

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

**FOR THE YEAR ENDED
31 MARCH 2008**

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

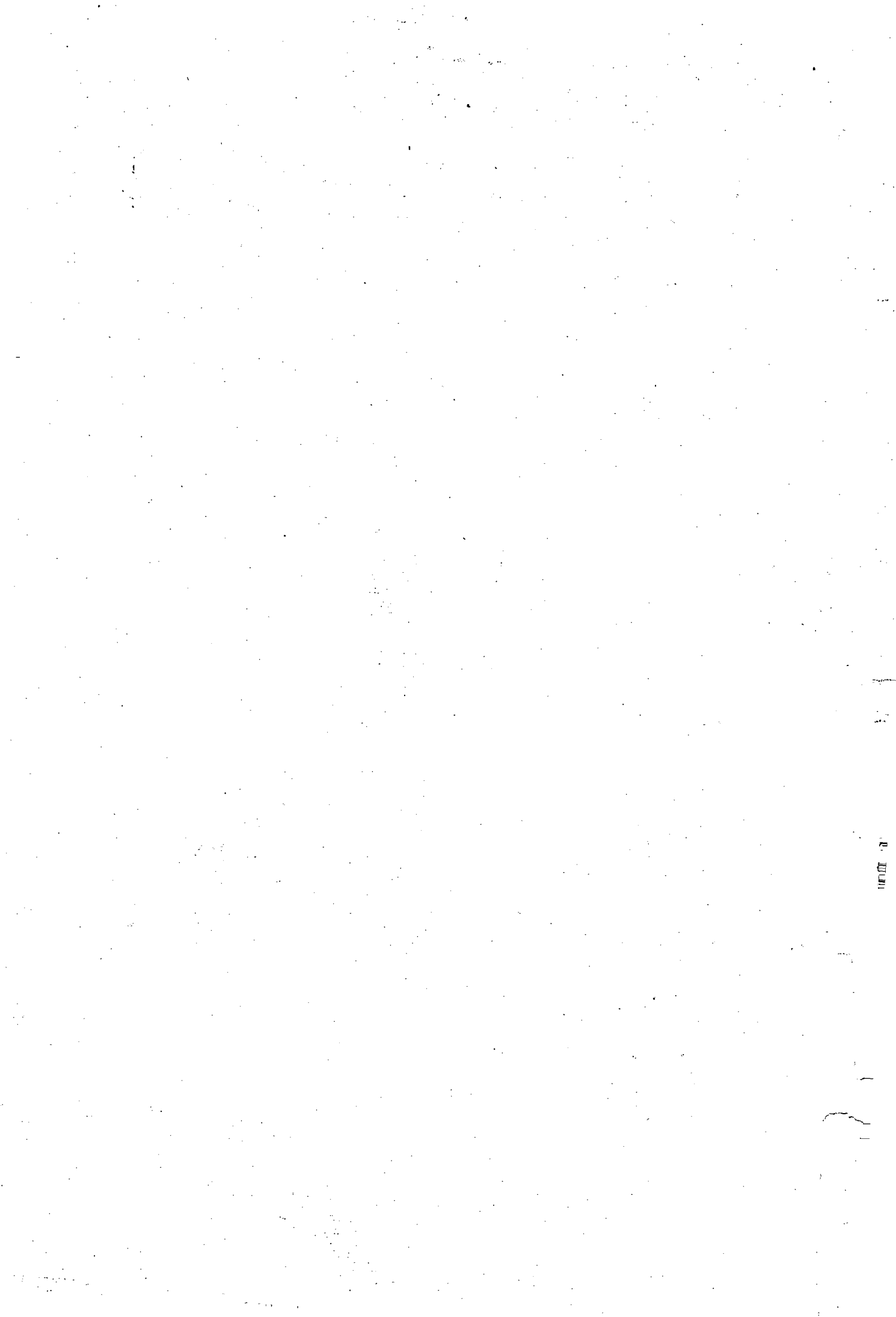


TABLE OF CONTENTS

	PARA	PAGE
Preface		v
Overview		vii-x
 CHAPTER I		
GENERAL		
Trend of revenue receipts	1.1	1
Variations between the budget estimates and actuals	1.2	5
Analysis of collection	1.3	6
Cost of collection	1.4	7
Analysis of arrears of revenue	1.5	8
Arrears in assessment	1.6	9
Evasion of tax	1.7	10
Write-off and waiver of revenue	1.8	10
Refunds	1.9	10
Results of audit	1.10	11
Response of the Government to audit observations	1.11	11
Departmental audit committee meetings	1.12	12
Response of the departments to draft audit paragraphs	1.13	13
Follow-up on Audit Reports - summarised position	1.14	13
Compliance with the earlier Audit Reports	1.15	14
Amendment to Acts/Rules	1.16	15
 CHAPTER II		
SALES TAX		
Results of audit	2.1	17
Loss of revenue under Motor Spirit Taxation Act	2.2	18
Short levy of interest	2.3	18
Incorrect grant of sales tax exemption under package scheme	2.4	19
Irregular grant of exemption on account of export sale	2.5	20
Short levy of sales tax	2.6	20
Incorrect grant of set-off	2.7	22

	PARA	PAGE
Irregular grant of exemption from payment of tax against form 'H'	2.8	24
Short levy of central sales tax	2.9	24
Non/short levy of turnover tax and surcharge	2.10	25
Short levy of tax under the Works Contract Tax Act	2.11	26
Incorrect summary assessment	2.12	28
Non-levy of purchase tax	2.13	28

CHAPTER III

STAMP DUTY AND REGISTRATION FEES

Results of audit	3.1	29
Evasion of stamp duty	3.2	30
Short levy of stamp duty due to incorrect computation of market value	3.3	31
Insufficient stamped instrument	3.4	31
Short levy of stamp duty due to misclassification of instrument	3.5	32

CHAPTER IV

LAND REVENUE

Results of audit	4.1	33
Recovery of dues treated as arrears of land revenue	4.2	34
Non-realisation of non-agricultural assessment tax and increase of land revenue due to non-raising of demand	4.3	43
Non/short levy of non-agricultural assessment	4.4	43
Non-levy of conversion tax	4.5	44

CHAPTER V

STATE EXCISE AND TAXES ON MOTOR VEHICLES

Results of audit	5.1	45
------------------	-----	----

SECTION A STATE EXCISE

Shortfall in yield of spirit based on sugar content resulted in loss of revenue	5.2	46
---	-----	----

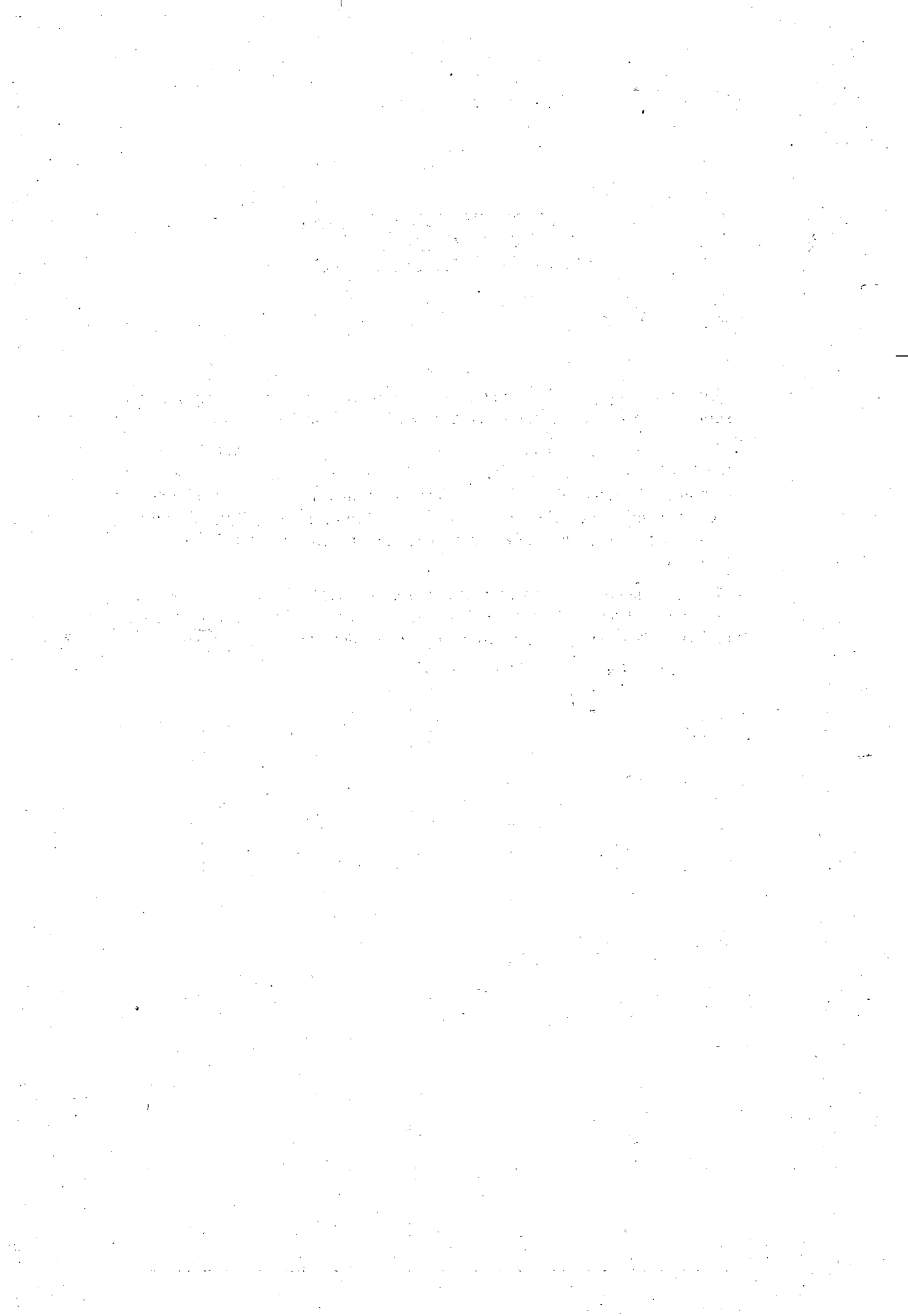
	PARA	PAGE
Short recovery of licence fees	5.3	47
Non/short recovery of privilege fees	5.4	49
Non-recovery of interest	5.5	50
SECTION B TAXES ON MOTOR VEHICLES		
Non-recovery of tax	5.6	50
Excess grant of refund	5.7	51
CHAPTER VI OTHER TAX RECEIPTS		
Results of audit	6.1	52
SECTION A ENTERTAINMENTS DUTY		
Non/short recovery of entertainment duty from cable operators/proprietors of dance bars	6.2	53
SECTION B STATE EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS		
Non-remittance of education and employment guarantee cess	6.3	54
Irregular grant of refund	6.4	54
SECTION C REPAIR CESS		
Non-remittance of repair cess	6.5	55
SECTION D ELECTRICITY DUTY		
Non-levy of interest on incorrect retention of electricity duty	6.6	55
Non-recovery of inspection fees	6.7	56

PREFACE

This report for the year ended 31 March 2008 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising Sales Tax, State Excise, Land Revenue, Taxes on Motor Vehicles, Stamp Duty and Registration Fees, Other Tax and Non-Tax Receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2007-08 as well as those noticed in earlier years, which could not be included in previous reports.



OVERVIEW

This Report contains 36 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalty, etc., involving Rs. 818.90 crore. Some of the major findings are mentioned below:

I. General

- The total receipts of the State during the year 2007-08 amounted to Rs. 79,570.43 crore, of which the revenue raised by the State Government was Rs. 64,463.66 crore and receipts from the Government of India were Rs. 15,106.77 crore. The revenue raised constituted 81 *per cent* of the total receipts of the State. The receipts from the Government of India included Rs. 7,597.22 crore on account of the State's share of divisible Union taxes which registered an increase of 26.14 *per cent* and Rs. 7,509.55 crore as grants-in-aid which decreased by 12.22 *per cent* over 2006-07.
(Paragraph 1.1)
- At the end of 2007-08 arrears in respect of some taxes administered by the departments of Finance and Home amounted to Rs. 24,444.32 crore, of which sales tax etc., alone accounted for Rs. 24,430.05 crore.
(Paragraph 1.5)
- In respect of the taxes administered by the Finance Department, such as sales tax, motor spirit tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts etc., 2,12,982 assessments were completed during 2007-08, leaving a balance of 13,22,508 assessments as on 31 March 2008.
(Paragraph 1.6)
- Test check of the records of sales tax, State excise, motor vehicles tax, stamp duty and registration fees, land revenue and other departmental offices conducted during the year 2007-08 revealed underassessment, short levy and loss of revenue, etc., amounting to Rs. 1,006.26 crore in 59,100 cases. The concerned departments accepted underassessment, short levy, etc., of Rs. 46.65 crore in 28,715 cases pointed out in 2007-08 and earlier years and recovered Rs. 37.86 crore.
(Paragraph 1.10)
- At the end of June 2008, 10,037 paragraphs involving Rs. 1,009.19 crore relating to 4,566 inspection reports issued upto 31 December 2007 remained outstanding.
(Paragraph 1.11)
- During the years between 2001-02 and 2006-07, the department/Government accepted audit observations involving Rs. 2,406.87 crore, out of which an amount of Rs. 838.74 crore was recovered till 31 March 2008.
(Paragraph 1.15)

II. Sales tax

- Excess claim of losses allowed in the assessments of two oil companies over the norms prescribed by the Oil Pricing Committee involved revenue of Rs. 62.34 crore.
(Paragraph 2.2)
- Incorrect levy of interest for 50 months instead of 98 months on the assessed dues of Rs. 15.76 crore resulted in short levy of interest of Rs. 11.23 crore.
(Paragraph 2.3)
- Incorrect exemption from payment of sales tax under package scheme of incentives on the sales of laminated particle board resulted in underassessment of tax of Rs. 8.15 crore.
(Paragraph 2.4.2)
- Incorrect exemption of tax on claims of export sales of Rs. 137.80 crore resulted in underassessment of tax of Rs. 7.08 crore.
(Paragraph 2.5.2)
- Incorrect exemption from tax, application of incorrect rate of tax, incorrect computation of turnover of sales, non-levy and error in computation of tax in 46 cases resulted in underassessment of tax of Rs. 3.76 crore.
(Paragraph 2.6.1 & 2)
- Incorrect grants of set-off under various provisions of the Bombay Sales Tax Rules resulted in underassessment of tax of Rs. 3.73 crore in respect of 19 dealers.
(Paragraph 2.7)
- Acceptance of certificates in Form H without supporting documents on sales of Rs. 25.16 crore resulted in irregular grant of exemptions of Rs. 2.67 crore in respect of 29 dealers.
(Paragraph 2.8)
- Non/short accountal of goods, incorrect claims of concessional rate of tax and claims supported by invalid declarations relating to interstate sales of Rs. 28.18 crore resulted in underassessment of tax of Rs. 2.41 crore.
(Paragraph 2.9)
- Non/short levy of turnover tax on turnover of sales of Rs. 71.95 crore and non/short levy of surcharge on sales tax of Rs. 2.67 crore resulted in underassessments of tax of Rs. 1.23 crore in respect of 12 dealers.
(Paragraph 2.10)

III. Stamp duty and registration fees

- Acceptance of instruments which were neither registered nor stamped resulted in evasion of stamp duty of Rs. 119.27 crore including penalty of Rs. 79.51 crore.
(Paragraph 3.2)

- Incorrect computation of market value in five instruments resulted in short levy of stamp duty of Rs. 13.17 crore.

(Paragraph 3.3)

- Non-discharge of stamp duty of balance consideration of Rs. 309.35 crore on deed of assignment of lease hold land resulted in short payment of stamp duty of Rs. 12.37 crore.

(Paragraph 3.4)

IV. Land revenue

✓ A review of "Recovery of dues treated as arrears of land revenue" revealed as under :

- Demand notices were not issued in revenue recovery cases (RRCs) involving Rs. 7.80 crore and there was delay in issue of demand notices in RRC involving Rs. 33.32 crore besides missing RRCs involving Rs. 68.93 crore.

(Paragraph 4.2.7)

- ✓ In the absence of a mechanism in respect of part recovery cases and sharing of information with other departments, dues of Rs. 244.07 crore could not be recovered.

(Paragraph 4.2.9)

- Non-auctioning of attached properties for recovery based on Revenue Recovery Certificates of Rs. 1.27 crore.

(Paragraph 4.2.10.2)

- Non-recovery of service charges of Rs. 76.75 lakh.

(Paragraph 4.2.11)

- Non-raising of demand of non-agricultural assessment and increase in land revenue resulted in non-realisation of Rs. 6.21 crore.

(Paragraph 4.3)

- Non/short levy of non-agricultural assessment to the extent of Rs. 3.17 crore due to application of pre-revised rates.

(Paragraph 4.4)

V. State excise and taxes on motor vehicles

- Shortfall in yield of spirit, based on sugar content resulted in loss of revenue of Rs. 53.34 crore.

(Paragraph 5.2)

- Application of incorrect population slab rates and non-application of revised rates resulted in short levy of licence fees of Rs. 10.78 crore.

(Paragraph 5.3)

- Non/short recovery of privilege fees at the prevailing rates and short recovery in respect of FL II and CL III licences involving changes in entities resulted in non/short-realisation of Rs. 1.68 crore.

(Paragraph 5.4)

- Non-recovery of motor vehicle tax from 539 vehicle owners resulted in non-realisation of Rs. 90.62 lakh.

(Paragraph 5.6)

VI. Other tax receipts

- Non/short recovery of entertainment duty from 439 cable operators and seven dance bars resulted in non/short realisation of Rs. 81.62 lakh.
(Paragraph 6.2)
- Education and employment guarantee cess of Rs. 20.75 crore collected by Mumbai, Nagpur and Pune Municipal Corporations was not remitted into the Government account.
(Paragraph 6.3)
- Repair cess of Rs. 44.77 crore collected by Brihan Mumbai Municipal Corporation was not remitted into the Government account.
(Paragraph 6.5)
- Non-recovery of interest on delayed remittance of electricity duty of Rs. 936.80 crore by Maharashtra State Electricity Distribution Company Limited resulted in non-realisation of Rs. 54.95 crore.
(Paragraph 6.6)

VII. Non-tax receipts

A review of "Police Receipts" revealed as under :

- Demands totalling Rs. 4.99 crore for recovery of cost of deployment of police were not raised.
(Paragraph 7.2.7.1)
- Cost of deployment of police to the extent of Rs. 3.23 crore was recovered short due to non-inclusion of dearness pay, leave salary, pension contribution, supervision charges, etc.
(Paragraph 7.2.7.2)
- Failure to recover cost of Police/escorts/guards in advance from individuals and Municipal Corporations and absence of a provision to recover cost of police in advance from banks resulted in non-realisation of Rs. 27.49 crore.
(Paragraph 7.2.8)
- Shareable expenditure of Rs. 12.48 crore on Government Railway Police deployed to the Railways could not be realised as 447 posts were created without its approval.
(Paragraph 7.2.9)
- In the absence of any database of cost of police recoverable, the department was unaware of the total accumulated arrears. Absence of monitoring and lack of follow-ups to recover cost of police deployed resulted in accumulation of huge arrears of Rs. 178.45 crore during the periods 1979-80 and 2006-07 in 11 offices.
(Paragraph 7.2.10)
- Guarantee fees and penal interest of Rs. 144.06 crore was not recovered from six corporations for various periods between April 2006 and March 2008.
(Paragraph 7.3)

CHAPTER I : GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Maharashtra during the year 2007-08, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2003-04	2004-05	2005-06	2006-07	2007-08
I	Revenue raised by the State Government					
	◦ Tax revenue	25,162.16	30,605.75	33,540.24	40,099.24	47,528.41
	◦ Non-tax revenue ¹	2,964.76 (3,548.94)	3,505.22 (4,118.83)	5,167.92 (5,935.05)	6,706.50 (7,518.25)	16,935.25 (16,947.97)
	Total	28,126.92 (28,711.10)	34,110.97 (34,724.58)	38,708.16 (39,475.29)	46,805.74 (47,617.49)	64,463.66 (64,476.38)
II	Receipts from the Government of India					
	◦ State's share of divisible Union taxes	3,389.49	3,595.03	4,982.00	6,022.76	7,597.22
	◦ Grants-in-aid	2,269.93	2,693.72	3,981.00	8,555.13	7,509.55
	Total	5,659.42	6,288.75	8,963.00	14,577.89	15,106.77
III	Total receipts of the State	33,786.34 (34,370.52)	40,399.72 (41,013.33)	47,671.16 (48,438.29)	61,383.63 (62,195.38)	79,570.43 (79,583.15)
IV	Percentage of I to III	83	84	81	76	81

The above table indicates that during the year 2007-08, the revenue raised by the State Government was 81 per cent of the total revenue receipts (Rs. 79,570.43 crore) against 76 per cent in the preceding year. The balance 19 per cent of receipts during 2007-08 was from the Government of India.

¹ Lottery receipts included in non-tax revenue are net of expenditure on prize winning tickets. Figures in brackets indicate gross receipts.

Note: For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Maharashtra for the year 2007-08. Figures under the heads '0020 - corporation tax, 0021 - taxes on income other than corporation tax, 0028 - other taxes on income and expenditure, 0032 - wealth tax, 0037 - customs, 0038 - Union excise duties, 0044 - service tax and 0045 - other taxes and duties on commodities and services' - share of net proceeds assigned to the State booked in the Finance Accounts under tax revenue have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.1 The table presents the details of tax revenue raised during the period 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+)/ decrease (-) in 2007-08 over 2006-07
1.	Sales tax						
	o State sales tax etc.	12,795.01	16,399.62	17,358.56	21,583.06	24,368.22	(+) 12.90
	o Central sales tax	2,530.95	2,417.10	2,318.18	2,547.66	2,384.58	(-) 6.40
2.	State excise	2,324.42	2,218.87	2,823.85	3,300.70	3,963.05	(+) 20.07
3.	Stamp duty and registration fees	3,354.06	4,116.49	5,265.86	6,415.72	8,549.57	(+) 33.26
4.	Taxes and duties on electricity	629.72	1,673.76	1,660.87	1,577.19	2,687.87	(+) 70.42
5.	Taxes on vehicles	1,205.97	1,177.14	1,309.11	1,841.06	2,143.11	(+) 16.41
6.	Taxes on goods and passengers	231.91	427.75	504.63	224.48	388.27	(+) 72.96
7.	Other taxes on income and expenditure-taxes on professions, trades, callings and employments	1,018.77	1,076.57	1,157.70	1,246.72	1,488.26	(+) 19.37
8.	Other taxes and duties on commodities and services	710.86	737.73	712.40	878.31	1,043.17	(+) 18.77
9.	Land revenue	360.49	360.72	428.97	484.17	512.22	(+) 5.79
10.	Service tax	--	--	0.11	0.17	0.09	(-) 47.06
	Total	25,162.16	30,605.75	33,540.24	40,099.24	47,528.41	

The reasons for the significant variations in the receipts during 2007-08 over those of the previous year were as follows:

Sales tax: The increase was mainly due to increase in revenue of 12 per cent under value added tax (VAT) and other receipts.

State excise: The increase was mainly due to more receipts under country liquor, malt liquor, foreign liquor and spirits, denatured spirit and medicated wines, fines and confiscations which increased by 18 per cent, 42 per cent, 31 per cent, 143 per cent and 17 per cent respectively.

Stamp duty and registration fees: The increase was due to more receipts on impressing of documents, other items and sale of other non-judicial stamps, which increased by 33.26 per cent over the previous year.

Taxes and duties on electricity: The increase was due to more receipts under taxes on consumption and sale of electricity, fees under the Indian Electricity Rules and other receipts which increased by 70 per cent, 15 per cent and 333 per cent respectively.

Taxes on goods and passengers: The increase was due to more receipts from tax on goods and passengers carried by road or inland water ways which increased by 74 per cent over the previous year.

Other taxes and duties on commodities and services: The increase was mainly due to more receipts under the heads entertainment tax, betting tax and luxury tax which increased by 25 per cent, 26 per cent and 79 per cent respectively over the previous year.

The other departments did not inform (November 2008) the reasons for variation despite being requested (August 2008).

1.1.2 The following table presents the details of the non-tax revenue raised during the period 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+)/decrease (-) in 2007-08 over 2006-07
1.	Interest receipts	356.91	737.46	1,737.24	2,503.92	1,170.17	(-) 53.27
2.	Dairy development	774.73	676.10	612.25	611.87	453.60	(-) 25.87
3.	Other non-tax receipts	547.93	584.56	614.21	696.03	953.87	(+) 37.04
4.	Forestry and wild life	86.33	88.62	92.02	121.37	195.73	(+) 61.27
5.	Non-ferrous mining and metallurgical industries	475.50	574.80	698.00	819.44	1,091.19	(+) 33.16
6.	Miscellaneous general ² services (including lottery receipts)	113.65	117.17	390.69	801.64	11,509.38	(+) 1,335.73
7.	Power	1.32	5.16	174.61	133.83	344.07	(+) 157.09

² Net of expenditure on prize winning lottery tickets.

8.	Major and medium irrigation	230.69	335.68	372.39	444.93	626.41	(+) 40.79
9.	Medical and public health	91.53	107.98	126.92	159.20	170.69	(+) 7.22
10.	Co-operation	60.06	48.86	55.76	64.46	67.72	(+) 5.06
11.	Public works	65.26	64.29	88.82	154.09	101.91	(-) 33.86
12.	Police	102.75	96.63	106.60	101.84	140.20	(+) 37.67
13.	Other administrative services	58.10	67.91	98.41	93.88	110.31	(+) 17.50
Total		2,964.76	3,505.22	5,167.92	6,706.50	16,935.25	

The significant increases in receipts during 2007-08 over those of the previous year were mainly due to the following:

Interest receipts: The decrease was due to less interest receipts from public sector and other undertakings.

Dairy Development: The decrease was due to collection of less receipts from milk schemes in Akola, Nagpur, Gondia and Greater Mumbai.

Forestry and wild life: Increase was due to more receipts from the sale of timber and other forest produce, receipts from social and farm forestries and other receipts which increased by 63 per cent, 36 per cent and 17 per cent respectively.

Non-ferrous mining and metallurgical industries: The increase was due to collection of more receipts under mineral concession fees, rents and royalties and service fees which increased by 35 per cent and 31 per cent respectively.

Miscellaneous General Services: The increase was mainly due to transfer of credit balances from Public Accounts to Consolidated Fund of the State due to closure of Reserve Funds and Debt and Interest Relief on repayment of Consolidated Central Government Loans.

Power: The increase was mainly due to more collection under "Purna Hydro Electric Works".

Major and Medium Irrigation: The increase was mainly due to more receipts from the projects - Ujani, Bhima, Manjra, Hatnur, Nimna Terna, Radhanagri and medium irrigation commercial.

Public works: The decrease was mainly due to less receipts from hire charges of machinery and equipment and other receipts which decreased by 31 per cent and 48 per cent respectively.

Police: The increase was mainly due to more receipts under "Police supplied to other parties, fees, fines and forfeitures" which increased by 150 per cent and 97 per cent respectively over the previous year.

The other departments did not inform (November 2008) the reasons for variations despite being requested (August 2008).

1.2 Variations between the budget estimates and actuals

The variations between the budget estimates and the actuals of revenue receipts for the year 2007-08 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales tax and other taxes ³	27,465.00	26,752.80	(-) 712.20	(-) 2.59
2.	State excise	3,500.00	3,963.05	(+) 463.05	(+) 13.23
3.	Stamp duty and registration fees	7,200.00	8,549.57	(+) 1,349.57	(+) 18.74
4.	Taxes and duties on electricity	1,781.54	2,687.87	(+) 906.33	(+) 50.87
5.	Taxes on vehicles	2,070.00	2,143.11	(+) 73.11	(+) 3.53
6.	Taxes on goods and passengers	594.00	388.27	(-) 205.73	(-) 34.63
7.	Other taxes on income and expenditure - taxes on professions, trades, callings and employments	1,297.65	1,488.26	(+) 190.61	(+) 14.69
8.	Other taxes and duties on commodities and services	1,274.60	1,043.17	(-) 231.43	(-) 18.16
9.	Land revenue	690.00	512.22	(-) 177.78	(-) 25.77
10.	Interest receipts	1,027.02	1,170.17	(+) 143.15	(+) 13.94
11.	Dairy development	577.29	453.60	(-) 123.69	(-) 21.43
12.	Other non-tax receipts	653.70	953.87	(+) 300.17	(+) 45.92
13.	Forestry and wild life	222.91	195.73	(-) 27.18	(-) 12.19
14.	Non-ferrous mining and metallurgical industries	873.65	1,091.19	(+) 217.54	(+) 24.90
15.	Miscellaneous general services				
	◦ Lottery receipts ⁴	103.12	15.48	(-) 87.64	(-) 84.99
	◦ Other receipts	149.75	11,493.90	(+) 11,344.15	(+) 7,575.39
16.	Power	96.46	344.07	(+) 247.61	(+) 256.70
17.	Major and medium irrigation	620.00	626.41	(+) 6.41	(+) 1.03
18.	Medical and public health	148.72	170.69	(+) 21.97	(+) 14.77
19.	Co-operation	60.48	67.72	(+) 7.24	(+) 11.97
20.	Public works	85.78	101.91	(+) 16.13	(+) 18.80

³ Other taxes totalling Rs. 5,948 crore, included tax on sale of motor spirits and lubricants, surcharge on sales tax and tax on purchase of sugarcane.

⁴ Net of expenditure on prize winning tickets.

21.	Police	133.05	140.20	(+) 7.15	(+) 5.37
22.	Other administrative services	101.85	110.31	(+) 8.46	(+) 8.31
23.	Service tax	--	0.09	0.09	--
Total		50,726.57	64,463.66		

The reasons for variations between the budget estimates and actuals as reported by the concerned departments were as follows:

Taxes and duties on electricity: The increase is due to more receipts under the heads - taxes on consumption and sale of electricity, fees under the Indian Electricity Rules and other receipts.

Taxes on goods and passengers: The decrease was due to less collection of taxes on goods and passengers and entry of goods into local area.

Land revenue: The decrease was due to less receipts under the heads receipts from management of ex-Zamindari estates, sale of Government estates and other receipts.

Dairy Development: The decrease was mainly due to less receipts from milk schemes in Akola, Gondia, Mumbai and Nagpur.

Non-ferrous mining and metallurgical industries: The increase was mainly due to more receipts under the head - services and service fees and other receipts.

Lottery receipts: The decrease was due to non-implementation of the anticipated revision in the lottery structure.

Other receipts (Miscellaneous General Services): The increase was due to transfer of credit balances from Public Accounts to Consolidated Funds due to closure of Reserve fund and Debt and Interest Relief on repayment of Consolidated Central Government loans.

Power: Increase was due to receipts of lease money from Maharashtra State Electricity Board for hydro-power projects and receipts from Pench Hydro Electric Project.

1.3 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessments of sales tax, profession tax, entry tax and luxury tax for the year 2007-08 and the corresponding figures for the preceding two years as furnished by the department, was as under:

		(Rupees in crore)					
Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales tax	2005-06	20,771.12	342.81	23.89	1,661.76	19,476.06	107
	2006-07	25,259.71	389.34	25.67	1,799.49	23,875.23	106
	2007-08 ⁵	28,903.67	324.84	43.02	2,709.67	26,561.86	109
Profession tax	2005-06	1,123.26	27.66	Nil	0.20	1,150.72	98
	2006-07	1,203.04	38.66	2.40	0.35	1,243.75	97
	2007-08 ⁵	1,454.49	24.22	5.17	1.28	1,482.60	98
Entry tax	2005-06	8.81	2.87	0.03	0.01	11.70	75
	2006-07	3.66	2.25	Nil	Nil	5.91	62
	2007-08 ⁵	4.43	2.84	0.35	Nil	7.62	58
Luxury tax	2005-06	113.47	0.47	0.05	0.02	113.97	100
	2006-07	192.96	0.88	0.26	Nil	194.10	99
	2007-08 ⁵	246.25	42.56	19.45	Nil	308.26	80

The above table shows that collection of revenue at the pre-assessment stage ranged between 58 and 109 *per cent* during 2005-06 to 2007-08. Under sales tax, the collection of revenue at pre-assessment stage to the net collection ranged between 106 to 109 *per cent* for the period 2005-06 to 2007-08. This indicates that the sales tax collection is mainly through voluntary compliances. During this period, the amount collected at pre-assessment stage was more than the amount due to the Government resulting in refunds aggregating to Rs. 6,170.92 crore. Revenue collected after pre-assessment stage was quite low.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2005-06, 2006-07 and 2007-08 along with the respective all India average percentage of expenditure on collection to gross collection for 2006-07 were as follows:

⁵ Figures as furnished by the department are at variance with the Finance Accounts.

(Rupees in crore)

Sl. No.	Head of revenue	Year	Gross collection ⁶	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2006-07
1.	Sales tax	2005-06	19,676.74	135.92	0.69	0.82
		2006-07	24,130.72	139.19	0.58	
		2007-08	26,752.80	155.53	0.58	
2.	State excise	2005-06	2,823.85	31.98	1.14	3.30
		2006-07	3,300.70	42.22	1.28	
		2007-08	3,963.05	39.45	1.00	
3.	Motor vehicles taxes	2005-06	1,309.11	38.91	2.97	2.47
		2006-07	1,841.06	41.06	2.23	
		2007-08	2,143.11	46.52	2.17	
4.	Stamp duty and registration fees	2005-06	5,265.86	96.25	1.83	2.33
		2006-07	6,415.72	60.73	0.95	
		2007-08	8,549.57	59.82	0.70	

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 24,444.32 crore, of which Rs. 5,991.25 crore were outstanding for more than five years, as mentioned below :

(Rupees in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than five years as on 31 March 2008	Remarks
1.	Sales tax etc.	24,430.05	5,984.39	Stay orders were granted by the appellate authorities for Rs. 9,814.88 crore; recovery proceedings for Rs. 3,901.67 crore were not initiated as the time limit was not over; write-off proposals were in progress for Rs. 31.53 crore and the remaining amount was in different stages of recovery.
2.	State excise	6.23	3.76	Recoveries amounting to Rs. 2.51 crore were pending in the courts. Rs. 1.84 crore was in the process of recovery under the Land Revenue Act. The remaining Rs. 1.88 crore was recoverable at the departmental level.
3.	Sale of jail articles	8.04	3.10	Suitable instructions regarding recovery of revenue arrears have already been issued to subordinate office. Efforts were being made for speedy recovery.
Total		24,444.32	5,991.25	

⁶ Figures as per the Finance Accounts.

1.6 Arrears in assessment

The details of cases pending assessment for the years 2005-06, 2006-07 and 2007-08, cases due for assessment during the years, cases disposed of during the years and the number of cases pending at the end of these years as furnished by the Sales Tax Department in respect of sales tax, motor spirit tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts were as under:

Name of tax	Year	Opening balance	New cases due for assessment	Total assessments due	Disposal			Balance at the end of the year	Percentage of column 9 to 5
					Cases not to be assessed ⁷	Cases disposed	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Finance Department									
Sales tax	2005-06	22,81,914	14,81,169	37,63,083	--	2,47,176	2,47,176	35,15,907	93
	2006-07	35,15,907	Nil ⁸	35,15,907	16,74,602	9,21,801	25,96,403	9,19,504	26
	2007-08	9,19,504	Nil ⁸	9,19,504	2,86,634	95,755	3,82,389	5,37,115	58
Motor spirit tax	2005-06	7,451	1,357	8,808	--	475	475	8,333	95
	2006-07	8,333	Nil ⁸	8,333	223	500	723	7,610	91
	2007-08	7,610	Nil ⁸	7,610	531	303	834	6,776	89
Profession tax	2005-06	6,58,736	2,20,750	8,79,486	--	1,72,393	1,72,393	7,07,093	80
	2006-07	7,07,093	2,28,437	9,35,530	--	3,08,041	3,08,041	6,27,489	67
	2007-08	6,27,489	1,07,363	7,34,852	--	1,09,044	1,09,044	6,25,808	85
Purchase tax on sugarcane	2005-06	1,000	162	1,162	--	58	58	1,104	95
	2006-07	1,104	93	1,197	--	488	488	709	59
	2007-08	709	3	712	--	68	68	644	90
Entry tax	2005-06	22	68	90	--	51	51	39	43
	2006-07	39	528	567	--	201	201	366	65
	2007-08	366	496	862	--	809	809	53	6
Lease tax	2005-06	5,668	1,398	7,066	--	606	606	6,460	91
	2006-07	6,460	Nil ⁸	6,460	189	720	909	5,551	86
	2007-08	5,551	Nil ⁸	5,551	475	322	797	4,754	86
Luxury tax	2005-06	7,051	1,888	8,939	--	1,456	1,456	7,483	84
	2006-07	7,483	1,019	8,502	--	1,212	1,212	7,290	86
	2007-08	7,290	388	7,678	--	1,535	1,535	6,143	80
Tax on works contracts	2005-06	1,43,174	38,236	1,81,410	--	8,438	8,438	1,72,972	95
	2006-07	1,72,972	Nil ⁸	1,72,972	3,570	13,540	17,110	1,55,862	90
	2007-08	1,55,862	Nil ⁸	1,55,862	9,501	5,146	14,647	1,41,215	91
Total	2005-06	31,05,016	17,45,028	48,50,044	--	4,30,653	4,30,653	44,19,391	
	2006-07	44,19,391	2,30,077	46,49,468	16,78,584	12,46,503	29,25,087	17,24,381	
	2007-08	17,24,381	1,08,250	18,32,631	2,97,141	2,12,982	5,10,123	13,22,508	

⁷ These cases were not to be assessed according to the Government Resolution dated 5 January 2007.

⁸ No cases were identified for assessment by the department after the implementation of VAT.

The department informed (October 2008) that the huge pendency in assessments was due to diversion of manpower for implementation of VAT Act.

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Sales Tax Department, cases finalised and the demands for additional tax raised as reported by the department is mentioned below :

(Rupees in crore)

Name of tax	Cases pending as on 31 March 2007	Cases detected during 2007-08	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc., raised		No. of cases pending as on 31 March 2008
				No. of cases	Amount of demand	
Sales tax	2,434	662	3,096	661	79.94	2,435

1.8 Write-off and waiver of revenue

During the year 2007-08, demands for Rs. 10.92 lakh in 598 cases and Rs. 7.08 lakh in 25 cases, relating to sales tax and State excise were written off by the departments as irrecoverable due to the following reasons:

(Rupees in lakh)

Sl. No.	Reasons	Sales tax		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Whereabouts of defaulters not known	195	8.21	7	4.83
2.	Defaulters no longer alive	-	-	9	0.81
3.	Defaulters not having any property	-	-	3	0.56
4.	Defaulters adjudged insolvent	403	2.71	2	0.30
5.	Other reasons	-	-	--	--
6.	Remission of penalty	-	-	4	0.58
Total		598	10.92	25	7.08

1.9 Refunds

The number of refund cases pending at the beginning of the year 2007-08, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2007-08, as reported by the departments were as under:

(Rupees in crore)

Sl. No.	Particulars	Sales tax and works contracts		Taxes and duties on electricity		State excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	5,781	151.11 ⁹	26	4.00	87	1.66 ⁹
2.	Claims received during the year	21,229	3,062.78	221	13.61	15	0.09
3.	Refunds made during the year	22,433	2,710.95	154	11.84	24	0.09
4.	Balance outstanding at the end of the year	4,577	502.94	93	5.77	78	1.66

1.10 Results of audit

Test check of the records relating to sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during 2007-08 revealed underassessments/short levy/loss of revenue amounting to Rs. 1,006.26 crore in 59,100 cases. During the course of the year, the departments accepted underassessments of Rs. 46.65 crore in 28,715 cases pointed out in 2007-08 and earlier years and recovered Rs. 37.86 crore. No replies have been received in respect of the remaining cases (November 2008).

This report contains 36 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalty etc., involving Rs. 818.90 crore. The departments/Government accepted audit observations involving Rs. 167.44 crore, of which Rs. 34.07 crore have been recovered alongwith an interest of Rs. 4.48 lakh upto November 2008. No replies have been received in the other cases (November 2008).

1.11 Response of the Government to audit observations

The Principal Accountant General (Audit)-I, Mumbai (AsG) and the Accountant General (Audit)-II, Nagpur (AsG) arrange to conduct periodical inspections of the various offices of the Government departments to test check transactions of the tax and non-tax receipts and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed by inspection reports (IRs) issued to the heads of offices, with copies to the next higher authorities. The Government of Maharashtra, Finance Department's circular dated 10 July 1967 provides for response by the executive to the IRs issued by the Accountants General (AsG), within one month, after ensuring action in compliance of the observations made during audit inspections. Serious irregularities are also brought to the notice of the heads of departments by the offices of the AsG. Half yearly reports are sent to the Secretaries of the concerned departments in respect of the pending IRs to facilitate the monitoring of audit observations.

⁹ Reconciled position furnished by the department.

Inspection reports issued upto 31 December 2007, pertaining to offices under the Finance, Home, Revenue and Forests, Industries, Energy and Labour, Housing, Urban Development, Food, Civil Supplies and Consumer Protection, Public Works, Agriculture and Co-operation, Education and Employment, Public Health and Irrigation Department disclosed that 10,037 observations relating to 4,566 IRs involving Rs. 1,009.19 crore, remained outstanding at the end of June 2008. Of these, 1,634 IRs containing 3,164 observations involving Rs. 397 crore had not been settled for more than four years. The year-wise position of the outstanding IRs and paragraphs is detailed in the Annexure-I.

In respect of 1,853 paragraphs relating to 635 IRs involving Rs. 37.19 crore, issued upto December 2007, even the first replies, which were required to be received from the heads of offices within one month, had not been received.

A review of the IRs which were pending due to non-receipt of replies from various departments, revealed that the heads of the offices and the heads of the departments (Secretaries) had failed to send replies to a large number of IRs/paragraphs, indicating that proper action was not being taken to rectify the defects, omissions and irregularities pointed out in the IRs issued by the AsG. The Secretaries of the departments, who were informed of the position through half yearly reports, did not ensure prompt and timely action. Such inaction could result in the perpetuation of serious financial irregularities and loss of revenue to the Government, despite these having been pointed out in audit.

The details of outstanding IRs were reported to the Government in August 2008; their reply had not been received (November 2008).

1.12 Departmental audit committee meetings

In order to expedite the settlement of the outstanding audit observations contained in the IRs, departmental audit committees are constituted by the Government. These committees are chaired by the Joint Secretary/Deputy Secretary of the administrative department concerned and attended, among others, by the concerned officers of the State Government and offices of the AsG.

In order to expedite clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken in respect of all the audit observations outstanding for more than a year, leading to their settlement. During the year 2007-08, six meetings by the Finance Department, five meetings by the Home Department, six meetings by the Revenue and Forest Department (Relief and Rehabilitation), one meeting by the Industry, Energy and Labour Department, out of eight Government departments concerned, were convened. Meetings were not held by Urban Development, Housing, Public Works, Irrigation and Agriculture and Co-operation departments. This indicated that the Government departments did not make effective use of the machinery created for settling outstanding audit observations.

1.13 Response of the departments to draft audit paragraphs

The Finance Department issued directions to all the departments in July 1967 to send their responses to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs were forwarded by the respective AsG to the Secretaries of the concerned departments through demi-official letters, drawing their attention to the audit findings and requesting them to send their response within the prescribed time. The fact of non-receipt of replies from the Government was invariably indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2008 were forwarded to the Secretaries of the respective departments between April and August 2008 through demi-official letters. Replies to most of the paragraphs have not been received. Such paragraphs (clubbed into 36 paragraphs) have been included in this report.

1.14 Follow-up on Audit Reports - summarised position

According to the instructions issued by the Finance Department, all the departments were required to furnish explanatory memoranda, vetted by Audit, to the Maharashtra Legislative Secretariat, in respect of paragraphs included in the Audit Reports, within one month of their being laid on the table of the House.

A review of the outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) which were still to be discussed by the Public Accounts Committee, (PAC), disclosed that as on 30 August 2008, the departments had not submitted remedial explanatory memoranda on 49 paragraphs for the years from 1997-98 to 2005-06 (excluding 1999-2000)¹⁰ as detailed below:

Sl. No.	Name of the department	1997-98	1998-99	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	Total
1.	Revenue and forests	4	2	--	5	1	6	5	3	26
2.	Finance	--	--	--	--	--	1	--	--	1
3.	Home	1	--	--	1	--	1	--	2	5
4.	Urban development	--	--	1	2	1	1	2	--	7
5.	Industries, energy and labour	--	--	--	1	--	--	--	--	1
6.	Relief and rehabilitation	--	3	--	1	1	--	--	1	6
7.	Public Works	--	1	--	--	--	--	--	--	1
8.	Medical and Public Health	--	--	--	--	--	1	--	--	1
9.	Co-operation	--	--	--	--	--	1	--	--	1
Total		5	6	1	10	3	11	7	6	49

¹⁰ 1999-2000 – Explanatory memoranda were received and the Audit Report discussed.

With a view to ensure accountability of the executive in respect of all the issues dealt with in the Audit Reports, the PAC lays down in each case, the period within which action taken notes (ATNs) on its recommendations should be sent.

The PAC discussed 204 selected paragraphs pertaining to the Audit Reports for the years from 1986-87 to 2002-03 and its recommendations on 82 paragraphs were incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, 14th and 18th Reports (1996-97), 21st Report (1997-98), 5th Report (2000-01), 12th Report (2002-03), 5th Report (2006-07) and 6th Report (2007-08). However, ATNs had not been received in respect of 46 recommendations of the PAC from the departments concerned as mentioned in the following table:

Year	Name of the department					Total
	Home	Finance	Revenue and Forest	Industries, Energy and Labour	Relief and Rehabilitation	
1986-87	--	--	1	--	--	1
1987-88	--	1	--	--	--	1
1988-89	--	1	--	--	--	1
1989-90	1	2	4	--	--	7
1990-91	7	4	2	--	--	13
1991-92	1	--	--	1	1	3
1992-93	1	--	1	1	--	3
1993-94	3	1	2	--	--	6
1995-96	--	--	1	--	--	1
1996-97	--	--	--	--	1	1
1997-98	--	1	3	--	--	4
1998-99	--	1	4	--	--	5
Total	13	11	18	2	2	46

1.15 Compliance with the earlier Audit Reports

During the period from 2001-02 and 2006-07, the departments/Government accepted audit observations involving Rs. 2,406.87 crore, out of which an amount of Rs. 838.74 crore had been recovered till 31 March 2008 as mentioned below:

(Rupees in crore)

Year of Audit Report	Money value	Accepted money value	Recovery made
2001-02	493.85	206.13	98.96
2002-03	1,999.22	553.98	92.89
2003-04	1,246.50	693.77	590.06
2004-05	555.47	333.92	31.00

2005-06	1,332.03	123.15	19.02
2006-07	854.63	495.92	6.81
Total	6,481.70	2,406.87	838.74

Despite the matter being taken up a number of times with the concerned Secretaries, the position relating to recovery of dues as pointed out by audit, remains highly unsatisfactory.

1.16 Amendment to Act/Rules

During the year 2006-07, the Government had amended Act/Rules addressing the concerns raised by audit through audit reports. These changes are briefly mentioned in the following table:

Reference of Audit Report (AR) paragraph	Issue raised in audit	Amendment to Act/Rules etc.
Paragraphs 4.4.2 and 4.4.16 of AR 2004-05 (RR)	4.4.2 - Recommendation : Government may consider the following steps to improve the effectiveness of the system in vogue for allotment of lands.	
	<ul style="list-style-type: none"> ◦ Adopt ready reckoner for valuation of land. 	The application of ready reckoner rates was made compulsory for determining lease rent/occupancy price in respect of the Government land allotted on leasehold/ occupancy rights vide Government Resolution (GR) dated 29 May 2006 issued by the Revenue and Forest Department, Government of Maharashtra.
	<ul style="list-style-type: none"> ◦ Introduce a mechanism to track changes in the allottees, ensure that registers regarding allotment of Government lands are maintained in prescribed formats and introduce a control register for each collectorate to ensure recovery of Government dues promptly. 	The detailed procedure has been prescribed to keep track of change in the allottees and maintain register of allotment of land and control register at each Collectorate to recover the Government dues promptly vide GR dated 3 August 2006 issued by the Revenue and Forest Department, Government of Maharashtra.
Paragraphs 3.2.8.1 and 3.2.8.2 of AR 2006-07 (RR)	3.2.8.1 : The registering authorities by ignoring the conditions put forth in the notifications had allowed unintended extra concession in 16 instruments which led to short levy of stamp duty of Rs. 20.71 crore.	Inspector General of Registration, Pune instructed the Registering Authorities that the concession in stamp duty shall be available to specified leasing and financial institutions only on the basis of instruments evidencing the lease of the space/premises to Information Technology (IT) or IT enabled services

	<p>3.2.8.2 : The Registering Authority granted concession of stamp duty in 14 instruments without verification of evidence of lease of space/premises in IT park to IT or ITES units as of May 2007. Irregular availing of concession of Rs. 12.27 crore in payment of stamp duty was pointed out.</p>	<p>(ITES) units vide circular No.K.5/Cons.SD/1326/06 dated 30.08.2006.</p>
--	--	--

CHAPTER II : SALES TAX

2.1 Results of audit

Test check of the records of the Sales Tax Department conducted during the year 2007-08, revealed underassessment/short levy/loss of revenue amounting to Rs. 147.08 crore in 763 cases as shown below :

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Loss of revenue under Motor Spirit Taxation Act	2	62.34
2.	Non/short levy of tax	420	47.03
3.	Other irregularities	253	34.43
4.	Incorrect allowance of set-off	88	3.28
	Total	763	147.08

In response to the observations made in the local audit reports during the year 2007-08 as well as during earlier years, the department accepted underassessments and other deficiencies involving Rs. 10.73 crore in 594 cases. Out of this, 22 cases involving Rs. 57.50 lakh were pointed out during 2007-08 and rest during earlier years. During the year 2007-08, the department recovered Rs. 1.94 crore in 198 cases out of which Rs. 80,000 in six cases were pointed out during 2007-08 and rest in earlier years.

A few illustrative cases involving Rs. 41.74 crore are mentioned in the succeeding paragraphs, against which an amount of Rs. 4.03 lakh had been recovered upto November 2008.

2.2 Loss of revenue under Motor Spirit Taxation Act

Under the provisions of the Bombay Sales of Motor Spirit Taxation Act, 1958 and the rules made thereunder, tax is leviable on the sale of motor spirit at the stage of first sale by an importer or manufacturer of motor spirit. The Act and rules made thereunder do not provide for any specific percentage of losses on account of leakage/evaporation, transportation etc., to be allowed as deduction in computing the turnover of sales liable to tax. In 1976, the Oil Pricing Committee (OPC) had fixed the norms for permissible loss on account of evaporation/storage of petrol and diesel (including other products) as 0.5 *per cent* and 0.12 *per cent* respectively.

During test check of the records of Nariman Point division in April 2008, it was noticed in the assessments of Hindustan Petroleum Corporation Ltd. and Indian Oil Corporation Ltd., finalised between November 2006 and March 2008 for the periods between 1998-99 and 2002-03, that as against the OPC norms, excess claims of losses was allowed in the assessments in respect of 1,014.78 lakh litres of petrol, diesel and aviation turbine fuel. This resulted in loss of revenue of Rs. 62.34 crore.

After the cases were pointed out in April 2008, the assessing officer (AO) stated in April 2008 that it would be logical to work out the net losses after considering the gains also. The reply is not tenable as the OPC norms specify the permissible losses only, which are applicable to the oil companies. Hence, in the absence of any specific provision in the Act, these norms were required to be adopted.

The matter was reported to the department in May 2008 and the Government in May 2008; their reply has not been received (November 2008).

2.3 Short levy of interest

Under the provisions of the Bombay Sales Tax (BST) Act, 1959 if any tax remained unpaid on the date prescribed for filing of the last return in respect of the period of assessment, the dealer was required to pay simple interest at the rate of two *per cent* (1.25 *per cent* with effect from July 2004) of the amount of tax for each month or part thereof from the date following the date of the period of assessment till the date of payment or the order of assessment, whichever was earlier. Further, by an amendment effective from 15 May 1997, no interest was payable if the dealer had filed all the returns by the due date and if the tax amount remained unpaid was less than 10 *per cent* of his tax liability. Interest was leviable for a maximum period of 18 months provided the dealer had neither concealed the particulars of transactions nor knowingly furnished inaccurate particulars of any transactions liable to tax.

During test check of the records of Nariman Point division in February 2008, it was noticed that a dealer had furnished inaccurate particulars of transactions liable for tax. However, the AO while finalising the assessment of the dealer in March 2007 for the period 1998-99, incorrectly levied interest for 50 months instead of 98 months on the assessed dues of Rs. 15.76 crore. This resulted in short levy of interest of Rs. 11.23 crore.

After the case was pointed out in February 2008, the Deputy Commissioner of Sales Tax (Assessment) stated that it was a best judgment assessment and normally interest was leviable not exceeding the tax liability. The reply is not tenable as there was no enabling provision in the Act to restrict the levy of interest to the extent of tax liability. Hence, the interest was leviable till the date of order of the assessment as per the provisions of the Act. Further report has not been received (November 2008).

The matter was reported to the department in March 2008 and the Government in May 2008; their reply has not been received (November 2008).

2.4 Incorrect grant of sales tax exemption under package scheme

As per the package scheme of incentives under the BST Act and the rules made thereunder, a manufacturer in an eligible unit was entitled to avail of tax incentives under the exemption mode in respect of sales tax, purchase tax, central sales tax and sale of finished goods which were mentioned in the eligibility certificate during the period covered in the eligibility and entitlement certificate within the admissible monetary ceiling. After assessing the dealer, the cumulative quantum of benefits (CQB) availed by the dealer during a year is determined as per the provisions of the relevant BST Rules, 1959. The CQB is then reduced from the available monetary ceiling at the beginning of each year. In case, the CQB exceeds the monetary limit, the excess amount becomes liable to be recovered from the dealer. Besides, interest at the rate of two *per cent* (1.25 *per cent* with effect from July 2004) and penalty as per the relevant provisions of the BST Act were also leviable.

2.4.1 During test check of the records in Nashik division in December 2005, it was noticed in the assessment finalised in December 2004 for the year 1999-2000, of a dealer manufacturing *vanaspati*, edible oil and oil cakes, that on sale of *vanaspati* valued at Rs. 12.86 crore, the AO had not levied tax on Rs. 11.11 crore and levied tax at lesser rate on Rs. 1.75 crore. This resulted in incorrect determination of CQB and consequential excess availment of incentives of Rs. 24.90 lakh over and above the prescribed monetary ceiling. This resulted in underassessment of tax of Rs. 30.47 lakh including interest of Rs. 5.57 lakh.

2.4.2 During test check of the records of Kolhapur division in October 2007, it was noticed in the assessments of a dealer finalised in December 2006, for the periods between 2001-02 and 2004-05, that on manufacture and sale of laminated particle board aggregating Rs. 48.87 crore, exemption from payment of sales tax was incorrectly allowed though the exemption from tax was admissible on pre-laminated particle board as per the eligibility certificate issued to the dealer. This resulted in underassessment of tax of Rs. 14.41 crore including interest of Rs. 1.89 crore and maximum penalty of Rs. 6.26 crore.

The matter was reported to the department in January 2006 and November 2007 and the Government in May 2008; their reply has not been received (November 2008).

2.5 Irregular grant of exemption on account of export sale

Under section 5(1) of the Central Sales Tax (CST) Act, 1956, sale or purchase of goods shall be deemed to have taken place in the course of export of goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods such as bill of lading, dock warrant, railway receipt etc., after the goods have crossed the customs frontiers of India.

2.5.1 During test check of the records of Andheri and Nariman Point divisions, it was noticed that in respect of three dealers, sales transactions valued at Rs. 9.39 crore, for periods between 2001-02 and 2003-04, assessed during 2005-06, were exempted from tax as export sales, though these sales were not supported by documentary evidence such as bills of lading, dock warrant, railway receipts etc. This resulted in underassessment of tax of Rs. 58 lakh.

2.5.2 During test check of the records of seven¹ divisions, it was noticed that, in respect of 14 dealers, sales transactions valued at Rs. 219.18 crore, for periods 2001-02 and 2004-05, assessed between 2005-06 and 2007-08, in respect of readymade garments, machinery parts, etc., were allowed as export and exempted from tax. On cross verification of these sales with the export data of the Customs Department, it was noticed that total export sales of only Rs. 81.38 crore had been accounted for. Thus, incorrect exemption of tax allowed on claims of export sales of Rs. 137.80 crore resulted in underassessment of tax of Rs. 7.08 crore.

The matter was reported to the department and the Government in July 2008; their reply has not been received (November 2008).

2.6 Short levy of sales tax

Under the provisions of the BST Act, the rate of tax applicable on any commodity is determined with reference to the relevant entry in Schedule 'B' or 'C' of the Act. Further, the Government, by notification from time to time, exempts certain sales or purchases from payment of tax in full or any part thereof, which are payable under the provisions of the Act, subject to such conditions as are prescribed. Besides, turnover tax (TOT), surcharge (SC) and interest are also leviable as per the provisions of the Act.

2.6.1 During test check of the records in the office of Sales Tax Officer (STO), C-975, Chandrapur in May 2007, it was noticed in the assessment of a dealer finalised in March 2007, for the periods 2000-01 and 2001-02, that on sales of 'lignite including leco' valued at Rs. 17.52 crore, the STO had levied tax at the rate of four *per cent* instead of at eight *per cent* as was applicable on the commodity during the relevant period. This resulted in short levy of sales tax of Rs. 2.09 crore.

After the case was pointed out, the Joint Commissioner of Sales Tax (Admn.) stated that the STO had reassessed the dealer in December 2007, raising additional demand of Rs. 2.01 crore including TOT, SC, interest and penalty.

¹ Andheri (2), Churchgate (2), Mandvi (3), Mazgaon (2), Nariman Point (1), Thane (2) and Worli (2).

The scrutiny of reassessment order, however, revealed that the STO had incorrectly worked out demand payable at Rs. 2.01 crore against Rs. 2.09 crore resulting in short demand of Rs. 8.28 lakh. Further report has not been received (November 2008).

2.6.2 During test check of the records of 13² divisions between May 2003 and July 2007, it was noticed in the assessments of 45 dealers finalised between April 2002 and May 2006, for the period between 1993-94 and 2004-05, that due to application of incorrect rates of tax, incorrect grant of exemptions, non-levy of tax, incorrect computation of turnover of sales and error in computation of tax, there was underassessment of tax of Rs. 1.66 crore, including interest of Rs. 72.69 lakh. A few illustrative cases are mentioned below:

(Rupees in lakh)

Sl. No.	Division No. of dealer	Period Month of assessment	Name of commodity	Nature of irregularity	Taxable turnover	Tax leviable levied (per cent)	Under assessment	Total
							Tax/TOT/SC/Interest	
1.	Andheri 1	2002-03 May 2006	Duty entitlement pass book (DEPB) licence	Tax was not levied on sale of DEP licence	117.06	4 Nil	4.68 1.17 0.47 7.08	13.40
2.	Nashik 1	1996-97 December 2003	Indian made foreign liquor (IMFL)	Exemption was incorrectly allowed to unregistered dealer	27.06	20 Nil	5.41 -- -- 12.99	18.40
3.	Nashik 1	1998-99 February 2003	Beverages	Deduction of credit notes were incorrectly allowed from taxable turnover of sales	81.58	20 Nil	16.32 -- -- 1.66	17.98
4.	Andheri 1	1993-94 October 2004	Metal (non-ferrous)	Sales not supported with valid declarations were incorrectly exempted from tax	91.64	4 Nil	3.67 1.50 0.46 10.58	16.21
Total							30.08 2.67 0.93 32.31	65.99

After the cases were pointed out between August 2003 and August 2007, the department rectified/revised the assessment or re-assessed the dealers between May 2004 and December 2007, raising additional demands of Rs. 1.69 crore,

² Andheri (5), Aurangabad (1), Borivali (8), Ghatkopar (4), Kolhapur (4), Mandvi (1), Mazgaon (1), Nariman Point (2), Nashik (8), Pune I (1), Pune II (5), Thane (2) and Worli (3).

including penalty of Rs. 2.81 lakh, against which one dealer paid Rs. 1.12 lakh. A report on recovery in the remaining cases has not been received (November 2008).

The matter was reported to the Government in April and May 2008; their reply has not been received (November 2008).

2.7 Incorrect grant of set-off

2.7.1 According to the BST Act and the rules made thereunder, a manufacturer who had paid tax on purchase of goods specified in entry 6 of Schedule 'B' and 'C' to the Act and used those goods within the State in the manufacture of taxable goods for sale or export or in the packing of goods so manufactured, was allowed set-off of tax paid on the purchases at the prescribed rates. Where the manufactured goods were transferred to the branches otherwise than as sale, set-off was to be allowed proportionately. Besides, interest and penalty was leviable as per the provisions of the BST Act.

2.7.1.1 During test check of the records in the office of the Assistant Commissioner of Sales Tax (ACST), A-26, Nagpur in October 2007, it was noticed in the assessment for the year 2001-02 finalised in March 2007 of M/s. Western Coal Field Ltd., Nagpur that the set-off of Rs. 13.45 crore was allowed without considering coal value as Rs. 376.95 crore supplied free of the cost to the employees for determining total sales. This resulted in incorrect grant of set-off of Rs. 2.21 crore including interest.

After the case was pointed out in November 2007, the department accepted the mistake in March 2008 and stated that the matter has been referred to the Joint Commissioner of Sales Tax (Appeal) Nagpur. Further report has not been received (November 2008).

2.7.1.2 During test check of the records of eight³ divisions between October 2002 and July 2006, it was noticed in the assessments of 14 dealers, finalised between February 2002 and November 2005, for the period between 1996-97 and 2004-05, that set-off was incorrectly granted either due to errors in computation or due to purchases which did not qualify for set-off. This resulted in underassessment of tax of Rs. 1.33 crore, including interest of Rs. 5.84 lakh. A few illustrative cases are mentioned below:

(Rupees in lakh)

Sl. No.	Division No. of dealer	Period Month of assessment	Nature of irregularity	Under-assessment including interest
1.	Aurangabad 1	1998-99 April 2002	Set-off was incorrectly allowed on purchase of machinery which did not qualify for set-off.	58.24
2.	Nashik 1	1998-99 February 2003	Set-off was incorrectly allowed on purchases of bottles and crates which were not sold.	38.84

³ Andheri (1), Aurangabad (2), Churchgate (1), Ghatkopar (5), Nariman Point (1), Nashik (1), Pune II (2) and Worli (1).

3.	Ghatkopar 1	2000-01 October 2004	Set-off was incorrectly allowed on purchases of chemicals (form 31 ⁴) at 13 per cent instead of eight per cent.	14.28
----	----------------	----------------------------	---	-------

After the cases were pointed out between November 2002 and August 2006, the department rectified the mistakes/revised the assessments between May 2004 and August 2007 and raised additional demands totalling Rs. 1.46 crore including penalty of Rs. 13.48 lakh, against which one dealer paid Rs. 61,838. A report on recovery in the remaining cases has not been received (November 2008).

2.7.2 According to Rule 43C of the BST Rules, a registered dealer was entitled to set-off of taxes paid on the turnover of purchases of goods from other dealers registered in Maharashtra, provided the goods so purchased were resold either in the course of export or in the course of interstate trade or commerce within a period of nine months from the dates of their purchases in the same form in which they were purchased. Besides, interest and penalty was leviable as per the provisions of the Act.

During test check of the records of Borivali, Ghatkopar and Mazgaon divisions between January 2005 and November 2006, it was noticed in the assessments of three dealers, finalised between June 2002 and June 2005 for the period between 1999-2000 and 2003-04, that set-off was incorrectly allowed on purchases which either did not qualify for set-off or was incorrectly computed. This resulted in underassessment of tax of Rs. 12.29 lakh including interest of Rs. 5.69 lakh.

After the cases were pointed out between February 2005 and December 2006, the department revised/rectified the assessments between December 2006 and April 2007, raising additional demands totalling Rs. 12.38 lakh, including penalty of Rs. 9,000, against which one dealer paid Rs. 1.80 lakh. A report in respect of the remaining cases has not been received (November 2008).

2.7.3 According to the BST Act and Rule 42F of the BST Rules, a registered dealer was entitled to set-off of taxes paid on the turnover of purchases of goods notified under the provisions of the BST Act, on their resale, otherwise than in the course of interstate trade or commerce or exports out of the territory of India.

During test check of the records of Nariman Point division in January 2004, it was noticed in the assessment, finalised in April 2002 of a dealer running a five star hotel, for the period 2001-02, that on resale of soft drinks, mineral water and ice creams, set-off was incorrectly allowed on purchases though the sales in the five star hotel was not covered by the notification for grant of set-off under the said rules. This resulted in underassessment of tax of Rs. 7.32 lakh.

After the case was pointed out in February 2004, the department revised the assessment in February 2008 raising additional demand of Rs. 7.32 lakh. A report on recovery has not been received (November 2008).

⁴ A certificate issued by the selling dealer confirming that sale price is inclusive of tax leviable.

The matter was reported to the Government in April and May 2008; their reply has not been received (November 2008).

2.8 Irregular grant of exemption from payment of tax against form 'H'

Under the provisions of the CST Act and the rules made thereunder, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India is deemed to be in the course of export and is exempt from tax, provided, the last sale or purchase took place after, and was for the purpose of complying with the agreement or order for or in relation to such export. Also, the selling dealer is required to produce a certificate in form 'H' duly filled in and signed by the exporter along with the evidence of export of goods.

During test check of the records of 12⁵ divisions assessed between 2003-04 and 2006-07, it was noticed that in respect of 29 dealers for the period between 1995-96 and 2004-05, sales transactions valued at Rs. 25.16 crore were exempted from tax on certificates in form 'H'. Scrutiny revealed that the dealers had not furnished the copies of bills of lading, agreement orders from the foreign buyers and purchase orders of the local dealers in support of their claims for export. This resulted in irregular grant of exemption from tax of Rs. 2.67 crore.

The matter was reported to the department and the Government in July 2008; their reply has not been received (November 2008).

2.9 Short levy of central sales tax

Under the provisions of the CST Act, tax on sales in the course of interstate trade or commerce, supported by valid declarations in form 'C', is leviable at the rate of four *per cent* of the sale price. Otherwise, in respect of declared goods, tax is leviable at twice the rate applicable on sales inside the State and in respect of goods other than declared goods, at 10 *per cent* or at the rate of tax applicable to the sale or purchase of such goods inside the State, whichever is higher. Besides, interest and penalty is also leviable as per the provisions of the BST Act. Further, the Commissioner of Sales Tax, by a trade circular dated 14 October 1998, clarified that details of transactions between buyers and sellers covered by declarations in form 'C' relating to a financial year were to be furnished, duly authenticated by the purchasing dealers. Incomplete declarations were to be treated as invalid and differential rates of tax as per the provisions of the CST Act, read with the BST Act were to be levied.

2.9.1 During test check of the records it was noticed that in respect of 24 dealers in 11⁶ divisions for periods between 1995-96 and 2004-05, assessed between 2004-05 and 2006-07, tax was levied at the concessional rate on 30 incomplete declarations in form 'C' involving transactions valued at Rs. 18.92

⁵ Andheri (3), Bandra (1), Borivali (1), Churchgate (2), Ghatkopar (4), Mandvi (1), Mazgaon (1), Nariman Point (5), Pune I (1), Pune II (2), Thane (5) and Worli (3).

⁶ Andheri (3), Aurangabad (1), Bandra (1), Borivali (1), Churchgate (2), Ghatkopar (1), Mandvi (2), Mazgaon (1), Nariman Point (8), Pune II (1) and Thane (3).

crore which also included three unauthenticated declarations. These forms should have been treated as invalid and differential amount of tax as per the provisions of the CST Act read with the BST Act, should have been levied, which was not levied. This resulted in short levy of tax of Rs. 1.50 crore.

2.9.2 During test check of the records of three⁷ divisions between January 2005 and September 2005, it was noticed in the assessment of three dealers finalised between June 2003 and September 2004, for the periods between 1993-94 and 2000-01, that interstate sales valued at Rs. 75.98 lakh, were subjected to tax at the concessional rate though these sales were not supported by the prescribed declarations. This resulted in underassessment of tax of Rs. 25.68 lakh, including interest of Rs. 16.67 lakh.

After the cases were pointed out between February 2005 and October 2005, the department reassessed one dealer and revised the remaining assessments between December 2006 and September 2007 raising additional demands totalling Rs. 25.88 lakh, including penalty of Rs. 20,000, against which one dealer paid Rs. 48,504. A report on recovery in the remaining cases has not been received (November 2008).

2.9.3 During test check of the records it was noticed between January and May 2008 that in the assessments of 19 dealers in eight⁸ divisions for the periods between 2000-01 and 2004-05, on interstate sales of electrical switchgears, drugs, motor vehicles, chemicals, etc., valued at Rs. 12.59 crore, concessional rate of tax at four *per cent* was levied during 2006-07 on production of form 'C' by the purchasing dealers. Cross verification of these sales transactions with the records maintained by the AOs of the purchasing dealers in Delhi, Gujarat, Goa, Madhya Pradesh and Uttar Pradesh revealed that purchases valued at Rs. 4.90 crore only were accounted for as interstate purchases. Thus, the dealers were incorrectly granted concessional rate of tax at four *per cent* on the differential sales of Rs. 7.69 crore. This resulted in underassessment of tax of Rs. 56.80 lakh.

2.9.4 During test check of the records, it was noticed that in the assessment of two dealers in Aurangabad and Pune divisions for the period 2001-02 and 2004-05 assessed during the year 2006-07, concessional rate of tax of four *per cent* was levied on sales transactions of medicines valued at Rs. 88.15 lakh, against declarations in form 'C' by the purchasing dealers. Cross verification of these transactions with the records maintained by the AOs of the purchasing dealers in Delhi and Goa revealed that purchases valued at Rs. 1.69 crore were accounted for as interstate sales. Thus, the differential value of sales of Rs. 80.74 lakh not covered by form 'C' was liable to tax at local rates. This resulted in underassessment of tax of Rs. 8.07 lakh.

The matter was reported to the department and the Government between May and July 2008; their reply has not been received (November 2008).

2.10 Non/short levy of turnover tax and surcharge

Under the provisions of the BST Act, Turnover Tax (TOT) at the rate of 1.25 *per cent* (1.5 *per cent* with effect from 1 April 1993, where, turnover of sales

⁷ Andheri (1), Borivali (1) and Mandvi (1).

⁸ Andheri (2), Aurangabad (1), Mandvi (2), Nariman Point (3), Nashik (1), Pune (7), Thane (2) and Worli (1).

or purchases exceeded rupees one crore and one *per cent* with effect from 1 April 1999 and 1.5 *per cent* with effect from 1 May 2002 where tax liability of a dealer exceeded rupees one crore in the immediate preceding year or in the current year) was leviable on the turnover of sale of goods specified in Schedule C. TOT was also leviable on the turnover of sales supported by declarations, subject to such conditions as were prescribed in the notification issued by the Government from time to time. Further, with effect from 1 April 1999 Surcharge (SC), at the rate of 10 *per cent* of the tax payable was leviable.

During test check of the records of nine⁹ divisions between January 2004 and May 2007, it was noticed in the assessments of 12 dealers, finalised between April 2002 and May 2006 for the period between 1993-94 and 2004-05 that TOT on the turnover of sales of Rs. 71.95 crore and SC on sales tax of Rs. 2.67 crore were either not levied or levied short. This resulted in underassessment of tax of Rs. 1.23 crore including interest of Rs. 10.03 lakh.

After the cases were pointed out between February 2004 and June 2007, the department revised/rectified the assessments in nine cases between October 2006 and February 2008, raising additional demands totalling Rs. 1.09 crore including penalty of Rs. 16.52 lakh. In respect of the remaining three cases, involving Rs. 29.88 lakh, reports on action taken by the department has not been received. A report on recovery in respect of the cases where additional demands were raised has not been received (November 2008).

The matter was reported to the Government in April and May 2008; their reply has not been received (November 2008).

2.11 Short levy of tax under the Works Contract Tax Act

2.11.1 Under the provisions of the Maharashtra Sales Tax on the transfer of property in goods involved in the execution of the Works Contract Tax (WCT) (Re-enacted) Act, 1989 and the rules made thereunder, every dealer was required to obtain a certificate of registration under the Act if the turnover of sales or purchases exceeded Rs. 2 lakh in a year. Tax at the rates specified in the schedule to the Act was leviable on the turnover of sales involving transfer of property of goods in the execution of works contracts. The Act also provides for payment of a lump sum amount by way of composition as a percentage of the total contract value as notified from time to time. Besides, interest and penalty was leviable as per the provisions of the BST Act.

During test check of the records of four¹⁰ divisions between June 2005 and March 2006, it was noticed in the BST assessments of four dealers finalised between May 2003 and March 2005 for the period between 2000-01 and 2002-03 that sales valued at Rs. 2.86 crore were deducted from the taxable turnover on account of labour charges. Further scrutiny, however, revealed that the dealers were not registered under the WCT Act and no action was taken by the AOs to get them registered and assess the tax payable on the basis of the particulars of sales available on the records of the dealers submitted

⁹ Aurangabad (1), Bandra (1), Borivali (1), Ghatkopar (2), Kolhapur (1), Mandvi (2), Nariman Point (2), Nashik (1) and Pune I (1).

¹⁰ Borivali (1), Nariman Point (1), Nashik (1) and Pune - I (1).

under the BST Act. Thus, sales valued at Rs. 2.86 crore escaped tax of Rs. 26.88 lakh including interest of Rs. 12.85 lakh.

After the cases were pointed out between July 2005 and April 2006, the department accepted the audit observations and assessed the dealers between November 2006 and October 2007, raising additional demands totalling Rs. 27.01 lakh, including penalty of Rs. 13,000. A report on recovery has not been received (November 2008).

2.11.2 Under the provisions of the WCT Act and Rules made thereunder, a registered dealer is liable to pay tax at the rates specified in the schedule to the Act, leviable on the turnover of sales involving transfer of property of goods in the execution of works contracts. In case the dealer had opted for the composition scheme, tax at the rate of three *per cent* for the year 2000-01 and four *per cent* thereafter was leviable on the total contract value of all types of contracts. Further, no deduction under the scheme whatsoever was admissible after 1 May 1998. Besides, interest and penalty was also leviable.

During test check of the records of four¹¹ divisions between October 2004 and October 2005, it was noticed in the assessments of five dealers under composition scheme finalised between June 2003 and November 2004 for the period between 1999-2000 and 2002-03, that due to incorrect allowance of resales, labour charges and tax free sales, there was underassessment of tax of Rs. 13.06 lakh including interest of Rs. 2.49 lakh.

After the cases were pointed out between November 2004 and November 2005, the department rectified/revised the assessments between September 2005 and September 2007, raising additional demands totalling Rs. 13.06 lakh including interest. A report on recovery has not been received (November 2008).

2.11.3 Under the provisions of the WCT Act, any employer or a class of employers, was to deduct tax at source (TDS) from and out of the amount payable by such employer to a dealer to whom a works contract had been awarded, involving transfer of property in goods at the rate of two *per cent* of such amount payable towards such contract subject to the conditions prescribed. Further, as per the notification issued in March 2000 by the Government, no tax was to be levied on the turnover of sales effected on or after 1 April 2000 by a contractor to the State Government. The benefit of the notification was not extended to the Government corporations.

During test check of the records of Kolhapur division in October 2004, it was noticed in the assessments of a dealer finalised in December 2002 for the periods 2000-01 and 2001-02, that TDS collected was incorrectly refunded to the dealer though the works contracts related to the Government corporations. This resulted in incorrect grant of refund of Rs. 5.23 lakh.

After the case was pointed out in November 2004, the department revised the assessments in September 2006, raising additional demand of Rs. 5.23 lakh. A report on recovery has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

¹¹ Andheri (1), Aurangabad (2), Bandra (1) and Kolhapur (1).

2.12 Incorrect summary assessment

Under the provisions of the BST Act, an assessing officer was empowered to make a summary assessment in respect of a dealer by accepting his returns and satisfying himself that the returns furnished were correct and complete. As per the Government notification issued in March 2001, only sale of packing material was admissible on form 'G'¹².

During test check of the records of Borivali division in September 2005, it was noticed in a dealer's return, accepted under summary assessment in August 2004, for the period 2001-02, that incorrect exemption from tax of Rs. 29.60 lakh was claimed on the sale of wooden furniture on form 'G'. This resulted in underassessment of tax of Rs. 9.13 lakh including interest of Rs. 4.60 lakh.

After the case was pointed out in October 2005, the department accepted the audit observation and revised the assessment in August 2007, raising an additional demand of Rs. 9.13 lakh including interest. A report on recovery has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

2.13 Non-levy of purchase tax

Under the provisions of the BST Act, if a dealer had purchased any goods specified in Part-I of Schedule C of the Act and used such goods in the manufacture of taxable goods and had dispatched those manufactured goods to his own place of business or to his agent's place of business situated outside the State, then such a dealer was liable to pay purchase tax at the rate of two *per cent* on the turnover of such purchases with effect from 1 October 1995. Besides, SC and interest was leviable as per the provisions of the Act.

During test check of the records of Ghatkopar and Kolhapur division between December 2002 and July 2006, it was noticed in the assessments of two dealers finalised between March 2002 and May 2005, that purchase tax was not levied on purchase of goods valued at Rs. 3.47 crore during the period between 1998-99 and 2001-02. This resulted in underassessment of tax of Rs. 6.83 lakh.

After the cases were pointed out between January 2003 and August 2006, the department rectified/revised the assessments between January and August 2007, raising additional demands totalling Rs. 7.66 lakh including interest of Rs. 84,000. A report on recovery has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

¹² A declaration form issued by the purchasing dealer for purchase of packing material utilised for packing of goods for exports.

CHAPTER III: STAMP DUTY AND REGISTRATION FEES

3.1 Results of audit

Test check of the records of the stamp duty and registration fee conducted during the year 2007-08, revealed non/short levy of duty and loss of revenue etc., amounting to Rs. 59.02 crore in 344 cases as shown below:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Short levy due to under valuation of property	301	55.65
2.	Short levy due to misclassification of documents	14	2.15
3.	Incorrect grant of exemption of stamp duty and registration fees	16	0.94
4.	Non-levy of stamp duty on instruments executed by Co-operative societies	9	0.27
5.	Other Irregularities	4	0.01
Total		344	59.02

In response to the observations made in the local audit reports during the year 2007-08 as well as during earlier years, the department accepted underassessments and other deficiencies involving Rs. 10.53 crore in 164 cases, out of this seven cases involving Rs. 95 lakh were pointed out during 2007-08 and rest during earlier years. During the year 2007-08, the department recovered Rs. 10.53 crore in 164 cases of which seven cases involving Rs. 95 lakh were pointed out in 2007-08 and rest in earlier years.

A few illustrative cases involving Rs. 25.83 crore are mentioned in the succeeding paragraphs, against which Rs. 10.92 lakh had been recovered (November 2008).

3.2 Evasion of stamp duty

As per article 5 (g-a) and article 25 (b) to Schedule-I of the Bombay Stamp(BS) Act, 1958, stamp duty on development agreement and conveyance is leviable at the rate of one and 10 *per cent* respectively on the market value or consideration set-forth in the instrument, whichever is higher. Further Section 33 of the BS Act provides for examination and impounding of instruments not duly stamped. It also provides that every person having by law or consent of parties, authority to receive evidence and every person in charge of a public office before whom any instrument is chargeable in his opinion with duty is produced or comes in the performance of his functions shall, if it appears to him that such instrument is not duly stamped, impound the same irrespective of, whether the instrument is or is not valid in law. Section 39 of BS Act provides that if in the opinion of the collector the instrument is chargeable with duty and is not duly stamped then he shall require the payment of the proper duty together with a penalty of an amount equal to two *per cent* of the deficient portion of the stamp duty for every month or part there of, from the date of execution of instrument, subject to minimum penalty of Rs. 100 and maximum of double the deficient portion of the stamp duty.

Cross verification of information collected from the Income Tax Department with the records of the Superintendent of Stamps (SOS), Mumbai, in April 2008, revealed that the assessee in the capacity of administrator of Edulji Framroze Dinshaw Estate (EFD) entered into two development agreements with M/s. Ivory Property and Hotels Pvt. Ltd. and M/s. Ferani Hotels Pvt. Ltd. respectively, on 2 January 1995 to carry out development of land admeasuring 27.69 lakh sq. meter in village Malad, Kanheri and Borivali of Mumbai Suburban district, on stamp paper of Rs.20 each, which were neither registered nor stamped.

Further scrutiny revealed that by an indenture dated 26 September 2001, one Mrs. Bachoobai Woronzow in the capacity of executrix of the aforesaid EFD Estate, transferred and conveyed the rights, title, interest into and over the proceeds of the sale or disposal of the entire EFD Estate to the administrator in individual capacity and four others, for a consideration of Rs. 20 lakh. The instrument was not registered though the stamp duty of Rs. 60,000 was paid.

The stamp duty leviable on these instruments on the market value of the property worked out to Rs. 39.76 crore. Besides, maximum penalty of Rs. 79.51 crore was also leviable.

After the case was pointed out (April 2008), the Collector of Stamps (Enforcement-II), Mumbai, issued (May 2008), a notice of demand for Rs. 155.77 crore to the concerned parties. A report on recovery has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

3.3 Short levy of stamp duty due to incorrect computation of market value

Under the provision of the BS Act, stamp duty at prescribed rate is leviable on the market value of the property conveyed or delivered through instruments of conveyance or development agreements. Further where property is sold and sale is subject to a mortgage or other incumbrance, any unpaid mortgage money due on the same shall be deemed to be part of the consideration for the sale.

During test check of the records between May 2005 and March 2007, it was noticed that in five instruments, stamp duty of Rs. 13.17 crore was short levied due to under valuation of property as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the Sub Registrar	Document no. and date of execution	Market Value as per ready reckoner	SD leviable	SD levied	Short levy of SD
1	Igatpuri	1197/08-11-2004	41,226.00	1,649.04	373.82	1,275.22
2	Miraj	3042/18-06-2005	385.70	19.28	1.78	17.50
3	Wai	730/04-03-2004	479.95	37.49	20.00	17.49
4	Haveli-XX	3660/22-12-2005	581.40	5.81	1.25	4.56
5	Borivali-I	3329/17-06-2005	229.00	11.45	9.19	2.26
Total			42,902.05	1,723.07	406.04	1,317.03

After the cases were pointed out, the department accepted the omissions between September 2007 and November 2007 except in case of Sub Registrar (SR) Igatpuri (November 2008) and Borivali-I (December 2008) and stated that action to recover the amount has been initiated. SR, Wai recovered Rs. 10.92 lakh (September 2008). A report on recovery in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

3.4 Insufficient stamped instrument

Under the provision of BS Act, market value in relation to any property which is the subject matter of an instrument means the price which such property would have fetched, if sold in open market on the date of execution of such instrument or the consideration stated in the instrument whichever is higher.

An unregistered Business transfer agreement (BTA) in June 2006 was executed between M/s. Raymond Ltd. (transferor) and M/s. Raymond UCO Denim Private Ltd. (transferee) for purchase of entire Raymond Denim division situated in Yavatmal District in Maharashtra for a consideration of Rs. 321.89 crore.

During test check of the records in the office of the Joint District Registrar (JDR), Yavatmal, in June 2007, it was noticed that the transferee had discharged on 24 August 2006 stamp duty of Rs. 50.18 lakh on market value of Rs. 12.54 crore in respect of deed of assignment of lease hold land situated in Yavatmal, whereas stamp duty was payable on entire consideration of

Rs. 321.89 crore. Thus non-discharge of stamp duty on balance consideration of Rs. 309.35 crore had resulted in insufficient payment of stamp duty of Rs. 12.37 crore.

After the case was pointed out, the Inspector General of Registration (IGR), Pune stated (March 2008) that action has been initiated under the provision of the BS Act. Further report has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

3.5 Short levy of stamp duty due to misclassification of instrument

Under the provisions of the BS Act, on instruments of conveyance and development agreements stamp duty at five *per cent* and one *per cent* respectively is leviable on the market value of the property. Further, for charging stamp duty, the instrument is not to be treated by the name it bears but by the substance or real nature of the transaction as derived from its recitals.

During test check of the records of the Sub Registrar (SR) Pune-XVII, and Nagpur-IV, between June 2006 and October 2006, it was noticed that, on three instruments of conveyance executed between November 2004 and February 2005, stamp duty of Rs. 35.33 lakh was leviable on the market value of the properties amounting to Rs. 6.92 crore. The SR, however, levied stamp duty of Rs. 6.78 lakh only, treating these instruments as development agreements. Misclassification of the instruments as development agreements resulted in short levy of stamp duty of Rs. 28.55 lakh.

After the cases were pointed out, the Joint District Registrar (JDR), Pune (City) in November 2007 and Nagpur in February 2007 accepted the omission and directed the SRs to recover the deficit stamp duty. A report on recovery has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

CHAPTER IV : LAND REVENUE

4.1 Results of Audit

Test check of the records relating to land revenue conducted during the year 2007-08 revealed underassessment, short levy, loss of revenue etc., amounting to Rs. 382.20 crore in 320 cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Recovery of dues treated as arrears of land revenue (A review)	1	356.16
2.	Non/short levy of education cess etc.	61	11.56
3.	Non/short levy of occupancy price/rent etc.	71	8.90
4.	Non/short/incorrect levy of NAA, ZP/VP cess, conversion tax and royalty	118	2.28
5.	Short levy of measurement fees, sanad fees etc.	37	2.20
6.	Non/short/incorrect levy of increase of land revenue	32	1.10
Total		320	382.20

In response to the observations made in the local audit reports during the year 2007-08 as well as during earlier years, the department accepted underassessments and other deficiencies involving Rs. 14.76 crore in 307 cases, out of which 13 cases were pointed out during the year 2007-08 and rest during earlier years. During the year 2007-08, the department recovered Rs. 14.76 crore in these cases, out of which 13 cases involving Rs. 3.63 crore were pointed out during 2007-08.

A review of "Recovery of dues treated as arrears of land revenue" involving Rs. 356.16 crore and a few illustrative cases involving Rs. 9.53 crore are mentioned in the succeeding paragraphs.

4.2 Recovery of dues treated as arrears of land revenue

Highlights

- Demand notices were not issued in revenue recovery cases (RRCs) involving Rs. 7.80 crore and there was delay in issue of demand notices in RRC involving Rs. 33.32 crore besides missing RRCs involving Rs. 68.93 crore.
(Paragraph 4.2.7)
- In the absence of a mechanism in respect of part recovery cases and sharing of information with other departments, dues of Rs. 244.07 crore could not be recovered.
(Paragraph 4.2.9)
- Non-auctioning of attached properties for recovery based on revenue recovery certificates of Rs. 1.27 crore.
(Paragraph 4.2.10.2)
- Non-recovery of service charges of Rs. 76.75 lakh.
(Paragraph 4.2.11)

4.2.1 Introduction

The mode of recovery of dues of the Government departments/undertakings and corporation, etc., is laid down in the relevant Act of the concerned Government department. However, if recovery cannot be effected and the dues become irrecoverable under the provisions of the relevant Act, the departmental officer responsible for administering the Act is required to send a revenue recovery certificate (RRC) in the prescribed form furnishing full details of recovery to be effected by the *Tahsildar* of the *taluka* in which the property of the defaulter is situated. The District Collector/*Tahsildar* has been delegated with powers for initiating the recovery proceedings by adopting any one or more of the processes prescribed under the Maharashtra Land Revenue Code (MLR Code), 1966 and the rules made thereunder and the Revenue Recovery Act, 1890 (RR Act). These Acts provide for attachment of the property, auction of the property and even confinement of the defaulters in jail, if they failed to respond to the demand notice issued to them.

In August 1974, the Government issued guidelines for maintenance of record and furnishing of return for monitoring the recoveries, which were reiterated in December 1979, May 1981 and June 2002.

It was decided by audit to review the mechanism, for ensuring prompt disposal of RRC cases. The review revealed a number of system and compliance deficiencies, which have been discussed in the subsequent paragraphs.

4.2.2 Organisational set up

The administration of Land Revenue Department vests with the Principal Secretary, Revenue Department. For the purpose of administration, the State has been divided into six divisions and each division is headed by the

Divisional Commissioner who is assisted by district collector. There are 35 district collectors, 110 revenue sub divisions, 358 *talukas* headed by the *Tahsildar*. The Revenue Inspector and village officers (*talathi*) are responsible at the grass root level for collecting the land revenue and dues recoverable as arrears of land revenue.

4.2.3 Scope and methodology of audit

The review was conducted for the period from 2003-04 to 2007-08 of 12¹ district Collectorates and 33² *tahsils*. Six districts of six divisions and remaining six districts were selected by using random table stratified random sampling. The *tahsils* were selected out of 12 districts by stratified random sampling. During the review all the available 6,263 cases involving Rs. 1,181.21 crore were checked between January 2008 and May 2008.

4.2.4 Audit objectives

The review was conducted with a view to:

- ascertain the efficiency and effectiveness of revenue recovery machinery with reference to revenue collection, and
- assess the effectiveness of internal control mechanism installed by the department to ensure timely action and proper accounting of revenue collected in RRC cases.

4.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Revenue Department and their subordinate offices in providing necessary information and records for audit. The draft review was forwarded to the Department and the Government in June 2008. No entry and exit conference could be held as department did not give any response to audit requests for the conference (February 2008 and December 2008).

4.2.6 Trend of recovery of RRCs

The year wise consolidated position of number of RRCs received, disposed of, outstanding and amount involved at the end of each year was not available at the Government level. However, on the basis of information collected from all six divisional offices, the position is mentioned below :

¹ Amravati, Aurangabad, Chandrapur, Dhule, Kolhapur, Mumbai (City), Nagpur, Nashik, Parbhani, Pune, Ratnagiri, Yavatmal.

² Amravati, Anjangaon, Aurangabad, Bramhapuri, Chandrapur, Chiplun, Daund, Dhule, Digras, Dindori, Gangapur, Hatkangle, Haveli, Hingna, Khed, Kolhapur (Karvir), Malegaon, Manwat, Morshi, Nagpur, Nashik, Paithan, Parbhani, Pathari, Pune (city), Ramtek, Ratnagiri, Shirpur, Sindhkhed, Shirol, Wani, Warora, Yavatmal.

(Rupees in crore)

Year	Opening balance	Addition	Total	Recovered	Balance	Percentage of recovery
2003-04	28.17	90.40	118.57	23.40	95.17	19.73
2004-05	95.17	153.76	248.93	36.92	212.01	14.83
2005-06	212.01	101.98	313.99	41.88	272.11	13.33
2006-07	272.11	256.68	528.79	45.92	482.87	8.68
2007-08	482.87	435.21	918.08	301.91	616.17	32.88

The data regarding returned and pending RRC cases were not available with the Government.

The age wise pendency of recovery of RRCs was not available with the department/Government. However, the position as compiled in audit in respect of 33 *Tahsils* is mentioned below :

(Rupees in crore)

Pendency Since	No. of cases	Amount
1 year	1,448	66.39
1 to 2 years	746	39.44
2 to 3 years	553	4.37
3 to 4 years	82	13.72
4 to 5 years	171	1.95
Above 5 years	153	1.08
Total	3,153	126.95

System deficiencies

4.2.7 Non-maintenance of revenue recovery register and non-reconciliation of cases

The Revenue Department issued instruction in December 1979, May 1981 and June 2002 about the procedure to be followed for maintenance of register in the offices of the Collector/*Tahsildar*. According to these instructions, on receipt of the requisition from requisitioning authority, the concerned Collector shall first get it entered in his Revenue Recovery Register before transmitting it to the concerned *Tahsildar*. The *Tahsildar* in turn is required to enter immediately the Revenue Recovery Certificate in their Revenue Recovery Register and thereafter the demand notice is required to be issued to the defaulter within 20 days in Greater Bombay/10 days in other areas. The Revenue Recovery Register shall be reviewed periodically by a responsible officer and expeditious action taken for recovery of dues. An acknowledgment of having received the Revenue Recovery Certificate is required to be sent to the issuing authority.

However, the Government did not prescribe any periodic return for reconciliation of RRC cases at different levels and a mechanism to ensure compliance of the instructions issued on the subject from time to time.

Test check of the records of 12 district Collectorates and 33 *tahsildars* revealed the following:

- The Revenue Recovery Registers were not maintained in nine³ district collectorates and 23⁴ *tahsils*. Due to non-maintenance of register, the progress made in recovery of dues and pendency thereof could not be verified by the recovery officers.
- In 55 cases involving Rs. 7.80 crore referred between 2005 and 2007 the demand notices were not issued. Further, in 12 cases involving Rs. 33.32 crore the demand notices were issued late and the delay ranged between one month and 60 months. As a result Rs. 41.12 crore remained unrecovered.
- In five⁵ collectorates and nine⁶ *tahsils*, the acknowledgements were not issued to the requisitioning authorities.
- In five⁷ *tahsils*, RRC register were not reviewed by the *tahsildars* concerned.
- Reconciliation of RRC cases shown in the register of district collectorates and *tahsils* was not carried out at any point of time. Detailed scrutiny of cases referred to *tahsil* offices revealed the following:
- Out of 648 RRCs involving Rs. 74.57 crore sent by 10 Collectors to 14 *Tahsildars* between 1995 and 2007, 438 cases involving Rs. 68.93 crore were not traceable in the offices of the *Tahsildars* as mentioned below:

(Rupees in crore)

Sl. No.	Name of the District	Name of the <i>tahsil</i>	No. of cases sent to <i>Tahsildar</i> as per collectorates record		No. of cases received in <i>tahsil</i>		Untraceable cases	
			Cases	Amount	Cases	Amount	Cases	Amount
1	Ratnagiri	All <i>tahsils</i>	28	44.09	17	1.04	11	43.05
2	Amravati	All <i>tahsils</i>	231	6.97	169	0.92	62	6.05
3	Nagpur	Nagpur (city)	249	5.09	--	--	249	5.09
4	Pune	Daund	2	3.19	1	0.01	1	3.18

³ Amravati, Chandrapur, Dhule, Kolhapur, Nashik, Parbhani, Pune, Ratnagiri, Yavatmal.

⁴ Amravati, Anjangaon, Bramhapuri, Chandrapur, Dhule, Digras, Hatkangle, Hingna, Khalapur, Malegaon, Manvat, Morshi, Nagpur city, Nagpur rural, Parbhani, Paithan, Pathri, Pune city, Shirol, Shripur, Wani, Warora, Yavatmal.

⁵ Aurangabad, Chandrapur, Dhule, Mumbai (MSD), Yavatmal.

⁶ Aurangabad, Dhule, Gangapur, Manvat, Paithan, Parbhani, Pathri, Shirpur, Sindhkheda.

⁷ Anjangaon surji, Manvat, Morshi, Parbhani, Warud.

5	Aurangabad	Gangapur	2	3.18	1	0.02	1	3.16
6	Kolhapur	Hatkangle	27	2.77	--	--	27	2.77
7	Raigad	Khalapur	13	3.58	11	1.87	2	1.71
8	Nashik	Nashik	62	3.42	11	1.78	51	1.64
9	Mumbai	Borivali	1	1.17	--	--	1	1.17
10	Nashik	Malegaon	5	0.63	--	--	5	0.63
11	Kolhapur	Karveer	12	0.38	--	--	12	0.38
12	Kolhapur	Shirol	4	0.05	--	--	4	0.05
13	Dhule	Sindhkheda	12	0.05	--	---	12	0.05
Total			648	74.57	210	5.64	438	68.93

As reconciliation was not carried out, the difference between the cases referred by the Collectorates to the *tahsils* and those received and mentioned at *tahsil* level could not come to the notice of the higher authority. After the omission was pointed out, the *Tahsildars* stated that the cases would be traced out. Further report has not been received (November 2008).

The Government may consider prescribing periodic reconciliation of the RRC cases received at Collectorates, referred and recorded at *tahsil* offices and ensuring that the instructions of December 1979, May 1981 and June 2002 are followed as the missing cases may result in loss of Government revenue.

4.2.8 Internal audit

Internal audit is conducted to examine and evaluate the level of compliance with the departmental rules and procedure so as to provide a reasonable assurance on the adequacy of the internal control. As per Government resolution of 1977 internal audit of collectorate and *tahsil* offices is required to be conducted annually for revenue and receipts.

It was however, seen that out of 660 units (at the rate of 132 *tahasils* per year) under 11 Collectorates, internal audit was conducted in respect of 312 units leaving 348 units in arrears during 2003-08.

Out of 11⁸ Collectorates, internal audit was conducted in eight collectorates for 2003-04 and 2004-05 and internal audit was pending for three collectorates for the period of 2003-04 and 2004-05. No internal audit was conducted in all the collectorates for the period 2005-06 to 2007-08 except Nagpur collectorate for 2005-06.

The internal audit pointed out only the pendencies of RRCs. Thus, internal audit was found to be ineffective either due to non-conducting of the audit every year or detailed audit of RRC cases.

Reasons for shortfall was attributed to shortage of staff.

⁸ Amravati, Aurangabad, Chandrapur, Dhule, Kolhapur, Nagpur, Nashik, Parbhani, Pune, Ratnagiri, Yavatmal.

4.2.9 Non-pursuance of recovery**4.2.9.1 Non-pursuance of part recovery cases**

As per instructions of December 1979, as soon as the RRC is received, the necessary note should be taken in the register and a demand notice should be issued to the defaulter to make the payment of outstanding dues. If the amount is paid by the defaulter, it should be remitted into the Government treasury and RRC should be returned to the issuing officer. The Government did not prescribe any procedure to return RRC cases to issuing authority where part recovery was made and no further recovery was possible. The Government also did not prescribe any mechanism to consult other departments of the State Government as well as those of Central Government like Sales Tax, Industries, Police, and Income Tax Department etc., to ascertain the availability of properties of defaulter to effect the recovery of dues as arrears of land revenue.

It was noticed that in four cases pertaining to the year 2005, the defaulters have made part payments of Rs. 52.26 lakh against the total dues of Rs. 1.37 crore. However, the Collectorates/*tahsil* offices did not initiate any action either to effect the recovery of balance amount of Rs. 85.03 lakh or return the RRC after part recovery till date. This resulted in non-realisation of balance amount of Rs. 85.03 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the defaulter	Name of issuing authority	Name of receiving authority	Amount recoverable	Amount recovered	Balance
1.	Shri. Vijaykumar Madan, Nashik	Managing Director, Maharashtra Film, Goregaon	Tahsil Nashik	69.25	9.00	60.25
2.	Annapurna Cinema, Aurangabad	Maharashtra State Culture Corporation, Mumbai	Collector Aurangabad	66.74	42.80	23.94
3.	Shri. Uttam R. Kolimare, Nashik	Maharashtra Handloom Corporation, Mumbai	Tahsil Nashik	0.94	0.24	0.70
4.	Shri. B.P. Sapkale, Sillod	Maharashtra Handloom Corporation, Mumbai	Tahsil Nashik	0.36	0.22	0.14
Total				137.29	52.26	85.03

4.2.9.2 Return of RRC cases

Under Rule 17 of the Maharashtra Realisation of Land Revenue Rules, if the complete particulars of the items have not been furnished by the issuing office

in the RRC and if the addresses or the particulars furnished therein are incomplete, the RRC should immediately be returned to the issuing office by the *Tahsildar*.

It was noticed that four cases involving Rs. 243.22 crore were incorrectly returned to requisitioning authorities though the requisite details and the addresses of the defaulters were available on record as mentioned below :

(Rupees in crore)

Sl. No.	Name of the defaulter	Name of the requisitioning authority/ revenue authority	Month of issue of RRC/ Amount	Remarks
1.	Nav Maharashtra Chakan Oil Mill, Pune	Directorate of Enforcement Mumbai/ Tahsildar, Pune	April 2007/ 242.00	The case was returned as the defaulter was not found at the given address. However, the defaulter was having other property in the same jurisdiction as ascertained from the Sales Tax Department.
2.	Shri. Kantilal Mishrilal Bafna, Dhule	Collector, Indore Madhya Pradesh/ Collector, Dhule	September 2003/ 1.05	The property was in existence. The case was returned on the basis of incorrect report of non-existence of property of the <i>Tahsildar</i> .
3.	Shri. Navin Tolia	Collector, Indore (MP)/Collector, Mumbai	August 2007/ 0.12	The case was returned without enquiring the position of another property mentioned in the RRC.
4.	Shri. Bansraj. R. Jaiswal and Shri Irrappa Nagappa	Labour Commissioner, Mumbai/ Collector, Mumbai (MSD)	April 2007/ 0.05	Where about of the co-defaulter mentioned in the RRC was not verified.
Total			243.22	

The Government may, therefore, consider prescribing a mechanism to ensure full recovery of dues in a time bound manner and returning of RRC to the department immediately in such cases where part recovery have been made and full recovery is not possible. The Government may also consider introducing a system of sharing of information with other department to ensure prompt recovery of dues particularly in such cases where particular of address and property are either incorrect or incomplete.

Compliance deficiencies

4.2.10 Attachment/auction of properties

4.2.10.1 Non-attachment of properties

If the defaulter fails to make the payment within the prescribed period, a warrant of attachment should be issued to the defaulter under section 182 of the MLR code.

It was noticed that in two cases the order of attachment of property were issued in December 2005 and January 2008. However, the property was not attached till the date (September 2008). This resulted in non-realisation of revenue of Rs. 17.30 lakh.

4.2.10.2 Non-auctioning of property

As per section 180 of MLR code, after attachment of property, the property should be auctioned, a sale notification should be published in the official gazette as well as in local news papers so as to give publicity regarding auction of property.

It was noticed that in four cases, the properties were attached between October 2005 and December 2007. However, these cases were not put to auction as of April 2008. Thus, Rs. 1.27 crore could not be realised as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the defaulter	Name of issuing authority/date of issue	Name of receiving authority/date of receipt	Amount	Date of order of attachment
1.	Datar Switchgear Nashik	Directorate Enforcement Mumbai/ 28 September 2004	Collector, Nashik/ 7 October 2004	117.28	13 February 2007
2.	Agrasen Nagari Pat Sanshtha Nashik	Consumer Forum Nashik/NA	Collector, Nashik/NA	7.30	29 December 2007
3.	Sayyed Wahab Aurangabad	Labour Court Aurangabad/ 29 June 2004	Collector, Aurangabad/ 2 July 2004	1.53	3 October 2005
4.	H. Abdul Majid & Sheikh Gulab Aurangabad	Jt. Director of Industries Mumbai/ NA	Collector, Aurangabad/ 4 July 2005	0.93	7 October 2005 and 7 November 2005
Total				127.04	

4.2.11 Non-deduction of service charges

As per the Government order of November 1999, service charges at the rate of 10 *per cent* of the arrears dues shall be recovered for the services rendered to Central and other State Governments.

It was noticed that in six cases of three⁹ districts, an amount of Rs. 7.67 crore was recovered. However, the service charges of Rs. 76.75 lakh was not deducted as mentioned below:

⁹ Aurangabad, Mumbai(MSD), Nashik.

(Rupees in lakh)

Sl. No.	Name of the defaulter	Name of issuing authority	Name of receiving authority/date of RRC	Amount recovered	Service charges not deducted
1.	M/s. Kilburn Engineering Mumbai	Asstt. Commr. Sales Tax Vadodara Gujarat	Collector Mumbai (MSD)/ 24 September 2004	707.00	70.70
2.	Shri. Sanjay Khan Managing Director (MD) World Resort Ltd Mumbai	Director of Enforcement Mumbai	Collector Mumbai (MSD)/ 29 June 2004	37.50	3.75
3.	Rahul Mishrikotkar Aurangabad	Directorate of Enforcement Mumbai	Collector Aurangabad/ 27 June 2005	15.00	1.50
4.	Starlight Industries Aurangabad	Directorate of Enforcement Mumbai	Collector Aurangabad/ NA	5.40	0.54
5.	National Insurance co . Ltd. Nashik	Motor accident claim Tribunal Faizabad U. P.	Collector Nashik/ 30 May 2006	1.58	0.16
6.	M/s Sisodia Rubber Factory Aurangabad	District Collector Kotayyam Kerala	Collector Aurangabad/ 16 February 2006	0.99	0.10
Total				767.47	76.75

4.2.12 Conclusion

Due to non-maintenance of revenue recovery register or not conducting the periodical review of register where it has been maintained, the department is not in a position to follow up the RRCs. Demand notices were not issued or issued late. Recoveries in RRCs were not made effectively. Service charges were not recovered promptly.

4.2.13 Summary of recommendations

The Government may consider:

- prescribing periodic reconciliation of the RRC cases received at Collectrates, referred and recorded at *tahsil* offices and ensuring that the instructions of December 1979, May 1981 and June 2002 are followed as the missing cases may result in loss of Government revenue;
- prescribing a mechanism to ensure full recovery of dues in a time bound manner and returning of RRC to the department immediately in such cases where part recovery have been made and full recovery is not possible;
- introducing a system of sharing of information with other departments to ensure prompt recovery of dues particularly in such cases where particulars of address and properties are either incorrect or incomplete.

4.3 Non-realisation of non-agricultural assessment tax and increase of land revenue due to non-raising of demand

Under the provision of the Maharashtra Land Revenue Code, 1966, (MLR Code) non-agricultural assessment (NAA) is levied with reference to the use of land. NAA is revised whenever the Government revises the rate from time to time subject to expiry of the guarantee period¹⁰ mentioned in the respective NAA order. Further, increase of land revenue (ILR) under the Maharashtra ILR and Special Assessment Act, 1974, is also payable at 100 per cent of land revenue in case the land holding is 12 hectares or more. The Salt Commissioner, Government of India vide their letter of September 2002 informed the department of Revenue and Forest, Government of Maharashtra, that the salt industry was de-licensed in July 1996 and requested to take necessary action for recovery of NAA for salt marshy lands under Mundra Salt Works, Thane retrospectively.

In Thane and Kurla *tahsils* it was noticed in January 2006 and March 2008 that M/s. Mundra Salt and Chemicals held land admeasuring 6.51 lakh square meter (sq m) for non-agricultural purposes at village Kopari and Mulund since 1996. The *tahsildars* concerned had neither assessed nor levied NAA and increase of land revenue (ILR). This resulted in non-realisation of NAA and ILR of Rs. 6.21 crore (August 1996 to July 2008).

After the cases were pointed out, the *Tahsildars* concerned intimated (April 2008, May 2008) that the notice of demand of Rs. 4.59 crore (1996 to 2008) for non-levy of NAA and ILR has been issued. The *Tahsildar* Thane had recovered NAA of Rs. 1.60 crore (2001 to 2007), as intimated in January 2008. A report on balance recovery had not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

4.4 Non/short levy of non-agricultural assessment

Under the provision of the MLR Code, NAA is levied with reference to the use of land. The NAA is revised whenever the Government revises the rates by issue of a gazette notification subject to expiry of the guarantee period mentioned in the respective NAA order. The NAA rates were revised (September 2001) by the Government with retrospective effect from 1 August 2001. Further as per the Maharashtra ILR and Special Assessment Act, ILR at the rate of 50 per cent and 100 per cent of land revenue is also payable by the land holders holding eight hectares or more but less than 12 hectares of land and those holding 12 hectares of land or more respectively.

¹⁰ The standard rate of NAA remains in force for a period of five years which is called 'guarantee period'.

During test check of the records in *tahsil*, Haveli (Pune), it was noticed in December 2005 that the NAA from 1 August 2002 to 31 July 2006 was levied at the pre revised rates in 80 cases of seven villages¹¹ involving 52.89 lakh square meter (sq m) of land used for commercial, industrial and residential purposes. This resulted in short levy of NAA and ILR of Rs. 3.17 crore.

After the cases were pointed out in December 2005, the *Tahasildar*, while accepting the omission in November 2007 stated that, an amount of Rs. 2.01 crore has been recovered. A report on recovery of the balance amount had not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.5 Non-levy of conversion tax

Under the provisions of the MLR Code, NAA is levied with reference to the use of land and if the land is situated within the areas of Municipal Corporations and A or B class Municipal Councils, conversion tax equal to five times of the NAA is also leviable when permission for non-agricultural use or change of use of the land is granted.

During test check of the records in two¹² *tahsils* it was noticed in December 2007 that in Panvel and Palghar municipal council of class A and B respectively, 47 land owners put 4.10 lakh sq m of land to non-agricultural use or changed the purpose of use of the land during August 2004 to September 2007. The department levied NAA of Rs. 3.01 lakh in above cases. However, conversion tax of Rs. 15.05 lakh though leviable was not levied. This resulted in non-levy of conversion tax of Rs. 15.05 lakh.

After the cases were pointed out, the *Tahsildar* concerned accepted the omission and agreed to effect the recovery in January 2008. *Tahsildar* Palghar recovered conversion tax of Rs. 2.10 lakh (January 2008). A report on recovery in remaining cases has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

¹¹ Akurdi, Chinchwad, Dhanakwadi, Hadapsar, Katraj, Pimpri and Wadgaon Sheri.

¹² Palghar and Panvel.

CHAPTER V :
STATE EXCISE AND TAXES ON MOTOR VEHICLES

5.1 Results of audit

Test check of the records of State excise and taxes on motor vehicles conducted during the year 2007-08 revealed underassessments, short levy, loss of revenue etc., amounting to Rs. 78.53 crore in 34,111 cases as shown below :

(Rupees in crore)

Sl. No.	Nature of receipts	No. of cases	Amount
A – STATE EXCISE			
1.	Loss of revenue due to shortfall in yield of spirit.	7	53.34
2.	Short recovery of licence/privilege fees/escort charges/interest	6,090	21.24
3.	Non/short recovery of supervision charges/bonus.	6	0.19
4.	Non/short levy of licence/privilege fees/application money	26,131	0.13
5.	Non-recovery of toddy instalments	135	0.02
	Total	32,369	74.92
B – TAXES ON MOTOR VEHICLES			
6.	Non/short levy of tax due to application of incorrect rates	1,714	3.60
7.	Short levy of tax due to incorrect exemption/classification etc.	28	0.01
	Total	1,742	3.61
	Grand Total	34,111	78.53

In response to the observations made in the local audit reports during the year 2007-08 as well as during earlier years, the concerned departments accepted underassessment, short levy etc. involving Rs. 1.54 crore in 25,254 cases, out of which 24,556 cases were pointed out during 2007-08 and rest during earlier years. The departments recovered Rs. 1.54 crore in these cases, out of which 24,556 cases involving Rs. 23.65 lakh were pointed out during the year 2007-08 and rest during earlier years.

A few illustrative cases involving Rs. 67.03 crore are mentioned in the succeeding paragraphs, against which Rs. 34.38 lakh along with interest of Rs. 4.30 lakh, had been recovered upto November 2008.

**SECTION A
STATE EXCISE**

5.2 Shortfall in yield of spirit based on sugar content resulted in loss of revenue

Under the provisions of the Bombay Prohibition Act, 1949, excise duty is leviable on rectified spirit at the prescribed rates. According to circular instructions issued (August 1991) by the Commissioner of State Excise (CSE), the residual quantity of molasses in every pit/tank of a distillery is required to be sent every month to the Western Maharashtra Development Corporation (WMDC) at Chitali, Ahmednagar to ascertain the sugar content in the molasses and compare it with the sugar content reflected in the report of the sugar factories. The results of the analysis done by both the sugar factories and WMDC are to be noted in a register which is to be checked by the concerned Superintendents of State Excise (SPEs) during monthly inspections. The circular instructions issued by the department are, however, silent on the action to be taken in case the sugar content as per the report of WMDC is higher than the sugar content reported by the distillery.

Mention was made in Para 3.2.8 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1999 that in pursuance of the recommendations vide para 5.6 of the Public Accounts Committee, the Government had constituted a technical committee (3rd Report of 1980-81) and accepted its report for implementation. Further, the Excise department in turn constituted (February 1989) a committee to consider various aspects such as norms of productions, losses in production, storage, distribution etc. In June 1989, the department stated that comprehensive amendments to the rules would be made on the recommendations of the Committee. However, no amendments have been made till date.

During test check between January and March 2008, of annual statements of efficiency data from the sugar factories and WMDC's reports relating to total reducing sugar (TRS) content in seven distilleries in Ahmednagar, Kolhapur and Pune for various periods between 2002-03 and 2006-07, it was noticed that there were variations in the sugar content between the two reports. As per the Government analysis report, the production of spirit should have been 785.80 lakh bulk litres (BL). However, the production in these distilleries was 760.25 lakh BL with reference to TRS contents declared by the sugar factories. This resulted in shortfall in yield of rectified spirit to the extent of 25.55 lakh BL (42.67 lakh proof litres¹), thereby depriving the Government of additional revenue of Rs. 53.34 crore² as mentioned below :

¹ (PL) = BL X 1.67.

² 42.67 PL X Rs. 125.

(Rupees in crore)

Sl. No.	Name of the Unit	Required production of RS ³ as per TRS content of WMDC (in BL)	Production of RS as per TRS of factory (in BL)	Shortfall in yield		Loss of revenue
				In BL (2)-(3)	In PL	
	1	2	3	4	5	6
1	V.V.Patil SSK ⁴ , Ahmednagar	2,98,71,512.71	2,86,24,149	12,47,363.71	20,83,097.40	26.04
2	Shrigonda SSK, Ahmednagar	67,80,497.44	66,99,962	80,535.44	1,34,494.18	1.68
3	Tilaknagar Inds. Ltd., Ahmednagar	2,25,66,226.48	2,17,57,426	8,08,800.48	13,50,696.80	16.88
4	Kopargaon SSK, Ahmednagar	24,67,124.16	23,92,144	74,980.16	1,25,216.87	1.56
5	Sanjivani SSK, Ahmednagar	1,23,81,163.00	1,20,88,167	2,92,996.00	4,89,303.32	6.12
6	Kumbhi Kasari SSK, Kolhapur	25,63,887.98	25,51,113	12,774.98	21,334.22	0.27
7	Yeshwant SSK, Pune	19,50,213.28	19,12,298	37,915.28	63,318.52	0.79
	Total	7,85,80,625.05	7,60,25,259	25,55,366.05	42,67,461.30	53.34

After the cases were pointed out, the Deputy SPEs/Inspectors of State Excise stated that the TRS contents of the two reports may have differed due to various factors such as conditions of analysis, analytical solutions etc. Further, TRS content was checked by the factory every week and hence the factory reports reflected the average TRS content. The reply is, however, silent on non-acceptance of the reports of the Government laboratory on sugar contents and consequential levy of differential duty of Rs. 53.34 crore.

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.3 Short recovery of licence fees

Under the provisions of the Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licence) Rules, 1996, the rates of licence fees are notified annually by the CSE in exercise of the powers conferred by

³ Rectified spirit.

⁴ Sahakari Sakhar Karkhana.

clause (i) of Rule 4 of the said Rules for various licences⁵. The fees payable for the licences are based on the population slabs for the city, town or village in which the liquor shops are located. These rates were further revised for the years 2003-04 to 2007-08. In case of default in the payment of dues, interest at the rate of two *per cent* per month was chargeable on the amounts from the date they became due.

5.3.1 During test check of the records of the SPE, Thane, in January 2008, it was noticed that though the population as per census 2001 in Kalyan-Dombivali Municipal Corporation (KDMC) was more than 10 lakh, the licence fees for issue/renewal during the periods 2003-04 to 2007-08 were levied as per the population slab of 3,00,001 to 10 lakh. This resulted in short realisation of revenue of Rs. 9.49 crore during the period 2003-04 to 2007-08.

After the case was pointed out, the SPE stated in January 2008, that the matter would be referred to the Government. Further report has not been received (November 2008).

5.3.2 During test check of the records in the offices of SPEs in four⁶ districts, between February and March 2008, it was noticed that in respect of 100 licences renewed for periods between 2001-02 and 2007-08, licence fees were recovered short by Rs. 1.01 crore due to application of incorrect population slab rates. Besides, interest at the prescribed rate was also leviable for the delay in the payment of dues.

After the cases were pointed out, the department accepted the observations and recovered Rs. 1.73 lakh along with interest of Rs. 60,478 in five cases, between March and August 2008. A report on recovery of the balance amount has not been received (November 2008).

5.3.3 During test check of the records of 12⁷ offices in 11⁸ districts between May 2004 and March 2008, it was noticed that in respect of 49 licences renewed for the periods between 2002-03 and 2007-08, licence fees were recovered short by Rs. 28 lakh due to non-application of revised rates.

After the cases were pointed out, the department accepted the observations and recovered, Rs. 5.75 lakh, along with interest of Rs. 51,850, between January 2005 and September 2008, in respect of 16 cases. A report on recovery of the balance amount has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

⁵ FL I and FL II for wholesale and retail sale of imported foreign liquor/Indian made foreign liquor, FL III for sale in restaurants/permit rooms, FL IV for sale at clubs and CL II, CL III and CL/FL/TOD III for storage and sale by wholesaler of country liquor, for retail sale and for retail sale in sealed bottles respectively, form E for the sale of mild liquor (beer) in the hotels/restaurants/canteens/clubs and form E 2 for retail sale of wine.

⁶ Kolhapur, Nashik, Pune and Raigad.

⁷ SPE: Ahmednagar, Jalna, Latur, Mumbai City, Mumbai Suburban District, Nagpur, Nashik, Osmanabad, Pune, Satara, Solapur and Thane.

⁸ Ahmednagar, Jalna, Latur, Mumbai, Nagpur, Nashik, Osmanabad, Pune, Satara, Solapur and Thane.

5.4 Non/short recovery of privilege fees

Under the provisions of the Bombay Prohibition (Privileges Fees) (BPPF) Rules, 1954, privilege fees are payable by the licensees for transfer of licences from one name to another (including change in entity⁹) or for the admission/withdrawal of a partner or partners as per Rules 5 and 6 of the said Rules. The fee chargeable for change in entity is 100 per cent of the licence fee and for withdrawal of a partner is 50 per cent of the licence fee. As per a proviso dated 4 October 1996, Rule 5 was not applicable to cases regarding transfer of licences for sale or storage of imported foreign liquor/Indian made foreign liquor (FL I and FL II) and country liquor (CL II and CL III). The proviso was amended on 18 June 2004, whereby non-applicability of Rule 5 in respect of licences issued under FL I and CL II was deleted.

5.4.1 During test check of the records of 17¹⁰ offices in 15¹¹ districts, between October 2007 and March 2008, it was noticed that for various periods between 2002-03 and 2006-07, privilege fees amounting to Rs. 9.93 lakh was not recovered from five licensees and Rs. 65.34 lakh was recovered short from 107 licensees with respect to the rates prevailing during the relevant periods.

After the cases were pointed out, the department accepted the observations and recovered Rs. 7.18 lakh along with interest of Rs. 38,952 between November 2007 and September 2008, in 20 cases. A report on recovery of the balance amount has not been received (November 2008).

5.4.2 During test check of the records of SPEs in 16 districts¹², between December 2007 and March 2008, it was noticed that privilege fees for the period between 2004-05 and 2007-08, in respect of 132 licences, were recovered at 50 per cent of licence fees for withdrawal of partners in respect of FL-II and CL-III licences. However, these cases also involved changes in entities of licences from partnership to proprietorship for which 100 per cent of licence fees were recoverable but the same was not recovered. This resulted in non-realisation of privilege fee of Rs. 93.05 lakh.

After the cases were pointed out, seven¹³ SPEs in respect of 34 licensees involving Rs. 23.18 lakh stated that the matter would be referred to the CSE and six¹⁴ SPEs in respect of 85 licensees involving Rs. 56.55 lakh stated that the action taken was according to the rules. The reply is not tenable, as 100 per cent fee was leviable in case of change in entity under Rule 5 of BPPF Rules and subsequent clarification issued by the CSE in November 1992. Reply from one SPE in respect of seven cases involving an amount of Rs. 11.97 lakh has not been received (November 2008). SPEs, Jalna and Nanded

⁹ Proprietorship to partnership or *vice versa*; clarification issued by the CSE under his circular dated 18 November 1992.

¹⁰ SPE : Ahmednagar, Akola, Aurangabad, Dhule, Jalgaon, Jalna, Kolhapur, Mumbai Suburban, Nanded, Nandurbar, Nashik, Parbhani, Pune, Satara, Thane, Commissioner of State Excise, Mumbai and Excise Officer, Aurangabad.

¹¹ Ahmednagar, Akola, Aurangabad, Dhule, Jalgaon, Jalna, Kolhapur, Mumbai, Nanded, Nandurbar, Nashik, Parbhani, Pune, Satara and Thane.

¹² Ahmednagar, Buldhana, Dhule, Jalna, Kolhapur, Mumbai, Nagpur, Nanded, Nandurbar, Nashik, Parbhani, Pune, Raigad, Satara, Solapur and Thane.

¹³ SPE: Buldhana, Dhule, Nagpur, Nandurbar, Nashik, Raigad and Satara.

¹⁴ SPE: Ahmednagar, Kolhapur, Parbhani, Pune, Solapur and Thane.

accepted the observations and recovered Rs. 1.35 lakh, along with an interest of Rs. 18,683, between July and September 2008 in six cases.

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

5.5 Non-recovery of interest

Under the provisions of the Bombay Prohibition Act, 1949, if duties, taxes and fines are not paid within the prescribed period or on due date, simple interest at the rate of two *per cent* per month is chargeable on the amounts from the date they became due.

During test check of the records of 10¹⁵ offices in six¹⁶ districts, between November 2007 and March 2008, it was noticed that in respect of 123 cases, interest on delayed payment of licence fees totalling Rs. 27.34 lakh for various periods between April 2002 and March 2007 for the delays ranging from five days to 51 months was neither paid by the licensees nor demanded by the department. This resulted in non-recovery of interest of Rs. 27.34 lakh.

After the cases were pointed out, the department accepted the observations and recovered Rs. 1.89 lakh, between February and August 2008 in 19 cases. A report of recovery in the remaining cases has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

SECTION B TAXES ON MOTOR VEHICLES

5.6 Non-recovery of tax

Under the Bombay Motor Vehicle Tax Act, 1958 and the rules made thereunder, tax at the prescribed rates is leviable on all the vehicles used or kept for use in the State. The Act further provides that the tax leviable is to be paid in advance by the owners of the vehicles. Interest at the rate of two *per cent* of the amount of tax, for each month or part thereof is payable in each case of default in payment of the tax due.

During test check of the records of 10¹⁷ offices in seven¹⁸ districts between January 2005 and July 2007, it was noticed that in respect of 539 vehicles, motor vehicles tax (MVT) of Rs. 90.62 lakh for various periods between April 2002 and December 2007, was not paid by the owners of the vehicles. No action was taken by the department to recover the dues. This resulted in

¹⁵ SPE: Aurangabad, Mumbai (Suburban), Nanded, Nashik, Pune and Excise Officer: M/s Ashok SSK Ltd. and M/s Tilaknagar Industries Ltd., Shrirampur; M/s Kopargaon SSK Ltd. and M/s Sanjivani SSK Ltd., Kopargaon at Ahmednagar; M/s Brihan Maharashtra Sugar Syndicate Ltd., Igatpuri at Nashik.

¹⁶ Ahmednagar, Aurangabad, Mumbai, Nanded, Nashik and Pune.

¹⁷ RTO: Aurangabad, Kolhapur, Mumbai - Central and Wadala, Thane; Deputy RTO : Beed, Hingoli, Kalyan, Nandurbar, Vashi at Navi Mumbai.

¹⁸ Aurangabad, Beed, Hingoli, Kolhapur, Mumbai, Nandurbar and Thane.

non-realisation of MVT of Rs. 90.62 lakh. Interest at the prescribed rate for delayed/non-payment of MVT was also leviable in these cases.

After the cases were pointed out, the department accepted the observations and recovered Rs. 14.64 lakh, along with interest of Rs. 2.60 lakh, between February 2005 and September 2008, in respect of 159 vehicles. A report on recovery in respect of the remaining vehicle owners has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

5.7 Excess grant of refund

Under the provisions of the BMVT Act, and the rules made thereunder, where a motor vehicle in respect of which tax has been paid is altered or used in such manner that the tax is leviable at a lower rate, the person who has paid such tax shall be entitled to a refund on surrender of the certificate of tax. The amount refundable should be equal to the difference between the amount of one time tax (OTT) payable and the amount of tax leviable on the date of such change of use of the motor vehicle.

During test check of the records of the Regional Transport Office (RTO), Thane in September 2005, it was noticed that in respect of 94 vehicles, refunds of Rs. 5.58 lakh were granted in excess, for the period between May 2002 and November 2004 due to application of incorrect rates of OTT or incorrect computation of age of the vehicle at the time of transfer of the vehicle.

After the cases were pointed out, the department accepted the observations and recovered Rs. 1.84 lakh, between January 2006 and September 2008, in respect of 41 cases. A report on recovery of the balance amount has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

CHAPTER VI : OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records relating to electricity duty, profession tax, entertainments duty, tax on buildings (with larger residential premises), State education cess, employment guarantee cess and repair cess conducted during the year 2007-08, revealed short realisation or loss of revenue of Rs. 131.48 crore in 2,909 cases as shown below :

(Rupees in crore)

Sl. No.	Nature of receipt	No. of cases	Amount
1.	Electricity duty, tax and fees	379	55.36
2.	Repair cess	7	44.79
3.	State education cess and employment guarantee cess	270	24.84
4.	Tax on buildings (with larger residential premises)	48	3.84
5.	Entertainments duty	1,241	2.29
6.	Profession tax	964	0.36
	Total	2,909	131.48

In response to the observations made in the local audit reports during the year 2007-08 as well as during earlier years, the concerned departments accepted underassessments, short levy, etc. involving Rs. 5.79 crore in 2,383 cases, out of which 207 cases were pointed out during 2007-08 and rest during earlier years. The departments recovered Rs. 5.79 crore in these cases, out of which 2,176 cases involving Rs. 31.29 lakh were pointed out during the year 2007-08 and rest during earlier years.

After the issue of the draft paragraph, the department recovered Rs. 3.57 crore, which has not been included in this report.

A few illustrative cases involving Rs. 121.63 crore are mentioned in the succeeding paragraphs, against which an amount of Rs. 26.38 crore, along with interest of Rs. 17,992 had been recovered/adjusted upto November 2008.

SECTION A
ENTERTAINMENTS DUTY

6.2 Non/short recovery of entertainment duty from cable operators/proprietors of dance bars

Under the provisions of the Bombay Entertainments Duty (BED) Act, 1923, entertainment duty (ED) was payable with effect from 1 April 2000 by cable operators at the flat rates of Rs. 30, Rs. 20 or Rs. 10 per television set per month, depending on whether the area was a municipal corporation (MC), A and B class municipality or other area. The rates were further revised to Rs. 45, Rs. 30 or Rs. 15 per television set per month with effect from June 2006. ED was payable on or before the 10th of the subsequent month to which it related. In respect of dance bars, the proprietor of every dance bar was required to pay ED in advance by the 10th day of every calendar month for every dance performance, at the rate of Rs. 30,000, Rs. 25,000 and Rs. 15,000 depending on whether the area was within the limits of Brihanmumbai Municipal Corporation (BMC) or MCs other than BMC or areas not covered by MCs/BMC. Interest at the rate of 18 *per cent* per annum for the first 30 days and 24 *per cent* thereafter was to be levied in cases of default in payment.

During test check of the records of 30 units¹ in 14 districts², between May 2004 and March 2008, it was noticed that ED amounting to Rs. 54.17 lakh was not paid by 285 cable operators and Rs. 23.56 lakh was recovered short from 154 cable operators during various periods between 2002-03 and 2006-07. Further, Rs. 3.89 lakh was either not paid or recovered short from the proprietors of seven dance bars during the year 2004-05. Demands were also not raised by the Resident Deputy Collectors/Taluka Magistrates/Entertainment Duty Officers against these operators/dance bars. This resulted in non/short recovery of ED of Rs. 81.62 lakh. Besides, interest at the prescribed rates was also leviable.

After the cases were pointed out, the department accepted the observations and recovered ED amounting to Rs. 44.82 lakh alongwith interest of Rs. 17,992, between March 2005 and August 2008 from 232 cable operators and Rs. 60,000 from two dance bars. A report on recovery of the balance amount has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

¹ Resident Deputy Collector: Akola, Amravati, Aurangabad, Beed, Jalgaon, Kolhapur, Nashik, Solapur, Wardha; Mumbai : Zone II, V, VII, VIII, XI; Taluka Magistrate: Andheri - Zone II, IV; Mulund - Zone XI; Baglan and Niphad at Nashik; Darwah and Ner at Yavatmal; Daund at Pune and Panvel at Raigad; Entertainment Duty Officer : Pune - Zone A, B, D, E, H, M. Additional District Magistrate : Nagpur.

² Akola, Amravati, Aurangabad, Beed, Jalgaon, Kolhapur, Mumbai, Nagpur, Nashik, Pune, Raigad, Solapur, Wardha, Yavatmal.

SECTION B
STATE EDUCATION CESS AND EMPLOYMENT
GUARANTEE CESS

6.3 Non-remittance of education and employment guarantee cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Cess Act) and the Rules made thereunder, cess and penalty recovered by the MCs during a calendar week are required to be credited to the Government account before the expiry of the following week. If any MC defaults in the payment to the Government of any sum under the Act, the Government may, after holding such enquiry as it thinks fit, fix a period for the payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from such bank account to the Government.

During test check of the records of three³ MCs between July 2007 and December 2007, it was noticed that the MCs did not remit revenue amounting to Rs. 20.75 crore relating to State education cess (SEC) and employment guarantee cess (EGC) collected during the year 2006-07. The Government also did not initiate any action either to fix a period for the payment of the dues or direct the banks to pay the amounts due from the bank accounts of the MCs.

After the cases were pointed out, the MC, Pune remitted Rs. 4.20 crore out of Rs. 4.63 crore in the treasury in May 2008. The MC, Nagpur stated in July 2007 that the amount of Rs. 1.94 crore would be credited into Government account. A report on recovery of the balance amount and reply in case of MC, Mumbai has not been received (November 2008).

The matter was reported to the department between August 2007 and January 2008 and the Government in May 2008; their reply has not been received (November 2008).

6.4 Irregular grant of refund

Under the provisions of the Cess Act, refund of SEC and EGC is admissible if refund of property tax (i.e. general tax) is permissible under any municipal law. The Government, vide an ordinance dated 2 March 1998, abolished the provision for refund of property tax on account of vacant properties.

During test check of the records of two wards⁴ of Brihanmumbai Municipal Corporation (BMC) between July 2003 and October 2004, it was noticed that the department continued to refund State education cess and employment guarantee cess during 2002-03 and 2003-04, though the provision for refund of property tax on vacant properties was abolished in March 1998. This resulted in irregular refund of Rs. 14.25 lakh (SEC Rs. 11.44 lakh and EGC Rs. 2.81 lakh) in respect of 77 vacant properties.

³ Mumbai, Nagpur and Pune.

⁴ K (East) and L wards.

After the cases were pointed out, BMC, issued supplementary bills, between January 2005 and February 2006 and recovered Rs. 2.30 lakh in respect of 16 properties. A report on recovery of the balance amount of Rs. 11.95 lakh has not been received (November 2008).

The matter was reported to the department and the Government in April 2008; their reply has not been received (November 2008).

SECTION C REPAIR CESS

6.5 Non-remittance of repair cess

Under the provisions of the Maharashtra Housing and Area Development Act, 1976, tax recovered by a MC on behalf of the Government is to be credited to the consolidated fund of the State within 15 days from the date of its recovery.

During test check of the records of the BMC in April 2008, it was noticed that BMC did not remit revenue amounting to Rs. 44.77 crore, collected on account of repair cess during the year 2007-08. This resulted in non-remittance of cess of Rs. 44.77 crore.

After the case was pointed out, the Government intimated (November 2008) that BMC had remitted Rs. 21.54 crore in September 2008. A report on recovery of the balance amount of Rs. 23.23 crore has not been received (November 2008).

SECTION D ELECTRICITY DUTY

6.6 Non-levy of interest on incorrect retention of electricity duty

Under the provisions of the Bombay Electricity Duty Act, 1958, every licensee who supplies electricity to the consumers is required to collect duty from the consumers together with its own charges, if any, and pay it to the Government by the prescribed date. In case of failure to pay the duty collected, by the due date, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

During test check of the records of the Chief Engineer (Electrical), Mumbai in March 2008, it was noticed that the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected electricity duty aggregating Rs. 936.80 crore during the period from April 2006 to March 2007 from the consumers but did not remit the amounts into Government account. The Government, vide notifications issued between May 2006 and March 2008, adjusted the entire amount of electricity duty due from MSEDCL against the subsidy payable to it. However, no action was taken by the department to recover the interest of Rs. 54.95 crore payable by MSEDCL to the Government on the delayed remittance of Rs. 936.80 crore. This resulted in non-recovery of interest of Rs. 54.95 crore.

The matter was reported to the department and the Government in May 2008; their reply has not been received (November 2008).

6.7 Non-recovery of inspection fees

Under the Indian Electricity Rules, 1986, inspection fees are required to be paid by consumers within 10 days from the date of inspection, examination or test of electrical installations. The rates of fees payable are regulated by the notifications issued by the Government from time to time.

During test check of the records of seven⁵ offices in six⁶ districts between February 2006 and March 2007, it was noticed that inspection fees of Rs. 19.92 lakh for the inspections of high tension installations carried out during the periods between 2004-05 and 2005-06 were not paid by 292 consumers. No action was taken by the department to recover the amount. This resulted in non-realisation of inspection fees of Rs. 19.92 lakh.

After the cases were pointed out, the department accepted the observation and recovered Rs. 16.03 lakh, between March 2006 and July 2008, from 223 consumers. A report on recovery of the balance amount has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

⁵ Electrical inspectors at Ahmednagar, Amravati, Aurangabd, Nagpur, Pune and Thane Dn. I and II.

⁶ Ahmednagar, Amravati, Aurangabad, Nagpur, Pune and Thane.

CHAPTER VII : NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records of non-tax receipts conducted during the year 2007-08 revealed underassessment/short levy, loss of revenue etc., of Rs. 207.96 crore in 20,653 cases as shown below:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Police Receipts (A review)	1	48.36
2.	Non-payment of Guarantee fees	1	144.06
3.	Loss of forest revenue	16	9.33
4.	Losses in revenue due to deterioration in transit/ in sale/in resale/due to non-extraction/non-lifting of material other than Bamboo	7	3.88
5.	Loss of revenue on sale of <i>tendu</i> leaves	7	1.57
6.	Non/short recovery of service charges	20,612	0.48
7.	Loss on miscellaneous items	7	0.24
8.	Others	2	0.04
Total		20,653	207.96

In response to the observations made in the local audit reports during the year 2007-08 as well as during earlier years the department accepted underassessments involving Rs. 3.30 crore in 13 cases which were pointed out during earlier years. During the year 2007-08, the department also recovered Rs. 3.30 crore in these 13 cases.

A review of "Police Receipts" involving Rs. 48.36 crore and a few illustrative cases involving Rs. 145.05 crore are mentioned in the succeeding paragraphs.

7.2 Police Receipts

Highlights

Demands totalling Rs. 4.99 crore for recovery of cost of deployment of police were not raised.

(Paragraph 7.2.7.1)

Cost of deployment of police to the extent of Rs. 3.23 crore was recovered short due to non-inclusion of dearness pay, leave salary, pension contribution, supervision charges, etc.

(Paragraph 7.2.7.2)

Failure to recover cost of Police/escorts/guards in advance from individuals and Municipal Corporations and absence of a provision to recover cost of police in advance from banks resulted in non-realisation of Rs. 27.49 crore.

(Paragraph 7.2.8)

Shareable expenditure of Rs. 12.48 crore on Government Railway Police deployed to the Railways could not be realised as 447 posts were created without its approval.

(Paragraph 7.2.9)

In the absence of any database of cost of police recoverable, the department was unaware of the total accumulated arrears. Absence of monitoring and lack of follow-ups to recover cost of police deployed resulted in accumulation of huge arrears of Rs. 178.45 crore during the periods between 1979-80 and 2006-07 in 11 offices.

(Paragraph 7.2.10)

7.2.1 Introduction

Police receipts include payments for the police personnel provided to the Central Government/public sector undertakings/Banks/Railways within the State and to the other Governments/parties, fees, fines, forfeitures and other receipts. These receipts also include annual licence fees/certificate fees from owners of hotels, restaurants, bars, etc.

The assessment, collection and accounting of police receipts are governed by the Bombay Police (BP) Act, 1951, the Maharashtra Police Manual (MPM) and instructions issued thereunder from time to time.

A review of the receipts of the Police Department was conducted by audit. It revealed a number of system and compliance deficiencies which are discussed in the following paragraphs.

7.2.2 Organisational set-up

For maintaining law and order in the State, there exists a police force under the supervision of the Secretary to the Government of Maharashtra in the Home Department, who exercises control over the entire State, with the help

of the Director General of Police (DGP). The DGP is assisted by the Additional DGP (ADGP)/Inspector General of Police (IGP), who is responsible for maintenance of law and order in the various ranges. Besides, there are Commissioners of Police (CPs)/Superintendents of Police (SPs) and other staff posted at various levels.

The CPs in cities and SPs in districts are responsible for assessment and collection of cost of police within their jurisdiction. The DGP is responsible for assessment and collection of police costs for deployment of police outside the State. The ADGP (Railways) is responsible for assessment and collection of police costs for deployment of police personnel to the Railways.

7.2.3 Scope of audit

With a view to verify the adequacy of the systems and procedures of the Police Department in respect of levy, collection and deposit of police receipts into the Government account, a test check of records for the period 2002-03 to 2006-07 was conducted between October 2007 and April 2008. The records were checked in the offices of the DGP, Mumbai, ADGP (Railways), all the 10 CPs¹ and nine² out of 35 SPs. The offices of the SPs were selected on the basis of application of the statistical sampling technique. The treasurywise revenue collection figures of Police receipts was considered as base for determining the population and sampling was done by application of Probability Proportional to Size Without Replacement (PPSWR) technique.

7.2.4 Audit objectives

The review was conducted to ascertain whether:

- the levy and collection of cost of deployment of police, licence fee, etc., was being done efficiently;
- the demands for supply of police guards, etc., were being raised correctly and in time;
- the laws, rules and departmental instructions for safeguarding the revenues were being properly enforced; and
- an adequate internal control mechanism existed in the department to ensure proper realisation of police receipts.

7.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges co-operation of the Home Department in providing necessary information and records for audit. The entry conference was held wherein selection of units, scope and methodology of audit was discussed. The draft review report was forwarded to the Government and the department in June 2008 and was discussed in the Audit Review Committee meeting held in September 2008. Additional Chief Secretary, Home Department represented the Government while Deputy

¹ Amravati, Aurangabad, Mumbai, Nagpur, Nashik, Navi Mumbai, Pune, Solapur, Thane and Railways.

² Ahmednagar, Aurangabad, Chandrapur, Jalgaon, Nagpur, Nashik, Pune, Satara and Solapur.

Inspector General of Police (Admn.) represented the department. Views of the Government/department have been incorporated in relevant paragraphs.

7.2.6 Trend of revenue

As per the Maharashtra Budget Manual, budget estimates should be prepared to achieve as close an approximation to the actuals as possible based on the cost of collection for police deployment, rates of fees and fines, receipts of the previous years, any recognisable regularity in the figures of the past years, amount outstanding at the end of the current year and amount likely to be collected in next financial year out of next revenue year's demand. The budget estimates and revenue realised by the Department during the years 2002-03 to 2006-07 were as under :

(Rupees in crore)

Year	Budget estimates	Actual collection	Variations (+) excess (-) shortfall	Percentage of variation
2002-03	95.79	152.77	(+) 56.98	(+)59.48
2003-04	185.00	102.75	(-) 82.25	(-) 44.46
2004-05	280.00	96.63	(-) 183.37	(-) 65.49
2005-06	294.00	106.60	(-) 187.40	(-)63.74
2006-07	126.71	101.84	(-) 24.87	(-)19.63

It could be seen from the above table that the budget estimates were more than the actuals of the previous years except for the year 2002-03³. Further, the regularity in figures of the past years and anticipated collection out of the demands to be raised in the subsequent financial years had not been taken into consideration, as was required to be done for preparation of budget estimates. Hence, there was a need to have a re-look at the entire budgetary process so as to ensure that the budget estimates confirm to requirements prescribed in the budget manual.

Audit findings

System deficiencies

7.2.7 Assessment and demand for recovery of cost of police deployed

As per the provisions of the MPM, deployment of police force on a request received from borrowing State Government, organisation, individual etc., is subject to payment of cost. The department is required to assess the cost of police and effect recovery.

Audit scrutiny revealed that the department had failed to recover the cost of police by timely raising of demands, monitoring the arrears of revenue recoverable and correctly computing the cost of police deployed. The omissions are discussed below :

³ Actuals for the year 2001-02 was Rs. 110.78 crore.

7.2.7.1 Non-raising of demands of cost of police deployed to other States/Central Government

Police personnel are deployed to other States following requests from the Government of India/other State Governments to maintain law and order during elections, religious functions, riots etc. On the basis of orders issued by the DGP, police personnel from the State Reserve Police Force (SRPF) located in different places in Maharashtra are deployed to other States. As per circular dated 19 May 2003, issued by the DGP, the statements of expenditure (SOE) for the cost of police deployment were to be prepared by the Commandants of SRPF within one month from the date of return of the SRPF personnel from outside States. The SOEs so received were to be consolidated and forwarded to the State Accountants General for certification. However, the Government did not prescribe any return or register for keeping a watch on the demands raised and collection of cost of police deployed.

Test check of records in the office of the DGP, revealed that in respect of SRPF personnel deployed to seven⁴ States/UTs, during various periods between 2002-03 and 2006-07, there were delays ranging between nine and 38 months in finalising the SOEs. Further, in none of these cases demands for recovery of cost of police of Rs. 4.99 crore were raised by the department. Absence of a system in the department to watch the raising of demands through registers and returns resulted in non-realisation of Rs. 4.99 crore towards cost of police deployed.

The Government accepted (September 2008) the omission and agreed to recover the amount. A report on recovery has not been received (November 2008).

The Government may therefore, consider prescribing a periodic return and maintaining a register at appropriate level to keep a watch on the recovery of the cost of police deployed.

7.2.7.2 Short recovery of cost of police deployed

As per paragraph 484(1) of the Maharashtra Police Manual (Volume III), the cost of permanent deployment of police forces includes pay, dearness pay, special pay, house rent allowance and other admissible allowances including leave salary and pension contribution and supervision charges at prescribed rates applicable from time to time. The Government did not prescribe any mechanism to ensure correctness of computation of cost of police.

Test check of the records revealed that in the offices of six CPs⁵ and two SPs⁶, in respect of 40 cases for various periods between 2002-03 and 2006-07, the elements of dearness pay, leave salary and pension contribution, supervision charges and house rent allowance aggregating Rs. 3.23 crore were not included in the demands raised. This resulted in short recovery of Rs. 3.23 crore from various organisations as detailed in Annexure II.

⁴ Bihar, Goa, Gujarat, Haryana, Madhya Pradesh, Puducherry (Union Territory) and Tamil Nadu.

⁵ Amravati, Aurangabad, Mumbai, Nagpur, Pune and Solapur.

⁶ Nagpur and Pune.

After the cases were pointed out, the department accepted the observation and stated (September 2008) that revised demand notices for effecting recovery would be issued. A report on recovery has not been received (November 2008).

7.2.8 Non-raising of demand/non-recovery of cost of police in advance

As per sections 47 and 48 of Bombay Police Act and paragraph 484 of Maharashtra Police Manual Volume III, the cost of police on account of protection provided to individuals/private organisations is to be recovered in advance. Further, as per the Government Resolutions (GRs) issued between 1983 and 1998, the cost of police personnel deployed to Municipal Corporations (MCs) is also to be recovered in advance. However, the Government did not prescribe any mechanism to ensure recovery of cost of police for deployment to individuals and MCs in advance. In the case of deployment of police to Banks even the provision of recovery of cost of police in advance has not been prescribed.

7.2.8.1 Non-recovery of cost of police from individuals

Test check of the records in the offices of the CPs at Nagpur and Pune and SP, Satara, revealed that in respect of protection provided to 119 individuals during various periods between 2002-03 and 2006-07, neither the cost of police was recovered in advance (Rs. 1.67 crore) nor the demands (Rs. 93.07 lakh) were raised subsequent to the return of the police personnel. This resulted in non-realisation of cost of police of Rs. 2.60 crore.

7.2.8.2 Non-recovery of cost of police from Municipal Corporations

Test check of the records in the offices of the eight⁷ CPs and two⁸ SPs during various periods between 2002-03 and 2006-07, revealed that in respect of persons deployed to 11⁹ MCs, the cost of deployment of police amounting to Rs. 22.47 crore was not recovered in advance.

7.2.8.3 Non-recovery of cost of police from banks

Scrutiny of the records revealed that in the office of five¹⁰ CPs cost of police of Rs. 2.42 crore for various periods between 1998 to 2007 deployed to 14¹¹ banks were pending recovery. No recoveries were effected till November 2008.

Thus, non-observance of the prescribed procedure to recover the cost of police in advance from individuals and MCs and absence of a system for recovery of

⁷ Aurangabad, Mumbai, Nagpur, Nashik, Navi Mumbai, Pune, Solapur and Thane.

⁸ Satara and Solapur.

⁹ Aurangabad, Bhiwandi-Nizampur, Kalyan-Dombivali, Nagpur, Nashik, Navi Mumbai, Pimpri-Chinchwad, Pune, Solapur, Thane and Ulhasnagar.

¹⁰ Mumbai, Nagpur, Nashik, Pune and Thane.

¹¹ State Bank of India, Mumbai; Bank of Maharashtra, Nagpur; Bank of India, Nagpur; Central Bank of India, Nagpur; Allahabad Bank, Nagpur; UCO Bank, Nagpur; Central Bank of India, Nashik; State Bank of India, Special Training, Pune; State Bank of India, Strongroom, Pune; Bank of Maharashtra, Pune; Bank of Maharashtra, Thane; Union Bank of India, Thane; Canara Bank, Thane; Central Bank of India, Thane.

cost of police from banks in advance, resulted in non-recovery of Rs. 27.49 crore.

After the cases were pointed out, the department stated (September 2008) that instructions have been issued to the concerned authorities to recover the amounts and also to strictly follow the provisions of the Act to recover the cost of police in advance.

The Government may consider prescribing a system of recovery of cost of police for deployment to banks in advance and a mechanism to ensure that the cost of police deployed to individuals and MCs is recovered in advance.

7.2.9 Non-receipt of 50 per cent share towards cost of police due to creation of posts without approval of Railways

As per para 856 of the Indian Railways Financial Code Volume I, the cost of Government Railway Police (GRP) is to be shared between the State Government and the Railways on a 50:50 basis, provided that the strength of the GRP force is determined with the approval of the Railways. However, the Government did not prescribe any mechanism to ensure that the posts created are kept within sanctioned strength approved by Railways.

Scrutiny of records of the ADGP (Railways) revealed that, during the period 2002-03 and 2006-07, as against 5,616 posts approved by the Railways 6,063 GRP posts were created by the State Government for deployment. Thus, 447 posts were created without the approval of the Railways.

The Director (RPF), Railway Board, Government of India, Ministry of Railways refused (December 2004) to give post facto sanction for the additional posts. The expenditure incurred by the State Government on 447 posts for the period 2002-03 to 2006-07 was Rs. 24.96 crore, of which Rs. 12.48 crore was reimbursable by the Railways. Failure of the department in creating the posts with the approval of Railways, as prescribed, resulted in non-receipt of shareable expenditure of Rs. 12.48 crore on Government Railway Police deployed to the Railways.

The Government may consider prescribing a mechanism to ensure that the posts created are kept within the sanctioned strength approved by the Railways.

7.2.10 Arrears pending collection

Under the provisions of the BP Act and the MPM, the cost of police personnel provided was recoverable from the concerned institutions, bodies or persons. In cases of default, revenue due to the Government could be recovered as arrears of land revenue as provided under Section 49 of the BP Act. The BP Act neither prescribes any time limit for payment of cost of police deployed nor prescribes for levy of interest on delayed payments.

It was noticed that neither the office of the DGP nor its subordinate offices from which police personnel were deployed, had maintained any database regarding demands, collections, outstanding dues and age-wise break-up of arrears. No return has been prescribed by the DGP to watch the progress of recovery and to ascertain the position of accumulated arrears of revenue. In the absence of any consolidated data, the arrears accumulated could not be

ascertained. Analysis of arrears of revenue compiled by audit from the files maintained in the offices selected for test check revealed the following :

- In the office of the ADGP (Railways), demands aggregating Rs. 159.57 crore towards cost of deployment of Government Railway Police were pending recovery out of which Rs. 101.67 crore related to periods prior to 2002-03 (from 1979-80 onwards). Scrutiny of files revealed that, proper follow-up action was not taken for recovery of the dues.
- In the offices of five¹² CPs and three¹³ SPs amounts totalling Rs. 9.46 crore for various periods between 1983 and 2007 towards cost of deployment of police to 28 institutions were pending recovery.
- In the offices of CP, Thane amount totalling Rs. 8.51 crore for various periods between November 1990 and March 2002 towards cost of deployment of police to four¹⁴ MCs were pending recovery.

In the office of the DGP, amounts totalling Rs. 91.07 lakh towards cost of deployment of SRPF to five¹⁵ States were pending recovery. These arrears related to various periods between March 1987 and May 2001. Analysis of pendency revealed that there were inordinate delays ranging from four to 17 years in issuing demands to the borrowing States for recovery. In none of these cases recovery was effected till April 2008.

Absence of a system to monitor the recoveries and lack of effective follow up in the department resulted not only in huge accumulation of arrears but also the likelihood of the amounts not being recovered due to the passage of time.

The Government may evolve a suitable mechanism to monitor recovery of arrears and also consider prescribing time limit for payment of cost of police and levy of interest in case of belated payment to safeguard the revenue.

7.2.11 Internal control

7.2.11.1 Irregularities in cash management

As per Rule 8(1) of the Maharashtra Treasury Rules, 1968, all moneys received by or tendered to Government Officers are to be paid in full within two days of their receipt into a treasury/bank. Further, as per Rule 98 (2) (ii), all monetary transactions should be entered in the cash book as soon as they occur and should be attested by the Head of the office. Scrutiny of records in the test checked offices revealed the following:

- In the office of the CP, Amravati, 41 demand drafts (DDs) totalling Rs. 4,100 received during December 2006 and March 2007, on account of fees for character verification certificates (CVCs) had not been credited into the designated bank for realisation.
- In the office of the SP, Nagpur amounts totalling Rs. 2.29 lakh, received by the accounts branch from the traffic branch on six

¹² Mumbai, Nagpur, Nashik, Pune and Thane.

¹³ Ahmednagar, Jalgaon and Nashik.

¹⁴ Bhiwandi-Nizampur, Kalyan-Dombivali, Thane and Ulhasnagar.

¹⁵ Gujarat, Karnataka, Kerala, Tamil Nadu and West Bengal.

occasions, between 10 January 2006 and 30 June 2007, on account of fines collected from the traffic offenders had not been entered in the cash book. Further, there were delays ranging from five to 59 days in crediting cash of Rs. 4.43 lakh received from the traffic branch on 24 occasions, between 17 April and 10 June 2004, on account of fines collected from traffic offenders and fees deposited by persons for obtaining CVCs.

- In the office of the CP, Aurangabad as against Rs. 400 and Rs. 55,000 received on 24 April 2003 and 30 June 2003, Rs. 100 and Rs. 50,000, respectively were entered in the cash book. Further, three receipts were missing in the respective receipt books. Verification of the cash book revealed that entries corresponding to these receipts had also not been made in the cash book. Amounts totalling Rs. 4.14 lakh received by the office between 5 March and 21 March 2003 on account of auction of vehicles had been remitted into the treasury after gaps ranging from 52 to 68 days.
- In the offices of SP, Aurangabad and Solapur, cash received from persons who had applied for obtaining passports as well as fines collected from traffic offenders by the traffic branch had not been entered in the cash books.

Such lapses are fraught with the risk of misappropriation of public funds.

The Government accepted (September 2008) the omission and stated that necessary action would be taken. Further report has not been received (November 2008).

7.2.11.2 Non-reconciliation of receipts with treasury records

As per the provisions of Rule 98(2) (v) of the Maharashtra Treasury Rules, all moneys received by a Government officer on behalf of the Government and remitted into the treasury are required to be reconciled with the figures booked by the concerned treasury officer and to be kept on record.

Scrutiny of the records in the test checked offices revealed that in the offices of six¹⁶ CPs and two¹⁷ SPs, during the periods 2002-03 to 2006-07 no such reconciliations were carried out. In the offices of two¹⁸ CPs and one¹⁹ SP out of the challans sent to the treasuries during various periods between October 2002 and March 2007 for verification of credits, the treasuries had intimated non-accounting of credits aggregating Rs. 10.87 lakh. No action was taken by these offices to ascertain the discrepancies in the above cases. Failure of the department to reconcile the remittances with the treasury exposed the department to the risk of mismanagement of cash.

After this was pointed out, the department stated (September 2008) that the DGP would issue necessary instructions in this regard and initiate disciplinary proceedings against erring officials. Further report has not been received (November 2008).

¹⁶ Amravati, Aurangabad, Mumbai, Pune, Solapur and Thane.

¹⁷ Aurangabad and Chandrapur.

¹⁸ Nashik and Thane.

¹⁹ Jalgaon.

Compliance deficiencies

7.2.12 Short realisation of revenue due to delay in implementation of revised rates as per the notification

Under the Motor Vehicles (MV) Act, 1988, the traffic police is required to recover fines from traffic offenders for committing the offences. The amounts of fines to be recovered are regulated by notifications issued by the State Government from time to time. The rates of fines for offences committed under Section 177 of the MV Act, were Rs. 50 for auto rickshaws and taxis and Rs. 100 for all other types of vehicles.

The Home Department, vide a notification issued on 9 August 2006 (effective from 15 August 2006) revised the rates of fines for offences committed under Section 177 of the MV Act, to Rs. 100 for all types of vehicles.

Scrutiny of the records in the offices of seven CPs²⁰ and three SPs²¹, during the period from 15 August 2006 to 5 December 2006, revealed that in respect of 18,328 offences committed by the drivers of auto rickshaws and taxis, fines were recovered at the pre-revised rate of Rs. 50 instead of Rs. 100. Failure of the department to implement the notification from the effective date resulted in short realisation of revenue of Rs. 9.16 lakh.

The Government accepted the lapse and stated (September 2008) that henceforth notifications would be issued well in advance to ensure timely compliance.

7.2.13 Short recovery of licence fees

Under the provisions of the Bombay Police Act, the owners of residential hotels, eating houses, lodging houses, etc., are required to obtain licences and renew it annually from the CPs on payment of fees at the notified rates.

Scrutiny of records in the offices of the three²² CPs revealed that, in respect of 167 licences renewed between 2002-03 and 2006-07, licence fee was recovered short by Rs. 7.85 lakh due to application of incorrect rates.

The Government accepted (September 2008) the omission and agreed to recover the amounts. A report on recovery has not been received (November 2008).

7.2.14 Misclassifications under the receipt head "0055 Police Receipts"

Undisbursed pay and allowances, travelling allowances and recovery of overpayments are to be treated as reduction in expenditure and classified under the respective expenditure heads of account. The office of the DGP had also issued a circular to this effect on 10 December 2004.

Scrutiny of the records in the test checked offices revealed that in the offices

²⁰ Aurangabad, Mumbai, Nashik, Navi Mumbai, Pune, Solapur and Thane.

²¹ Chandrapur, Jalgaon and Satara.

²² Aurangabad, Nashik and Pune.

of two²³ CPs and three²⁴ SPs, amounts totalling Rs. 4.34 lakh on account of recovery of overpayments of salary, travelling allowances, house rent allowances etc., were incorrectly credited to the receipt head "0055 Police Receipts" instead of treating them as reduction of expenditure under the respective expenditure heads. This led to enhancement of receipts to that extent.

After this was pointed out, the department stated (September 2008) that fresh instructions were being issued in this regard and the compliance of which will be watched through departmental inspections.

7.2.15 Conclusion

The review revealed that the department did not have a proper mechanism to correctly assess the cost of deployment of police and to raise demands promptly from the organisations to which the police personnel were deployed. No registers were maintained by the department to watch the timely assessment and raising of demands and their collection. This resulted in non-raising/short realisation of the cost of police deployment. The department failed to recover the cost of police deployment in advance from municipal corporations and private individuals/institutions. The internal controls in the department were not effective, which resulted in huge accumulation of arrears of revenue, delays in raising demands and irregularities in the management of cash.

7.2.16 Summary of recommendations

The Government may consider :

- prescribing a periodic return and maintaining a register at appropriate level to keep a watch on the recovery of the cost of police deployed;
- prescribing a system of recovery of cost of police for deployment to banks in advance and a mechanism to ensure that the cost of police deployed to individuals and MCs is recovered in advance;
- prescribing a mechanism to ensure that the posts created are kept within the sanctioned strength approved by the Railways and
- evolving a suitable mechanism to monitor recovery of arrears and also consider prescribing time limit for payment of cost of police and levy of interest in case of belated payments to safeguard the revenue.

²³ Nashik and Solapur.

²⁴ Ahmednagar, Aurangabad and Pune.

7.3 Non-recovery of guarantee fees

According to the powers conferred by Article 293 of the Constitution of India, the State Government gives guarantees on the Consolidated Fund of the State, to various lending institutions/bond holders to assure them of repayment of principal amounts of loans/investments and interest payable thereon. Such guarantees constitute contingent liabilities of the State. As per the Government resolution of the Finance Department dated 5 November 1999, the responsibility for recovering the guarantee fees rests with the respective administrative departments.

Further, as per the Government resolutions dated 18 November 1988 and 15 April 1997, the rate of guarantee fees vary between 0.50 to 2 *per cent* per annum. The guarantee fees on the guaranteed sums outstanding as on 31 March and 30 September are to be credited to the Government account on 1 April and 1 October respectively, every year, by the loanee corporations/organisations. For delays in payment of guarantee fees, penal interest is payable at the rate of 16 *per cent* per annum for the first three months and at the rate of 24 *per cent* thereafter.

Detailed analysis of the records of six corporations under three administrative departments relating to funds raised through bonds and loans on the basis of guarantees given by the Government, revealed that guarantee fees due for the period between April 2006 and March 2008 were not paid by the Corporations. No action was taken by the concerned administrative departments to recover the dues. This resulted in non-recovery of guarantee fees and penal interest aggregating Rs. 144.06 crore as detailed in Annexure-III.

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

7.4 Non-realisation of rent due to non-execution of lease agreement

As per the provisions of the Maharashtra Public Works Account (MPWA) Code read with the Maharashtra Public Works (MPW) Manual, if a Government building is not required by them and is lying vacant, it may be leased out to local/private bodies or private educational institutions, after getting the rent fixed and lease agreement executed.

During test check of the records of the Executive Engineer (EE), Jayakwadi Project Drainage Construction Division No. 3, Beed in March 2007 revealed that, four Government buildings were rented out to three private institutes/local body between August 1997 and August 2005. However, the department did not recover the rent of Rs. 51.17 lakh upto March 2008 from these institutions.

After the cases were pointed out, the EE accepted (October 2007) the observation. A report on recovery has not been received (November 2008).

The matter was reported to the Government in May 2008; their reply has not been received (November 2008).

7.5 Non/short recovery of service charges

According to the provisions of the Bombay Civil Services Rules, 1959 and the Government resolution issued in February 2001, service charges are recoverable at the prescribed rates from employees occupying Government quarters and drawing a minimum pay of Rs. 4,380.

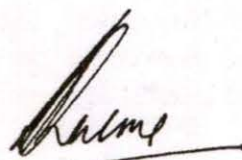
During test check of the records of 19 offices of the Medical Education and Drugs Department and four offices of the Home Department in April 2008, it was noticed that in the pay bills, for various periods between 2003-04 and 2007-08, service charges amounting to Rs. 8.66 lakh in 94 cases were either not recovered or Rs. 39.27 lakh were recovered short in 20,518 cases. This resulted in non/short realisation of service charges aggregating Rs. 47.93 lakh in 20,612 cases as detailed in Annexure IV.

After the cases were pointed out, the departments stated (April 2008) that necessary action would be taken. Reasons for non/short recovery were not furnished by any of the offices. A report on recovery has not been received (November 2008).

The matter was reported to the Government in June 2008; their reply had not been received (November 2008).

Mumbai,
The

4 FEB 2009



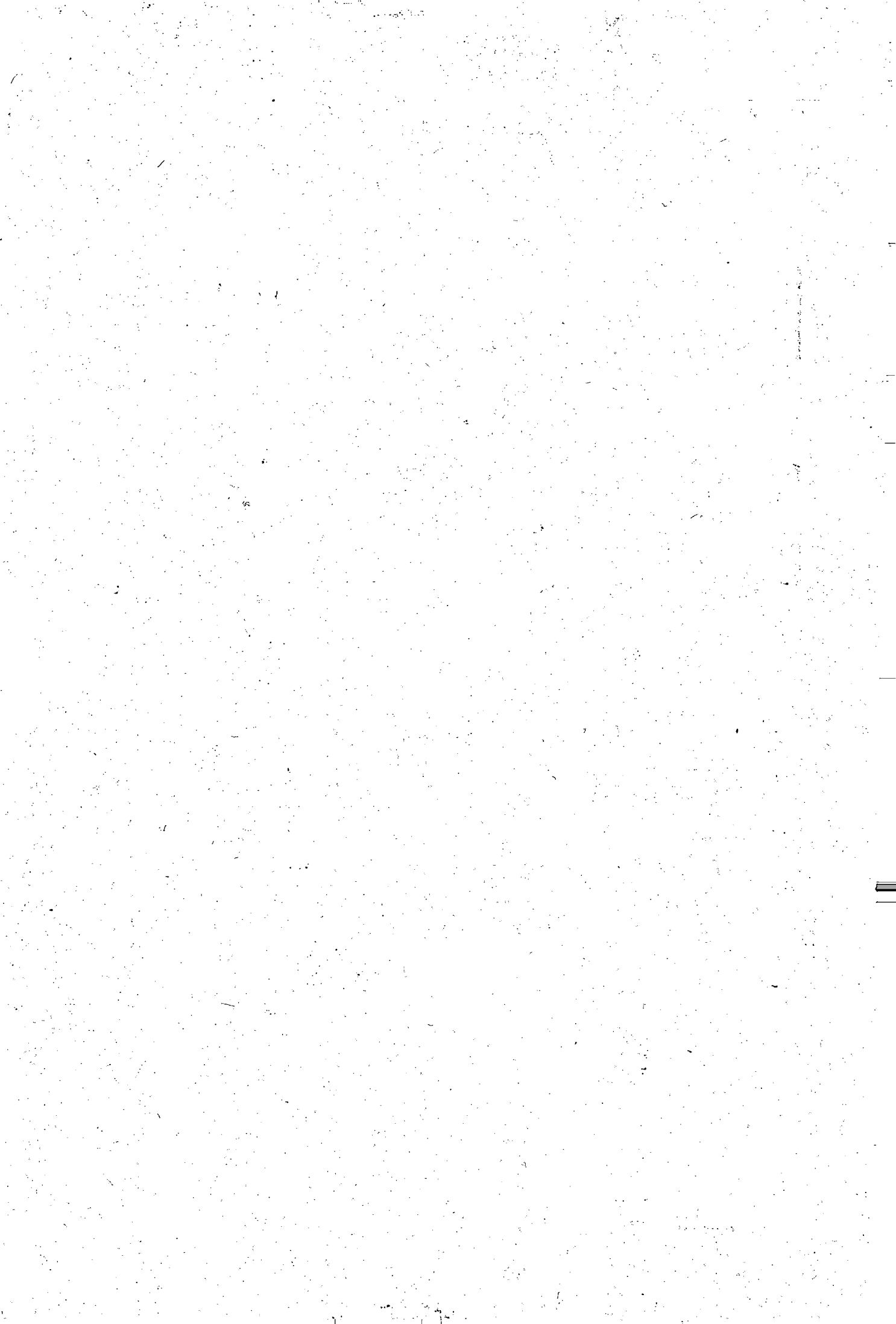
(RAJIB SHARMA)
Principal Accountant General (Audit)-I,
Maharashtra

Countersigned

New Delhi,
The



(VINOD RAI)
Comptroller and Auditor General of India



ANNEXURE I
YEARWISE DETAILS OF OUTSTANDING INSPECTION REPORTS AND AUDIT OBSERVATIONS UNDER
VARIOUS RECEIPTS AS OF 30TH JUNE 2008
(Reference: Paragraph 1.11)

(Rupees in lakh)

Sl. No.	Nature of receipt	Upto-2003-04			2004-05			2005-06			2006-07			2007-08			Total		
		IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount
1.	Sales tax	633	1,254	10,890.88	117	263	245.22	221	560	1,828.53	357	1,001	1,097.27	421	1,463	4,783.80	1,749	4,541	18,845.70
2.	Land revenue	432	865	13,344.46	84	195	3,312.18	157	302	1,367.87	136	389	11,290.63	178	340	3,505.21	987	2,091	32,820.35
3.	Stamp Duty and Registration Fees	195	433	7,773.95	82	172	1,094.84	152	324	4,901.76	155	364	10,179.24	142	324	4,201.31	726	1,617	28,151.10
4.	Taxes on motor vehicles	37	64	328.03	18	23	38.22	24	52	185.96	42	114	267.74	31	86	364.66	152	339	1,184.61
5.	Forests receipts	136	307	2,691.59	19	37	672.47	21	48	2,054.32	28	66	3,438.67	17	44	439.63	221	502	9,296.68
6.	Entertainments duty	27	33	24.81	14	17	25.20	34	48	61.41	51	69	77.72	70	110	155.23	196	277	344.37
7.	State excise	10	10	153.91	10	10	8.54	12	20	142.14	19	27	29.72	14	15	16.49	65	82	350.80
8.	Electricity duty	2	2	--	4	4	5.54	5	5	58.54	13	15	32.86	12	19	28.52	36	45	125.46
9.	Tax on professions	29	39	21.57	19	26	29.43	29	41	31.74	47	62	47.64	22	26	19.26	146	194	149.64
10.	Tax on residential premises	9	11	6.71	5	5	5.76	13	15	37.45	13	13	38.55	4	4	375.38	44	48	463.85
11.	State education cess & employment guarantee cess	23	25	73.74	18	23	6.72	21	29	451.04	40	47	1,892.29	19	29	2,164.19	121	153	4,587.98
12.	Repair cess	1	1	--	2	2	20.79	1	1	1.93	1	2	--	2	3	--	7	9	22.72
13.	Other Non-tax receipts	100	120	4,390.67	3	3	12.18	2	2	--	6	6	17.06	5	8	155.52	116	139	4,575.43
Total		1,634	3,164	39,700.32	395	780	5,477.09	692	1,447	11,122.69	908	2,175	28,409.39	937	2,471	16,209.20	4,566	10,037	1,00,918.69

IRs - Inspection Reports
Objs. - Objections

ANNEXURE - II
STATEMENT SHOWING OFFICE-WISE & ORGANISATION WISE POSITION OF SHORT
RECOVERY OF COST OF POLICE
 (Reference : Paragraph 7.2.7.2)

(Rupees in lakh)

Sl. No.	Name of the office	No. of cases	Name of the organisation	Period	Amount
1	CP, Amravati	1	Amravati Municipal Corporation	Jan-06 to March-07	5.77
2	CP, Aurangabad	1	Aurangabad Municipal Corporation	Jan-06 to March-07	9.69
3	CP, Mumbai	1	Reserve Bank of India, Fort	Aug-04 to March-07	22.04
		1	Reserve Bank of India, Bandra	Aug-04 to March-07	5.05
		1	Central Bank of India, BKC	Aug-04 to March-07	5.05
		1	All India Radio (HPT), Malad	Aug-04 to March-07	5.05
		1	Syndicate Bank, Nariman point	Aug-04 to March-07	5.05
		1	Food Corporation of India, Borivali	Aug-04 to March-07	5.05
		1	Indian Overseas Bank	Aug-04 to March-07	5.05
		1	Mazgaon Dock Ltd.	Aug-04 to March-07	5.05
		1	Central Bank, Kharghar	Aug-04 to March-07	5.05
		1	Bank of India, Prabhadevi	Aug-04 to March-07	5.05
		1	Bank of India, Hill Road	Aug-04 to March-07	5.05
		1	Tata Power House, Chembur	Aug-04 to March-07	5.05
		1	C.B.I. Mumbai	Aug-04 to March-07	5.05
		1	Allahabad Bank, Peddar Road	Aug-04 to March-07	5.05
		1	Vijaya Bank, Fort	Aug-04 to March-07	5.05
		1	UCO Bank, Vile Parle (E)	Aug-04 to March-07	5.05
		1	Reserve Bank of India, Multi storey building	Aug-04 to March-07	11.11
		1	State Bank of India, Main branch	Aug-04 to March-07	17.33
		1	Civil Defence, Fort	Aug-04 to March-07	9.71
		1	Bombay Port Trust, Haji Bunder	Aug-04 to March-07	8.59
		1	Dena Bank, Vile Parle	Aug-04 to March-07	3.12
		1	H.D.F.C. Bank Ltd, Worli	Aug-04 to March-07	3.12
		1	All India Radio, Backbay Reclamation	Aug-04 to March-07	3.12
		1	Bank of Maharashtra, Girgaon	Aug-04 to March-07	3.12
		1	Bank of Maharashtra, Bandra	Aug-04 to March-07	2.04
		1	Regional Stamp Department, Parel	Aug-04 to March-07	5.31
		1	Collector of Customs	Aug-04 to March-07	12.07
		1	Union Bank of India, Nariman point	Aug-04 to March-07	6.54
		1	Brihan Mumbai Municipal Corporation	Aug-04 to March-07	23.07
4	CP, Nagpur	1	Reserve Bank of India, Nagpur	Aug-04 to Feb-07	60.04
		1	Bank of India, Nagpur	Aug-04 to March-06	4.28
		1	Nagpur Improvement Trust	Aug-04 to Dec-05	3.98
		1	Nagpur Municipal Corporation	Aug-04 to Aug-06	13.09
5	CP, Pune	1	Pune Municipal Corporation	March-03 to March-07	5.89
		1	Pimpri-Chinchwad Municipal Corporation	April-02 to March-07	4.28
6	SP, Pune	1	Sinhagad T.V. Center	April-05 to March-07	2.01
7	SP, Nagpur	1	MSEB, Koradi TPS	April-02 to March-07	5.19
8	CP, Solapur	1	Solapur Municipal Corporation	Jan-06 to Dec-06	3.07
	Total	40			323.33

ANNEXURE - III
STATEMENT SHOWING NON-RECOVERY OF GUARANTEE FEES AND PENAL INTEREST
(Reference : Paragraph 7.3)

(Rupees in crore)

Sl. No.	Name of Department Name of the Unit	Amount Guaranteed	Date of Guarantee Due date of Payment	Amount		
				Guarantee Fees	Penal Interest	Total
I Irrigation						
(1)	Maharashtra Krishna Valley Development Corporation, Pune (Bond series No.2003/A)	412.33	1 February 2003 April 2006 to April 2008	17.40	4.86	22.26
(2)	Godavari Marathwada Irrigation Development Corporation, Aurangabad (Bond series No.VI)	36.06	14 February 2003 April 2006 to April 2008	1.52	0.42	1.94
(3)	Vidarbha Irrigation Development Corporation, Nagpur (Bond series No.VIII)	17.29	7 February 2003 April 2006 to April 2008	0.72	0.20	0.92
(4)	Konkan Irrigation Development Corporation, Thane (Bond series No.VI)	85.48	1 February 2003 April 2006 to April 2008	3.60	1.01	4.61
Total		551.16		23.24	6.49	29.73
II Public Works						
A)	Maharashtra State Road Development Corporation, Mumbai (Bond Series No. XIX to XXII)	406.98	30 December 2003 April 2006 to April 2008	20.72	5.48	26.20
	Bond Series No. XXIII	380.00	15 January 2005 April 2006 to April 2008	15.88	4.46	20.34
B)	Loans from banks (14 loans)	1,115.67	17 November 2005 April 2006 to April 2008	43.18	13.77	56.95
Total		1,902.65		79.78	23.71	103.49
III Industry, Energy and Labour (Industry)						
	Maharashtra State Financial Corporation, Mumbai Open market borrowings	385.57	25 March 1997 to 9 January 2004 April 2006 to April 2008	8.24	2.60	10.84
Total		385.57		8.24	2.60	10.84
Grand Total		2,839.38		111.26	32.80	144.06

ANNEXURE-IV
STATEMENT SHOWING NON/SHORT RECOVERY OF SERVICE CHARGES IN RESPECT OF EMPLOYEES OCCUPYING
GOVERNMENT ACCOMODATION

(Reference : Para 7.5)

(Rupees in lakh)

Sl. No.	Name of the Office	District	Period	No. of Cases	Amount Recoverable	Amount Recovered	Non/short Recovery
Short recovery							
Medical Education and Drugs Department							
1	Director of Health Services, Aarogya Bhavan	Mumbai	2003-04 to 2007-08	15	1.34	0.92	0.43
2	St. George Hospital	Mumbai	2003-04 to 2007-08	16	0.62	0.27	0.35
3	G T Hospital	Mumbai	2003-04 to 2007-08	52	1.63	0.46	1.17
4	Madam Cama Hospital	Mumbai	2003-04 to 2007-08	27	1.04	0.31	0.72
5	Sir J J Hospital	Mumbai	2003-04 to 2007-08	105	3.20	0.64	2.56
6	Grand Medical College	Mumbai	2003-04 to 2007-08	101	3.85	0.32	3.52
7	Dy Director of Health Services, Thane	Thane	2003-04 to 2007-08	10	0.77	0.33	0.44
8	Civil Hospital, Thane	Thane	2003-04 to 2007-08	9	0.66	0.15	0.51
9	Regional Mental Hospital, Thane	Thane	2003-04 to 2007-08	49	3.22	1.58	1.64
10	Rural Hospital, Murbad	Thane	2003-04 to 2007-08	14	1.25	0.15	1.10
11	Sub-District Hospital, Dahanu	Thane	2003-04 to 2007-08	30	2.00	1.32	0.69
12	Sub-District Hospital, Shahapur	Thane	2003-04 to 2007-08	2	0.44	0.05	0.39
13	Civil Surgeon, Civil Hospital, Pune	Pune	2003-04 to 2007-08	72	2.69	0.55	2.14
Home Department							
14	Commissioner of Police, Pune	Pune	2003-04 to 2007-08	20,006	58.30	34.80	23.50
15	Anti Corruption Bureau, Pune	Pune	2005-06 to 2007-08	10	0.37	0.26	0.11
Total (A)				20,518	81.38	42.11	39.27
Non recovery							
Medical Education and Drugs Department							
1	Rural Hospital, Goveli	Thane	2003-04 to 2007-08	11	0.79	0	0.79
2	Rural Hospital, Manor	Thane	2003-04 to 2007-08	9	1.04	0	1.04
3	Rural Hospital, Mokhada	Thane	2003-04 to 2007-08	13	2.22	0	2.22
4	Rural Hospital, Wada	Thane	2003-04 to 2007-08	16	2.55	0	2.55
5	Sub-District Hospital, Kasa	Thane	2003-04 to 2007-08	3	0.42	0	0.42
6	Sub-District Hospital, Palghar	Thane	2003-04 to 2007-08	1	0.04	0	0.04
Home Department							
7	Anti Corruption Bureau, Thane	Thane	2003-04 to 2007-08	4	0.51	0	0.51
8	Anti Corruption Bureau, Nashik	Nashik	2003-04 to 2007-08	37	1.09	0	1.09
Total (B)				94	8.66	0	8.66
Total (A)+(B)				20,612	90.04	42.11	47.93