amounting to Rs. 3,448 was also payable on the balance amount of tax.

The short realisation was pointed out (October 1987) in audit; reply of department has not been received (December 1988).

(iii) Under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, surcharge at the rate of 20 per cent of passengers tax is leviable.

In Una district, it was noticed (October 1987) that a private transport company evaded deposit of surcharge amounting to Rs. 30,795 pertaining to years 1985-86 and 1986-87.

Surcharge of Rs. 21,804 was also deposited short on tax paid on various buses of Punjab Roadways during different periods falling between November 1986 and March 1987.

On this being pointed out (October 1987) in audit, the department stated (January 1988) that assessment proceedings were in progress. Further report has not been received (December 1988).

The cases were reported to Government between September 1987 and November 1987; their reply has not been received (December 1988).

CHAPTER 5

FOREST RECEIPTS

5.1. Results of Audit

Test check of records of forest receipts, conducted in audit during the year 1987-88, revealed non-recoveries, short recoveries and other losses of revenue amounting to Rs. 511.48 lakhs in 176 cases, which broadly fall under the following categories:—

	Number of cases	Amount (In lakhs of rupees)
1. Loss of revenue due to application of incorrect rates	46	116.82
2. Non-recovery or short recovery of royalty, interest and penalty	35	108.86
3. Non-levy of extension fee	13	70.18
4. Other irregularities	82	215.62
Total	176	511.48

Some of the important cases noticed during 1987-88 and earlier years and findings of a review on "Tapping of resin blazes by Himachal Pradesh State Forest Corporation" are mentioned in the following paragraphs.

5.2. Tapping of resin blazes by Himachal Pradesh State Forest Corporation

5.2.1. Introduction

As per State Government notification, issued in May 1975, the work of resin tapping from *chil* trees, which was being done departmentally

and through contractors, was to be nationalised in a phased manner from the year 1975 and entrusted to the Himachal Pradesh State Forest Corporation on a lease basis for a period of ten years. From the year 1978-79, the Corporation was exclusively entrusted with the work on a lease basis. The lease, which expired on 31st December 1984, was re-newed for a further period of ten years from January 1985 *vide* Government notification issued in December 1985. The main objective of the transfer of resin tapping work to the Corporation, was to improve resin tapping through scientific and systematic tapping and to minimise the damage to the trees in resin tapping.

A Pricing Committee was constituted by Government in May 1974 to recommend, annually, rates of royalty and damages to be charged in respect of resin blazes for extraction of resin. Government, on the recommendation of the Committee, decided (October 1980) that the Corporation was to be treated at par with private forest lessees and all the clauses (except those relating to security deposit and charging penalty for illicit resin tapping) of the standard agreement deed executed with them for tapping of resin were to be applicable to the Corporation. However, Government decided in April 1983 to charge penalty for the blazes illicitly tapped or outshaped during the course of tapping. According to standard agreement deed, decisions of the Pricing Committee and the provisions of the Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981, the tapping of resin by the Corporation was subject to the fulfilment of, among others, the following conditions:—

- (i) that the number of blazes handed over to the Corporation for tapping shall be accepted by it as final and correct for determining and realising the total royalty payable;
- (ii) that the tapping of resin shall be done in accordance with the dimensions/specifications as laid down in Punjab Forest Leaflet No. 13 and if tapping is not done in accordance with the prescribed conditions and the defects of tapping having been brought to the notice of the lessee, his agent or any person present in the forest, are not removed within fifteen

days, the lessor shall have the right to determine the lease and realise the damages and compensation from the lessee;

- (iii) that the Pricing Committee shall fix and recommend, annually, rates of royalty including those of the compensation for damages for resin blazes handed over to it for extraction of resin on year to year basis and shall be applicable on approval by the Government, and
- (iv) that as per the provisions of Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981, only extracted resin shall be purchased by the Corporation from the private owners.

5.2.2. *Scope of Audit*

Of 38 territorial forest divisions in the State, 27 divisions are mainly resin producing divisions. A test check of 20 divisions was conducted between June 1987 and January 1988, to see, *inter alia*, whether the objectives underlying the decision to entrust the work to the Corporation had been achieved and whether resin tapping had been done in accordance with the prescribed terms and conditions.

5.2.3. *Organisational set-up*

The Forest Department is headed by the Principal Chief Conservator of Forests and is assisted by two Chief Conservator of Forests and three Additional Chief Conservator of Forests each for Territorial, Social Forestry and Wild Life. There are 13 circles and 50 forest divisions in the State headed by Conservator of Forests and Deputy Conservator of Forests respectively, supported by other field staff.

5.2.4. *Highlights*

(i) Defective/unscientific tapping during the period from 1982-83 to 1986-87 of resin in 10 divisions by the Corporation resulted in a loss of royalty of Rs. 1.88 crores, besides sales tax of Rs. 51.75 lakhs, due to less realisation on sale of damaged trees sold in salvage marking.

(ii) For tapping operations during 1982-83 to 1986-87, bills raised by divisions against the Corporation for damages to 2.56 lakhs resin blazes involving an amount of Rs. 2.10 lakhs had not been accepted by it.

(iii) In nine divisions, 56,022 resin blazes handed over to the Corporation were not tapped during 1983-84 to 1986-87 and this resulted in a loss of revenue of Rs. 5.91 lakhs.

(iv) The Corporation purchased resin blazes from private owners though the Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981 provides for purchase of only extracted resin from the private owners. Further, the royalty rates paid for these private blazes were higher than the rates paid for Government owned blazes. On 53.06 lakhs blazes tapped during the years 1984-85 to 1986-87, royalty actually realised fell short by Rs. 2.97 crores as compared to rate paid to private owners.

(v) The delayed finalisation of royalty rates had led to accumulation of arrears of Rs. 2.83 crores due from the Corporation.

5.2.5 (a). *Damage to trees due to defective tapping of resin*

The nationalisation and transfer of resin tapping work to the Corporation was intended to improve the quality of resin tapping work and to minimise the damage to *chil* trees through scientific and systematic tapping in accordance with the dimensions/specifications as given in Punjab Forest Leaflet No. 13. It was, however, noticed that in 10 forest divisions, the Corporation instead of tapping blazes scientifically and systematically to minimise the damage to trees, resorted to tapping of *chil* trees much beyond the length, width and depth of the channels of the blazes contrary to the prescribed dimensions and that 36,218.71 cubic metres of *chil* trees valuing Rs. 2.68 crores at least rates went dry, were broken and fallen during the years 1982-83 to 1986-87 due to damage caused to them and disposed of in salvage marking at lower value for Rs. 79.49 lakhs only, resulting in loss of revenue amounting to Rs. 1.88 crores. Besides, sales tax amounting to Rs. 51.75 lakhs leviable was also lost. The loss was mainly attributable to lack of effective supervision by the department.

5.2.5 (b). *Damage to resin blazes*

As per the standard agreement deed, damage caused to resin blazes either through illicit tapping or tapping the blazes not in accordance with the dimension/specifications of the Punjab Forest Leaflet No. 13, are required to be verified/acknowledged and accepted by the Corporation and damage bills paid to the department. In five forest divisions, it was noticed that 19,532 blazes were tapped illicitly and 2,36,925 blazes were cut out of shape by the Corporation during 1982-83 to 1986-87. The Corporation neither verified nor acknowledged the damages on one pretext or the other. They also did not accept the damage bills when presented for payment by the department. This resulted in a loss of revenue of Rs. 2.10 lakhs.

5.2.6 (a). *Loss of revenue due to non-tapping of resin blazes*

As per clause 11 of the standard agreement deed, the Corporation is bound to accept the number of resin blazes, handed over to them for tapping in a year as final and correct for determining the total royalty payable to the department. In eight forest divisions, out of 6,73,718 resin blazes handed over to the Corporation during the years 1984-85 to 1986-87, the Corporation did not tap 37,229 resin blazes and did not pay royalty amounting to Rs. 3.97 lakhs for these untapped blazes on the grounds that the trees containing these resin blazes were scattered, located in difficult forest areas and tapping thereof was not economical. The plea of the Corporation was not tenable in view of the condition of the deed and also as the resin tapping work stands allotted to them exclusively and the department could not bring any other agency for tapping of these resin blazes. Thus, non-tapping of the resin blazes resulted in a loss of revenue amounting to Rs. 3.97 lakhs.

5.2.6 (b). *Loss of revenue due to non-tapping of resin blazes under Rill method*

With a view to making the resin tapping work more systematic and scientific with the least damage to the *chil* trees, a new method of resin tapping known as 'Rill Method' (evolved at Forest Research Institute, Dehradun) was introduced in the State from the year 1983 and resin tapping under this method was being done in a phased manner.

Resin blazes handed over under this method for tapping in a year are required to be tapped and paid for by the Corporation. In four forest divisions, it was noticed that the Corporation did not tap 18,793 blazes handed over to it during the years 1983-84 and 1985-86 and did not pay royalty amounting to Rs. 1.94 lakhs on these blazes on the plea that the Corporation did not have trained/expert staff/labour and resin blazes were not suitable for tapping under this method.

5.2.7. Purchase of resin blazes from private owners and fixation of higher royalty rates therefor

In terms of the provisions of the Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981, which regulate the purchase and distribution of resin, the Corporation was required to purchase only extracted resin, from the private owners, extracted by them from their own *chil* trees and purchase rate was to be fixed on the advice of the State Advisory Committee constituted under the Act. The Corporation, however, purchased resin blazes, instead of extracted resin, from the private owners during the years 1984-85 to 1986-87 which was without any legal sanction and was, therefore, irregular.

Further, the royalty rate payable for these private blazes during the years 1984-85, 1985-86 and 1986-87 was fixed at Rs. 16 per blaze as against the rates, payable for Government owned blazes during these years, of Rs. 9.85, Rs. 10.90 and Rs. 10.55 per blaze respectively. The rates for Government owned blazes were considerably lower as compared to the rate paid by the Corporation to private owners of trees, which would normally reflect the market price per blaze. The Corporation tapped 53,06,260 blazes from Government forests during these years and the royalty less realised by the department (calculated at differential rates) amounted to Rs. 2.97 crores. On this being pointed out in audit, the department stated (May 1988) that before making an amendment in the Act, a remunerative rate of Rs. 16 per blaze was paid to the private owners on an experimental basis with the intention of encouraging them to sell resin blazes instead of extracted resin so that these private owners might not resort to pilfering Government resin and selling the same to the Corporation in the garb of private resin. The contention of the department was not tenable as the higher rate was paid for full

3 years. Further, there was nothing on record to support the apprehension and assumption of the department.

5.2.8. *Lower rates of damages from the Forest Corporation*

Prior to the nationalisation and transfer of resin tapping work to the Corporation, the department used to fix annually, the rates for damages to be recovered from contractors' agency for the damages caused to resin blazes through illicit tapping and tapping of blazes out of shape. After the nationalisation and transfer of resin tapping work to the Corporation, these rates are being fixed by the Pricing Committee.

During test check of records, conducted in audit between June 1987 and January 1988, it was noticed that in four forest divisions, the rates for damages charged from the Corporation were lower than those charged from the private contractors for similar damage/offence, immediately before the nationalisation. The rates charged from the Corporation after nationalisation and during the years 1982-83 to 1986-87 were Rs. 7, Rs. 8.50, Rs. 9.85, Rs. 10.90 and Rs. 10.55 as royalty per blaze and penalty at Rs. 30 per hundred blazes for illicit tapping and Rs. 15 per hundred blazes for blazes tapped out of shape whereas the rates charged from the private contractors were Rs. 20 per blaze (Rs. 10 as compensation and Rs. 10 as price of resin per blaze) for illicit tapping and compensation of Rs. 30 (average) per hundred blazes for blazes tapped out of shape. The Corporation tapped 6,366 blazes illicitly and 91,988 blazes out of shape during the years 1982-83 to 1986-87. Royalty and compensation short realised thereon from the Corporation amounted to Rs. 83,913.

5.2.9. *Non-payment of the price of seized resin*

As per provisions of the Indian Forest Act, 1927, seized forest produce belongs to Government, until contrary is proved.

It was, however, noticed that 24.31 quintals of illicitly tapped resin were seized by the department and handed over to the Corporation between June 1982 and June 1984. The price of resin amounting to Rs. 24,934 (computed at the rate of Rs. 1,025.68 per quintal fixed by Government in November 1986) was not paid by the Corporation till September 1987.

5.2.10. Non-fixation of royalty rates annually and resultant arrears of royalty

After the nationalisation of resin tapping work in the State, the Pricing Committee was required to recommend each year for approval of Government, the rates of royalty and damages to be charged in respect of resin blazes for extraction of resin. It was, however, observed that the Committee last recommended these royalty rates for 1980-81 and 1981-82 in August 1982 which were approved by Government in April 1983. No royalty rates and rates for damages were recommended annually by the Committee for the years 1982-83 to 1986-87. The rates for damages fixed in 1982 were still in force. The royalty rates for years 1982-83 to 1984-85 and for years 1985-86 and 1986-87 were recommended as late as in December 1986 and June 1987 which were approved by Government in September 1987 and June 1988 respectively. Consequently, during all these years, neither the department was aware as to how much royalty was due to it nor did the Corporation know the royalty amount payable by it. As such, in 18 (out of 20 test-checked) forest divisions, realisation of royalty etc. went into arrears, as per details given below:—

Year to which relate	Amount due from Corpora- tion as on 31st March 1987
(In lakhs of rupees)	
1982-83	24.47
1983-84	37.18
1984-85	64.49
1985-86	47.98
1986-87	109.06
Total	283.18

The foregoing paragraphs were reported to department and Government in July 1988; their replies have not been received (December 1988).

5.3. Illicit felling of trees

(a) The State Government, on the advice of a Pricing Committee set-up by them, decided in October 1980 that the State Forest Corporation, which was entrusted with the responsibility of working forest lots, would be treated at par with private forest lessees and all the clauses (except that relating to security deposit) of the standard agreement deed, as executed by the department with the private forest lessees, would be applicable to the Corporation also. The terms of the standard agreement provide that, in the event of illicit felling of trees, the lessee would be liable to pay, in addition to the price at lease or the prevalent in the market whichever is higher, penalty at 100 per cent of the price of trees illicitly felled. In case, such felling exceeds three per cent of the total volume sold, the trees will not be handed over to the lessee but penalty at the aforesaid rate will be leviable. If, the produce of the illicitly felled trees has got mixed with the legally extracted produce, the excess extracted timber (attributable to illicit felling), shall be separated out and forfeited to Government. For determining the volume of various species to be separated out, the outturn percentage (including sawn timber, **hakaries*, pulpwood and fuelwood etc.) has been fixed (February 1986) by department as 65 per cent of the standing volume for *deodar*, *kail* and *chil* and 50 per cent for fir and spruce trees.

(i) In 4 forest divisions, four lots of *deodar* and *chil* trees containing 3,472.678 cubic metres standing volume of timber were handed over to the State Forest Corporation for exploitation during 1981-82 to 1986-87. Against this, the Corporation extracted 3,396.295 cubic metres of timber (extraction being between 91 and 123 per cent of the standing volume as against the prescribed percentage of 65) as reflected in the progress reports of the respective lots. Thus, 1,139.059 cubic metres of timber valuing Rs. 39.52 lakhs (including sales tax and penalty) was

**Hakaries* are pieces of logs, *golas* etc. cut into two from centre.

extracted by the Corporation in excess of the lawful extraction, as per details given below:—

Name of division	Year	Standing volume	Volume extracted	Excess extraction	Value of excess extracted timber (including penalty) (In lakhs of rupees)
		(In cubic metres)			
Nalagarh	1986-87	1,579.390	1,565.630	539.030	14.83
Parbati	1984-85	1,399.000	1,272.115	362.765	13.97
Seraj	1985-86	322.578	396.015	186.340	9.33
Kullu	1981-82	171.710	162.535	50.924	1.39
Total		3,472.678	3,396.295	1,139.059	39.52

The excess extraction was not pointed out to the Corporation by the department. This showed that neither the progress reports had been properly scrutinised nor were the felling operations supervised effectively by the department. The amount of Rs. 39.52 lakhs recoverable from the Corporation had also not been demanded.

On the omission being pointed out (between July 1987 and December 1987) in audit, in case of Nalagarh forest division, the Divisional Forest Officer stated (October 1988) that excess extraction was due to the fact that the trees marked in the lot were sound and no tree was unfit for conversion. Reply of the Divisional Forest Officer was not tenable as the outturn obtained in this case had been more than 99 per cent as against the maximum percentage of 65 fixed by the department. The Divisional Forest Officer was, therefore, asked (November 1988) to re-examine the case. Further reply has not been received (December 1988).

Government (in case of Seraj division) stated (May 1988) that the excess extraction was due to the good height of the trees, the area/site

of the lot being in compact block and the Corporation had extracted small sizes of timber such as pole, *hakaries* and **dimdimas*. The reply of Government was not tenable as the outturn could not be 123 per cent of the standing volume of the trees as against 65 per cent fixed by the department. The Government were, therefore, asked (June 1988) to re-examine. Further reply has not been received (December 1988).

Replies in respect of Parbati and Kullu divisions have not been received (December 1988).

(ii) In Hamirpur forest division, seven lots of *chil* trees containing 4,566.904 cubic metres standing volume of timber were handed over to the State Forest Corporation for exploitation during the year 1985-86. After completing the felling and conversion of all the trees marked for felling, the Corporation extracted 2,055.882 cubic metres of timber. Scrutiny of the divisional records, however, showed (February 1987) that against the extraction of 2,055.882 cubic metres of timber, the Corporation had exported (between February 1986 and July 1986) 2,170.390 cubic metres of timber from the said lots, which was in excess of the actual lawful extraction. This showed that the Corporation had resorted to illicit felling of trees. In respect of the timber exported in excess of the actual lawful extraction, a sum of Rs. 3.51 lakhs (comprising value of trees, sales tax and penalty) was recoverable from the Corporation, but was not demanded.

Government to whom the case was reported in April 1987, stated (May 1988) that demand for Rs. 3.51 lakhs had since been raised against the Corporation in September 1987. Report on recovery has not been received (December 1988).

(iii) In Nichar forest division, during the year 1985-86, a forest lot was handed over to the State Forest Corporation for exploitation. The Corporation had illicitly felled 12 trees. Though the department charged (September 1986) Rs. 11,837 as price of these trees, penalty of Rs. 11,837 for illicit felling of trees (at 100 per cent of the price of trees) was not levied.

**Dimdimas* are rectangular pieces of wood with bark removed.

On the mistake being pointed out (December 1986) in audit, the department stated (March 1988) that demand for penalty amounting to Rs. 11,837 had been raised in December 1986. Report on recovery has not been received (December 1988).

The case was reported to Government in February 1987 ; their reply has not been received (December 1988).

(b) As per terms of the standard agreement, applicable to State Forest Corporation also, for *avoidable damages caused to the trees not marked for felling, the lessee is required to pay penalty at 50 *per cent* of the price of trees damaged. In case of unavoidable damages caused to the trees, no penalty is leviable. However, damaged trees, which are unfit for survival, will be handed over to the lessee and price thereof shall be charged at lease rate or prevalent market rate as fixed for the year, whichever is higher.

In Kullu forest division, the department noticed (May 1984) that in the year 1983-84, during the course of felling operations of forest lots, the Corporation had caused avoidable damage to 15 trees and unavoidable damage to 101 trees. Accordingly, the department raised (June 1984) a damage bill for Rs. 6,610 (including sales tax and surcharge). Scrutiny of the divisional records, however, showed (August 1986) that the damage bill raised by the department did not include the price of trees involved in unavoidable damage. Besides, the amount of avoidable damage was calculated at lease rates instead of market rates being higher. Penalty at the rate of 50 *per cent* thereon had also not been included in the bill. The correct amount of the damage bill worked out to Rs. 2.41 lakhs (including value of damaged trees, penalty, sales tax and surcharge). The mistake resulted in short recovery of Rs. 2.35 lakhs.

Government to whom the case was reported in September 1986, stated (May 1988) that demand for the correct amount had since been raised against the Corporation in December 1986. Report on recovery has not been received (December 1988).

*Avoidable damage means the damage which is caused due to the negligence or not taking due/proper precautions during felling and other exploitation operations.

5.4. Short recovery of royalty on trees

As per decision taken by the State Government in April 1983, on the recommendations of the Pricing Committee, royalty for all dry (fit) standing and uprooted or base-broken trees and half broken, uprooted or base-broken green trees, marked and handed over to the State Forest Corporation for exploitation in salvage lots, is payable by the Corporation at 60 per cent of the rate of royalty fixed for standing green trees, if the intensity of the trees so marked is 15 cubic metres or above per hectare of the total area of the forest or compartment thereof. However, in case, the intensity of marking is 5 cubic metres but is below 15 cubic metres per hectare and the intensity of marking is below 5 cubic metres per hectare, the rate of royalty would be 50 per cent and 30 per cent respectively of the rate of royalty fixed for standing green trees. But, royalty for all green standing, green top broken, dying and diseased green trees included in such lots, is payable at full rates fixed for standing green trees.

(a) In 3 forest divisions, 23,053.70 cubic metres standing volume of timber was handed over to the State Forest Corporation for exploitation during the years 1981-82 to 1986-87. But, the department charged royalty for only 20,552.86 cubic metres of timber. Royalty not charged for the remaining 2,500.84 cubic metres of timber amounted to Rs. 9.63 lakhs (including sales tax and surcharge), as per details given below :—

Name of division	Year	Volume of trees actually handed over to the Corporation	Volume for which royalty charged by the department	Volume for which royalty not charged	Amount of short recovery (In lakhs of rupees)
(In cubic metres)					
Kullu	1981-82	12,222.09	10,231.34	1,990.75	7.52
Dalhousie	1984-85 and 1985-86	10,275.48	9,914.91	360.57	1.15
Nurpur	1986-87	556.13	406.61	149.52	0.96
Total		23,053.70	20,552.86	2,500.84	9.63

On the short recovery being pointed out (between May 1987 and January 1988) in audit, Government (in case of Kullu and Nurpur divisions) stated (July 1988 and December 1988) that revised demands for the correct amounts had since been raised against the Corporation in August 1987 and May 1988 and an amount of Rs. 3.82 lakhs in respect of Kullu division had been recovered. Report on recovery of the balance amount and reply in respect of Dalhousie forest division has not been received (December 1988).

(b) In 4 forest divisions, 567.22 cubic metres standing volume of timber was handed over to the State Forest Corporation for exploitation during the years 1982-83 to 1986-87. Royalty of the timber was charged by the department as Rs. 1.46 lakhs instead of Rs. 3 lakhs. The mistake resulted in royalty on trees being charged short by Rs. 1.54 lakhs (including sales tax and surcharge) from the State Forest Corporation, as per details given below:—

Name of division	Year	Volume of timber (In cubic metres)	Amount chargeable	Amount charged	Amount of short recovery
(In lakhs of rupees)					
Renuka	1982-83	427.88	1.86	1.12	0.74
Dharamsala	1985-86	67.51	0.48	0.14	0.34
Dehra	1985-86 and 1986-87	55.41	0.48	0.15	0.33
Hamirpur	1986-87	16.42	0.18	0.05	0.13
Total		567.22	3.00	1.46	1.54

On the short recovery being pointed out (between September 1987 and January 1988) in audit, Government (in case of Dharamsala, Dehra and Hamirpur divisions) stated (between September and December 1988) that revised demands for the correct amounts had since been raised against the Corporation between February 1988 and September 1988. Report on recovery and reply in respect of Renuka division have not been received (December 1988).

5.5. Application of incorrect rates of royalty

(a) The Himachal Pradesh State Government is supplying trees to the State Forest Corporation for conversion into *gellus* for sale to saw millers for manufacturing fruit packing cases keeping in view the demand for packing cases in a year. The Corporation is required to fell all the trees handed over to them in the respective year. In case, some standing trees remain unfelled, the Corporation is liable to pay royalty for such trees at the rates fixed for the year in which actual felling takes place.

In one case relating to Seraj forest division, involving short recovery due to application of incorrect rates of royalty, an amount of Rs. 96,804 (including sales tax and surcharge) was recovered from the Corporation (August 1988) on being pointed out in audit (July 1987). A few other cases are mentioned below.

(i) In Rohru forest division, trees containing 5,698.38 cubic metres standing volume of timber were handed over to the State Forest Corporation for felling during the year 1986-87. Out of this, 3,242.41 cubic metres (*raifir* : 3,227.05 cubic metres and *kail* : 15.36 cubic metres) of timber was extracted by the Corporation during 1987-88. As per royalty rates fixed for 1987-88, an additional amount of Rs. 2.27 lakhs (including sales tax and surcharge) was recoverable from the Corporation, but was not demanded.

On the omission being pointed out (August 1987) in audit, department stated (November 1987) that demand for the amount of Rs. 2.27 lakhs was raised against the Corporation in August 1987. Report on recovery has not been received (December 1988).

(ii) In Jubbal forest division, trees containing 24,609.43 cubic metres standing volume of timber were handed over to the State Forest Corporation for felling during the year 1986-87. Out of this, 1,782.37 cubic metres of timber was extracted by the Corporation during the year 1987-88. As per royalty rates fixed for the year 1987-88, an additional amount of Rs. 1.39 lakhs (including sales tax and surcharge) was recoverable from the Corporation, but was not demanded.

The omission was pointed out (September 1987) in audit; reply of department has not been received (December 1988).

(iii) In Mandi forest division, trees containing 1,469.74 cubic metres standing volume of *chil* timber were handed over to the State Forest Corporation for felling during the year 1986-87. Scrutiny of the divisional records revealed that this timber was extracted by the Corporation during the year 1987-88. As per royalty rates fixed for 1987-88, an additional amount of Rs. 1.26 lakhs (including sales tax and surcharge) was recoverable from the Corporation, but was not demanded.

The mistake was pointed out (September 1987) in audit; reply of department has not been received (December 1988).

(iv) In Solan forest division, a lot containing 8,016.42 cubic metres standing volume of *chil* timber was handed over to the State Forest Corporation for felling during the year 1986-87. Of this, 563.464 cubic metres of timber was felled by the Corporation during the year 1987-88. As per royalty rates fixed for the year 1987-88, differential amount of Rs. 48,400 (including sales tax and surcharge) was recoverable from the Corporation, but was not demanded.

Government to whom the case was reported in December 1987, stated (May 1988) that demand for the amount of Rs. 48,400 had since been raised against the Corporation. Report on recovery has not been received (December 1988).

(v) In Suket forest division, a lot containing 1,512.882 cubic metres standing volume of timber was handed over to the Corporation for felling during the year 1986-87. Out of this, 511.714 cubic metres of timber was extracted by the Corporation during 1987-88. As per royalty rates fixed for 1987-88, an additional amount of Rs. 35,734 (including sales tax and surcharge) was recoverable from the Corporation, but was not demanded.

The omission was pointed out (December 1987) in audit; reply of department has not been received (December 1988).

The cases were reported to Government between October 1987 and April 1988 ; their reply has not been received (December 1988), save as indicated in sub para (iv) above.

(b) As per the decision taken by the Himachal Pradesh State Forest Department in May 1985, if the marking lists are handed over to the State Forest Corporation before 15th September in case of sub-tropical areas and 15th December in case of temperate areas, the forest lots would be treated to have been taken over by the Corporation in the same year. However, in case of delay in taking over the lots, these would be deemed to have been taken over by the Corporation in the subsequent year.

In Dharamsala forest division, three salvage lots of 1,360 *chil* trees containing 1,721 cubic metres standing volume of timber were taken over by the Corporation for exploitation in October 1985. Scrutiny of the divisional records revealed (January 1988) that the price of the trees marked and handed over to the Corporation in these lots was charged (September 1987) at the lease rate fixed for the year 1985-86, though as per decision of the department, these were to be charged at the lease rate applicable for the year 1986-87 as these lots were taken over by the Corporation after 15th September. The mistake resulted in price of trees being charged less by Rs. 95,166 (including sales tax and surcharge).

The short recovery was pointed out (January 1988) in audit; reply of department has not been received (December 1988).

The case was reported to Government in February 1988 ; their reply has not been received (December 1988).

5.6. Short recovery of royalty due to application of incorrect volume factor

The State Forest Corporation, which was entrusted with the responsibility of working forest lots was to pay royalty on trees at the rates fixed by the Pricing Committee set up by Government in May 1974. The amount of royalty is based on volume of trees which is worked out on the factor prescribed in the related working plan.

In Parbati forest division, two lots comprising 1,542 trees (*deodar* : 1,082 and *kail* : 460) were handed over to the State Forest Corporation in November 1983 for exploitation. The volume of these trees correctly worked out to 1,925.10 cubic metres as against 1,218.39 cubic metres wrongly calculated due to application of incorrect volume factor. Thus,

the royalty of Rs. 7.64 lakhs (including sales tax and surcharge) was less charged for 706.71 cubic metres.

Government to whom the case was reported in October 1987, stated (November 1988) that the revised bill had been raised against the Corporation in August 1988. Report on recovery has not been received (December 1988).

5.7. Non-disposal of trees

The State Government, on the advice of the Pricing Committee set up by them, decided in October 1980 that in future the State Forest Corporation, which was entrusted with the responsibility of working forest lots, would work all the lots in a division. They would not pick and choose the lots as hithertofore.

(i) In Lahaul forest division, out of 1,147.593 cubic metres of snow damaged trees and logs, proposed (March 1983) for disposal, 275.368 cubic metres of timber was exploited (March 1984) departmentally. The remaining 872.225 cubic metres of timber was proposed to be handed over to the Corporation and in June 1984, marking lists were sent to the Corporation for exploitation of this timber. The Corporation took over only 579.633 cubic metres of timber for exploitation and stated that the balance 292.592 cubic metres of timber would be taken over for exploitation later on. Mention was made in paragraph 6.2 (iv) (b) of Audit Report on Revenue Receipts of Government of Himachal Pradesh for the year 1985-86 in respect of 71.428 cubic metres of timber which was either washed away by a glacier or was no longer fit for conversion. However, the remaining 221.164 cubic metres of timber had neither been taken over by the Corporation nor disposed of otherwise by the department till August 1987. The potential revenue involved worked out to Rs. 2.83 lakhs (including sales tax and surcharge).

This was pointed out (August 1987) in audit; reply of department has not been received (December 1988).

(ii) In Renuka forest division, a salvage lot of 135 *chil* trees containing 154.70 cubic metres standing volume of timber was marked by the department in August 1980 for disposal in open auction. Accordingly, the lot was put to auction 6 times between October 1980 to

February 1982 but could not be sold for want of proper bid. Later on, in March 1982, the concerned Conservator of Forests directed the Divisional Forest Officer to hand over the lot to the State Forest Corporation for exploitation. Scrutiny of the divisional records showed (August 1986) that the lot had not been handed over to the Corporation till August 1986. The potential revenue involved worked out to Rs. 67,968(including sales tax and surcharge).

On the non-disposal of trees being pointed out(August 1986) in audit, the Divisional Forest Officer stated(February 1988) that the matter was being looked into. Further report has not been received (December 1988).

The cases were reported to Government in October 1986 and October 1987 ; their reply has not been received (December 1988).

5.8. Non-recovery of royalty on trees

The State Forest Corporation, which was entrusted with the responsibility of working forest lots was to pay royalty(in instalments as fixed by the department) on trees at the rates fixed by the Pricing Committee set-up by the Government in May 1974.

In Kunihar forest division, 641.51 cubic metres standing volume of timber comprising 419 *chil* trees was handed over to the State Forest Corporation for exploitation during the year 1986-87. But royalty amounting to Rs. 3.22 lakhs(including sales tax and surcharge) payable in two instalments due in January 1987 and March 1987, had not been demanded by the department.

Government to whom the case was reported in January 1988, stated (November 1988) that demand for Rs. 3.22 lakhs had since been raised against the Corporation in December 1987, out of which an amount of Rs. 1.52 lakhs had been recovered. Report on recovery of the balance amount has not been received (December 1988).

5.9. Misuse of timber meant for conversion into *geltus*

As per the decision taken by Forest Department in May 1983 (approved by Government in June 1985) *geltu* lots were to be marked for exploitation by the State Forest Corporation for conversion into *geltus* to be

supplied to saw millers for manufacturing fruit packing cases. While *geltu* lots were to be sold at the subsidised rates, forest lots marked for extraction of timber for commercial purposes were to be charged at lease rates.

(i) In Nahan forest division, during the year 1983-84, 7 lots of *chil* trees containing 2,114.640 cubic metres standing volume of timber were handed over to the State Forest Corporation for conversion into *geltus*. In addition to timber extracted for *geltus*, 452.37 cubic metres of commercial timber was also extracted by the Corporation out of these lots. For timber, extracted for commercial purposes, valuing Rs. 2.26 lakhs at lease rate (Rs. 415.75 per cubic metre of standing timber), the department charged Rs. 32,978 for standing volume of 542.84 cubic metres at subsidised rate (Rs. 60.75), applicable to *geltu* lots. This resulted in price of timber being charged short by Rs. 2.46 lakhs (including sales tax and surcharge of Rs. 0.53 lakh).

The short recovery was pointed out (November 1987) in audit; reply of department has not been received (December 1988).

(ii) In Parbati forest division, during the year 1983-84, a *geltu* lot of 939 trees of fir/spruce/*kail* containing 3,662.29 cubic metres standing volume of timber was handed over to the State Forest Corporation for exploitation and conversion into *geltus*. Scrutiny of the divisional records revealed (August 1987) that in addition to timber extracted for *geltus*, 744 scants, containing 48.884 cubic metres of fir/spruce timber (equal to 122.21 cubic metres standing volume), were also extracted out of this lot by the Corporation for commercial purposes. For timber extracted for commercial purposes valuing Rs. 53,418 at lease rate (Rs. 437.10 per cubic metre), the department charged Rs. 4,888 for standing volume of 122.21 cubic metres at subsidised rate (Rs. 40 per cubic metre) applicable to *geltu* lots. This resulted in price of timber being charged short by Rs. 61,875 (including sales tax and surcharge).

The short recovery was pointed out (August 1987) in audit; reply of department has not been received (December 1988).

The cases were reported to Government in October 1987 and February 1988; their reply has not been received (December 1988).

5.10. Short recovery of price of trees coming in ropeway alignment }

The terms of the standard agreement deed, applicable to State Forest Corporation also, provide that the price of trees required to be removed from ropeway alignments, would be charged from the lessee at 10 *per cent* above the lease rates or market rates, fixed for the year and prevalent at the time of handing over such trees, whichever are higher.

In one case relating to Seraj forest division, involving short recovery due to charging the price of trees at incorrect rates, an amount of Rs. 1.17 lakhs (including sales tax and surcharge) was recovered (August 1988) from the Corporation on being pointed out in audit (June 1987). Another case is mentioned below.

In Mandi forest division, 309 trees coming in ropeway alignments were handed over to the State Forest Corporation in two lots during 1984-85 and 1986-87. The price of these trees was erroneously charged as Rs. 3.12 lakhs at lesser rates, instead of Rs. 4.15 lakhs chargeable at the correct rates. The mistake resulted in realisation of price short by Rs. 1.03 lakhs (including sales tax and surcharge).

Government to whom the cases were reported in June 1987 and November 1987, stated (November 1988) that revised demands at the correct rates had been raised against the Corporation in October 1987 and July 1988. Report on recovery has not been received (December 1988).

5.11. Non-levy of extension fee

The terms of the standard agreement deed, which are applicable to the State Forest Corporation also, provide that if a lessee fails to fell trees, convert and carry the produce outside the leased area within the contract period, he shall be required to seek extension in the working period, failing which he shall have no right on the standing/felled trees and scattered/stacked timber lying in the leased forest. For such extension, the lessee is required to pay extension fee at the rate of 2 *per cent* per month on the balance amount of royalty payable by him to Government. However, in case the entire royalty has been paid by the lessee, the rate of extension fee chargeable would be 0.3 *per cent* per month of the total sale price.

(i) In D'haramsala forest division, two forest lots were handed over (November 1984) to the State Forest Corporation for exploitation during the year 1984-85. The lease period of both the lots was from November 1984 to 31st May 1985. The Corporation, however, could not complete the work of these lots within the lease period. Accordingly, on the request of the Corporation, Government granted (March 1986) extension in the working period of these lots upto 30th June 1986, subject to payment of extension fee by the Corporation as per terms of the agreement. Scrutiny of the divisional records showed that extension fee amounting to Rs. 88,986 (for the period from June 1985 to June 1986) had neither been demanded by the department nor paid by the Corporation till January 1988.

On the omission being pointed out (January 1988) in audit, department stated (July 1988) that demand for Rs. 88,986 had been raised against the Corporation in March 1988. Report on recovery has not been received (December 1988).

The case was reported to Government in February 1988; their reply has not been received (December 1988).

(ii) In Kullu forest division, a forest lot of 3,121 trees, containing 12,652.79 cubic metres standing volume of timber, was handed over (April 1981) to the State Forest Corporation for exploitation. The lease period was from April 1981 to 31st March 1984. The progress report for the quarter ending March 1984, sent by the Corporation to the Divisional Forest Officer, showed that the Corporation had not completed the felling operations within the lease period. As per a subsequent progress report for the month of May 1985, the work was completed in May 1985, but the Corporation did not seek extension of the lease period. The department also failed to forfeit the forest produce as per terms of agreement and to recover extension fee amounting to Rs. 57,906 for the period from April 1984 to May 1985.

Government to whom the case was reported in October 1987, stated (September 1988) that demand for Rs. 57,906 had been raised against the Corporation in November 1987. Report on recovery has not been received (December 1988).

(iii) In Una forest division, seven forest lots of *chil* trees were handed over to the State Forest Corporation for exploitation during

the year 1985-86. The lease period of these lots was upto 31st March 1986. Scrutiny of the divisional records, however, revealed that the Corporation had not completed the felling operations within the lease period and sought (March 1986) extension in working period upto 30th April 1986. However, extension fee amounting to Rs. 34,739 recoverable from the Corporation for the extension in working period had not been demanded by the department till February 1987.

Government to whom the case was reported in July 1987, stated (November 1988) that demand for Rs. 34,739 had been raised against the Corporation in September 1987. Report on recovery has not been received (December 1988).

5.12. Short levy/non-levy of interest and penalty

The terms of the standard agreement, applicable to State Forest Corporation also, provide that in case of delay in payment of royalty, the lessee would be liable to pay interest at the rate of 10 *per cent* per annum for the delay within the contract period and at the rate of 15 *per cent* per annum thereafter. In case of delay in payment of sales tax (which is payable by the lessee alongwith royalty instalments), penalty at the rate of 18 *per cent* per annum is leviable.

(i) In Una forest division, in respect of forest lots handed over to the State Forest Corporation for exploitation during the year 1986-87, instalments of royalty and sales tax leviable thereon were not paid by the Corporation on due dates. On the belated payments, interest amounting to Rs. 96,020 (for delays ranging between 4 days and 200 days) and penalty amounting to Rs.49,889 (for delays ranging between 8 days and 200 days) were chargeable from the Corporation, against which interest amounting to Rs. 47,306 and penalty amounting to Rs. 21,830 only had been charged (October 1987) by the department. This resulted in short recovery of interest amounting to Rs. 48,714 and penalty amounting to Rs. 28,059.

Government to whom the case was reported in February 1988, stated (October 1988) that the revised demand had been raised against the Corporation in September 1988. Report on recovery has not been received (December 1988).

(ii) In Lahaul forest division, in respect of a forest lot handed over to the State Forest Corporation for exploitation during the year 1984-85, instalments of royalty were not paid by the Corporation on due dates. On the belated payments, interest amounting to Rs. 57,755 was chargeable from the Corporation, but was not charged by the department.

Government to whom the case was reported in October 1987, stated (November 1988) that demand for Rs. 57,755 had been raised against the Corporation in March 1988. Report on recovery has not been received (December 1988).

5.13. Loss of revenue due to shortage of firewood and charcoal

Under the Himachal Pradesh Forest Manual, in case of trees converted into firewood, maximum wastage of 20 *per cent* is permissible from the forest site till its sale from the depot.

(i) In Bilaspur forest division, during the year 1983-84, a coppice lot was handed over to the State Forest Corporation for supply of firewood. Against 10,727 quintals of firewood received from the Corporation, 5,622.22 quintals of firewood was sold by the department between December 1983 and August 1985 and 38 quintals of firewood was in balance in the sale depot at the end of August 1985. The remaining 5,066.78 quintals of firewood had been allowed (October 1985) as loss due to driage by the department which was 2,921.38 quintals in excess of the maximum permissible wastage of 2,145.40 quintals. This resulted in loss of revenue amounting to Rs. 1.29 lakhs (calculated at the rate of Rs. 44 per quintal).

The loss was pointed out (October 1987) in audit; reply of department has not been received (December 1988).

(ii) In Suket forest division, in January 1987, the Range Officer, Suket reported to the Divisional Forest Officer that a shortage of 611.91 quintals of fuelwood and 637.30 quintals of charcoal valuing Rs. 1.27 lakhs had been noticed by the Depot Officer while taking over the charge of Sundernagar sale depot. Although Divisional Forest Officer asked (May 1987) the concerned officer to explain the shortage

within 15 days, steps to investigate the shortage or to fix responsibility for the loss had not been taken by the department till December 1987.

On the shortage being pointed out (December 1987) in audit, department stated (August 1988) that the matter was being enquired into. Their final reply has not been received (December 1988).

The cases were reported to Government in December 1987 and April 1988; their reply has not been received (December 1988).

5.14. Loss of revenue due to administrative failure

As per conditions of the auction sale, the bid offered remains open for 45 days from the date of auction.

In Chopal forest division, a lot containing 172.29 cubic metres of confiscated/seized timber was sold to a lessee for Rs. 6.96 lakhs in an open auction held on 18th December 1985. Security deposit amounting to Rs. 1.74 lakhs was realised from the lessee on the spot. Acceptance of the offer was to be communicated by the department to the lessee on or before 31st January 1986. However, the acceptance to the lessee was communicated on 1st February 1986 and the lessee refused (3rd February 1986) to accept the offer on the plea that the acceptance had not been communicated to him within the stipulated period (45 days). Government accepted (July 1986) the plea and consequently the security deposit of Rs. 1.74 lakhs was refunded (October 1986) to the lessee. Later on, in October 1986, the lot was resold by the department to another lessee for Rs. 5.01 lakhs. Thus, the failure of the department to communicate the acceptance of offer within the stipulated period, resulted in a loss of revenue amounting to Rs. 2.16 lakhs (including sales tax and surcharge of Rs. 21,450).

The loss was pointed out (July 1987) in audit; reply of department has not been received (December 1988).

The case was reported to Government in September 1987; their reply has also not been received (December 1988).

5.15. Shortage of seized timber

In Renuka forest division, the Range Officer, Shillai reported (June 1983) to the Divisional Forest Officer that 9,636 cubic metres of

timber (converted from illicitly felled trees), seized by the department during the year 1982-83 and kept in the custody of departmental staff, was not available on the spot. He also intimated that first information report to that effect had been lodged (May 1983) with the Police. The Police authorities, however, reported (December 1983) that the seized timber had been removed due to the negligence of the staff of the Forest Department. But no further action in the matter was taken by the department till July 1984. This resulted in loss of revenue to Government amounting to Rs. 18,680.

Government to whom the case was reported in January 1985, stated (June 1988) that the matter was being looked into. Their final reply has not been received (December 1988).

5.16. Non-recovery of Government dues

The terms of the standard agreement, executed by the department with a forest lessee, provide that in case of delay in payment of royalty, the lessee would be liable to pay interest at 10 per cent per annum for delay within the contract period and at 15 per cent per annum thereafter. In case of delay in payment of sales tax (which is payable by the lessee alongwith royalty instalment and whether the due date for payment of royalty is extended or not), penalty at 18 per cent per annum is leviable. The overdue instalments of royalty and interest can be recovered from the lessee out of his security deposit and by seizure and detention of the timber extracted by him.

In Rampur forest division, a forest lot of 391 trees containing 2,836.993 cubic metres standing volume of timber was leased out to a lessee in May 1986 for Rs. 42 lakhs plus sales tax and surcharge amounting to Rs. 11.55 lakhs. The royalty was payable in two instalments due on 30th November 1986 (Rs. 10.50 lakhs) and 1st March 1987 (Rs. 31.50 lakhs). The period of lease was upto 31st March 1987. The lessee paid Rs. 12.20 lakhs (royalty: Rs. 9.68 lakhs and sales tax and surcharge: Rs. 2.52 lakhs) only during the period from December 1986 to March 1987. On his failure to pay the balance amount of Rs. 41.35 lakhs (royalty: Rs. 32.32 lakhs and sales tax and surcharge: Rs. 9.03 lakhs), the forest produce extracted by the lessee was required

tobe seized by the department before the expiry of the lease period. Scrutiny of the divisional records showed that out of 1,835,937 cubic metres of total timber extracted by the lessee, 455 cubic metres of timber had been exported by him in November 1986. Thus, only a balance of 1,380,937 cubic metres of timber valued at Rs. 32.92 lakhs was lying with the department to recover the balance outstanding dues amounting to Rs. 41.35 lakhs. In addition, an amount of Rs. 6.14 lakhs on account of interest/penalty for delay in payments of royalty and sales tax upto 30th November 1987 (Rs. 5.23 lakhs) and damage bill (Rs. 91,043) was recoverable from the lessee. However, after adjusting the balance security deposit (Rs. 4.20 lakhs) of the lessee, net amount of Rs. 10.37 lakhs recoverable from the lessee remained unrealised due to the failure of the department to act in accordance with the standard terms of the agreement.

The non-recovery was pointed out (December 1987) in audit; reply of department has not been received (December 1988).

The case was reported to Government in April 1988; their reply has also not been received (December 1988).

CHAPTER 6

OTHER TAX AND NON-TAX RECEIPTS

A—Land Revenue

6.1. Results of Audit

Test check of records of land revenue, conducted in audit during the year 1987-88, revealed short recovery of land revenue/surcharge and other irregularities, involving revenue of Rs. 15.14 lakhs in 36 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Short recovery of land revenue/surcharge	8	0.50
2. Non-recovery of local rate/compensation money	3	2.22
3. Non-deposit of land revenue by <i>lamb-ardars</i>	3	4.40
4. Other irregularities	22	8.02
Total	36	15.14

An important case is mentioned in the following paragraph.

6.2. Non-deposit of revenue

Under the Himachal Pradesh Land Revenue Act, 1954, as amended from time to time and the Rules framed thereunder, collection of land

revenue and cesses made for the *rabi* and *kharif* harvests is required to be credited to Government account by 15th July and 28th February respectively each year. Failure on the part of the *lambardars* to deposit these collections into Government treasury attracts coercive recovery process against them and the defaulting *lambardars* are liable to removal from office and for forfeiture of *lambardari* **pachotra*. A *lambardar* is bound to pay on due date all the revenue recoverable from an estate irrespective of the fact whether he realises it from the tax payers or not.

In the course of audit of accounts of the Tehsildar, Kangra, it was noticed (December 1987) that land revenue and cesses amounting to Rs. 64,905 for the years 1982-83 to 1986-87 had not been deposited into Government treasury by 10 *lambardars* till December 1987. No case of non-payment of land revenue and cesses by the land holders was reported by the *lambardars* to the tehsildar. No steps had been initiated by the department either to enforce the prescribed coercive measure, for recovery and deposit of the overdue land revenue, cesses, etc., against the defaulting *lambardars* or to cancel their *lambardari pachotra*.

On this being pointed out (December 1987) in audit, department stated (March 1988) that the lands of the concerned *lambardars* had been attached and their cases sent to the concerned tehsildar for auction. It was further reported that Rs. 1,970 were deposited (January 1988) into the treasury by a *lambardar*. Further report has not been received (December 1988).

The matter was reported to Government in February 1988 ; their reply has not been received (December 1988).

B—Stamp Duty and Registration Fees

6.3. Results of Audit

Test check of the records relating to stamp duty and registration fees, conducted in audit during the year 1987-88, revealed short realisation of stamp duty and registration fees amounting to Rs. 2.17 lakhs in

**Pachotra* is a remuneration given to the village headman (*lambardar*) for collecting land revenue.

47 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Irregular grant of exemptions from payment of stamp duty and registration fees	3	0.36
2. Application of incorrect rates of stamp duty and registration fees	4	0.16
3. Non-levy or short levy of stamp duty and registration fees	29	0.95
4. Other irregularities	11	0.70
Total	47	2.17

An important case is mentioned in the following paragraph.

6.4. Non-recovery/short recovery of stamp duty

The levy and collection of stamp duty on various types of instruments is governed by the Indian Stamp Act, 1899, as applicable to Himachal Pradesh. Under the Indian Registration Act, 1908, the registration of certain types of documents is both compulsory and optional. In Himachal Pradesh, the registering officer shall, however, refuse to register any document presented to him for registration unless such document is accompanied by a true copy thereof. Further, the particulars of the instruments executed are also required to be recorded in the records maintained in the registering offices after which the original documents are returned to the person who presented them for registration or to such other person nominated in this behalf.

Non-recovery/short recovery of stamp duty aggregating Rs. 6.26 lakhs in 313 cases pertaining to the period 1972 to 1986, noticed in audit of various registration offices in the State was pointed out (between 1973 and 1987) to the department/Government, but the amounts remained unrecovered. Government, however, stated (December 1987)

that audit observations are based on the copies retained in registering offices and that any action to make good the deficiency in stamp duty would be illegal since there was no enabling provision to that effect in the Indian Stamp Act, 1899, as applicable to Himachal Pradesh. The need for making a suitable provision in the Stamp Act on the lines of that made by some of the States (like Andhra Pradesh and Haryana) was pointed out to the Government in May 1987 and again in January 1988. The Government stated (February 1988 and July 1988) that matter regarding amendment of the Act was under active consideration of Government. Report on further developments has not been received (December 1988).

Deficient provisions in the existing stamp law has deprived the Government of revenue to the tune of Rs. 6.26 lakhs during the years 1972 to 1986.

C—Public Works Department

6.5. Results of Audit

Test check of the records relating to receipts of the Public Works Department, conducted in audit during the year 1987-88, revealed non-recovery/short recovery of rent, non-levy of toll tax and other irregularities involving revenue amounting to Rs. 34.28 lakhs in 45 cases which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Non-recovery/short recovery of rent	13	4.51
2. Non-levy of toll tax	3	24.24
3. Unauthorised occupation of accommodation	3	0.30
4. Other irregularities	26	5.23
Total	45	34.28

Some of the important cases noticed in 1987-88 and earlier years are mentioned in the following paragraphs.

6.6. Loss of revenue due to non-levy of toll tax

Under the Himachal Pradesh Mechanical Vehicles (Bridge Tolls) Act, 1968 and Government orders of March 1984, toll tax at varying rates is leviable on mechanical vehicles crossing bridges, constructed at a cost exceeding Rs. 10 lakhs and specified in the First Schedule to the Act. As per instructions issued by the Chief Engineer in July 1974, a proposal for the inclusion of a bridge in the First Schedule should be sent to Government six months in advance of the completion of the bridge and simultaneous action taken for the provision of collection staff, so as to ensure levy and collection of toll tax as soon as the bridge is thrown open to traffic.

Construction of a bridge over the river Beas at Patlikuhl (Kullu district) was completed in March 1984 at a cost of Rs. 28.86 lakhs. The State Finance Department issued (March 1984) instructions to the Public Works Department for charging toll tax in case of bridges costing Rs. 10 lakhs and more. Although the Public Works Department initiated action in this behalf in August/September 1984, the proposal to levy toll tax has not so far materialised (December 1988).

The net monthly income from toll tax could be Rs. 4,810 as the Department had estimated that Rs. 28.86 lakhs spent on construction of the bridge would be made good in 50 years by levying toll tax. Thus, failure on the part of the department to get the bridge included in the First Schedule to the Act and to collect toll tax has deprived Government of a revenue of Rs. 1.54 lakhs during the period from April 1984 to November 1986.

This lapse was pointed out (December 1986) in audit ; reply of the department has not been received (December 1988).

The case was reported to Government in March 1987; their reply has also not been received (December 1988).

6.7. Non-recovery/short recovery of rent

(i) Public Works Department issue monthly rent rolls to realise the rent of buildings from the allottees.

In Shimla, the control of Jubbal House building (alongwith six shops) located at Sanjauli was transferred from Shimla Division No. II to Shimla Division No. III in December 1969. A test check of the records of Shimla Division No. III revealed (December 1987) that the transfer of buildings had neither been entered in the register of buildings nor any rent rolls were issued to 17 occupants of the building. The rent recoverable amounted to Rs.84,379 for the period from December 1969 to March 1987.

The omission was pointed out (December 1987) in audit; reply of department has not been received (December 1988)

The case was reported to Government in September 1988 ; their reply has also not been received (December 1988).

(ii) Gang huts were constructed by the Public Works Department for its *bona fide* use and not for rental purposes to private individuals. However, if these are rented out, the rent, as fixed by the competent authority, is to be realised from their occupants.

In Shimla district, a gang hut building was rented out for commercial use to a private individual in June 1984 at a rent of Rs. 1,049 per month (assessed on plinth area basis). On the basis of a representation (October 1985) of the occupant, the rent was reduced (January 1986) to Rs. 380 per month (re-assessed on the basis of capital cost of building) by the divisional officer from June 1984 onwards without obtaining approval of the competent authority *i.e.* Superintending Engineer. No rent was realised for the month of May 1986 and onwards. The divisional officer's action to reduce rent from June 1984 without approval of the competent authority and not to realise upto date rent resulted in short recovery/non-recovery of rent (upto November 1987) amounting to Rs. 35,318.

The mistake was pointed out (November 1987) in audit; reply of department has not been received (December 1988).

The case was reported to Government in March 1988; their reply has also not been received (December 1988).

8. Unauthorised occupation of accommodation

The Government have constructed field hostels at different places in the State for providing accommodation to Government officials for short period at concessional rate of Rs. 2.50 per day per suite. The accommodation, if spare, may also be provided to private individuals but at higher rate of Rs. 12 per day per suite. This rate of Rs. 12 was enhanced to Rs. 40 per day per suite with effect from 16th December 1986.

A suite in the field hostel of Kullu district had been occupied by an employee who was compulsorily retired (March 1986) from Government service. He had been paying rent at the concessional rate of Rs. 2.50 per day meant for Government officials. The department had neither got the accommodation vacated from the retiree nor charged rent at the higher rate of Rs. 12/Rs. 40 per day per suite. Short recovery for the period from March 1986 to October 1987 amounted to Rs. 14,107.

The mistake was pointed out (October 1987) in audit; reply of department has not been received (December 1988).

The case was reported to Government in December 1987; their reply has also not been received (December 1988).



Shimla
The

3 APR 1989

(KANWAL NATH)

Accountant General (Audit)
Himachal Pradesh

Countersigned

T. N. Chaturvedi

New Delhi
The

7 APR 1989

(T. N. CHATURVEDI)
Comptroller and Auditor General
of India

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PHYSICS DEPARTMENT

REPORT

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