

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

**For the year ended 31 March 1993**

**No.2  
(REVENUE RECEIPTS)**

**GOVERNMENT OF KARNATAKA**







## CONTENTS

		Reference to	
		Para-	Page
		graph	
	Prefatory Remarks		vi
	<b>OVERVIEW</b>		vii
<b>CHAPTER 1</b>	<b>GENERAL</b>		
	Trend of revenue receipts	1.1	1
	Variations between budget estimates and actuals	1.2	3
	New taxation measures	1.3	6
	Cost of collection	1.4	7
	Uncollected revenue	1.5	8
	Remissions and write off of revenue	1.6	10
	Refunds	1.7	10
	Assessments in arrears	1.8	11
	Internal audit	1.9	11
	Results of audit	1.10	13
	Outstanding inspection reports and audit objections	1.11	13
<b>CHAPTER 2</b>	<b>SALES TAX</b>		
	Results of audit	2.1	16
	Internal controls for assessments under sales tax in the Commercial Taxes Department	2.2	17



Application of in- correct rate of tax	2.3	35
Short levy due to in- correct classification of goods	2.4	37
Short levy due to in- correct grant of concession	2.5	39
Incorrect determination of taxable turnover	2.6	45
Incorrect grant of exemption	2.7	50
Omission to levy tax	2.8	58
Non-levy/short levy of purchase tax	2.9	59
Incorrect allowance of set off	2.10	60
Non-levy or short levy of turnover tax	2.11	62
Non-levy of penalty	2.12	63

### CHAPTER 3 STATE EXCISE

Results of audit	3.1	66
Short collection of licence fee	3.2	66
Non-recovery of privilege fee on rectified spirit	3.3	68
Non-recovery of duty on Indian liquor exported	3.4	68
Short payment of export duty on beer	3.5	69
Non-recovery of interest	3.6	70
Short levy of litre fee	3.7	70



CHAPTER 4 TAXES ON MOTOR VEHICLES

Results of audit	4.1	71
Levy of tax at incorrect rate	4.2	71
Loss of revenue due to irregular grant of exemption	4.3	72
Loss of revenue due to non-renewal of certificates of registration	4.4	73
Loss of revenue due to non-assignment of new registration marks	4.5	73
Loss of fee due to non-issue of goods vehicle record	4.6	74

CHAPTER 5 TAXES ON AGRICULTURAL INCOME

Results of audit	5.1	76
Non-levy of tax on the share of income received from a dissolved firm	5.2	76
Non-clubbing of income of minor children/wife of individual	5.3	78
Incorrect determination of taxable income	5.4	79
Incorrect computation of agricultural income	5.5	79
Failure to assess income from firm	5.6	80
Non-levy of interest on belated payment	5.7	81
Short levy due to excess allowance of deduction	5.8	82
Double adjustment of advance tax	5.9	83



	Short levy due to computation mistake	5.10	83
	Non-levy of penalty	5.11	84
<b>CHAPTER 6</b>	<b>LAND REVENUE</b>		
	Results of audit	6.1	85
	Levy and collection of water rate	6.2	85
	Non-levy or short levy of maintenance cess	6.3	96
	Non-recovery or short recovery of conversion fine	6.4	96
<b>CHAPTER 7</b>	<b>OTHER TAX RECEIPTS</b>		
	<b>A. STAMP DUTY AND REGISTRATION FEES</b>		
	Results of audit	7.1	98
	Incorrect grant of exemption	7.2	98
	Short levy of stamp duty and registration fee on lease deed	7.3	99
	Short levy due to incorrect classification of instruments	7.4	100
	Short levy due to incorrect determination of consideration	7.5	102
	Irregular grant of remission/reduction	7.6	103
	Non-levy of fine	7.7	103
	<b>B. ENTRY TAX</b>		
	Results of audit	7.8	104
	Non-levy and short levy of entry tax	7.9	104



Non-levy of penalty	7.10	107
---------------------	------	-----

## CHAPTER 8

## NON-TAX RECEIPTS

## FOREST RECEIPTS

Results of audit	8.1	109
Working of timber coupes and timber depots	8.2	109
Non-recovery of seigniorage rate, interest and penal interest	8.3	122
Loss of revenue due to short levy of forest development tax	8.4	122
Loss of revenue due to non-sale of minor forest produce	8.5	123
Short recovery of cost of minor forest produce	8.6	124
Evasion of fees for way-permits	8.7	125

\*\*\*\*\*



THE STATE OF TEXAS,  
COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority,  
on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## PREFATORY REMARKS

This Report for the year ended 31st March 1993 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, taxes on motor vehicles, taxes on agricultural income, land revenue, stamp duty and registration fees, entry tax and forest receipts.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1992-93 as well as those noticed in earlier years but could not be covered in previous years' Reports.



PHYSICAL CHEMISTRY

The first part of the paper deals with the general principles of physical chemistry, and the second part with the specific properties of the various substances.

The results of the experiments are given in the following tables, and the discussion of the results is given in the text. The results show that the properties of the various substances are in good agreement with the theoretical predictions.

The author wishes to express his appreciation to the National Science Foundation for the grant which supported this work.



## OVERVIEW

This report contains 49 paragraphs including 2 reviews relating to non-levy/short levy of taxes, duties, interest, penalty etc., involving Rs.29.77 crores. Some of the major findings are mentioned below:

### 1. General

(i) The revenue raised by the State Government during 1992-93 amounted to Rs.3900.35 crores comprising Rs.3097.81 crores as tax revenue and Rs.802.54 crores as non-tax revenue. Rs.931.97 crores were received from the Government of India as the State's share of divisible Union taxes and Rs.589.34 crores as grants-in-aid. Sales tax (Rs.1775.80 crores) formed a major portion (57 per cent) of the tax revenue of the State. Interest receipts (Rs.356.94 crores) formed a major portion (44 per cent) of the non-tax revenue.

(Paragraph 1.1)

(ii) At the end of 1992-93, the arrears in respect of principal heads of revenue viz., Sales Tax, State Excise, Taxes on Vehicles, Taxes on Agricultural Income, Forest Receipts, Entry Tax, Entertainment Tax and Profession Tax amounted to Rs.501.21 crores of which Sales Tax alone accounted for Rs.255.91 crores.

(Paragraph 1.5)

(iii) Test check of the records of Sales Tax, State Excise, Motor Vehicles, Land Revenue, Forest and other departmental offices conducted during the year 1992-93 revealed under-assessments, short levy, loss of revenue etc., amounting to Rs.116.26 crores in 1942 cases. The concerned departments accepted under-assessments, short levy, failure to raise demands etc., of Rs.25.83 crores of which Rs.3.02 lakhs had been pointed out in 1992-93 and the rest in earlier years. Departments recovered Rs.54.34 lakhs at the instance of audit.

(Paragraph 1.10)

(iv) 2318 inspection reports (issued up to December 1992) containing 6452 objections involving revenue of Rs.282.64 crores were pending settlement at the end of June 1993.

(Paragraph 1.11)



## 2. Sales Tax

(i) A review on 'Internal controls for assessments under sales tax in the Commercial Taxes Department' revealed the following:

(a) There were delays up to 44 months in the receipt of monthly and annual returns of turnover from dealers, but no penalty was levied. Failure/delay in the issue of notices in 8 cases resulted in non-imposition of penalty of Rs.23.48 lakhs. There is no provision in the Karnataka Sales Tax Act for levy of interest on short paid tax for the period of default as in other States like Maharashtra.

(Paragraphs 2.2.5 and 2.2.6)

(b) 2.12 lakhs assessments were pending finalisation at the end of March 1992. On an average, 37-39 per cent assessing officers failed to achieve the targets prescribed for disposal of assessments.

In 6 offices, 166 assessments involving demands aggregating Rs.58.22 lakhs were finalised belatedly resulting in belated realisation of revenue by Government.

(Paragraph 2.2.7)

(c) In 357 cases, transactions aggregating Rs.112.02 crores were allowed exemption on the basis of declarations in Form 32 without cross verification. Transactions for Rs.1.06 crores relating to 5 dealers for which such exemptions were allowed were not cross-verified before cancellation of their registration.

(Paragraph 2.2.8)

(d) Provisions and procedures regarding verification of sales by wholesale dealers to retail dealers, shop inspections and test purchases by assessing authorities, intended to ensure proper accounting of transactions by dealers and payment of tax due, were generally not observed.

(Paragraphs 2.2.9 and 2.2.11)

(e) Verification of stock and utilisation accounts of industrial inputs worth Rs.5.05 crores involving tax concession of Rs.19.42 lakhs purchased by 31 manufacturing dealers was not done as required.

(Paragraph 2.2.10)



(f) In 6 offices, 250 cheques amounting to Rs.91.41 lakhs received during 1990-92 were presented for collection after delays of 11 days to 92 days.

In 2 other offices, 87 post-dated cheques amounting to Rs.7.89 lakhs encashable only after 2 - 167 days were accepted.

(Paragraph 2.2.12)

(g) 62 Registers of DCB revealed omissions to book demands aggregating Rs.42.09 lakhs in 34 cases and omissions to carry-forward demands amounting to Rs.7.59 lakhs in 19 cases.

In one case, as against the actual tax collection of Rs.82.73 lakhs, an amount of Rs.88.73 lakhs was entered in the 62 Register which reduced the tax demand against the dealer by Rs.6 lakhs.

(Paragraph 2.2.13)

(h) In 176 cases involving tax effect of Rs.61.78 lakhs, re-assessments based on reports of Intelligence Wing were made after delays up to 40 months after the prescribed time limit of 2 to 3 months resulting in delays in raising demands.

(Paragraph 2.2.15)

(i) Delays ranging from 18 days to 240 days were noticed in serving demand notices in 691 cases with tax effect aggregating Rs.114.70 lakhs. This resulted not only in the belated realisation of revenue but also in unintended benefit to the dealers.

(Paragraph 2.2.17)

(j) Arrears in internal audit of assessments (ranging from 46 per cent to 59 per cent), delay in settlement of objections pointed out by the internal audit wing etc., rendered the internal audit system weak and ineffective.

(Paragraph 2.2.20)

(ii) Application of incorrect rate of tax in 9 cases and incorrect classification of goods in 5 cases resulted in short levy of tax aggregating Rs.33.08 lakhs.

(Paragraphs 2.3 and 2.4)

(iii) Incorrect grant of concession in 11 cases resulted in short levy of tax of Rs.12.78 lakhs.

(Paragraph 2.5)



(iv) In 16 cases, incorrect determination of taxable turnover resulted in short levy of tax amounting to Rs.19.48 lakhs.

(Paragraph 2.6)

(v) Incorrect grant of exemption in 11 cases resulted in short levy of tax aggregating Rs.67.11 lakhs.

(Paragraph 2.7)

(vi) Omissions to levy tax in 2 cases resulted in non-levy of tax of Rs.48.79 lakhs.

(Paragraph 2.8)

(vii) In 3 cases involving excess collection of tax amounting to Rs.47.05 lakhs by the dealers, demands for penalty were not raised by the department till these were pointed out in audit.

(Paragraph 2.12)

### 3. State Excise

(i) Licence fees in 4618 cases amounting to Rs.844 lakhs were short realised due to failure to apply revised rates effective from 1st July 1990/July 1991.

(Paragraph 3.2)

(ii) In one case, short recovery of export duty on beer exported amounted to Rs.12.30 lakhs.

(Paragraph 3.5)

(iii) In one office, interest amounting to Rs.11.81 lakhs due on belated remittances of rent for liquor shops was not recovered.

(Paragraph 3.6)

### 4. Taxes on Motor Vehicles

In 7 regions, non-renewal of certificates of registration of 6568 non-transport vehicles resulted in non-collection of registration fee of Rs.3.79 lakhs. Penalty not exceeding Rs.6.57 lakhs though leviable was not levied.

(Paragraph 4.4)



## 5. Taxes on Agricultural Income

(i) Tax amounting to Rs.6.19 lakhs was not levied on the income relating to a dissolved firm.

(Paragraph 5.2)

(ii) Failure to club the income of minor children/wife of an individual concerned in one case and incorrect determination of income in 2 cases resulted in short levy of tax of Rs.3.58 lakhs.

(Paragraphs 5.3 and 5.4)

## 6. Land Revenue

(i) At the end of the revenue year 1991-92, the arrears of water rate, maintenance cess and penal water rate in respect of water used for agricultural purpose amounted to Rs.149.88 crores.

[Paragraph 6.2.A (a)]

(ii) Omissions to raise demands of water rate by 12 Zilla Parishad Engineering divisions resulted in non-realisation of revenue of at least Rs.33.74 lakhs.

[Paragraph 6.2.A (b)(i)]

(iii) Non-levy, short levy and non-booking of penal water rate in 8 taluks amounted to Rs.546.23 lakhs.

[Paragraph 6.2.A (d)]

(iv) Arrears of water rate for water used for non-agricultural purposes from 18 institutions amounted to Rs.168.43 lakhs.

[Paragraph 6.2.B (b)]

(v) Non-levy and short levy of maintenance cess in 2 taluks amounted to Rs.16.94 lakhs.

(Paragraph 6.3)

## 7. Other Tax Receipts

(i) Incorrect grant of exemption in one case resulted in non-levy of stamp duty and registration fee amounting to Rs.14 lakhs.

(Paragraph 7.2)

(ii) Short levy of stamp duty and registration fee on a lease deed amounted to Rs.3.61 lakhs.

(Paragraph 7.3)



## 8. Non-tax receipts

(i) A review on 'working of timber coupes and timber depots' revealed the following:

(a) Disposal of timber and firewood in auction sales below the average rates in 3 depots in April 1989, May 1990 and November and December 1991 resulted in loss of revenue of Rs.8.63 lakhs.

(Paragraph 8.2.8)

(b) Auction sales of teak poles at less than the seigniorage rates in 9 depots between November 1988 and January 1992 resulted in loss of revenue of Rs.31.07 lakhs.

(Paragraph 8.2.9)

(c) Failure to adopt common selling rate for rosewood logs sold to a company during 1987-91 resulted in loss of Rs.18.78 lakhs.

(Paragraph 8.2.13)

(d) Loss on account of non-recovery of selection charges in respect of timber sold in 7 depots during 1987-91 amounted to Rs.13.47 lakhs.

(Paragraph 8.2.14)

(e) Failure of a company to remove the rosewood logs selected by it from 5 depots during August and September 1991 resulted in locking up of revenue of Rs.49.33 lakhs besides causing deterioration of the material.

(Paragraph 8.2.15)

(f) Delay in remittance of demand drafts (Rs.584.06 lakhs) and call-deposit receipts (Rs.339.87 lakhs) relating to the period between April 1987 and December 1991 by 8 depots ranged between 25 days and 1139 days. In one depot, call-deposit receipts worth Rs.46.77 lakhs shown as remitted to treasury in November 1989 were actually remitted only on 13th January 1993.

(Paragraph 8.2.19)

(ii) In 2 divisions, arrears of seigniorage rate, interest and penal interest from 19 wood-based industries amounted to Rs.250.80 lakhs. Out of the total arrears, Rs.218.08 lakhs were recoverable from 18 industries privately owned.

(Paragraph 8.3)



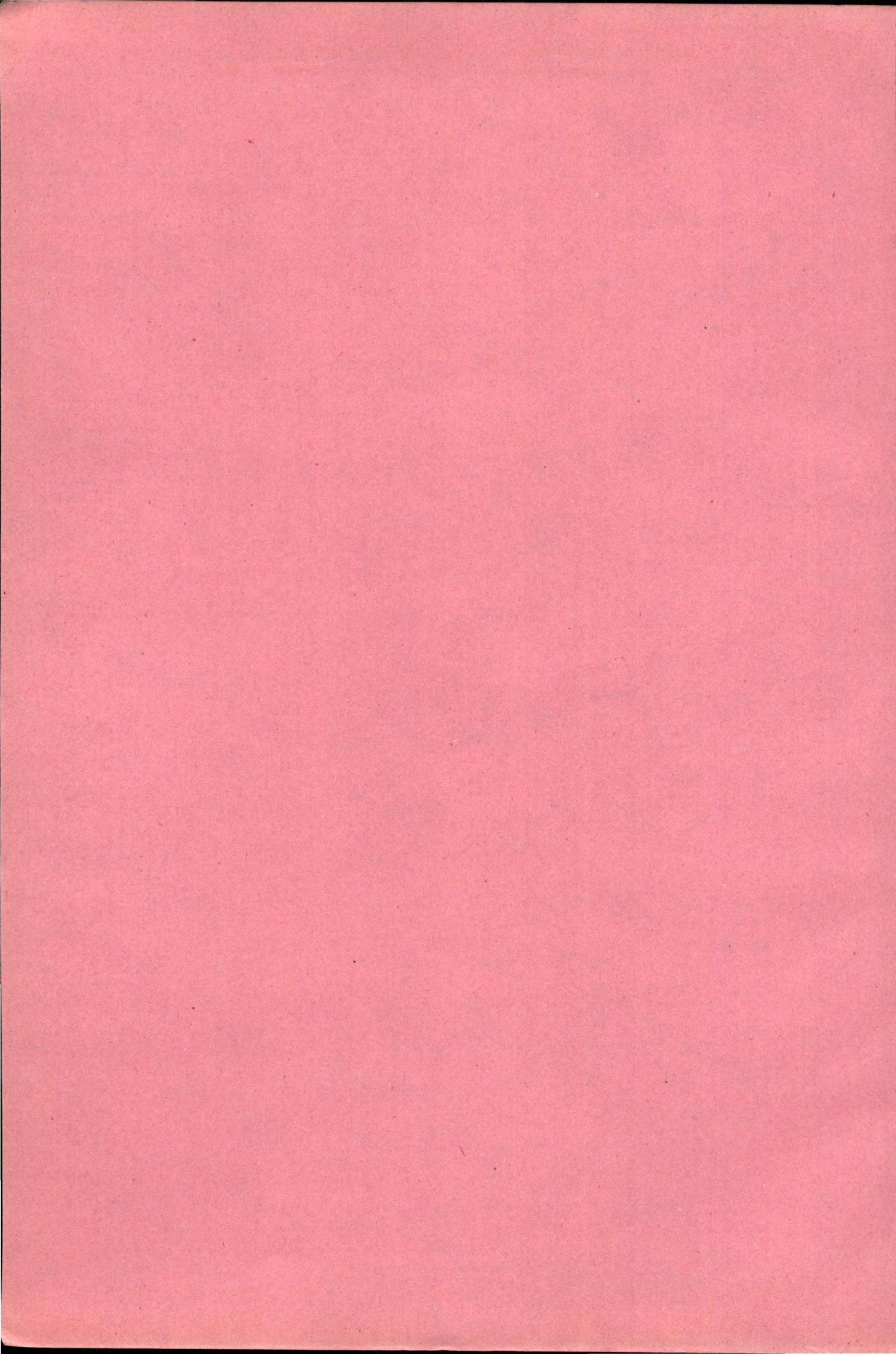
(iii) Short levy of forest development tax in one case amounted to Rs.17.64 lakhs.

(Paragraph 8.4)

(iv) Non-issue of way permits in respect of iron ore removed from forest resulted in evasion of way-permits fee amounting to Rs.13.92 lakhs.

(Paragraph 8.7)







## CHAPTER 1

### GENERAL

#### 1.1. Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Karnataka during the year 1992-93, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below:

	1990-91	1991-92	1992-93*
	(In crores of rupees)		
I. Revenue raised by the State Government			
(a) Tax revenue	2332.12	2900.20	3097.81
(b) Non-tax revenue	517.20	621.28	802.54
Total	2849.32	3521.48	3900.35
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	660.35	782.08	931.97
(b) Grants-in-aid	382.51	471.91	589.34
Total	1042.86	1253.99	1521.31
III. Total receipts of the State Government (I + II)	3892.18	4775.47	5421.66
IV. Percentage of I to III	73	74	72

(i) The details of tax revenue raised during the year 1992-93 and for the preceding two years are given below:

\* For details, see Statement No.11 - Detailed account of revenue by minor heads in the Finance Accounts of the Government of Karnataka 1992-93.



Revenue heads	1990-91	1991-92	1992-93	Percentage of increase (+) or decrease (-) in 1992-93 over 1991-92
	(In crores of rupees)			
1. Sales Tax	1316.92	1653.23	1775.80	(+) 7
2. State Excise	429.69	510.32	515.33	(+) 1
3. Stamps and Registration Fees	144.28	206.01	224.38	(+) 9
4. Taxes on Vehicles	192.43	227.47	220.51	(-) 3
5. Taxes on Goods and Passengers	65.49	82.06	109.84	(+) 34
6. Taxes and Duties on Electricity	52.72	76.16	85.85	(+) 13
7. Other Taxes and Duties on Commodities and Services	67.78	70.82	77.39	(+) 9
8. Other Taxes on Income and Expenditure	40.22	47.89	61.07	(+) 28
9. Land Revenue	15.36	17.17	16.78	(-) 2
10. Taxes on Agricultural Income	7.23	9.07	10.86	(+) 20
Total	2332.12	2900.20	3097.81	(+) 7

Reasons for variations between receipts during 1991-92 and 1992-93, though called for from Government, have not been received (December 1993).

(ii) The details of non-tax revenue realised during the year 1992-93, along with the figures for the preceding two years are given below:

Revenue heads	1990-91	1991-92	1992-93	Percentage of increase (+) or decrease (-) in 1992-93 over 1991-92
	(In crores of rupees)			
1	2	3	4	5
1. Interest Receipts	236.49	231.30	356.94	(+) 54
2. Miscellaneous General Services	24.73	40.90	126.57	(+)209
3. Forestry and Wildlife	58.18	61.69	69.09	(+) 12



	1	2	3	4	5
4. Power		4.16	69.63	36.67	(-) 47
5. Non-ferrous Mining and Metallurgical Industries		17.28	23.20	36.38	(+) 57
6. Village and Small Industries		50.25	33.47	21.35	(-) 36
7. Major and Medium Irrigation		16.89	30.15	16.45	(-) 45
8. Medical and Public Health		10.48	10.37	11.24	(+) 8
9. Co-operation		5.72	9.49	8.43	(-) 11
10. Contribution and Recoveries towards Pension and Other Retirement Benefits		6.74	7.15	5.97	(-) 17
11. Crop Husbandry		4.81	4.75	5.86	(+) 23
12. Industries		8.52	8.89	4.73	(-) 47
13. Stationery and Printing		3.03	4.06	2.60	(-) 36
14. Others		69.92	86.23	100.26	(+) 16
Total		517.20	621.28	802.54	(+) 29

Reasons for variations between receipts during 1991-92 and 1992-93, though called for from Government, have not been received (December 1993).

## 1.2. Variations between budget estimates and actuals

1.2.1. The variations between the budget estimates of revenue for the year 1992-93 and actual receipts are given below:



	Budget Estimates (In	Actuals crores	Variation Excess (+) Shortfall (-) of rupees)	Percentage of variation
1. Tax revenue	3478.11	3097.81	(-) 380.30	(-) 11
2. Non-tax revenue	717.50	802.54	(+) 85.04	(+) 12
3. State's share of divisible Union taxes	839.34	931.97	(+) 92.63	(+) 11
4. Grants-in-aid from the Government of India	637.96	589.34	(-) 48.62	(-) 8
<b>Total</b>	<b>5672.91</b>	<b>5421.66</b>	<b>(-) 251.25</b>	<b>(-) 4</b>

1.2.2. The variations between budget estimates and actual receipts under the principal heads of revenue for the year 1992-93 are shown below:

Revenue heads	Budget Estimates (In	Actuals crores	Variation Excess (+) Shortfall (-) of rupees)	Percentage of variation
1	2	3	4	5
1. Sales Tax	2033.00	1775.80	(-) 257.20	(-) 13
2. State Excise	573.00	515.33	(-) 57.67	(-) 10
3. Stamps and Registration Fees	275.00	224.38	(-) 50.62	(-) 18
4. Taxes on Vehicles	224.00	220.51	(-) 3.49	(-) 2
5. Taxes on Goods and Passengers	103.00	109.84	(+) 6.84	(+) 7
6. Taxes and Duties on Electricity	75.96	85.85	(+) 9.89	(+) 13
7. Other Taxes and Duties on Commodities and Services	90.15	77.39	(-) 12.76	(-) 14
8. Other Taxes on Income and Expenditure	71.00	61.07	(-) 9.93	(-) 14
9. Land Revenue	20.00	16.78	(-) 3.22	(-) 16



1	2	3	4	5
10. Taxes on Agricultural Income	13.00	10.86	(-) 2.14	(-) 16
11. Interest Receipts	342.80	356.94	(+) 14.14	(+) 4
12. Power	35.71	36.67	(+) 0.96	(+) 3
13. Forestry and Wildlife	94.22	69.09	(-) 25.13	(-) 27
14. Miscellaneous General Services	35.00	126.57	(+) 91.57	(+)262
15. Village and Small Industries	19.97	21.35	(+) 1.38	(+) 7
16. Major and Medium Irrigation	24.00	16.45	(-) 7.55	(-) 31
17. Non-ferrous Mining and Metallurgical Industries	30.00	36.38	(+) 6.38	(+) 21
18. Industries	14.76	4.73	(-) 10.03	(-) 68

The reasons for variations between the budget estimates and the actuals as reported by 3 departments (between September 1993 and January 1994) were as under:

(a) Shortfall (10 per cent) under 'State Excise' was attributed to short collection of rent due to court stay etc.

(b) In 'Stamp Duty and Registration Fees', shortfall (18 per cent) was reportedly due to restrictions imposed on sale of land around Bangalore for residential purpose, flood havocs in certain districts and other disturbances.

(c) Under 'Forestry and Wildlife', shortfall (27 per cent) was mainly due to non-realisation of value of sandalwood sold.

Reasons for variations under other heads of revenue, though called for from departments/Government, have not been received (December 1993).



### 1.3. New taxation measures

The particulars of changes in the existing pattern of taxation and anticipated increase in revenue along with actual realisation during the year 1992-93 are given below:

Measures	Additional resources		Percentage of Excess (+) Short-fall (-)	Remarks
	Proposed (In lakhs of rupees)	Realised		
1	2	3	4	5
<b>(a) Sales Tax:</b>				
Imposition of tax on certain commodities which were hitherto exempt, increase in the rates of tax on certain commodities and increase in the turnover tax payable by certain class of dealers.	5380.00	3015.00	(-) 44	Shortfall was attributed to withdrawal of tax in some cases and exemptions granted in certain other cases during the course of the year.
<b>(b) Entry Tax:</b>				
Imposition of entry tax on certain commodities which were hitherto not taxable	11300.00	4313.00	(-) 62	Shortfall was attributed mainly to non-imposition of tax on some of the commodities as originally proposed.
<b>(c) State Excise:</b>				
(i) Increase in duty on arrack, Indian liquor, fenny, beer and draught beer	1623.00	1737.00	(+) 7	Excess was due to increase in sales
(ii) Increase in export duty and import fee on Indian liquor and beer	172.00	262.00	(+) 52	Excess was due to increase in export and import
(iii) Increase in litre fee on Indian liquor and fenny	162.00	185.00	(+) 14	Reasons not furnished



	1	2	3	4	5
(iv) Increase in licence fee for arrack bottling units, distilleries, wineries, breweries, alcohol based industries etc. and label approval within State and outside State etc.		320.00	195.77	(-) 39	Shortfall was attributed mainly to non-realisation of revenue due to court cases.
		----- 2277.00 -----	----- 2379.77 -----	----- (+) 5 -----	
(d) Motor Vehicles Tax:					
Increase in tax in respect of goods vehicles, maxi cabs, stage carriages, motor cabs and jeeps, motor cycles, ordinary and luxury buses.		936.00	1132.00	(+) 21	Excess was attributed to increase in number of vehicles.
Grand Total		19893.00	10839.77		

#### 1.4. Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1990-91, 1991-92 and 1992-93 alongwith the relevant all-India average percentage of expenditure on collection to gross collection for 1991-92 are given below:

Revenue heads	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All-India average percentage for the year 1991-92
		(In crores of rupees)			
1	2	3	4	5	6
1. Sales Tax	1990-91	1322.94	15.64	1	
	1991-92	1658.82	19.10	1	1.5
	1992-93	1775.80	21.26	1	
2. State Excise	1990-91	430.81	10.84	3	
	1991-92	513.73	11.79	2	2.5
	1992-93	515.33	13.48	3	



1	2	3	4	5	6
3. Taxes on Vehicles	1990-91	192.60	5.23	3	
	1991-92	227.68	6.41	3	3
	1992-93	220.51	6.37	3	
4. Stamps and Registration Fees	1990-91	146.36	6.82	5	
	1991-92	209.59	9.07	4	5
	1992-93	224.38	9.33	4	
5. Taxes on Agricultural Income	1990-91	7.34	0.31	4	(Not available)
	1991-92	9.21	0.32	3	
	1992-93	10.86	0.34	3	

### 1.5. Uncollected revenue

As on 31st March 1993, arrears of revenue in respect of principal heads of revenue, as reported by the departments concerned are given below:

( In crores of rupees )

Head of revenue	Amount of arrears as on 31st March 1993	Arrears more than 5 years old	Remarks
(In crores of rupees)			
1	2	3	4
1. Sales Tax	255.91	*	Out of Rs.255.91 crores, Rs.60.19 crores had been certified for recovery as arrears of land revenue, recovery of Rs.59.60 crores had been stayed by the courts, Rs.10.28 crores could not be recovered due to the dealers becoming insolvent, Rs.2.39 crores were likely to be written off and balance of Rs.123.45 crores was under various stages of action.
2. State Excise	175.76	57.30	Of the total arrears of Rs.175.76 crores, Rs.30.71 crores had been certified for recovery as arrears of land revenue, recovery of Rs.94.23 crores had been stayed by the courts and balance of Rs.50.82 crores was under various stages of action.



1	2	3	4
3. Taxes on Vehicles	3.38	0.26	Out of the total arrears of Rs.3.38 crores, Rs.0.53 crore had been certified for recovery as arrears of land revenue, recovery of Rs.0.13 crore had been stayed by the courts, Rs.0.45 crore was likely to be written off and arrears of Rs.2.27 crores were under various stages of action.
4. Taxes on Agricultural Income	5.59	*	Out of Rs.5.59 crores, Rs.0.18 crore had been certified for recovery as arrears of land revenue, recovery of Rs.2.98 crores had been stayed by the courts, Rs.0.01 crore was likely to be written off and Rs.2.42 crores were under various stages of action.
5. Forest Receipts	27.97	4.55	Of the total arrears of Rs.27.97 crores, Rs.6.36 crores had been certified for recovery as arrears of land revenue, Rs.2.03 crores were likely to be written off and arrears of Rs.19.58 crores were under various stages of action.
6. Entry Tax	20.22	*	Of the arrears amounting to Rs.20.22 crores, Rs.2.51 crores had been certified for recovery as arrears of land revenue, recovery of Rs.10.66 crores had been stayed by the courts, Rs.0.06 crore could not be recovered as the dealers became insolvent, Rs.0.03 crore was likely to be written off and Rs.6.96 crores were under various stages of action.
7. Entertainments Tax	2.00	*	Of the total arrears amounting to Rs.2 crore, Rs.0.13 crore had been certified for recovery as arrears of land revenue, recovery of Rs.0.18 crore had been stayed by the courts and arrears of Rs.1.69 crores were under various stages of action



1	2	3	4
B. Profession Tax	10.38	*	Out of the total arrears of Rs.10.38 crores, Rs.0.53 crore had been certified for recovery as arrears of land revenue, recovery of Rs.0.01 crore had been stayed by the courts and the balance of Rs.9.84 crores was under various stages of action.
Total	501.21		

\* Details called for from the department in April 1993 have not been received (December 1993).

#### 1.6. Remissions and write-off of revenue

In the Forest Department, in 254 cases, arrears of revenue aggregating Rs.319.84 lakhs pertaining to the years from 1957-58 to 1988-89 were written off during the year 1992-93. This included Rs.207.28 lakhs representing cost of firewood due from the Karnataka State Forest Industries Corporation and Rs.81.13 lakhs being cost of timber due from the Social Welfare Department written off as per Government orders (September 1992 and November 1992). The balance of Rs.31.43 lakhs was written off on grounds, such as, records not traceable, whereabouts of defaulters not known and other reasons.

#### 1.7. Refunds

Position of refund cases during the year 1992-93, as reported by 3 departments is indicated below:

Name of department	Claims for refund outstanding as at the beginning of the year		Claims received during the year		Refunds made during the year		Balance outstanding as on 31st March 1993	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Motor Vehicles	1312	14.38	604	24.56	649	19.89	1267	19.05
State Excise	294	35.64	1010	223.15	957	200.09	347	58.70
Forest	--	-	45	6.92	45	6.92	-	-

(Amount in lakhs of rupees)



Particulars in respect of the remaining departments, though called for in April 1993, have not been received (December 1993).

#### 1.8. Assessments in arrears

At the end of the year 1991-92, a total number of 9,36,368 assessments (Sales Tax: 2,11,524, Agricultural Income-tax: 7,186, Entertainment Tax: 33,963, Entry Tax: 33,829 and Profession Tax: 6,49,866) were pending finalisation in the Commercial Taxes Department. Details of the position relating to 1992-93, though called for from the department in April 1993, have not been received (December 1993).

#### 1.9. Internal audit

##### State Excise Department

Internal audit wing has been functioning in the State Excise Department since April 1990. It is headed by a Deputy Commissioner of Excise (Audit & Inspection) who is assisted by an Internal Audit Officer, 2 Assistant Audit Officers and 2 Senior Auditors.

Out of 170 offices to be covered by internal audit, only 113 offices were audited during 1992-93. Shortfall was attributed to inadequacy of staff.

##### Motor Vehicles Department

Internal audit wing has been functioning since 1960. At present, it is manned by 6 Accounts Officers, 14 Superintendents and 23 Auditors posted in different offices.

During 1992-93, 57 offices (out of 59) were audited and the remaining 2 offices were covered in 1993-94.

##### Forest Department

Internal audit wing has been functioning since 1962. At present, there are 4 internal audit units in the department each consisting of a Superintendent and two Auditors.



During 1992-93, no internal audit was conducted though 31 units had been identified as units requiring internal audit. Specific reasons for the total omission to conduct internal audit during 1992-93, though called for from the department, have not been received (December 1993).

### Commercial Taxes Department

Internal audit wing has been functioning in the Commercial Taxes Department since October 1970. The State is divided into 12 Commercial Taxes divisions. Each division has two internal audit parties; one headed by an Assistant Commissioner of Commercial Taxes and the other by a Commercial Tax Officer and each assisted by two Commercial Tax Inspectors.

Out of 387 offices, only 129 offices were audited by the internal audit parties during 1992-93 of which 83 offices were audited after the completion of statutory audit defeating the very purpose of internal audit. Arrears in internal audit were attributed to some posts remaining vacant.

The details of objections raised by internal audit and their clearance are shown below. It would be seen that the percentage of clearance of number of objections ranged from 6 to 64.

(Amount in lakhs of rupees)

Name of the department	Year	Objections raised		Objections settled		Objections pending		Percentage of clearance of cases
		Number	Amount	Number	Amount	Number	Amount	
1	2	3	4	5	6	7	8	9
1. State Excise	1990-91	156	1382.32	106	1181.31	50	201.01	
	1991-92	233	666.22	164	198.47	69	467.75	
	1992-93	229	2355.90	52	67.99	177	2287.91	
			618	4404.44	322	1447.77	296	2956.67
2. Motor Vehicles	Upto 1991-92	2397	207.00	294	22.37	2103	184.63	
	1992-93	335	38.99	279	15.49	56	23.50	
		2732	245.99	573	37.86	2159	208.13	21
3. Forest	Upto 1989-90	2584	676.37	177	38.50	2407	637.87	
	1990-91	128	627.96	--	-	128	627.96	
	1991-92	290	780.75	--	-	290	780.75	
	1992-93 *							
			3002	2085.08	177	38.50	2825	2046.58

\* No internal audit was conducted



	1	2	3	4	5	6	7	8	9
4. Commercial		Upto							
Taxes		1988-89	6609	243.63	5114	103.69	1495	139.94	
Department		1989-90	1225	78.63	702	30.36	523	48.27	
		1990-91	1635	182.66	758	42.79	877	139.87	
		1991-92	1199	210.61	554	59.56	645	151.05	
		1992-93	500	71.46	65	15.48	435	54.98	
			11168	786.99	7193	252.88	3975	534.11	64

#### 1.10. Results of audit

Test check of the records of Sales Tax, Agricultural Income-tax, State Excise, Motor Vehicles, Forest and other Departmental offices conducted during the year 1992-93 revealed under-assessments/short levy/loss of revenue etc., amounting to Rs.11,625.91 lakhs in 1942 cases. During the course of the year 1992-93 the concerned departments accepted under-assessments, short demands etc., of Rs.2582.62 lakhs in 1365 cases of which 9 cases involving Rs.3.02 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years. In 23 important audit observations involving Rs. 54.34 lakhs issued to departments/Government, the departments recovered the entire amount at the instance of audit.

This report contains 49 paragraphs including 2 reviews involving financial effect of Rs. 2977.11 lakhs which illustrate some of the major findings of audit. The departments/Government have accepted audit observations involving Rs.218.79 lakhs of which Rs.3.66 lakhs have been recovered up to December 1993. Audit observations with a total revenue effect of Rs.2.89 lakhs in 3 cases have not been accepted by the departments/Government; but their contentions have been found at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (December 1993).

#### 1.11. Outstanding inspection reports and audit objections

Audit objections on incorrect assessments, short levy of taxes, duties, fees etc., as also defects in initial records noticed in audit and not settled on the spot are communicated to heads of offices and to the departmental authorities through inspection reports. The more important and serious irregularities



are reported to the heads of departments and Government. In addition, statements indicating the number of objections outstanding for over six months are also sent to Government for expediting their settlement. Government have prescribed a time limit of one month for furnishing replies to audit objections.

At the end of June 1993, in respect of inspection reports issued up to end of December 1992, 2318 reports containing 6452 audit objections involving an amount of Rs.282.64 crores were still to be settled as per details given below along with the corresponding figures for the preceding two years.

	At the end of		
	June 1991	June 1992	June 1993
Number of outstanding inspection reports	1873	2040	2318
Number of outstanding audit objections	5696	6041	6452
Amount involved (In crores of rupees)	193.93	227.91	282.64

Yearwise break-up of the outstanding inspection reports, audit objections and amount involved as at the end of June 1993 is given below:

Year	Number of outstanding inspection reports	Number of audit objections	Amount of receipts involved (In crores of rupees)
Upto 1988-89	821	1694	104.30
1989-90	281	802	41.83
1990-91	324	1194	24.72
1991-92	433	1229	30.08
1992-93	459	1533	81.71
Total	2318	6452	282.64



Out of 2318 inspection reports which were pending settlement, even first replies have not been received (June 1993) in respect of 121 inspection reports containing 455 audit objections involving an amount of Rs.13.56 crores. The pendency of these reports was reported to Government between August 1993 and October 1993.

The receipt-wise break up of outstanding inspection reports, audit objections and amount involved therein as on 30th June 1993 is indicated below:

Name of department	Name of the receipts	Number of outstanding inspection reports	Number of outstanding audit objections	Amount of receipts involved (In crores of rupees)
1. Finance	(i) Sales tax, Entertainment tax, Entry tax and Profession tax	994	3797	36.08
	(ii) Agricultural Income-tax	38	345	3.23
	(iii) State Excise Duty	240	425	97.12
2. Revenue	(i) Land revenue	333	652	90.74
	(ii) Stamp duty and registration fees	475	556	6.48
3. Forest, Environment and Ecology	Forest receipts	168	305	32.63
4. Home and Transport	Motor vehicles tax	70	372	16.36
Total		2318	6452	282.64



## CHAPTER 2

## SALES TAX

## 2.1. Results of audit

Test check of records in Sales Tax Offices, conducted in audit during the year 1992-93, disclosed under-assessments of tax, non-levy of penalty etc., amounting to Rs.873.23 lakhs in 1,106 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/short levy due to turnover escaping tax	546	582.50
2. Incorrect grant of exemption from tax	54	98.66
3. Non-levy of penalty	137	63.97
4. Non-levy/short levy of turnover tax	193	50.89
5. Short levy due to incorrect classification of goods	60	26.47
6. Sale of assets not brought to tax	18	3.25
7. Other irregularities	98	47.49
Total	<u>1106</u>	<u>873.23</u>

During the course of the year 1992-93, the concerned department accepted under-assessments etc., involving Rs.332.94 lakhs in 976 cases which had been pointed out in audit during earlier years. A few illustrative cases and the results of a review on 'Internal controls for assessments under sales tax in the Commercial Taxes Department' involving Rs.355.16 lakhs are given in the following paragraphs.



## 2.2. Internal controls for assessments under sales tax in the Commercial Taxes Department

### 2.2.1. Introduction

Internal controls are intended to provide reasonable assurance for prompt and efficient service and for adequate safeguards against evasion of taxes and duties. They are meant to promote enforcement of compliance with laws, rules and departmental instructions and help in prevention and detection of frauds and other irregularities. They also help in creation of reliable financial and management information system.

The levy of tax on the purchase or sale of goods in the State is governed by the Karnataka Sales Tax Act, 1957 (the Act), Rules framed thereunder, departmental manual and instructions issued by department from time to time. The provisions governing returns, *inter alia*, require that every dealer submits a statement of turnover every month and a return of turnover for each year. Failure to submit the return is an offence and the prescribed authority may accept from any person who has committed such an offence, by way of composition, a sum of money not exceeding Rs.1,000. The Sales Tax laws envisage advance payment of tax, finalisation of assessment by the assessing authority within three years from the date of filing annual return, penalty for default in making payment etc. The Act and Rules provide for maintenance of registers and records for different stages of action.

### 2.2.2. Organisational set-up

The Commercial Taxes Department is headed by the Commissioner of Commercial Taxes. At present, he is assisted by 5 Additional Commissioners of Commercial Taxes at headquarters. The State is divided into 9 Commercial Taxes divisions (12 from 1992-93). Each division is headed by a Joint Commissioner of Commercial Taxes (Admn). Assessments under the Sales Tax Acts are made in the offices of the Deputy Commissioners of Commercial Taxes, Assistant Commissioners of Commercial Taxes and Commercial Tax Officers in the divisions; there were 366 such assessment offices in the State during 1991-92.



### 2.2.3. Scope of audit

A review on the working of internal controls for assessments of dealers under sales tax in the Commercial Taxes Department was conducted during January 1993 to August 1993 with a view to ascertaining their effectiveness and adequacy. For this purpose, test check of records relating to the period 1987-88 to 1991-92 in the office of the Commissioner of Commercial Taxes, 4 divisional offices (Bangalore, Bangalore City II, Davanagere and Gulbarga) and 22 assessment offices under them and detailed scrutiny of specific items of records of 1990-91 and 1991-92 in 11 other assessment offices were conducted during January 1993 to August 1993.

### 2.2.4. Highlights

(i) There were delays up to 44 months in the receipt of monthly and annual returns of turnover from dealers, but no penalty was levied. Failure/delay in the issue of notices in 8 cases resulted in non-imposition of penalty of Rs.23.48 lakhs. There is no provision in the Karnataka Sales Tax Act for levy of interest on short paid tax for the period of default as in other States like Maharashtra.

(Paragraphs 2.2.5 and 2.2.6)

(ii) 2.12 lakhs assessments were pending finalisation at the end of March 1992. On an average, 37 - 39 per cent of assessing officers failed to achieve the targets prescribed for disposal of assessments.

In 6 offices, 166 assessments involving demands aggregating Rs.58.22 lakhs were finalised in the third year i.e., at the far end of the prescribed period resulting in belated realisation of revenue by Government.

(Paragraph 2.2.7)

(iii) In 357 cases, transactions aggregating Rs.112.02 crores were allowed exemption on the basis of declarations in Form 32 without cross verification. Transactions for Rs.1.06 crores relating to 5 dealers for which such exemptions were allowed were not cross-verified before cancellation of their registration.

(Paragraph 2.2.8)

(iv) Provisions and procedures regarding verification of sales by wholesale dealers to retail dealers, shop inspections and test purchases by



assessing authorities, intended to ensure proper accounting of transactions by dealers and payment of tax due, were generally not observed.

(Paragraphs 2.2.9 and 2.2.11)

(v) Verification of stock and utilisation accounts of industrial inputs worth Rs.5.05 crores involving tax concession of Rs.19.42 lakhs purchased by 31 manufacturing dealers was not done as required.

(Paragraph 2.2.10)

(vi) In 6 offices, 250 cheques amounting to Rs.91.41 lakhs received during 1990-92 were presented for collection after delays of 11 days to 92 days. In one office, delays ranging from 11 months to 8 years were noticed in the collection of 10 cheques aggregating Rs.4.10 lakhs.

In 2 other offices, 87 post-dated cheques amounting to Rs.7.89 lakhs encashable only after 2 - 157 days were accepted. Acceptance of post-dated cheques is not only against the financial principles but gives financial accommodation to the dealers.

(Paragraph 2.2.12)

(vii) 62 Registers of DCB revealed omissions to book demands aggregating Rs.42.09 lakhs in 34 cases, delays of 1 to 18 months in entering demands aggregating Rs.15.98 lakhs and omissions to carry-forward demands amounting to Rs.7.59 lakhs in 19 cases.

In one case, as against the actual tax collection of Rs.82.73 lakhs, an amount of Rs.88.73 lakhs was entered in the 62 Register. As a result, the tax demand against the dealer for the year 1990-91 was reduced by Rs.6 lakhs.

(Paragraph 2.2.13)

(viii) In 176 cases involving tax effect of Rs.61.78 lakhs, re-assessments based on reports of Intelligence Wing were made after delays up to 40 months after the prescribed time limit of 2 to 3 months resulting in delays in raising demands.

(Paragraph 2.2.15)

(ix) Delays ranging from 18 days to 240 days were noticed in serving demand notices in 691 cases with tax effect aggregating Rs.114.70 lakhs. This resulted not only in the belated realisation of revenue but also in unintended benefit to the dealers.

(Paragraph 2.2.17)



(x) Arrears in internal audit of assessments (ranging from 46 per cent to 59 per cent), delay in settlement of objections pointed out by the internal audit wing etc., rendered the internal audit system weak and ineffective.

(Paragraph 2.2.20)

#### 2.2.5. Statement of monthly turnover

Under the Act and the Rules made thereunder, every dealer is required to send to the assessing authority a monthly statement in the prescribed form (Form 3) containing the particulars of taxable turnover during the preceding month, within 20 days after the close of the month to which such statement relates. The return is to be accompanied by proof of payment of advance tax, such as, a treasury challan or a crossed postal order/cheque/demand draft. For the amount short remitted, if any, the assessing authority is required to serve upon the dealer a demand notice in the prescribed form (Form 5) requiring him to pay the sum with penalty as prescribed under the Act. The penalty prescribed under the Act is in the form of interest and is equal to one and a half per cent of the amount of tax remaining unpaid for each month for the first three months and at two and a half per cent of such amount for each subsequent month so long as the default continues. Based on certain judicial pronouncements, the Commissioner of Commercial Taxes had clarified (September 1983 and April 1989) that issue of a notice is mandatory and it is only after the notice is served upon the dealer and after the time limit specified has expired, the penalty is collectable.

If the dealer fails to submit the monthly statement or if the statement submitted by him appears to be incorrect or incomplete, the assessing authority may assess the dealer provisionally for that month to the best of his judgement.

As per the instructions issued by the Commissioner of Commercial Taxes, the receipt of monthly statements of turnover is watched through T-1 Register. This register is to be submitted to the assessing authority at the end of every month with an abstract showing particulars, *inter alia*, of the dealers from whom such statements have not been received, date of issue of notices to them calling for the statements and date of service of the notices.

Scrutiny of T-1 Registers vis-a-vis the monthly statements of turnover received in 11 offices, under the jurisdiction of four divisions, conducted in



respect of about 50 per cent of the assessments finalised during 1990-91 and 1991-92 revealed that:

(i) In 10 out of 11 offices, abstracts showing details of monthly statements not received, dates of issue of notices calling for statements etc., were not drawn in the T-1 Registers regularly every month and the registers were not submitted to the assessing authorities, as prescribed.

(ii) Of 4486 assessments scrutinised in the 11 offices, delays ranging from 11 days to 43 months in the submission of the monthly statements by the dealers were noticed in 1390 cases. However, penalty by way of composition of the offence, as prescribed under the Act, was not imposed in any of these cases.

(iii) Of these, in Bangalore city and Tumkur and Bidar districts, in 5 cases, where omissions to pay tax as per the statements of monthly turnover, aggregating Rs.45.46 lakhs were noticed, the assessing authorities failed to issue notices in Form 5 to the dealers requiring them to pay the sums payable by them along with penalty as prescribed under the Act. This resulted in non-imposition of penalty amounting to Rs.6.83 lakhs.

#### 2.2.6. Annual return of turnover

Every registered dealer and every dealer liable to get himself registered under the Act is required to submit a return of turnover in Form 4 annually to the assessing authority so as to reach it within 60 days after the close of the year showing the actual total and taxable turnover. If the full amount of tax payable as per the return is not paid along with the return or has not been paid in advance, the amount payable by the dealer along with penalty is to be demanded by the assessing authority by serving a notice in Form 3A. The Commissioner of Commercial Taxes had clarified (September 1983 and April 1989) that the issue of notice is mandatory and the assessee becomes a defaulter only when he does not comply with the requirements of that notice.

If the return is found to be correct and complete, the assessing authority shall finalise the assessment as per the return and serve upon the dealer a demand notice in Form 6 for balance of tax found to be due. If no return is submitted by a dealer or if the return submitted by him appears to be incorrect or incomplete, the assessing authority shall assess the dealer to the best of his judgement.



No control register has been prescribed in the Rules for watching the receipt of the annual returns of turnover though the receipt of these returns are noted in E-Notice Register maintained by each case-worker.

It was observed that:

(i) Of the 4486 assessments reviewed in audit, in 288 cases, delays in the submission of the annual returns ranged upto 44 months but no penalty by way of composition of the offence was imposed in any case.

(ii) In Bangalore city and Tumkur district, in 3 cases, where omissions to pay tax as per the annual returns of turnover aggregating Rs.49.04 lakhs and pertaining to the assessment years 1987-88 to 1990-91 occurred, the assessing authorities failed to issue notices in Form 3A to the assessees requiring them to pay the sums with penalty as prescribed in the Act. This resulted in non-imposition of penalty amounting to Rs.16.65 lakhs.

(iii) Under the Karnataka Sales Tax Act, an assessee who has not paid full tax on self-assessment as per his monthly/annual returns becomes a defaulter only if he does not comply with the requirements of notice to be served by the Department for payment of short paid tax and penalty is collectable only after the time limit prescribed in such notice expires. According to the clarification issued by the Commissioner of Commercial Taxes in September 1983 and April 1989 the issue of notice is mandatory in such cases and if such a notice is not served by the Department, no penalty can be imposed on the defaulter assessee. There is no provision in the Act for levy of interest for delay in payment of tax due on self-assessment as in other States like Maharashtra where the assessee has to pay interest on short paid tax for the period of default irrespective of any such notice.

#### 2.2.7. Assessments in arrears and shortfall in achievement of targets by assessing officers

As reported by the department, 2,11,524 assessments (pertaining to Karnataka Sales Tax and Central Sales Tax) were pending finalisation at the end of the year 1991-92. The relevant details relating to the 3 years from 1989-90 to 1991-92 are given in the table below:



Year	Number of assessments pending at the beginning of the year	Number of cases being due for assessment during the year	Total Number of assessments due for completion during the year	Number of assessments completed during the year	Number of assessments pending finalisation at the end of the year	Percentage of 6 to 4
1	2	3	4	5	6	7
1989-90	2,47,367	3,22,575	5,69,942	3,58,751	2,11,191	37
1990-91	2,11,191	3,37,930	5,49,121	3,38,787	2,10,334	38
1991-92	2,10,334	2,40,730	4,51,064	2,39,540	2,11,524	47

Of the 2,11,524 assessments pending finalisation at the end of 1991-92, 1,49,009 (70 per cent) related to 1990-91, 52,830 (25 per cent) related to 1989-90 and the remaining 9,685 (5 per cent) related to 1988-89 and earlier years. As per the Karnataka Sales Tax Act, 1957, no assessment shall be made after a period of 3 years from the date on which the return for that year is submitted by the dealer.

A review of disposal registers in 11 offices revealed that of 8,957 assessments finalised during the years 1990-91 and 1991-92, as many as 2,451 assessments (27 per cent) were finalised only during the third year resulting in consequent delay in raising of demands and realisation of revenue. In 6 out of 11 offices checked, the balance of tax demanded as per 166 assessments finalised during the third year amounted to Rs.58.22 lakhs which resulted in retention of the amount by the dealers and belated realisation of revenue by the Government.

The Commissioner of Commercial Taxes in his circular of 4th July 1987 prescribed the targets for disposal of assessments, in terms of points, to be attained by the various assessing authorities. It was specifically required that no officer should lag behind in achieving the targets. Where an officer goes on leave, he is required to make up for the shortfall in the next 2 months and, at any rate, at the end of the year, an assessing officer's disposals should not be less than those calculated as per the norms fixed.

Review of the diaries of 70 assessing officers of 3 divisions for 1990-91 and of 97 assessing officers of 4 divisions for 1991-92 revealed that an



average of 37 - 39 per cent of assessing officers failed to achieve the targets.

The Joint Commissioners of Commercial Taxes (Admn), Bangalore and Davanagere divisions attributed the shortfall to inadequate staff strength, increase in work load, stoppage of assessment work in certain months for collection drive etc.

#### 2.2.8. Cross verification of transactions on which exemptions are allowed

The burden of proving that any transaction or any turnover of a dealer is not taxable lies on the dealer. For this purpose, every dealer claiming exemption shall furnish to the assessing authority a declaration in Form 32 obtained from the registered dealer who sold the goods to him or to whom he sold the goods. As per the rule, every declaration in Form 32 issued should be serially machine numbered for each year and an account in respect of such declarations is required to be maintained by the dealer in a register in Form 32-A. In cases where the assessee file declarations in Form 32 or other proof in respect of turnover which is claimed as not taxable, the assessing authority shall undertake cross verification by issuing references to the assessing authorities concerned to ensure that the transactions are genuine and tax had been paid on them. Replies to these references are to be obtained within 2 months and are watched through the L-Register prescribed for the purpose. Delays exceeding 2 months in the receipt of replies/verification reports are to be brought to the notice of the Joint Commissioner of Commercial Taxes (Admn).

(i) Test Check of 4486 assessments finalised during 1990-91 and 1991-92 in 11 offices revealed the following:

(a) In 357 cases, the declarations or other statements based on which exemptions were granted on a total turnover of Rs.112.02 crores were not referred for cross verification.

(b) In 9 offices, no entries regarding references made for cross verification were available in the L-Registers for the years 1990-91 and 1991-92.

(c) In 2 offices, in respect of 33 references issued during the year 1991-92 in respect of turnover



amounting to Rs.79.22 lakhs, no replies had been received (December 1993).

(ii) Cross verification of transactions for turnover amounting to Rs.1.06 crores relating to 5 dealers in 2 offices was not conducted before sanctioning the cancellation of their registration.

(iii) In 5 offices, in respect of inward references received during the years 1987-88 to 1991-92 numbering 2798, cross verification was not conducted.

**2.2.9. Sale by wholesale dealer to a retail dealer-  
cross verification not being done**

Rule 27 of the Karnataka Sales Tax Rules, 1957 requires that every wholesale dealer, while delivering goods to a dealer in pursuance of sale where the aggregate amount for which goods are sold would be rupees one thousand or more should issue a bill of lading in triplicate in Form 14. One copy of the bill of lading is to be handed over to the buyer or his agent, the second copy is to be sent to the Assistant Commissioner of Commercial Taxes having jurisdiction over the area and the third copy is to be retained by the person who draws it.

The Commissioner of Commercial Taxes in his circular issued in September 1979 stated that the very object of marking one copy of the bill of lading to the concerned Assistant Commissioner of Commercial Taxes was to enable him to ensure the accounting of such transactions by causing cross verification and instructed all the Deputy Commissioners of Commercial Taxes (Admn) (now, Joint Commissioners of Commercial Taxes (Admn)) to ensure effective implementation of this provision in the interest of revenue.

A test check of records in four offices of Deputy Commissioners of Commercial Taxes (Assessments) for the years 1990-91 and 1991-92 revealed that bills of lading are not being received from wholesale dealers and no steps have been taken by the department to enforce this provision.

**2.2.10. Abstract of stock and utilisation account of  
inputs**

The Karnataka Sales Tax Act, 1957 prescribes a concessional rate of tax in respect of sale of industrial inputs by a registered dealer to another



registered dealer for use by the latter as a component part or raw material or packing material of any other goods which he intends to manufacture inside the State for sale. The buyers of such industrial inputs are required to maintain a stock account of the inputs in Form 38-A and draw up abstracts of the stock accounts showing particulars of opening and closing stocks, purchases and consumptions or disposals of each input at the end of every month and year and furnish a copy of the yearly abstract alongwith the annual return of turnover.

Test check of records in 2 offices dealing with assessments of a large number of industrial units carrying out manufacturing operations revealed that 31 manufacturing dealers who had purchased industrial inputs worth Rs.5.05 crores at concessional rate of 4 per cent had not furnished abstracts of stock accounts of industrial inputs alongwith the annual returns of turnover. Consequently, the department could not ensure that all the industrial inputs purchased by such manufacturing dealers at concessional rates were actually utilised by them for the purpose for which they were purchased. The assessing authorities allowed concession amounting to Rs.19.42 lakhs in these cases without insisting on production of such abstracts and verifying that the industrial inputs purchased at concessional rates were utilised for the purpose for which they were purchased.

#### **2.2.11. Shop inspection and test purchase by assessing authorities**

##### **A. Shop inspection**

Inspection of the business premises of dealers by assessing authorities enables them to ensure proper maintenance of books of accounts by the dealers and prevent any possible suppression of turnovers. The Commissioner of Commercial Taxes in his circular issued in June 1980 fixed revised targets of shop inspections to be conducted by assessing authorities (which ranged from 3 to 15 per month) and stressed the need for such inspections.

A review of monthly diaries of 71 assessing officers of 3 divisions (Davanagere, Gulbarga and Bangalore city-II) for 1990-91 and of 98 assessing officers of 4 divisions (Davanagere, Gulbarga, Bangalore city-II and Bangalore) for 1991-92 conducted by audit revealed that:



(i) 37 officers (50 per cent) in 1990-91 and 34 officers (35 per cent) in 1991-92 had not conducted any shop inspections.

(ii) no officer had achieved the prescribed target in 1990-91 and of 98 officers 96 officers (98 per cent) did not achieve the target in 1991-92.

#### **B. Test purchases**

Under the Act, every dealer whose turnover exceeds Rs.50,000 in a year shall issue a bill or cash memorandum to the purchaser. Exemption is, however, provided in respect of transactions whose total value does not exceed Rs.50 in each case.

In order to enforce proper compliance of these provisions, the department, in circular dated 21st June 1983, issued further instructions on the existing scheme of 'test purchases' with the dealers which seeks to ensure that their transactions find a place in their books of accounts thereby ensuring the payment of tax due and curbing evasion. It was required that test purchases should be conducted in respect of large retail dealers and such wholesale dealers/manufacturers where there is a doubt of non-issue of bills.

It was, however, observed in the course of review in 4 divisions (Davanagere, Gulbarga, Bangalore city II and Bangalore) that test purchases were not made by the departmental officers during the years 1990-91 and 1991-92.

#### **2.2.12. Maintenance of M-Register (Register of cheques received)**

The Commissioner of Commercial Taxes issued instructions (June 1978) requiring departmental officers to check entries in M-Register (Register of cheques received) periodically to ensure that number and dates of challans and the dates of encashment of cheques are invariably recorded against each entry in the register. They were also required to conduct random check in respect of postings into G1-Register (Daily Collections or Challan Posting Register) so as to ensure that figures are correctly carried over to G1-Register and D-Register (Demand Register) later.

Test check of records in 12 offices revealed that:



(i) In 4 offices, periodical abstracts showing details, such as, total number of cheques presented, total number of cheques realised, balance, reasons for non-realisation and action taken for follow-up were not indicated in the M-Register. There were 4703 items in the M-Registers relating to the period from 1987-88 to 1991-92 against which dates of collection of cheques and number and dates of challans had not been indicated.

(ii) In 6 offices, 250 cheques amounting to Rs.91.41 lakhs received during the years 1990-91 and 1991-92 were presented for collection after delays of 11 days to 92 days. In another office, delay in collection of 10 cheques amounting to Rs.4.10 lakhs, received between January 1985 and March 1992, ranged from 11 months to 8 years. In 2 other offices, 87 post-dated cheques amounting to Rs.7.89 lakhs, encashable only after 2 - 167 days, were accepted between 1987-88 and 1991-92. Acceptance of post-dated cheques is not only against the financial principles but also gives financial accommodation to the dealers.

#### 2.2.13. Maintenance of G2 Register of Demand Collection and Balance

G2-Register of DCB has been prescribed to watch the demand, collection and balance of taxes. The postings in this register are made with reference to entries in the D-Register (Demand Register). The demands of tax should be entered in this register immediately after the assessments are made and should not be postponed to the subsequent month on the ground that the demand notices are served in the subsequent month. The old arrears relating to previous years are also to be noted in the first few pages of the register yearwise, allowing sufficient space for each case.

The Commissioner of Commercial Taxes had issued instructions (June 1978) requiring the assessing officer to take particular care to see that the register is posted correctly and balances are worked out from time to time and verified and reconciled with the Demand Register.

Review of G2 Register in 14 offices revealed that:

(i) In 12 offices, in 34 cases, demands of tax aggregating Rs.42.09 lakhs relating to assessments finalised during the years between 1987-88 and 1991-92 had not been taken to the G-2 Registers.



(ii) In 7 offices, in 77 cases, demands aggregating Rs.15.98 lakhs pertaining to assessments finalised during the years 1990-91 and 1991-92 were entered in the G2 Registers only 1 to 18 months after the assessments were made.

(iii) In 6 offices, in 19 cases, demands of tax amounting to Rs.7.59 lakhs relating to assessments finalised and/or demands received by transfer from other offices during the years between 1987-88 and 1991-92 were not carried forward into the new G2 Register.

(iv) In one office, in one case, as against the actual tax collection of Rs.82.73 lakhs, an amount of Rs.88.73 lakhs was erroneously entered in the G2-Register in August 1991. As a result, the tax demand against the dealer for the assessment year 1990-91 was reduced by Rs.6 lakhs.

These instances indicate that the assessing authorities are not ensuring that entries of demands are made in the G2-Registers promptly and are correctly carried forward every year into the new registers. The entries in the G2-Register are also not being checked by the assessing officer, as required.

#### **2.2.14. Maintenance of D-Register (Demand Register)**

This register contains the ledger account of each dealer assessed to tax or licence fees. The Commissioner of Commercial Taxes issued instructions in June 1978 regarding the procedure to be followed in posting credits against individual dealers in the D-Register. The assessing authority is required to ensure that the entries appearing in the G1-Register (Daily collections or challan posting register) are correctly entered in the relevant page of D-Register (Demand Register). In token of such check, he is required to attest individual entries in the D-Register. This requirement was reiterated by the Commissioner in another circular issued in December 1986.

Of the 11 offices selected for test check, it was noticed that in 4 offices, the assessing authorities had not attested the entries in D-Registers for the years 1990-91 and 1991-92 in token of having checked the credits with reference to entries in the G1-Registers.



In 4 offices, credits aggregating Rs.4.37 lakhs pertaining to 7 assesseees were posted in the D-Registers twice during the years between 1985-86 and 1989-90 resulting in affording excess credit to this extent and undue financial benefit to the dealers to the tune of Rs.4.37 lakhs for periods ranging from 2 to 5 years.

#### **2.2.15. Utilisation of reports of officers of Intelligence Wing**

The reports of suppression of turnover received from the Intelligence Wing Officers are to be noted in the R-Register (confidential note book) prescribed in the departmental manual. This register is to be maintained by the assessing authority personally and kept in his personal custody.

The Commissioner of Commercial Taxes issued circular instructions in April 1976 and again in November 1984 in which the assessing officers were directed to take action for completing assessments/reassessments within a period of 2 months from the date of receipt of intelligence report in respect of assessments already completed and within 3 months of completion of the assessment year in case of current assessments.

Test check of R-Registers relating to the period 1987-88 to 1991-92 in 15 offices revealed that in 12 offices, in 176 cases involving additional tax effect of Rs.61.78 lakhs, re-assessments based on the reports of the Intelligence Wing officers were made 1 to 40 months after the prescribed time limit, resulting in delays in raising demands.

#### **2.2.16. Delay in disposal of remanded cases**

As per the instructions issued by the Commissioner of Commercial Taxes in February 1968 to the assessing authorities regarding maintenance of J-Registers (Register of Appeals), with a view to keeping watch over the return of records sent to appellate authorities and for ensuring prompt disposal of remanded cases, the following additional particulars were required to be noted in that register:

(1) Date of disposal of appeals by the appellate authority;



(2) Results of appeal (dismissed, allowed, modified or remanded);

(3) If remanded, date of passing fresh order.

Further, as per the instructions of the Commissioner, all assessing authorities shall finalise the assessments in respect of cases remanded to them for fresh disposal within 3 months from the date of receipt of the relevant assessment records.

Test check of J-Registers relating to the period 1987-88 to 1991-92 in 15 offices revealed that:

(a) In 4 offices, in 33 remanded cases, involving tax effect of Rs.4.20 lakhs, delays in disposal, ranging from 3 to 43 months beyond the prescribed time limit had occurred.

(b) In one case in the office of the Deputy Commissioner of Commercial Taxes (Assessments), Gulbarga, revised demand notice as per order dated 31st August 1989 of the appellate authority involving tax amounting to Rs.1.45 lakhs was issued in March 1993 at the instance of audit.

#### **2.2.17. Delay in service of demand notice**

After making the final assessment, if any amount is found due from the dealer, the assessing authority shall serve upon the dealer a demand notice in Form 6 and the dealer shall pay the sum demanded within the time specified in the notice, i.e., 21 days from the date of service of the notice.

The demand notice is served upon the dealer by the Bill Collector through the N-Process Register maintained for the purpose. All the entries in this Register are to be made by the case-worker. The Bill Collector, after serving the demand notice, is required to handover the acknowledgement of the dealer to the case-worker.

No time limit has, however, been prescribed in the Act and Rules for serving the demand notice after making the final assessments.

It was observed that:



(a) in 691 cases involving demands to the tune of Rs.114.70 lakhs, delays in serving demand notices ranged from 18 days to 90 days in 570 cases (Rs.97.85 lakhs), from 91 days to 180 days in 112 cases (Rs.15.47 lakhs) and 180 days to 240 days in 9 cases (Rs.1.38 lakhs). Delay in service of demand notice resulted not only in belated realisation of revenue but also in unintended benefit to the dealers.

(b) in one case, in Bangalore, though the assessment in respect of one assessee was finalised on 8th January 1992 and the balance of tax payable was Rs.66,968, no demand notice was served till 7th November 1992, resulting in non-realisation of revenue to that extent.

#### **2.2.18. Inspections by Joint Commissioners of Commercial Taxes**

As per the instruction issued by the Commissioner of Commercial Taxes in November 1984, the Joint Commissioner of Commercial Taxes of a division should conduct surprise inspection of 6 offices under his control every month. The main objective of these inspections is to see whether important records, viz., Diary, Disposal Register, Remittance and Cheque Register, Form-3 Register etc., are being maintained properly. Of the 9 divisions, the Joint Commissioners of Commercial Taxes of 7 divisions did not achieve the target during any of the years from 1987-88 to 1991-92.

#### **2.2.19. Departmental manual**

The departmental manual titled 'The Mysore Sales Tax Manual' was first brought out in December 1964. This has not been revised or updated so far (October 1993).

#### **2.2.20. Internal audit**

Internal audit was introduced in the Commercial Taxes Department in October 1970. The department has not so far made out a manual of internal audit for the guidance of the internal audit wing.

Each division has two internal audit parties; one headed by an Assistant Commissioner of Commercial Taxes and the other by a Commercial Tax Officer and each assisted by two Commercial Tax Inspectors. The internal audit parties forward their reports to the



Joint Commissioners of Commercial Taxes  
(Administration) in charge of the division.

After the decentralisation of the internal audit work in 1980 and the transfer of its control to the respective divisions, the Commissioner of Commercial Taxes ceased to monitor and exercise direct control over this work. As such, records showing consolidated position of arrears in internal audit, number of assessment records pending audit, number of internal audit reports pending settlement, number and money value of objections outstanding etc., are not available with the department.

As per the departmental instructions, the internal audit parties are required to conduct 100 per cent audit of all assessments finalised. Consolidated position of the number of assessments due for audit, number audited and balance yet to be audited (arrears in audit) for the years 1987-88 to 1991-92 as intimated by 6 out of 9 divisions (Bangalore city division II, Bangalore city division III, Davanagere, Gulbarga, Dharwad and Mangalore) between January 1993 and August 1993 is indicated in the table below:

Year	Number of assessments due for audit	Number of assessments audited	Balance number of assessments yet to be audited (arrears in audit)	Percentage of arrears
1987-88	60,071	32,592	27,479	46
1988-89	62,917	30,227	32,690	52
1989-90	64,647	32,849	31,798	49
1990-91	78,356	39,014	39,342	50
1991-92	98,541*	40,532*	58,009*	59

\* These include the total number of assessments for 1987-88 to 1991-92 of commercial tax offices in Mangalore division for which yearwise break-up was not given.

The heavy arrears in the audit of assessments (ranging between 46 per cent and 59 per cent) were attributed to vacant posts, diversion of officers for other items of work like review of statements of monthly turnover, collection of arrears etc.



Consolidated position of the objections taken by internal audit parties, those cleared and balance outstanding for the years 1987-88 to 1991-92 as intimated by 5 divisions (Bangalore city division II, Bangalore city division III, Davanagere, Gulbarga and Dharwad) between January 1993 and August 1993, is given in the table below:

Year	Objections taken		Objections cleared		Balance outstanding	
	Number of items	Amount	Number of items	Amount	Number of items	Amount
1987-88 (including old balance)	4114	114.40	2300	56.87	1814	57.53
1988-89	598	33.72	260	14.08	338	19.64
1989-90	816	67.71	262	18.79	554	48.92
1990-91	808	94.15	280	27.98	528	66.17
1991-92	<u>562</u>	<u>91.11</u>	<u>171</u>	<u>39.95</u>	<u>391</u>	<u>51.16</u>
Total	6898	401.09	3273	157.67	3625	243.42

The heavy pendency (61 per cent of the amount objected) indicates that adequate follow up action was not being taken on the objections pointed out by the internal audit parties.

In a large number of cases, internal audit was conducted after the completion of statutory audit, defeating the very purpose of internal audit, as indicated below:

Year	Total number of offices audited by internal audit parties	Offices audited after the statutory audit	
		Number	Percentage
1990-91	185	92	50
1991-92	161	62	39



Scrutiny of the reports of internal audit parties relating to the years 1990-91 and 1991-92 revealed that they had not detected and pointed out many of the omissions/mistakes mentioned in the foregoing paragraphs in the review, such as, delays in the receipt of statements of monthly turnover and returns of annual turnover, delays in finalisation of assessments, shortfall in achievement of targets by the assessing officers, omissions to conduct cross-verification of transactions, shortfall in conducting shop inspections/test purchases by assessing officers, defects in the maintenance of various registers, delays in the issue of demand notices etc.

The above points were brought to the notice of the department between January 1993 and August 1993 and were reported to Government in August 1993 followed up by reminders; their replies have not been received (December 1993).

### 2.3. Application of incorrect rate of tax

Under the Karnataka Sales Tax Act, 1957, on goods mentioned in the Second Schedule, tax is leviable at the rates specified therein at the point of first or earliest of successive sales within the State. Further, under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) not covered by valid declarations, tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State under the State Act, whichever is higher.

In the cases mentioned in the table below, on first sales (including inter-State sales) made by various dealers, tax was levied at incorrect rate under the Karnataka Sales Tax Act, 1957 and the Central Sales Tax Act, 1956, resulting in short levy of tax by Rs.25.40 lakhs.



Sl. No.	Name of the city/district	Description of goods	Period	Shortfall in rate of tax-percentage (applicable-applied)	Total		
					Turn-over	Tax short-levied (including SC/Cess/TOT) (In lakhs of rupees)	
1	2	3	4	5	6	7	
1.	Bangalore city	Laminated sheets	1st October	\$			
			1978 to	\$		\$ 16.80	
			30th Sept-	\$			
			ember 1979	\$	2		
			and	\$			
			1st October	\$	(10 - 8)		0.57
2.	-do-	Bobbins, brackets, etc.	1st April	\$			
			1984 to	\$	3	5.02	
			31st July	\$	(8 - 5)		
			1985	\$			
			1st August	\$			
			1985 to	\$	4.6	6.71	0.48
3.	Bangalore district	Expanded polythene products	31st March	\$	(9.6-5)		
			1986	\$			
			1986-87	\$	3	3.58	
				\$	(10 - 7)		
			1988-89	\$	5	10.66	0.53
				\$	(10 - 5)		
4.	-do-	Liquid glucose (in drums and barrels)	1990-91	\$	3	15.37	0.46
				\$	(10 - 7)		
5.	Dharwad district	Turpentine	1989-90	\$	10		
			and	\$	(15 - 5)	4.44	0.44
			1990-91	\$			
6.	Mysore district	Motor vehicles spare parts		\$	5		
			1987-88	\$	(13 - 8)	366.70	18.34
7.	Bangalore city	Computer furniture	1989-90	\$	2		
			to	\$	(15 - 13)	37.14	0.74
			1991-92	\$			
8.	-do-	Solvents	1987-88	\$	3	43.52	\$
				\$	(7 - 4)		\$
		Mineral Turpentine	-do-	\$	8	27.40	\$
				\$	(15 - 7)		\$ 3.50



1	2	3	4	5	6	7
9.	Belgaum district	Bodies built on motor vehicle chassis	1988-89 and 1989-90	\$ 2 \$ (6 - 4) \$	17.09	0.34
Total						25.40

When these were pointed out in audit (between August 1991 and March 1993), the department stated (between February 1993 and September 1993) that the assessments had been revised in 3 cases (Sl. Nos. 1, 2 and 7) and that in one of these cases (Sl. No. 7), the assessee preferred an appeal before the departmental appellate authority. In the remaining 6 cases (Sl. Nos. 3 to 6, 8 and 9) replies have not been received (December 1993).

The cases were reported to Government between January 1993 and July 1993 followed up by reminders; their reply has not been received (December 1993).

#### 2.4. Short levy due to incorrect classification of goods

Under the Karnataka Sales Tax Act, 1957, on goods mentioned in the Second Schedule, tax is leviable at the rates specified therein at the point of first or earliest of successive sales within the State. On sales of goods not included in any of the schedules to the Act, tax is leviable at 7 per cent with effect from 1st April 1986 at all points of sale. Further, under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) not covered by valid declarations, tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State under the State Act, whichever is higher.

In the cases mentioned in the table below, on first sales made by various dealers, tax was levied at lower rates due to misclassification of goods instead of at the rates applicable to the relevant goods from time to time under the Karnataka Sales Tax Act, 1957 and the Central Sales Tax Act, 1956, resulting in short levy of tax by Rs.7.68 lakhs.



Sl. No.	Name of the city/district	Description of goods	Period	Differential rate of tax-percentage (applicable-applied)	Total	
					Turn-over	Tax short-levied (including SC/Cess/TOT) (in lakhs of rupees)
1.	Mysore district	Non-ferrous scrap	1st October 1984 to 30th September 1985	\$ 2 \$ (6 - 4)	17.81	0.41
			1st October 1985 to 31st March 1986	\$ 1 \$ (6 - 5)		
			1st April 1986 to 30th September 1986	\$ 1 \$ (8 - 7)		
			1st October 1987 to 31st March 1988	\$ 4 \$ (7 - 3)		
			1st July 1986 to 31st March 1987	\$ 6 \$ (10 - 4)		
			1st April 1987 to 30th June 1988	\$ 4 \$ (10 - 6)		
			1st July 1988 to 31st March 1989	\$ 8 \$ (15 - 7)		
			1st April 1989 to 30th June 1990	\$ 6 \$ (15 - 5)		
			1st July 1990 to 31st March 1991	\$ 6 \$ (15 - 5)		
			1st April 1991 to 30th June 1992	\$ 6 \$ (15 - 5)		
			1st July 1992 to 31st March 1993	\$ 8 \$ (15 - 7)		
			1st April 1993 to 30th June 1994	\$ 6 \$ (15 - 5)		
2.	Dakshina Kannada district	Ammonia	1987-88	\$ 4 \$ (7 - 3)	9.35	0.37
			1988-89	\$ 4 \$ (7 - 3)		
3.	Bangalore city	Bituminous compound	1981-82	\$ 7 \$ (11 - 4)	54.52	5.57
			1982-83	\$ 6 \$ (11 - 5)		
			1983-84 to 1985-86	\$ 6 \$ (15 - 5)		
			1986-87	\$ 8 \$ (15 - 7)		
			1988-89	\$ 10 \$ (13 - 3)		
			1990-91	\$ 10 \$ (13 - 3)		
4.	-do-	Toner	1st July 1986 to 31st March 1987	\$ 6 \$ (10 - 4)	10.75	0.52
			1st April 1987 to 30th June 1988	\$ 4 \$ (10 - 6)		
			1st July 1988 to 31st March 1989	\$ 8 \$ (15 - 7)		
			1st April 1989 to 30th June 1990	\$ 6 \$ (15 - 5)		
			1st July 1990 to 31st March 1991	\$ 8 \$ (15 - 7)		
			1st April 1991 to 30th June 1992	\$ 6 \$ (15 - 5)		
5.	Hassan district	Timber in cut sizes	1988-89	\$ 10 \$ (13 - 3)	8.14	0.81
			1990-91	\$ 10 \$ (13 - 3)		
Total					7.68	

When these were pointed out in audit (between October 1988 and February 1993), the department stated (between July 1992 and June 1993)



that the assessments had been revised in 3 cases (Sl. Nos. 1, 2, and 4) and in one of these cases (Sl. No.4) the assessee preferred an appeal before the departmental appellate authority. In the remaining 2 cases (Sl. Nos. 3 and 5) replies have not been received (December 1993).

The cases were reported to Government between December 1988 and June 1993) followed up by reminders; their replies have not been received (December 1993).

## 2.5. Short levy due to incorrect grant of concession

(i) By a notification issued in October 1981, the rate of tax on sales of manufactured goods by all new industrial units was reduced by 50 per cent (with effect from 1st November 1981) for a period of five years from the respective dates of commencement of their commercial production, subject to the condition that concession under the Karnataka Sales Tax Act, 1957 and the Central Sales Tax Act, 1956 available to a new industrial unit during each accounting year shall be restricted to 10 per cent of the unit's total investment in plant and machinery at the time of commencement of its commercial production and that the total concession during the entire five year period should not exceed 50 per cent of its total such investment. Such unit is, however, allowed to carry forward the unavailed portion of the concession, if any, from year to year within the said period of five years. Further, in order to be eligible for the concession as aforesaid, the total investment in plant and machinery at the time of commencement of its commercial production or of each accounting year should not exceed Rs.20 lakhs. The concession was also not available to cover the expansion or diversification of an existing industrial unit or to a unit established in a different name after the closure of another pre-existing industrial unit. Investment in plant and machinery made subsequent to the date of commencement of commercial production was not to be counted for purpose of the incentive.

According to another notification issued in June 1989, the concession shall not be available to a unit on its turnover in respect of which it collects any amount by way of tax or purporting to be by way of tax in excess of the amount of tax payable by it in pursuance of this scheme.

(a) A new industrial unit in Bangalore city engaged in the manufacture and sale of welding electrodes had invested Rs.13.14 lakhs in plant and



machinery at the time of commencement of its commercial production on 6th November 1985. The value of its plant and machinery as on 1st July 1988 was Rs.23.28 lakhs and as it exceeded the prescribed limit of Rs.20 lakhs, the unit ceased to be eligible for the concession. While finalising the assessments of the unit for the period 1985-86 to 1988-89, excess incentive allowed for the period 6th November 1985 to 30th June 1988 (Rs.43,805) and inadmissible tax concession allowed for 1988-89 (Rs.98,559) amounted to Rs.1.42 lakhs.

On this being pointed out in audit (August 1991), the department recovered an amount of Rs.43,805 (January 1993) and issued notice to the unit regarding the inadmissible incentive allowed for the year 1988-89. Further report has not been received (December 1993).

The case was reported to Government in April 1992 followed up by reminders; their reply has not been received (December 1993).

(b) In Bijapur district, a small scale oil industry invested Rs.1.64 lakhs in plant and machinery and commenced commercial production on 24th November 1984. After this date, a further investment of Rs.1.69 lakhs was made in plant and machinery. While finalising (October 1988 and March 1989) the assessments for the years 1984-85 and 1985-86, this inadmissible additional investment was also considered for allowing tax concession. This resulted in excess grant of tax concession amounting to Rs.46,364.

On this being pointed out in audit (November 1989), the department revised (August 1992) the assessment for 1984-85 and collected an additional demand of Rs.11,888 in October 1992. Fresh assessment order for the year 1985-86 was also passed in September 1992. The details of additional demand raised and amount collected have not been received (December 1993).

The case was reported to Government in March 1990 followed up by reminders; their reply has not been received (December 1993).

(c) A new industrial unit in Raichur district, manufacturing groundnut oil, sunflower oil and oil cakes had invested Rs.3.07 lakhs on plant and machinery at the time of commencement of its commercial production on 15th May 1985. Thus, concession in levy of tax to the extent of Rs.1.53 lakhs was admissible to



this unit for the period from 15th May 1985 to 14th May 1990. However, total concession of Rs.2.04 lakhs was allowed for the years from 1984-85 to 1990-91, resulting in excess grant of concession amounting to Rs.50,629.

On this being pointed out in audit (August 1992), the department stated (June 1993) that the assessment had been revised and thereupon the assessee preferred an appeal before the departmental appellate authority. Further report has not been received (December 1993).

The case was reported to Government (January 1993) followed up by reminders; their reply has not been received (December 1993).

(ii) By a notification issued in March 1986 under the Karnataka Sales Tax Act, 1957, with effect from 6th March 1986, on goods produced in the manufacturing unit located in Karnataka and sold for the use of departments of the Government of India or the Government of Karnataka or Government of any other State located in Karnataka, the tax payable was 4 per cent or the rate prescribed in any of the schedules to the Act, whichever was less. The above concession was not admissible to non-government departments and autonomous bodies (including Zilla Parishads) as clarified by the Commissioner of Commercial Taxes in December 1988.

In the cases mentioned in the table below, on sales of goods made to various dealers and non-Government bodies, tax was levied incorrectly at the concessional rate of 4 per cent, instead of at the rates applicable to the relevant goods from time to time under the Act, resulting in tax being levied short by Rs.3.64 lakhs.



Sl. No.	Name of the city/district	Description of goods and to whom sold	Period	Differential rate of tax-percentage (applicable-applied)	Total	
					Turn-over	Tax short-levied (including TOT)
					(In lakhs of rupees)	
1.	Bijapur district	Furniture (other than wooden, bamboo and cane furniture) sold to the Zilla Parishads	1st April 1987 to 19th January 1989	11 (15 - 4)	3.93	0.43
2.	Bangalore city	Fibre reinforced plastic furniture sold to the KSRTC	1st April 1986 to 10th July 1986	11 (15 - 4)	5.80	0.64
3.	Bangalore district	Hand pumps and spare parts sold to Mandal Panchayats, City Municipal Corporations etc.	1989-90 and 1990-91	9 (13 - 4)	6.73 10.52	\$ \$ 1.55
4.	Bijapur district	Cement sold to Zilla Parishads	1st April 1988 to 19th January 1989	14 (18 - 4)	7.26	1.02
			Total			3.64

On this being pointed out in audit (between May 1992 and February 1993), the department stated (between July 1993 and September 1993) that the assessments had been revised in 2 cases (Sl. Nos. 1 and 4) and in another case (Sl. No. 2) show cause notice could not be served since the assessee had closed his business. In the remaining case (Sl. No. 3), reply has not been received (December 1993).

The cases were reported to Government between January 1993 and June 1993 followed up by reminders; their reply has not been received (December 1993).

(iii) Under the provisions of the Central Sales Tax Act, 1956, on inter-State sales of any goods to any Government department, concessional rate of tax at 4



per cent is leviable on production of prescribed certificate in Form D duly filled in and signed by an authorised officer of the Government. This concession is not available on sales made to autonomous bodies or non-Government institutions in whose case tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State under the State Act, whichever is higher.

(a) Under the Karnataka Sales Tax Act, 1957, on the first sale of machinery (all kinds) and parts and accessories thereof, tax is leviable at the rate of 13 per cent from 1st April 1988. The Commissioner of Commercial Taxes, Bangalore clarified (June 1989) that hand pumps are taxable at the rate applicable for machinery.

In Bangalore city, a dealer engaged in the manufacture of hand pumps sold in the course of inter-State trade, hand pumps valued at Rs.34.76 lakhs to autonomous bodies outside the State, during the year 1989-90. Tax on these sales was incorrectly levied at the concessional rate of 4 per cent on the basis of certificates in Form D issued by them, instead of at 13 per cent as aforesaid. This resulted in short levy of tax by Rs.3.13 lakhs.

On this being pointed out in audit (March 1993), the assessing authority initiated action for revision of the assessment. Further report has not been received (December 1993).

The case was reported to Government in July 1993 followed up by reminders; their reply has not been received (December 1993).

(b) Under the Karnataka Sales Tax Act, 1957, on the first sale of batteries and parts thereof but excluding dry-cell and dry-cell batteries, tax is leviable at the rate of 20 per cent with effect from 1st April 1986. However, by a notification issued under the Central Sales Tax Act, 1956 in March 1987, the Government directed that the tax payable by a dealer in respect of inter-State sale of all kinds of batteries except dry cells and dry cell batteries, shall be calculated at the rate of 10 per cent from 1st April 1987.

In Bangalore city, a dealer engaged in the manufacture of batteries, sold in the course of inter-State trade, batteries valued at Rs.18.57 lakhs to public undertakings and autonomous bodies outside the State, during the year 1987-88. Tax on these sales was



incorrectly levied at the concessional rate of 4 per cent on the basis of the certificates in Form D issued by them, instead of at 10 per cent. This resulted in short levy of tax by Rs.1.11 lakhs.

On this being pointed out in audit (October 1992), the department revised the assessment (April 1993) creating additional demand. Further report has not been received (December 1993).

The case was reported to Government in June 1993; their reply has not been received (December 1993).

(iv) Under the Karnataka Sales Tax Act, 1957, on sales of any industrial input by one registered dealer to another for use by the latter as a component part or raw material or packing material of any goods which he intends to manufacture inside the State for sale, tax is leviable at the concessional rate of 4 per cent if the selling dealer furnishes to the assessing authority a declaration by the buying dealer in the prescribed form (Form 37). For this purpose, the expression "raw material" does not include fuels, electrodes, arc carbons and consumable stores of similar type. Further, the expression "raw material" did not include veneer up to 31st March 1988.

(a) Under the Act, on first sale of furnace oil, tax is leviable at the rate of 13 per cent from 1st April 1988. It has been clarified (January 1987) by the Commissioner of Commercial Taxes that furnace oil being a consumable cannot be sold at the concessional rate of 4 per cent on the strength of declaration in Form 37.

In Bangalore city, while finalising the assessment for the year 1990-91 of a public limited company dealing in petroleum products, on sales turnover of furnace oil amounting to Rs.15.14 lakhs, tax was incorrectly levied at the concessional rate of 4 per cent on the strength of declaration in Form 37 furnished by the buyers instead of at the rate of 13 per cent as aforesaid. The grant of inadmissible concession resulted in short levy of tax by Rs.1.36 lakhs.

On this being pointed out in audit (February 1993), the department stated (October 1993) that action had been initiated for revision of the assessment. Further report has not been received (December 1993).



The case was reported to Government in July 1993 followed up by reminders; their reply has not been received (December 1993).

(b) Under the Act, on sales of timber including veneer, tax is leviable at the rate of 13 per cent from 1st April 1986.

In Mysore district, while finalising the revised assessment (June 1992) of a dealer, tax on sales of veneers valued at Rs.12.75 lakhs during the calendar year 1987, was incorrectly levied at the concessional rate of 4 per cent on the strength of the prescribed declarations instead of at 13 per cent as aforesaid. The grant of inadmissible concession resulted in short levy of tax by Rs.1.15 lakhs.

This was pointed out to the department in February 1993 and was reported to Government in July 1993 followed up by reminders; their replies have not been received (December 1993).

## **2.6. Incorrect determination of taxable turnover**

(i) Under the Karnataka Sales Tax Act, 1957, every dealer shall pay for each year, tax on his taxable turnover of sales (other than the last sale in the State) relating to all kinds of alcoholic liquors for human consumption (other than toddy, arrack, fenny, wine and beer) at the rate of 35 per cent of such turnover, and in respect of beer at the rate of 36 per cent from 1st April 1988 to 31st March 1990 and at the rate of 45 per cent from 1st April 1990 provided that at any point of sale other than the first point of sale and the last point of sale, the taxable turnover shall be arrived at by deducting the turnover of such goods on which tax has been levied at the immediately preceding point of sale.

In the cases mentioned in the table below, the turnover of taxable or tax-suffered liquors was incorrectly determined resulting in short levy of tax aggregating Rs.11.82 lakhs.



(Amount in lakhs of rupees)

Sl. No.	Name of city/district	Description of goods sold	Period	Turnover			Rate of tax applicable (percentage)	Short levy of tax
				As determined	Actual	Escaped		
1.	Bangalore city	Liquors (taxable)	1988-89	1.68	3.06	1.38	\$ 35	1.14
			1989-90	2.03	3.91	1.88		
2.	Gulbarga district	-do-	1988-89	1.62	3.14	1.52	35	0.55
3.	Bangalore city	Beer	1st April 1990 to 30th June 1990	1.38	2.49	1.11 1.38	45 10 (45-35)	0.64
4.	Bangalore district	Beer	1st April 1990 to 30th June 1990	Nil	2.45	2.45	45	1.10
5.	Mysore district	Liquors (tax suffered)	1988-89	25.95	23.56	2.39	35	0.84
6.	Hassan district	Liquors (taxable)	1989-90	39.12	40.27	1.15	35	0.40
7.	Bellary district	-do-	1990-91	14.05	15.59	1.54	45	0.69
8.	Gulbarga district	-do-	1990-91	26.80	35.23	8.43	45	3.79
9.	Bangalore district	Liquors (tax suffered)	1988-89	6.19	5.13	1.06	35	0.37
10.	Bangalore city	Liquors (taxable)	1990-91	7.00	12.11	5.11	45	2.30
							Total	11.82

On these being pointed out in audit (between February 1992 and February 1993), the department stated (February 1993 and August 1993) that the assessments had been revised in 3 cases (Sl. Nos. 5, 7 and 10) creating additional demands and that in one of these cases (Sl. No. 7), the assessee preferred an appeal before the Karnataka Appellate Tribunal and obtained a conditional stay (July 1993). Further report in



respect of these cases and replies in respect of the remaining cases have not been received (December 1993).

These cases were reported to Government (between July 1992 and July 1993) followed up by reminders; their reply has not been received (December 1993).

(ii) By a Government Notification issued (December 1979) under the Karnataka Sales Tax Act, 1957, on sales to Government departments or public sector undertakings of the Government of India or Government of Karnataka, or Government of any other State or Government companies located in Karnataka made by a dealer relating to goods produced in his manufacturing unit located in Karnataka, the rate of tax applicable was reduced (from 1st January 1980 to 5th March 1986) to 4 per cent or the prescribed rate of tax in any of the schedules to the Act, whichever is less.

In Mysore district, while revising the assessment (October 1991) for the year 1983-84 of a manufacturer of automobile tyres and allied products, as per the order of the appellate authority, taxable turnover of sale made to Government departments was incorrectly determined at Rs.869.92 lakhs as against Rs.881.07 lakhs determined by the appellate authority resulting in taxable turnover of Rs.11.15 lakhs escaping tax. Further, disallowed sales returns amounting to Rs.29.97 lakhs were not assessed to tax. This resulted in short levy of tax aggregating Rs.2.84 lakhs.

This was pointed out to the department in February 1993 and was reported to Government in July 1993 followed up by reminders; their replies have not been received (December 1993).

(iii) Under the Karnataka Sales Tax Act, 1957, on sales of articles used generally as parts and accessories of motor vehicles but excluding rubber and other tyres, tubes and flaps, batteries and diesel engine and its parts, tax is leviable at the rate of 13 per cent with effect from 1st April 1988.

In Bangalore city, while finalising the assessment (May 1991) of a dealer in automobile spares for the year 1989-90, taxable turnover was incorrectly determined at Rs.50.03 lakhs though the correct taxable turnover based on the stock account, inter-State purchase and gross profit earned by the assessee worked out to Rs.65.72 lakhs. This resulted in taxable



turnover of Rs.15.69 lakhs escaping tax of Rs.2.24 lakhs (including turnover tax).

This was pointed out to the department in February 1993 and was reported to Government in June 1993 followed up by reminders; their replies have not been received (December 1993).

(iv) Under the Karnataka Sales Tax Act, 1957, on sales of pesticides, tax was leviable at the rate of 3 per cent up to 31st March 1992.

In Dharwad district, while finalising the assessment (March 1992) of a dealer in pesticides for the year 1990-91, the taxable turnover was determined at Rs.48.84 lakhs as against the actual sales turnover of Rs.73.37 lakhs as per stock, purchases and gross profit earned by the assessee. This resulted in turnover of Rs.24.53 lakhs escaping tax of Rs.1.04 lakhs (including turnover tax).

On this being pointed out in audit (June 1992), the department revised the assessment (February 1993) creating additional demand. Further report has not been received (December 1993).

The case was report to Government in June 1993; their reply has not been received (December 1993).

(v) Under the Karnataka Sales Tax Act, 1957, on sales of confectionery, tax is leviable at the rate of 13 per cent with effect from 1st April 1986.

Further, under the provisions of the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) not supported by valid declarations, tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher.

In Bangalore district, while finalising (April 1991) the assessment under the Central Sales Tax Act of a dealer in confectionery for the year 1987-88, the taxable turnover in the course of inter-State trade without valid declaration was determined at Rs.168.89 lakhs as against the declared turnover of Rs.173.58 lakhs resulting in turnover of Rs.4.69 lakhs escaping tax of Rs.60,926.



This was pointed out to the department in February 1993 and was reported to Government in June 1993 followed up by reminders; their replies have not been received (December 1993).

(vi) Under the Karnataka Sales Tax Act, 1957, on sales of electrical goods, instruments, apparatus and appliances including fans and lighting bulbs and tubes and parts and accessories but excluding pump sets with electric motors of not more than 10 HP, tax was leviable at the rate of 10 per cent from 1st April 1988.

In Bangalore city, while finalising the assessment for the year 1988-89 of an assessee dealing in electrical goods, the taxable turnover was incorrectly determined at Rs.3.44 lakhs as against the correct amount of Rs.7.92 lakhs resulting in turnover of Rs.4.48 lakhs escaping tax amounting to Rs.50,495 (including turnover tax).

On this being pointed out in audit (October 1992), the department revised the assessment (July 1993) creating additional demand. Further report has not been received (December 1993).

The case was reported to Government in June 1993; their reply has not been received (December 1993).

(vii) Under the Karnataka Sales Tax Act, 1957, on sales of electrical goods, tax is leviable at the rate of 10 per cent with effect from 1st April 1988.

In Bangalore city, while finalising the assessments (July 1990 and March 1992) of a dealer in electrical goods for the years 1989-90 and 1990-91, the taxable turnovers were determined at Rs.6.95 lakhs and Rs.9.85 lakhs, as against the actual sales turnovers of Rs.8.35 lakhs and Rs.12.30 lakhs as per stock, purchases and gross profit earned by the assessee. This resulted in turnovers of Rs.1.40 lakhs (1989-90) and Rs.2.45 lakhs (1990-91) escaping tax aggregating Rs.43,320 (including turnover tax).

This was pointed out to the department in January 1993 and was reported to Government in June 1993 followed up by reminders; their replies have not been received (December 1993).



## 2.7. Incorrect grant of exemption

(i) Under the Karnataka Sales Tax Act, 1957, on sales of cement, tax was leviable at 15 per cent from 1st April 1983 to 31st March 1987.

By a notification issued in December 1979, the rate of tax payable under the Act on sales by a dealer of goods produced in his manufacturing unit located in Karnataka to the departments of Government of India or Government of Karnataka or Government of any other State located in Karnataka, was reduced to 4 per cent or the rate prescribed in any of the schedules to the Act if it was lower than 4 per cent.

As per the provisions of the Central Sales Tax Act, 1956, on inter-State sales of goods to any registered dealer, covered by declarations in Form C, tax is leviable at the rate of 4 per cent and on inter-State sales of goods (other than declared goods), not covered by valid declarations, tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State under the State Act, whichever is higher.

As per judgement\* dated 20th September 1990 of the High Court of Karnataka, in the case of packed cement, once the cost of bags had been recovered from the purchaser as part of the sale price, then there was no way by which it could be excluded from the sales turnover of the assessee company in regard to sale of cement.

Further, the Supreme Court of India also held\*\* (October 1992) that packing is an integral element of the transaction of sale and packing charges are an integral part of the sale price and, as such, packing charges and excise duty thereon should also be included in arriving at the taxable turnover for purposes of both Central Sales Tax and State Sales Tax.

(a) In Bangalore city, while finalising the assessment (May 1992) for the year 1983-84 (co-operative year) of a company dealing in cement, packing

\* M/s. Visvesvaraya Iron and Steel Limited Vs. Deputy Commissioner of Commercial Taxes (Appeals) Mysore Division, Mysore (1991) 83 STC Page 305.

\*\* M/s. Remco Cement Distribution Co. (P) Ltd., Vs. State of Tamil Nadu (1993) 88 STC Page 151.



charges amounting to Rs.358.08 lakhs were incorrectly exempted even though includible in the taxable sales turnover of cement as aforesaid. This resulted in short levy of tax of Rs.43.16 lakhs.

On this being pointed out in audit (October 1992), the department revised the assessment (April 1993).

The case was reported to Government in July 1993; their reply has not been received (December 1993).

(b) In Gulbarga district, while finalising the assessment (November 1990) for the years 1984-85 and 1985-86 of a company dealing in cement, packing charges amounting to Rs.52.07 lakhs and Rs.41.55 lakhs includible in the taxable sales turnover of cement made to Government departments and to others respectively were exempted. This resulted in short levy of tax amounting to Rs.9.98 lakhs.

On this being pointed out in audit (November 1992) the department revised the assessments (October 1993) and raised additional demand of Rs.9.88 lakhs. Further report has not been received (December 1993).

The case was reported to Government in July 1993; their reply has not been received (December 1993).

(ii) Under the Karnataka Sales Tax Act, 1957, on sale of cotton seeds, tax is payable at the rate of 3 per cent from 1st April 1974. Under the Central Sales Tax Act, 1956, the tax payable on the sale of declared goods in the course of inter-State trade or commerce is calculated at twice the rate applicable to the sale or purchase of such goods inside the appropriate State.

However, as per Government Notification dated 3rd May 1976, no tax is payable on the inter-State sales of declared goods provided the assessee proves that tax under the State Act has already been paid and the inter-State sales are covered by declarations in Form C/Form D.

In Belgaum district, in respect of an assessee, for the assessment years 1987-88 and 1988-89, inter-State sales turnover of cotton seeds amounting to Rs.46.18 lakhs and Rs.38.48 lakhs respectively had been exempted from payment of tax on the ground that the



goods had already suffered tax under the Karnataka Sales Tax Act, 1957. The grant of exemption in this case was not in order as the dealer had not furnished the prescribed declarations in Form C/Form D as aforesaid. As the goods had already been subjected to tax under the Karnataka Sales Tax Act, 1957, at the rate of 3 per cent, short levy of tax at the differential rate of 3 per cent on the turnover of Rs.84.66 lakhs, amounted to Rs.2.54 lakhs.

This was pointed out to the department in August 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).

(iii) Under the provisions of the Central Sales Tax Act, 1956, 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 shall also be deemed to be in the course of such export, if such 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. According to the Central Sales Tax (Registration and Turnover) Rules, 1957, a dealer may, in support of his claim for exemption, furnish to the prescribed authority, a certificate in Form H duly filled in and signed by the exporter along with the evidence of export of such goods indicating the number and date of the agreement entered into with the foreign buyer.

Under the Karnataka Sales Tax Act, 1957, on the first sale of plywood, tax is leviable at the rate of 13 per cent from 1st April 1988.

In Mysore district, sales of decorative plywood, amounting to Rs.12.82 lakhs made by a dealer during the year 1988-89 to an exporter in the same district were exempted from levy of tax although the latter had neither exported the goods during the year nor produced the requisite certificate. Incorrect exemption resulted in short levy of tax amounting to Rs.1.83 lakhs (including turnover tax).

On this being pointed out in audit (March 1992), the department revised the assessment (July 1992) and raised demand amounting to Rs.1.83 lakhs. Further report has not been received (December 1993).

The case was reported to Government in April 1992; their reply has not been received (December 1993).



(iv) Under the Karnataka Sales Tax Act, 1957, on sales of cardboard boxes and corrugated boxes, tax was leviable at the rate of 4 per cent with effect from 1st April 1984, at 6 per cent from 1st August 1985 and at 8 per cent from 1st April 1986.

Under the Central Sales Tax Act, 1956, the tax payable by any dealer on his turnover in so far as it relates to the sale of goods in the course of inter-State trade or commerce, not being sales to registered dealers supported by declarations in Form C or sales to Government supported by certificates in Form D, shall be calculated at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher.

Further, a dealer is not liable to pay tax under the Act on the sale of goods in the course of export of those goods outside the territory of India. 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 shall also be deemed to be in the course of such export, if such 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.

The Commissioner of Commercial Taxes had also clarified (February 1987) that there was no exemption on purchase of packing materials used for packing goods for export.

In Bangalore city, while finalising the assessment for the year 1988-89 of a manufacturer and seller of cartons, corrugated boxes, etc., sales turnover of corrugated boxes amounting to Rs.9.70 lakhs to exporters of mango pulp and beverages was exempted, treating the sales as in the course of export. The exemption allowed was not in order as the goods exported were not the same and the sales of corrugated boxes were not made after and for the purpose of complying with the agreement or order for or in relation to such export. The incorrect grant of exemption resulted in non-levy of tax of Rs.96,988.

This was pointed out to the department in May 1992 and was reported to Government in February 1993 followed up by reminders; their replies have not been received (December 1993).

(v) Under the Central Sales Tax Act, 1956, and the Rules made thereunder, where a sale of any goods in the course of inter-State trade or commerce has either



occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to the Government shall be exempt from tax provided the prescribed certificates in Form E-I issued by the selling dealer or in Form E-II issued by the first or subsequent transferor and certificate in Form D signed by the authorised officer of the Government are furnished to the assessing authority. The Commissioner of Commercial Taxes clarified (August 1988 and October 1989) that Zilla Parishads were not Government departments and certificates in Form D issued by them were not valid.

Under the Karnataka Sales Tax Act, 1957, on the first sale of all electrical goods, instruments, apparatus and appliances, but excluding pumpsets with electric motors of not more than 10 HP, tax was leviable at the rate of 10 per cent with effect from 1st April 1986.

In Gulbarga district, transit sales of electric pumpsets amounting to Rs.5.90 lakhs made by a dealer to the Zilla Parishads in Karnataka during the year 1987-88, were exempted from levy of tax on the strength of certificates in Form D issued by that body though these certificates were not valid as aforesaid. This resulted in short levy of tax amounting to Rs.66,372 (including turnover tax).

On this being pointed out in audit (July 1992), the department revised the assessment (July 1993) creating additional demand. Further report has not been received (December 1993).

The case was reported to Government in January 1993; their reply has not been received (December 1993).

(vi) Under the Karnataka Sales Tax Act, 1957, on the sales of firewood (whether whole or split), tax was leviable at the general rate of 5 per cent during the period 1st April 1982 to 31st March 1986 and thereafter on first sale at the rate of 6 per cent. However, firewood when sold for domestic use, except to hotels, is exempt from tax.

In Bangalore city, sales of firewood amounting to Rs.10.00 lakhs made by a dealer to the canteens run by two public sector undertakings during the years 1985-86 and 1986-87, were erroneously



exempted from levy of tax treating the sales as made for domestic use. This resulted in non-levy of tax amounting to Rs.55,000.

On this being pointed out in audit (February 1991), the department revised the assessment (July 1992) and thereupon the assessee preferred an appeal before the departmental appellate authority (September 1992). Further report has not been received (December 1993).

The case was reported to Government in June 1991 followed up by reminders; their reply has not been received (December 1993).

(vii) Under the Karnataka Sales Tax Act, 1957, every dealer shall pay for each year, a tax on his taxable turnover of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts at the rates specified in the relevant schedules.

(a) For supplying and fitting of electrical goods, supply and installation of electrical equipments including transformers, tax was payable at the rate of 8 per cent from 1st April 1986 to 31st March 1991.

In the case of works contracts involving manufacture, supplying, laying and polishing of mosaic tiles, the Commissioner of Commercial Taxes, Bangalore had clarified (June 1989) that the value of materials purchased from registered dealers in the State and used in the manufacture of mosaic tiles and the labour charges for manufacturing tiles were not deductible from total turnover.

In Bangalore district, in respect of an assessee engaged in the manufacture and sale of electrical fabricated items and in the execution of electrical works contracts, for the assessment years 1987-88 to 1989-90, exemption amounting to Rs.12.53 lakhs was allowed on raw materials such as switches, connectors, CR sheets, meters, transformers, paints, etc., used in the manufacture of electrical panel boards which were used in the execution of electrical work contracts.

As the assessee was engaged in the execution of works contracts involving fabrication, installation, etc., of electrical panel boards, the raw materials consumed in the manufacture of electrical panel boards were not deductible from his turnover on the analogy of



the clarification given by the Commissioner of Commercial Taxes in June 1989 in the case of works contracts relating to mosaic tiles.

The incorrect grant of exemption resulted in non-levy of tax amounting to Rs.1.13 lakhs.

On this being pointed out in audit (September 1992), the department stated (December 1993) that assessments for the years 1988-89 and 1989-90 were revised creating an additional demand for Rs.85,137 and that no tax was leviable for 1987-88 as the entire turnover related to labour charges. Further report regarding recovery has not been received (December 1993).

The case was reported to Government in February 1993; their reply has not been received (December 1993).

(b) In the execution of works contract of tyre-retreading, tax is leviable at the rate of 8 per cent from 1st July 1989.

In Bangalore city, in the case of an assessee engaged in the works contract of tyre retreading, the taxable turnover of Rs.48.57 lakhs during the period 1st July 1989 to 31st March 1991 was erroneously exempted from levy of tax resulting in short levy of tax amounting to Rs.4.15 lakhs (including turnover tax).

On this being pointed out in audit (December 1992) the department revised the assessments (March 1993) and thereupon the assessee preferred an appeal before the departmental appellate authority and obtained stay. Further report has not been received (December 1993).

The case was reported to Government in June 1993; their reply has not been received (December 1993).

(c) The Commissioner of Commercial Taxes had clarified (April 1990, April 1991 and June 1991) that powder coating would be taxable at 10 per cent up to 31st March 1991.

In Bangalore district, in respect of an assessee engaged in the manufacture and sale of



crockery-stands, taxable turnovers of powder coating/painting amounting to Rs.6.11 lakhs and Rs.8.26 lakhs respectively for the assessment years 1989-90 and 1990-91 were exempted from levy of tax treating these as labour charges resulting in short levy of tax by Rs.1.62 lakhs (including turnover tax).

On this being pointed out in audit (October 1992), the department revised the assessments (July 1993) creating additional demand. Further report has not been received (December 1993).

The case was reported to Government in February 1993; their reply has not been received (December 1993).

(viii) Under the Karnataka Sales Tax Act, 1957, if a dealer liable to tax in respect of works contract opts for payment of tax by way of composition in any year, the tax so payable shall be on the total turnover involved in the execution of such works contracts, and no deductions are allowable.

It was clarified by the Commissioner of Commercial Taxes in December 1991 that the rate of composition tax in respect of all types of works contracts shall be 2 per cent from 1st April 1986 to 31st March 1990 and 2 per cent in respect of civil works contracts like construction of buildings, bridges, roads, etc. and 4 per cent in respect of other works contracts from 1st April 1990 to 31st March 1992.

In Bangalore city, in the case of a dealer engaged in the execution of works contracts of road asphaltting works and who opted for payment of tax by way of composition for the years 1986-87 to 1987-88 and 1989-90 to 1990-91, deductions amounting to Rs.26.15 lakhs were allowed in respect of materials, labour and hire charges paid, resulting in short levy of tax by Rs.52,291.

On this being pointed out in audit (September 1992), the department revised the assessment (June 1993) creating additional demand. Further report has not been received (December 1993).

The case was reported to Government in April 1993; their reply has not been received (December 1993).



## 2.8. Omission to levy tax

(i) Under the Karnataka Sales Tax Act, 1957, every dealer shall pay for each year, a tax on his taxable turnover of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts at the rates specified in the relevant schedule. For fabrication and installation of plant and machinery, tax was payable at the rate of 10 per cent from 1st April 1986 to 31st March 1991.

Further, on sales of all machinery and spare parts and accessories thereof, tax is leviable at the rate of 13 per cent from 1st April 1987.

In Gulbarga district, an assessee company entered into an agreement (April 1985) with another company for the supply, erection and commissioning of machinery and equipment for a mini cement plant on turnkey basis which included the supply of core machinery, bought out items, engineering services and procurement assistance, packing and forwarding charges, transportation and erection and commissioning charges for an agreed sum of Rs.465 lakhs.

The work was executed between July 1986 and March 1989 for which the assessee received a total amount of Rs.531.87 lakhs.

As the assessee had consolidated different machineries and made them a composite unit called cement plant and as it constituted transfer of property in goods involved in the execution of a works contract, the assessee was liable to pay tax on the net taxable turnover of Rs.438.42 lakhs which worked out to Rs.49.91 lakhs (including turnover tax).

However, while finalising the assessments for the years 1986-87, 1987-88 and 1988-89 (December 1989), the assessing authority did not treat the assessee as one liable to pay tax as per the provision relating to works contract, on the totality of the work, but instead assessed tax only on the turnover of machinery and parts procured within the State aggregating Rs.12.17 lakhs at the rate of 13 per cent and levied tax amounting to Rs.1.72 lakhs (including turnover tax). Turnovers relating to core machinery, bought out items, etc., amounting to Rs.426.25 lakhs were omitted on the ground that these were liable for Central sales tax in Haryana or were second inter-State sales supported by C and E-I forms etc. This resulted in non-levy of tax amounting to Rs.48.19 lakhs.



On this being pointed out in audit (July 1990), the department revised the assessment (December 1992) levying total tax amounting to Rs.49.91 lakhs. Further report has not been received (December 1993).

The case was reported to Government in April 1993 followed up by reminders; their reply has not been received (December 1993).

(ii) As per notification issued on 5th October 1982 under the Karnataka Sales Tax Act, 1957, French coffee prepared out of coffee and chicori in respect of which tax had been paid previously was exempt from payment of tax. Where French coffee was prepared out of coffee and chicori in respect of only one of which tax had been paid previously, the tax payable on sale of such French coffee was to be reduced to an amount equal to the tax payable on the sale value of the coffee or chicori, as the case may be, on which tax had not been paid previously. The exemption or reduction was subject to the condition that the dealer selling such coffee proved to the satisfaction of the assessing authority that tax had been paid on coffee and chicori or either of them, as the case may be, out of which such French coffee had been prepared. The above notification was cancelled with effect from 25th August 1988.

Further, under the Act, tax on chicori was leviable at 10 per cent from 1st April 1974 to 31st March 1986, at 13 per cent from 1st April 1986 to 31st March 1988 and at 8 per cent from 1st April 1988.

In Chitradurga district, while finalising the assessments of a dealer for the assessment years 1985-86 to 1987-88, tax was not levied on the value of chicori amounting to Rs.4.70 lakhs used in preparing French coffee though the chicori obtained in inter-State purchase did not suffer tax under the Karnataka Sales Tax Act. This resulted in short levy of tax by Rs.60,454.

This was pointed out to the department in June 1992 and was reported to Government in February 1993 followed up by reminders; their replies have not been received (December 1993).

## 2.9. Non-levy/short levy of purchase tax

Under the Karnataka Sales Tax Act, 1957, on purchase of groundnuts/groundnut seeds within the State, tax is leviable at the rate of 4 per cent at the



point of last purchase, with effect from 1st April 1987.

However, by a Government notification issued (March 1987), with effect from 1st April 1987, the tax payable by a dealer on groundnuts/groundnut seeds as the last purchaser liable to tax is exempt provided such groundnuts/groundnut seeds are consumed by him in the manufacture of non-refined groundnut oil in the State and the dealer produces proof of payment of tax on sales of such oil made within the State or in the course of inter-State trade or commerce. The exemption is not available if the groundnut oil manufactured is consigned out of the State, not as result of direct sales, as such consignments are not liable to tax.

In Bellary district, the entire purchase turnover of groundnuts/groundnut seeds of an assessee amounting to Rs.24.97 lakhs consumed in the manufacture of non-refined groundnut oil during the year 1988-89 was exempted from levy of tax, though 91,000 kgs of non-refined groundnut oil was sent on consignment basis outside the State not as result of direct sales. However, no tax was levied on the corresponding purchase turnover of groundnuts/groundnut seeds in the State amounting to Rs.16.59 lakhs. Tax not levied amounted to Rs.66,376.

On this being pointed out in audit (October 1992), the department stated (November 1993) that rectificatory orders were passed (July 1993) raising an additional demand for Rs.66,369 and that after taking into account the payments already made, a balance of Rs.18,871 was yet to be recovered from the assessee. Further report on the recovery of balance has not been received (December 1993).

The case was reported to Government in May 1993.

## 2.10. Incorrect allowance of set off

(i) Under the provisions of the Karnataka Sales Tax Act, 1957, where tax has been levied in respect of any item of goods of iron and steel and out of the said goods any other item of goods of iron and steel is manufactured in Karnataka and sold, the tax on the sale of such manufactured goods shall be reduced by the amount of tax already paid under the Act on the relative items of goods of iron and steel used in its manufacture. The burden of proving that tax under the Act has already been paid and of establishing the exact quantum of tax so paid on such items of goods of iron



and steel shall be on the dealer claiming the reduction.

In Bangalore city, a dealer who had used items of iron and steel in the manufacture of rerolled items during the years 1989-90 and 1990-91 was eligible for set off to the extent of Rs.32.07 lakhs out of the tax leviable on the sale of manufactured goods in the State. However, while finalising the assessments for these years (January 1992), purchase turnover of items not used in the manufacture and tax element aggregating Rs.85.00 lakhs not eligible for set off, was not excluded. This resulted in grant of set off amounting to Rs.35.47 lakhs and consequent short levy of tax to the extent of Rs.3.40 lakhs.

On this being pointed out in audit (October 1992), the department revised the assessment for 1989-90 (August 1993) creating additional demand for Rs.3.38 lakhs. Report regarding recovery and revision of assessment for 1990-91 has not been received (December 1993).

The case was reported to Government in June 1993 followed up by reminders; their reply has not been received (December 1993).

(ii) By a Government notification issued (March 1987) under the Karnataka Sales Tax Act, 1957, with effect from 1st April 1987, the tax payable by a dealer on the sale of sun-flower oil manufactured in Karnataka, out of sun-flower seeds which had suffered tax under the Act is to be reduced by the amount of tax paid on such sun-flower seeds, subject to the condition that the burden of proving that the tax on sun-flower seeds had already been paid shall be on the dealer selling the sun-flower oil. The set off is however, not admissible if the sun-flower oil is consigned out of the State and is not subject to sales tax under the Act. Further, as per the clarification issued by the Commissioner of Commercial Taxes in June 1987, on sales of sun-flower seeds, tax is leviable at 3 per cent.

In Bellary district, while finalising the assessment for the year 1989-90 of a dealer engaged in the manufacture of sun-flower oil, set off was allowed on the entire purchase value of sun-flower seeds amounting to Rs.91.42 lakhs consumed in the manufacture of sun-flower oil though 2,50,225 Kgs of sun-flower oil valued at Rs.48.20 lakhs was sent on consignment basis outside the State and, as such, no set off was admissible on the purchase turnover of sun-flower seeds consumed in the manufacture of the sun-flower oil sent



on consignment basis. This resulted in excess set off and consequent short levy amounting to Rs.70,771.

This was pointed out to the department in October 1992 and was reported to Government in May 1993 followed up by reminders; their replies have not been received (December 1993).

## 2.11. Non-levy or short levy of turnover tax

Under the provisions of the Karnataka Sales Tax Act, 1957, every dealer, other than the Government of Karnataka, the Central Government or the State Government of any other State, whose total turnover in a year conforms to the prescribed monetary limits, whether or not the whole or any portion of such turnover is liable to tax under any other provisions of the Act, is liable to pay turnover tax on his total turnover less such deductions as are admissible under the Act.

In the cases mentioned in the table below, turnover tax aggregating Rs.8.06 lakhs was either not levied or levied short:

Sl. No.	Name of the city/district	Period	Turnover liable to turnover tax	Turnover tax not levied or short levied
(In lakhs of rupees)				
1	2	3	4	5
1.	Raichur district	1990-91	154.10	1.52
2.	-do-	1989-90 and 1990-91	46.45	0.58
3.	Belgaum district	1990-91	179.35	0.90
4.	Hassan district	1987 (cy) and 1st January 1988 to 31st March 1988	63.94    8.10	\$ \$ \$ 0.30 \$ \$



1	2	3	4	5
5.	Bangalore city	1988-89	123.81	1.55
6.	-do-	1st October 1986 to 31st March 1987	8.12	\$ \$ \$ 0.32 \$
		1st April 1987 to 30th September 1988	19.49	\$
7.	Gulbarga district	1990-91	47.04	0.59
8.	-do-	1988-89	31.08	\$
		1989-90	15.74	\$ 0.59
9.	Hassan district	1990-91	38.62	0.48
10.	Dharwad district	1st April 1986 to 2nd November 1986	151.68	0.38
11.	Bangalore city	1990-91	170.31	0.85
	Total			<u>8.06</u>

On these being pointed out in audit (between May 1992 and February 1993), the department stated (between July 1993 and November 1993) that the short levy in one case (Sl. No. 4) had been collected (August 1992 and June 1993) and that the assessments had been revised in 5 cases (Sl. Nos. 5 to 8 and 11). Further report relating to these cases and replies for the remaining cases have not been received (December 1993).

The cases were reported to Government between January 1993 and July 1993 followed up by reminders; their reply has not been received (December 1993).

## 2.12. Non-levy of penalty

(i) Under the Karnataka Sales Tax Act, 1957, a registered dealer is forbidden to collect any amount by way of tax or purporting to be by way of tax at a rate or rates exceeding the rate or rates specified in the Act or in respect of sales of any goods on which no tax



is leviable under the Act. If any person contravenes these provisions, the assessing authority may impose upon him, by way of penalty, a sum not exceeding one and a half times the amount of such collections.

In the cases mentioned in the table below, though information relating to excess collection of tax amounting to Rs.47.05 lakhs by 3 dealers was available, no action had been taken by the department to levy penalty.

Sl. No.	Name of the city/district	Number of assessees involved	Year to which the excess collection related	Amount collected in excess (In lakhs of rupees)
1.	Bangalore city	1	1983-84	44.56
2.	-do-	1	1986-87	1.01
3.	-do-	1	1988-89	1.48
			Total	47.05

On these being pointed out in audit (between October 1992 and March 1993), the department stated (between August and September 1993) that in one case (Sl. No. 1) notice proposing levy of penalty at one and a half times the excess collection was issued and in the two other cases (Sl. Nos. 2 and 3) orders levying penalty of Rs.1.01 lakhs and Rs.2.22 lakhs respectively were passed. Further report on collection of penalty has not been received (December 1993).

This was reported to Government in July 1993; their reply has not been received (December 1993).

(ii) Under the Karnataka Sales Tax Act, 1957, if a dealer fails to pay the tax demanded from him within twenty-one days from the date of service of demand notice, he shall pay penalty at the rate of one and a half per cent of the amount of tax remaining unpaid for each month for the first three months, after the expiry of the time prescribed and at two and a half per cent of such amount for each subsequent month so long as the default continues.

In the cases mentioned in the table below, on belated payments of tax by 8 assessees, no penalty was imposed though penalty of Rs.5.53 lakhs was leviable.



Sl. No.	Name of the city/ district	Year	Number of assesseees	Penalty leviable (In rupees)
1.	Bangalore city	1985-86	1	65,478
2.	-do-	1986 (cy) to 1989-90	1	44,462
3.	-do-	1985-86	1	2,06,143
4.	Bangalore city	1985 (cy)	1	51,369
5.	-do-	1985-86. to 1988-89	1	38,391
6.	-do-	1985-86	1	52,295
7.	Gulbarga	1987-88	1	34,212
8.	-do-	1990-91	1	60,945
	Total		<u>8</u>	<u>5,53,295</u>

On these being pointed out in audit (between May 1991 and March 1993), the department stated (August 1993) that notices had been issued in 6 cases (Sl. Nos. 1 to 6). Further reports in these cases and replies in the remaining cases have not been received (December 1993).

The cases were reported to Government in June and July 1993 followed up by reminders; their reply has not been received (December 1993).



## CHAPTER 3

## STATE EXCISE

## 3.1. Results of audit

Test check of records of the Excise Department, conducted in audit during the year 1992-93, disclosed short levy of duty and licence fee amounting to Rs.2849.36 lakhs in 106 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-recovery/short recovery of licence fee	31	1279.29
2. Errors in computation of duty	26	919.22
3. Production losses/wastages	5	8.70
4. Other irregularities	<u>44</u>	<u>642.15</u>
Total	106	2849.36

During the course of the year 1992-93, the concerned department accepted under-assessments, failure to raise demands etc., of Rs.174.99 lakhs involved in 52 cases of which 9 cases involving Rs.3.02 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years. A few illustrative cases involving Rs.873.16 lakhs are given in the following paragraphs.

## 3.2. Short collection of licence fee

(a) According to the Karnataka Excise (Manufacture of Wine from Grapes) Rules, 1968, as amended vide notification dated 11th February 1992, the annual licence fee chargeable for every licence for manufacture of wine from grapes was enhanced from Rs.1000 to Rs.25,000 with effect from 1st July 1990.

During test check (September 1992) of the records of the Excise Commissioner, Bangalore it was noticed in audit that licence fee at the pre-revised



rate of Rs.1000 only had been collected in 23 cases (11 cases in 1990-91 and 12 cases in 1991-92) instead of at the enhanced rate of Rs.25,000 resulting in short collection of Rs.5.52 lakhs.

This was pointed out to the department in September 1992 and was reported to Government in November 1992 followed up by reminders; their replies have not been received (December 1993).

(b) According to the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, as amended vide notification dated 21st February 1992, the annual licence fee chargeable for every wholesale licence, for sale in one district, was enhanced from Rs.50,000 to Rs.1 lakh with effect from 1st July 1991.

For licence sanctioned on or after 1st January of the following year, only half the licence fee is to be levied.

It was observed in audit (September 1992) in the office of the Excise Commissioner, Bangalore that in the case of 342 wholesale licences for the whole year and 42 wholesale licences for half year granted for the excise year 1991-92, as against the licence fee of Rs.363 lakhs due, the licence fee actually collected was only Rs.251.375 lakhs resulting in short collection of licence fee amounting to Rs.111.625 lakhs.

This was pointed out to the department in September 1992 and was reported to Government in November 1992 followed up by reminders; their replies have not been received (December 1993).

(c) According to the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, as amended vide notification dated 21st February 1992, the annual licence fees chargeable for different kinds of licence for vend of liquors, such as, wholesale licence, retail of shop licence, hotel and boarding house licence, refreshment room (bar) licence etc., were enhanced with effect from 1st July 1991.

In 9 districts (Bangalore Rural, Bangalore Urban, Mysore, Belgaum, Hassan, Tumkur, Dakshina Kannada, Bijapur and Dharwad), licence fees for 1991-92 due from 4211 licensees possessing different kinds of licence for vend of liquors were collected at the old rates instead of at the enhanced rates resulting in short collection of licence fee amounting to Rs.726.86 lakhs.



This was pointed out to the department between August 1992 and January 1993 and was reported to Government between January 1993 and April 1993 followed up by reminders; their replies have not been received (December 1993).

### **3.3. Non-recovery of privilege fee on rectified spirit**

Under the Karnataka Excise (Excise Duties and Privilege Fee) Rules, 1968, a privilege fee shall be levied on rectified spirit at the rate of Rs.9.75 per proof litre, when such spirit is issued from any distillery, warehouse or any other place of storage. Issue means any transfer or release of rectified spirit for any use or for manufacture of potable or non-potable products within or outside the premises of a distillery.

In Kolar district, a lorry transporting 12000 bulk litres of rectified spirit issued as per the department's permit dated 5th July 1990 from a distillery in Bijapur district to a bottling unit in Kolar district met with an accident resulting in loss of 4870 bulk litres (8132 proof litres) of rectified spirit. Privilege fee amounting to Rs.79,287 on the spirit lost was not levied.

Privilege fee was leviable at the point of issue of spirit and the purchase of spirit and its transport was made at the risk and cost of the purchaser. Further, according to the instructions issued by the Excise Commissioner in April 1985, accident to the vehicle carrying the excisable articles does not remove the liability for payment of excise duty and duty is required to be levied on the articles lost in transit due to accident etc. The omission to levy privilege fee on spirit lost in transit resulted in non-realisation of revenue amounting to Rs.79,287.

This was pointed out to the department in March 1992 and was reported to Government in May 1992 followed up by reminders; their replies have not been received (December 1993).

### **3.4. Non-recovery of duty on Indian liquor exported**

Under the Karnataka Excise (Excise Duties and Privilege Fee) Rules, 1968, a rebate on duty is allowed in respect of liquors exported outside the State to any place within India. According to the Karnataka Excise



(Possession, Transport, Import and Export of Intoxicants) Rules, 1967, and the instructions issued by the Excise Commissioner (March 1977, December 1989 and March 1990), in case of export to Defence Units where the report of verification of the consignment or warehousing of the intoxicants in the importing State has not been received by the permit issuing authority within 90 days from the date of expiry of the export permit, the differential duty shall be collected from the exporter or the sureties.

In respect of 8,896 bulk litres of Indian liquor exported to Defence Units in other States from a distillery in the district of Bidar on the basis of 3 export permits issued during the excise year 1991-92, verification reports had not been received from the importing States till August 1992. No action had been taken by the department to demand the differential excise duty amounting to Rs.2.49 lakhs involved in these cases from the exporting distilleries concerned or the sureties.

On this being pointed out in audit (August 1992), the department reported (June 1993) that efforts to collect the verification reports were in progress. Further report has not been received (December 1993).

The case was reported to Government in April 1993 followed up by reminders; their reply has not been received (December 1993).

### 3.5. Short payment of export duty on beer

Under the Karnataka Excise (Excise Duties and Privilege Fee) Rules, 1968, and the Government notification dated 21st November 1992, from 1st April 1992 duty at the rate of Re.1 per bulk litre is payable (20 paise per bulk litre up to 31st March 1992) by the licensee in respect of beer exported outside the State of Karnataka to any place within India.

A brewery in Bangalore district exported 15.37 lakh bulk litres of beer outside the State of Karnataka during the period from 23rd May 1992 to 30th June 1992 on paying duty at 20 paise per bulk litre, against Re.1 per bulk litre, resulting in short payment of duty amounting to Rs.12.30 lakhs.

This was pointed out to the department in July 1992 and was reported to Government in September 1992 followed up by reminders; their replies have not been received (December 1993).



### 3.6. Non-recovery of interest

As per the Karnataka Excise Licences (General Conditions) Rules, 1967, the rent payable to Government in respect of the liquor shop for each month shall be credited by the licensee into the treasury on or before the last day of that month. Interest at the rate of 18 per cent per annum shall be charged from the first day of the succeeding month on the outstanding amount as long as it remains unpaid.

In an excise office in Dakshina Kannada district, on payments of rent aggregating Rs.560.11 lakhs for the months from March 1992 to May 1992, received by means of demand drafts after delay ranging from 16 days to 77 days, no interest was charged resulting in non-recovery of interest amounting to Rs.11.81 lakhs.

This was pointed out to the department in January 1993 and was reported to Government in April 1993 followed up by reminders; their replies have not been received (December 1993).

### 3.7. Short levy of litre fee

Under the Karnataka Excise (Excise Duties and Privilege Fee) Rules, 1968, a litre fee at the rate of Rs.6 per bulk litre shall be levied on country liquors containing 42 per cent and above of proof spirit when sold by licensees as per the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968. However, litre fee at the rate of Re.1 per bulk litre only is leviable on beer, cider and all other fermented liquor.

In two Excise offices in Chitradurga district, on 35,207.50 bulk litres of fenny containing 42.8 per cent of proof spirit issued to licensees during the period 1st April 1990 to 30th June 1991, litre fee at the rate of Re.1 per bulk litre only had been levied as against Rs.6 per bulk litre resulting in short levy of litre fee by Rs.1.76 lakhs.

This was pointed out to the department in June 1992 and was reported to Government in July 1992 followed up by reminders; their replies have not been received (December 1993).



## CHAPTER 4

## TAXES ON MOTOR VEHICLES

## 4.1. Results of audit

Test check of records in the Motor Vehicles Department, conducted in audit during the year 1992-93, disclosed under-assessments of tax amounting to Rs.581.43 lakhs in 165 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/non-collection of penalty/fees	78	563.97
2. Non-levy/short levy of tax	69	12.97
3. Irregular refunds	5	0.57
4. Other irregularities	<u>13</u>	<u>3.92</u>
Total	165	581.43

During the course of the year 1992-93, the concerned department accepted under-assessments, failure to raise demands etc., of Rs.74.75 lakhs involved in 44 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.14.53 lakhs are given in the following paragraphs.

## 4.2. Levy of tax at incorrect rate

Under the Karnataka Motor Vehicles Taxation Act, 1957, up to 31st March 1989, the rates of tax leviable on omnibuses and private service vehicles were determined with reference to the number of persons which the vehicles were permitted to carry, but with effect from 1st April 1989, the rates are determined with reference to the floor area of the vehicles.

In Belgaum region, the tax for the period from 1st November 1989 to 31st July 1992 on an omnibus having a floor area exceeding 12 square metres, which had migrated from Dakshina Kannada region in November 1989 and was used by a driving school, was wrongly



levied and collected with reference to the number of persons the vehicle was permitted to carry instead of with reference to the floor area of the vehicle resulting in short levy of tax amounting to Rs.97,940. Similar short levy of tax occurred in respect of the same vehicle for the period from 1st April 1989 to 31st October 1989 in Dakshina Kannada region.

On this being pointed out in audit (September 1992), the department re-assessed (July 1993) the tax due in respect of the vehicle on floor-area basis for the period from 1st April 1989 to 31st July 1992 and raised demand for Rs.1.53 lakhs. Details of recovery have not been received (December 1993).

The case was reported to Government in December 1992; their reply has not been received (December 1993).

#### **4.3. Loss of revenue due to irregular grant of exemption**

Under the Karnataka Motor Vehicles Taxation Act, 1957, on omnibuses, tax is leviable at the rates specified therein. By a notification issued in February 1987, Government exempted from payment of tax motor cars and motor lorries used as motor ambulance vehicles and travelling dispensaries to provide free service to the public.

In Bangalore North region, 2 vehicles owned by a company and registered as ambulances were granted exemption from payment of tax though they were not used to provide free service to the public. The vehicles were correctly classifiable as omnibuses and assessable to tax accordingly. The incorrect grant of exemption resulted in non-levy of tax amounting to Rs.82,407.

On this being pointed out in audit (April 1992), the department stated that the vehicles were meant for free service to factory workers of the owners and hence the exemption granted was in order. Government to whom the case was reported (July 1992) endorsed the view of the department (April 1993) and held that public included any class or community and, as such, the exemption allowed was in order. This contention is not tenable as the benefit provided by the company was limited to its workers, to the exclusion of all others outside the company and could not be construed as 'free service to the public'.



**4.4. Loss of revenue due to non-renewal of certificates of registration**

Under the Motor Vehicles Act, 1988 and the Central Motor Vehicles Rules, 1989 made thereunder, a certificate of registration issued in respect of a motor vehicle other than a transport vehicle, shall be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable on payment of the prescribed fee. If the owner of a vehicle fails to make an application for renewal within the period prescribed, he is liable to pay penalty of such amount not exceeding one hundred rupees.

In 7 regions, renewal of certificate of registration in respect of 6568 non-transport vehicles (Shimoga: 1562, Belgaum: 1861, Kolar: 339, Gulbarga: 1548, Mandya: 231, Bangalore West: 693 and Mangalore: 334) due between March 1992 and October 1992 had not been done. This resulted in non-collection of registration fee (Rs.3.79 lakhs). Penalty not exceeding Rs.6.57 lakhs though leviable was not levied.

On these omissions being pointed out in audit (between May 1992 and November 1992), the Commissioner for Transport, Bangalore issued instructions (March 1993) to all concerned to initiate action for renewal of certificate of registration wherever due. Reports regarding renewal of the certificates in respect of 587 vehicles and collection of fee and penalty aggregating Rs.95,255 had subsequently been received in respect of 3 regions between July 1993 and August 1993. Further reports relating to these and other regions have not been received (December 1993).

Government to whom the cases were reported (between September 1992 and May 1993) endorsed the reports of the department (September 1993).

**4.5. Loss of revenue due to non-assignment of new registration marks**

Under the Motor Vehicles Act, 1988 (Central Act) and the Karnataka Motor Vehicles Rules, 1989 made thereunder, when a motor vehicle registered in another State is kept in this State for a period exceeding twelve months, it is required to be assigned ~~with~~ a new registration mark on payment of the prescribed fee. If the owner of the motor vehicle or the person in possession of the motor vehicle fails to apply for the assignment of new registration mark, he shall be liable to pay a sum of Rs.50 for the default for the first



month and Rs.25 for the default for every subsequent month provided that the total amount payable shall not exceed Rs.100.

In Shimoga, Kolar and Bangalore North regions, 703 vehicles which migrated to this State between June 1973 and May 1991 had not been assigned the new registration marks as prescribed. This resulted in loss of fee and penalty amounting to Rs.1.39 lakhs.

On this being pointed out in audit (between April 1992 and June 1992), the department intimated (between March 1993 and July 1993) that new registration marks had been assigned to 214 vehicles for which fee and penalty amounting to Rs.48,195 had been collected and that notices had been issued in respect of the remaining vehicles. Report regarding further progress has not been received (December 1993).

Government to whom the cases were reported (between July 1992 and September 1992) endorsed the replies of the department.

#### 4.6. Loss of fee due to non-issue of goods vehicle record

Under the Karnataka Motor Vehicles Rules, 1989, the driver of every goods vehicle shall keep and maintain in the vehicle, a record (GVR) in the prescribed form (KMV.9) which shall give in respect of each day, particulars of journeys, description of commodities etc., and shall be open to inspection by any officer of the Motor Vehicles Department or of the Police Department. The GVR shall be supplied by the Secretary of the Transport Authority concerned in the form of serially numbered books, each containing 99 numbered pages in duplicate with the seal of such Transport Authority on each page and the fee for each such book shall be Rs.25. The Commissioner for Transport, Bangalore had also instructed all concerned (February 1990) that GVRs should be issued to the vehicles invariably at the time of issue or renewal of fitness certificates.

During the year 1991-92, though fitness certificates in respect of 6421 goods vehicles were issued/renewed in 3 regions (Belgaum: 2559, Mandya: 902 and Bangalore West: 2960), GVRs were issued only in 146 cases (Mandya: 142 and Bangalore West: 4).

On this being pointed out in audit (between October 1992 and December 1992), the government stated



(August 1993) that the non-issue in Mandya region was due to non-availability of stock of GVRs and that action had been taken to obtain supply of GVRs from the Government Press. However, non-issue of even the available 1709 GVRs in the other 2 regions (Belgaum: 1183 and Bangalore West: 526) resulted in non-collection of fee amounting to Rs.42,725.



## CHAPTER 5

## TAXES ON AGRICULTURAL INCOME

## 5.1. Results of audit

Test check of records in Agricultural Income-tax Offices, conducted in audit during the year 1992-93 disclosed under-assessments of tax amounting to Rs.25.77 lakhs in 74 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Errors in computation of income	15	8.84
2. Non-levy of interest and penalty	36	6.09
3. Irregular allowance of expenditure	11	3.71
4. Short-determination of income	3	3.24
5. Other irregularities	<u>9</u>	<u>3.89</u>
Total	74	25.77

During the course of the year 1992-93, the concerned department accepted under-assessments, failure to raise demands etc., of Rs.50.96 lakhs involved in 73 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.17.83 lakhs are given in the following paragraphs.

## 5.2. Non-levy of tax on the share of income received from a dissolved firm

Under the Karnataka Agricultural Income-tax Act, 1957, where any business through which agricultural income is received is discontinued in any year, any sum received after the discontinuance of business shall be deemed to be the income of the recipient and charged to tax in the year of receipt, if such sum would have been taxable but for discontinuance of business.



In Mysore district, a registered firm was dissolved on 1st October 1987 and the property was distributed among the partners; one of them being an association of persons and three others being individual proprietary concerns.

(a) One of the partners of the erstwhile firm, viz., the association of persons, received during the previous years relevant to the assessment years 1989-90 and 1991-92, back-pool receipts of Rs.3.74 lakhs and Rs.2.54 lakhs respectively relating to the year 1986-87 and earlier periods on which tax amounting to Rs.1.46 lakhs and Rs.0.99 lakh respectively was not levied.

On this being pointed out in audit (August 1990), the department stated (January 1992) that the assessee was entitled to the benefit of composition of tax under the Act during the relevant assessment years 1989-90 and 1991-92 and, as such, the question of assessing the back-pool receipts did not arise. The contention of the department is not tenable as the share income from the erstwhile firm was not covered by the composition tax paid by the assessee and had to be taxed separately on regular assessment basis.

This was again pointed out to the department in April 1993 and the case was reported to Government in May 1993 followed up by reminders; their replies have not been received (December 1993).

(b) During the previous years relevant to the assessment years 1989-90, 1990-91 and 1991-92, the other three partners of the erstwhile firm mentioned above also received back-pool receipts relating to 1986-87 and earlier seasons aggregating Rs.7.47 lakhs on which tax leviable amounting to Rs.3.74 lakhs was not levied.

On this being pointed out in audit (August 1991 and July 1992), the department stated (October 1992) that these three partners of the erstwhile firm were also assessed to tax under Section 66 allowing the benefit of composition of tax as they were holding less than 25 acres of land and the composition tax so paid covered the entire income and hence the question of further taxing the back-pool receipts did not arise. On verification by audit in April 1993, it was, however, noticed that the contention of the department was not correct as the partners had actually been assessed to tax on regular income basis and not on composition basis. As such, the share of back-pool receipts had to be taxed by including such income along with the regular income of the relevant years. This was again



pointed out to the department in April 1993; their reply has not been received (December 1993).

The case was reported to the Government in October 1991 and September 1992 followed up by reminders; their reply has not been received (December 1993).

### 5.3. Non-clubbing of income of minor children/wife of individual

Under the Karnataka Agricultural Income-tax Act, 1957, in computing the total agricultural income of an individual, there shall be included all such agricultural income as arises directly or indirectly to the spouse of such individual from the membership of the spouse in a firm in which such individual is a partner or to a minor child of such individual from the admission of the minor to the benefits of partnership in a firm in which such individual is a partner. For this purpose, where the spouse or a minor child of an individual is a beneficiary under a trust, the income arising to the trustee from membership in a firm in which such individual is a partner shall to the extent such income is for the benefit of the spouse or minor child of such individual be deemed to be income arising to the spouse or minor child in a firm in which such individual is a partner.

In Chickmagalur district, two individuals alongwith seven trusts, the beneficiaries of which are spouse or minor children of the two individuals were partners of a firm. But the share income of the beneficiaries arising from the firm in the assessment years 1987-88 to 1990-91 were assessed separately instead of clubbing the share income with the income of the two individuals. This resulted in short levy of tax amounting to Rs.2.21 lakhs.

On this being pointed out in audit (August 1992), the department revised the assessment (July 1993) and raised additional demand of Rs.1.68 lakhs after adjusting the tax already paid by the assessee. Further report on recovery of the amount has not been received (December 1993).

The case was reported to Government in November 1992; their reply has not been received (December 1993).



#### 5.4. Incorrect determination of taxable income

(a) Under the Karnataka Agricultural Income-tax Act, 1957, if in any year, expenditure is incurred by a person for replanting of rubber in any plantation, such expenditure not exceeding the amount necessary for replanting two and a half per cent of the acreage of plantation held by the person may be allowed as deduction in computing the taxable agricultural income of such person.

In Mysore district, while determining the taxable agricultural income of an assessee for the assessment year 1991-92, an amount of Rs.90,750 was allowed as deduction on account of replanting expenses of rubber plants against the allowable deduction of Rs.25,309 resulting in short determination of income by Rs.65,441 and consequent short levy of tax by Rs.35,992.

This was pointed out to the department in July 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).

(b) Under the Karnataka Agricultural Income-tax Act, 1957, any deduction allowed towards expenditure for new cultivation, replanting and maintenance of immature coffee plants which remains unspent for five years after the assessment year shall be treated as income of the sixth year.

In Hassan district, in the case of an assessee firm, the unspent balance of replanting expenditure amounting to Rs.1.56 lakhs allowed during the accounting year 1982-83 was not added back and taxed as income for the assessment year 1989-90 eventhough the assessee firm had returned this as income for being taxed. This resulted in short levy of tax amounting to Rs.1.01 lakhs.

This was pointed out to the department in July 1992 and was reported to Government in October 1992 followed up by reminders; their replies have not been received (December 1993).

#### 5.5. Incorrect computation of agricultural income

Under the Karnataka Agricultural Income-tax Act, 1957, and the rules made thereunder, a deduction from agricultural income is allowed towards



depreciation of assets owned by the assessee and used for the purpose of deriving the agricultural income.

In Chickmagalur district, while computing (January 1989) the taxable income of an assessee firm for the assessment year 1987-88, a deduction of Rs.1.19 lakhs was allowed by the assessing officer towards depreciation without adding back the depreciation of Rs.1.53 lakhs already claimed in its accounts by the assessee. This resulted in short computation of taxable income by Rs.1.53 lakhs and consequent short levy of tax amounting to Rs.94,800 (Rs.36,700 - firm and Rs.58,100 - partners).

This was pointed out to the department in June 1989 and was reported to Government in March 1990 followed up by reminders; their final replies have not been received (December 1993).

#### 5.6. Failure to assess income from firm

Under the Karnataka Agricultural Income-tax Act, 1957, in the case of a registered firm, after assessing the total income of the firm, the agricultural income-tax payable by the firm itself shall be determined and the share of each partner in the income of the firm should be included in his total income and assessed to tax. Further, as per the provision relating to composition of tax under the Act, when the total extent of land under plantation crops held by any person does not exceed 25 acres, such person may, with the permission of the assessing authority, compound the tax payable by him and pay in lieu thereof a lumpsum tax at the prescribed rate.

(a) In Kodagu district, the share income amounting to Rs.97,144 each of two partners of a firm, received during the previous year relevant to the assessment year 1991-92, was not included in their total income and assessed to tax on the plea that they enjoyed the benefit of composition of tax under the Act in respect of their separate individual holdings of less than 25 acres. As the composition covered only the income from their individual holdings, the levy of tax on the share income from the firm was mandatory. The omission to levy tax on the share income of the partners in this case resulted in short levy of tax of Rs.42,466.

This was pointed out to the department in January 1993 and was reported to Government in March 1993 followed up by reminders; their replies have not been received (December 1993).



(b) In Chickmagalur district, the taxable income of an assessee firm for the assessment year 1989-90 was computed (September 1990) by taking its share in the income of another firm as loss of Rs.1,66,141. However, the said share of loss was subsequently revised (April 1992) to income of Rs.60,162, which actually worked out to Rs.57,414 only.

Omission to simultaneously revise the assessment of the assessee firm for the year 1989-90 resulted in short computation of income by Rs.2.24 lakhs and consequent short levy of tax amounting to Rs.1.39 lakhs.

This was pointed out to the department in June 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).

#### 5.7. Non-levy of interest on belated payment

(a) Under the Karnataka Agricultural Income-tax Act, 1957, an assessee who withholds the payment of tax with permission has to pay in addition to the tax payable, interest on the tax due at the rate charged by scheduled banks for unsecured loan from the due date up to the date of actual payment.

In Chickmagalur district, an appeal preferred by an assessee firm in the High Court of Karnataka, contesting the levy of tax amounting to Rs.1.76 lakhs for the assessment year 1987-88 payable before 31st October 1988 was dismissed. The assessee firm which had initially obtained stay order for withholding payment of the tax, paid the tax on 2nd April 1992. The assessing authority, however, did not levy interest for the period from 1st November 1988 to 31st March 1992 amounting to Rs.1.05 lakhs.

This was pointed out to the department in June 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).

(b) As per an amendment to the Karnataka Agricultural Income-tax Act, 1957, introduced with effect from 1st April 1987, in the case of a registered firm the agricultural income-tax payable by the firm itself shall be determined and collected from the firm and the share of each partner in the income of the firm shall be included in his total income and assessed to tax accordingly. Prior to the amendment, the income of



the firm was to be allocated to the partners and no tax was to be collected from the firm.

Some assesseees (registered firms) went in appeal challenging the date of effect of the amendment holding that the amendment should apply only with effect from the assessment year 1988-89. The High Court of Karnataka upheld the levy of tax with effect from 1st April 1987. As the assesseees went in appeal on their own, they were liable to pay interest according to the provisions of the Act on the delayed payment of tax right from the due date mentioned in the original notice of demand.

In 2 cases in Kodagu district, for the assessment year 1987-88, the interest so leviable amounting to Rs.78,130 was not demanded by the department.

On this being pointed out in audit (September 1992 and November 1992), the department levied and collected (January 1993) interest of Rs.36,598 in one case and levied (September 1993) interest amounting to Rs.41,830 in the other case. Report on realisation of demand has not been received (December 1993).

The case was reported to Government in February 1993; their reply has not been received (December 1993).

#### 5.8. Short levy due to excess allowance of deduction

It has been judicially held\* that bonus set on is not a subsisting liability and hence not allowable as an expenditure in computing the assessee's income.

In Bangalore district, while computing the taxable agricultural income of an assessee company for the assessment year 1981-82, an amount of Rs.1.93 lakhs towards 'bonus set on', not allowable as expenditure as aforesaid, was allowed by the assessing officer as deduction in addition to the deduction relating to expenditure on bonus to employees as disclosed in the

\* *Maiwa Vanaspati & Chemical Co. Ltd., vs Commissioner of Income Tax (1984) 154 ITR 655 (Madhya Pradesh High Court)*



assessee's profit and loss account. This resulted in short levy of tax amounting to Rs.1.25 lakhs.

On this being pointed out in audit (October 1992), the assessing officer issued notice to the assessee. Further report has not been received (December 1993).

The case was reported to Government in January 1993; their reply has not been received (December 1993).

#### 5.9. Double adjustment of advance tax

Under the Karnataka Agricultural Income-tax Act, 1957, where a refund is due to any person, the assessing officer may set off the amount to be refunded or any part thereof against the agricultural income-tax remaining payable by that person.

In Kodagu district, refund of Rs.89,937 due to an assessee on account of excess advance tax paid by him in respect of the assessment year 1985-86 was set off (December 1990) to the extent of Rs.38,242 against the tax payable by him for the assessment years 1986-87 and 1987-88 and the balance of Rs.51,695 was ordered to be carried forward to be adjusted against future demands. However, when the assessment for the year 1985-86 was revised in February 1992, the entire advance tax paid in respect of the year was once again adjusted overlooking the set off of Rs.89,937 already allowed in December 1990 leading to corresponding short demand of Rs.89,937.

This was pointed out to the department in November 1992 and was reported to Government in February 1993 followed up by reminders; their replies have not been received (December 1993).

#### 5.10. Short levy due to computation mistake

Under the Karnataka Agricultural Income-tax Act, 1957, and the Rules made thereunder, for arriving at the net assessable amount of agricultural income, any sum paid by an assessee in the previous year as donation to the specified funds not exceeding 10 per cent of the total agricultural income is allowed as deduction.



In Hassan district, while finalising the assessment of an assessee company for the period 1st July 1988 to 31st March 1989, a sum of Rs.65,000 debited in its profit and loss accounts towards donation was not added back to its income even though deduction for the purpose of tax on this account was separately allowed. This resulted in tax being levied short by Rs.42,250.

This was pointed out to the department in July 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).

#### 5.11. Non-levy of penalty

Under the Karnataka Agricultural Income-tax Act, 1957, if after the final assessment, the advance tax paid by the assessee is found to be less than the tax payable by more than 25 per cent, the assessing authority may direct the assessee to pay, in addition to the tax, by way of penalty a sum calculated at 10 per cent of the amount so paid short.

In Kodagu district, in one case, though the advance tax paid (Rs.3.61 lakhs) by an assessee for the assessment year 1990-91 fell short of the tax payable (Rs.12.56 lakhs) by more than 25 per cent, the assessing authority, while concluding the assessment in January 1992, did not levy any penalty, though penalty up to Rs.89,536 could have been levied.

This was pointed out to the department in January 1993 and was reported to Government in March 1993 followed up by reminders; their replies have not been received (December 1993).



## CHAPTER 6

## LAND REVENUE

## 6.1. Results of audit

Test check of records in taluk and district offices relating to land revenue, conducted in audit during the year 1992-93, disclosed short levy of land revenue, water rate etc., amounting to Rs.6062.90 lakhs in 257 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/short levy of conversion fine	45	3716.95
2. Non-levy/short levy of fine for unauthorised occupation of Government land	51	833.63
3. Non-levy/short levy of water rate	47	391.89
4. Non-levy/short levy of maintenance cess	50	108.83
5. Other irregularities	<u>64</u>	<u>1011.60</u>
Total	257	6062.90

During the course of the year 1992-93, the concerned department accepted under-assessments, failure to raise demands etc., of Rs.802.35 lakhs involved in 111 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.1262.49 lakhs are given in the following paragraphs.

## 6.2. Levy and collection of water rate

## A. Water rate for agricultural purpose

Levy and collection of water rate for the use of water from irrigation works and from natural



waterways for agricultural purpose are governed by the provisions of the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, the Karnataka Irrigation Act, 1965, and the Rules made under these Acts.

Water rate for agricultural purpose depends on the area of cultivation and the kind of crop grown and ranges from Rs.8 per acre for manurial crops to Rs.225 per acre for sugarcane. Lower rates have been prescribed for water supplied from irrigation works which have no assured supply of water and also for water supplied from minor irrigation works. Separate rates have been prescribed for use of water from natural waterways.

The demands of water rate for use of water from irrigation works and from natural waterways for agriculture are prepared by the Irrigation Department and forwarded to the Tahsildars in the Revenue Department for collection.

**(a) Arrears of water rate, maintenance cess and penal water rate**

As at the end of the revenue year 1991-92, the arrears of water rate, maintenance cess and penal water rate in respect of water used for agricultural purposes amounted to Rs.149.88 crores. Details of opening balance, demand, collection and balance for the revenue years from 1987-88 to 1991-92 as per the departmental records are given below:



Revenue Year		Opening balance	Demand during the year	Total demand	Collection during the year	Closing balance	Percentage of collection to total demand
( In lakhs of rupees )							
1987-88	<u>WR &amp; MC</u> *	2212.46	876.34	3088.80	906.57	2182.23	29
	Penal WR **	2617.55	2620.04	5237.59	1.40	5236.19	0
1988-89	<u>WR &amp; MC</u>	2182.23	910.25	3092.48	1054.97	2037.51	34
	Penal WR	5236.19	910.12	6146.31	271.33	5874.98	4
1989-90	<u>WR &amp; MC</u>	2037.51	1480.96	3518.47	1244.13	2274.34	35
	Penal WR	5874.98	2054.21	7929.19	12.72	7916.47	0
1990-91	<u>WR &amp; MC</u>	2274.34	1496.09	3770.43	1457.76	2312.67	39
	Penal WR	7916.47	2960.63	10877.10	38.29	10838.81	0
1991-92	<u>WR &amp; MC</u>	2312.67	1257.75	3570.42	1121.80	2448.62	31
	Penal WR	10838.81	1713.22	12552.03	12.99	12539.04	0

Percentage of collection to total demand in respect of water rate and maintenance cess ranged between 29 and 39 and percentage of collection of penal water rate ranged between 0 and 4 during the last five years indicating lack of efforts by the department to enforce provisions of the Acts/Rules.

The yearwise break-up of arrears pending collection was not available with the department. The arrears of penal water rate had been mounting year after year and the collection as compared to the total demand had been meagre.

Various aspects relating to booking of water rate, levy of penal water rate and its recovery etc., were examined by a group of officers of the Irrigation and Revenue Departments in July 1989. As per the note given by these officers, the poor rate of collection of arrears of penal water rate had been attributed to factors, such as, (i) difficulties in enforcing cropping pattern, (ii) absence of control devices to regulate water supply to each survey number depending on cropping pattern, (iii) social and political pressures not to enforce cropping pattern, (iv) political assurances not to collect penal water rate, (v) law and order problems arising on enforcement of cropping pattern and recovery of penal water rate etc.

\* WR & MC : Water Rate and Maintenance Cess  
 \*\* Penal WR : Penal Water Rate



The suggestions made by this group included, *inter alia*, proposals to (i) waive penal water rate booked upto 1st November 1988 subject to certain conditions and (ii) levy normal water rate for the crop grown and waive penal water rate levied for violation of cropping pattern. No decision was taken on these suggestions.

In January 1992, the Revenue Department in the State Government, while fixing the target for collection of land revenue, water rate and other dues as 50 per cent of arrears outstanding as on 1st July 1991 and 100 per cent of current demand arising during the revenue year 1991-92, indicated the target for collection of penal water rate as - (nil) which indicated that government had not chalked out any programme to collect penal water rate.

**(b) Failure to raise demands for water rate.**

Under the Karnataka Irrigation Act, 1965, and the Rules framed thereunder, in respect of any irrigation work, the Irrigation Officer is required to notify the time for letting out water for irrigation, the period of supply, the quantity of supply, the areas to be supplied at different times as also the kinds of crops to be grown on lands under such irrigation work and the period of sowing such kinds of crops. In respect of each crop or revenue year, as the case may be, an officer each of the Revenue Department and Irrigation Department jointly inspect and prepare statement of survey numbers to which water was supplied, made available or used for irrigation and the crops raised thereon. On the basis of this statement, the Irrigation Officer prepares a statement of water rate payable by each landholder and sends it to the Tahsildar concerned for collection.

(i) Government in their order dated 6th May 1987, transferred all minor irrigation works having an atchkat\* of less than 200 hectares, excluding lift irrigation schemes and Ganga Kalyana Schemes which were under the control of the Minor Irrigation Department, to the control of the respective Zilla Parishads.

In the order dated 31st October 1988 approving increase in water rate with effect from 1st January 1989, Government had, *inter alia*, provided that no water rate be levied in respect of irrigation works having irrigable area upto 100 acres. However, in view of objections/suggestions regarding the revision of

\* 'atchkat' means command area



water rate received from several ryots, organisations and others, Government as per a circular dated 1st March 1990 held the above order in abeyance and advised all concerned that water rate be levied only as per the provisions of the previous orders dated 24th July 1985 and 4th November 1987 till a final decision was taken and new notification amending the Karnataka Irrigation (Levy of Water Rates) Rules, 1965 was published in the Karnataka Gazette.

It was, however, observed that in 5 Zilla Parishad Engineering Divisions (Mangalore, Udupi, Karwar, Raichur and Belgaum), the demand statements for water rate relating to irrigation works having irrigable area upto 100 acres for the years 1987-88 to 1991-92 were not prepared and sent to the Tahsildars for collection on the plea that no water rate was leviable in these cases. This was not in order as the Government order of 31st October 1988 in the matter was held in abeyance *vide* Circular dated 1st March 1990.

In 7 other Zilla Parishad Engineering Divisions, (Mysore, Mandya, Krishnarajanagar, Bijapur, Dharwad, Tumkur and Hassan), demand statements for water rate relating to minor irrigation works having atchkat of less than 200 hectares, transferred to the control of Zilla Parishads as per the Government order of 6th May 1987, were not prepared and sent to the Tahsildars for collection.

Omissions to raise demands of water rate in the above cases resulted in non-realisation of revenue of Rs.33.74 lakhs in respect of an atchkat of 4.09 lakh hectares, at the lowest rate of Rs.8 per acre leviable for manurial crops.

(ii) In two taluks (Mandya and Narasipura), though water from irrigation works was made available to the entire area covered by certain canals/distributaries for Khariff crops in 1990 and 1991, no demand for water rate was raised in respect of a total area of 20,774 acres resulting in non-realisation of revenue amounting to Rs.7.27 lakhs at the rate of Rs.35 per acre applicable for paddy crops usually grown in these areas.

(iii) Some other instances of omission to raise demands for water rate by the Revenue Department noticed in audit are indicated below:



S1. No.	Name of taluk (and district)	Period	Amount of water rate not raised (In lakhs of rupees)	Remarks
1	Siddapura (Uttara Kannada)	1989-90 to 1991-92	1.55	Demand statements not received from the Irrigation Officer
2.	Sirsi (Uttara Kannada)	1986-87 to 1991-92	4.77	Revised demand statements after rectifying the defects not received from the Irrigation Officer
3	Udupi (Dakshina Kannada)	1989-90 and 1990-91	0.81	Demand statement not received from the Irrigation Officer
4	Shahapur (Gulbarga)	1989-90 to 1991-92	4.08	-do-
		Total	11.21	

(iv) Under the Karnataka Irrigation (Levy of Water Rates) Rules, 1965, if water is supplied from any lift irrigation work owned and maintained by Government, water rate is leviable at thrice the normal rate where water is supplied for growing sugarcane or paddy crop and at twice the normal rate where water is supplied for growing other crops.

In one taluk in Uttara Kannada district, demand statements of water rate amounting to Rs.1.32 lakhs for water supplied from lift irrigation works for a total area of 1994 acres of land between 1987-88 and 1991-92, received from the Irrigation Department were not taken to demand in the Demand, Collection and Balance Statement resulting in non-realisation of revenue amounting to Rs.1.32 lakhs.

#### (c) Grant of inadmissible exemption

According to Government notification dated 6th March 1984, where water is supplied, made available or used for irrigating any land which had not been irrigated by water before coming into force of the Rules on 1st July 1965, no water rate shall be levied for the first five years from the date water is supplied, made available or used for irrigation of such lands.



In one Irrigation Division (No.4 Ghataprabha), water for irrigation purpose was first let out during 1985-86 and, as such, water rate was leviable for water made available from 1990-91 onwards. It was, however, noticed that no water rate was levied for 1513 hectares of land for Rabi crop of 1990-91 on the ground that no water was released for Rabi crop of 1987-88. This was not in order as the period of first five years provided in the Government notification expired in 1989-90. The grant of inadmissible exemption in the above case resulted in loss of revenue amounting to Rs.75,417.

**(d) Non-levy, short levy and non-booking of penal water rate**

Under the Karnataka Irrigation Act, 1965, and the Rules made thereunder, the Irrigation Officer is required to notify the kinds of crops to be grown on lands to which water is supplied from irrigation works and the period of sowing such crops. According to Government notification dated 24th July 1985, for violation of the prescribed cropping pattern and for unauthorised use of water, penal water rate is leviable at 10 times and 15 times the normal water rate, respectively.

(i) It was observed that though sugarcane and paddy were strictly prohibited to be grown in specified seasons during 1987-88 to 1991-92, in three taluks (Nanjangud, Mudhol and Narasipura), the said crops were grown over a total area of 22,487 acres during these years and the Irrigation Officers levied only normal water rate and not the penal water rate for violation of cropping pattern. This resulted in non-levy of penal water rate amounting to Rs.97.78 lakhs.

(ii) The Irrigation Officer of a sub-division (No.4 Canal Sub-division, Sasuvehalli), levied penal water rate for violation of cropping pattern and for unauthorised use of water in a total area of 17,212 acres during the period 1987-88 and 1988-89 at 5 times and 10 times the normal water rate instead of at 10 times and 15 times as aforesaid resulting in short-levy of penal water rate amounting to Rs.28.59 lakhs.

(iii) Demand statements of penal water rate in respect of 4 taluks (Gangavathi, Krishnarajnagar, Bellary and Malavalli), for the period 1988-89 to 1991-92 received from the Irrigation Officers between August 1989 and October 1992 were not booked and collected (January and February 1993) by the Tahsildars concerned resulting in non-collection of penal water rate to the tune of Rs.419.86 lakhs.



## B. Water rate for non-agricultural purposes

Under the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 and the Rules made thereunder, water rate for water used for non-agricultural purposes, such as, domestic purpose, industrial purpose etc., is determined and collected directly by the Irrigation Department. The rates in these cases depend on the quantity and purpose and are Rs.150 and Rs.700 per one MCFT of water used for domestic purpose and industrial purpose, respectively.

### (a) Supply of water to the Hubli-Dharwad Municipal Corporation

As per the scheme sanctioned in Government order dated 20th February 1980, water for drinking purposes required by the Hubli-Dharwad Municipal Corporation is being drawn from the Malaprabha Reservoir by the Karnataka Urban Water Supply and Drainage Board since 1983-84. No agreement laying down terms and conditions of supply of water, payment of water rate etc., has been executed by the Corporation or by the Board.

The Corporation, the sole beneficiary of the water works, is collecting water charges from consumers. However, demand for water rate on the quantity of water drawn by the Corporation for the period from 1983-84 to 1988-89 amounting to Rs.3.65 lakhs raised by the Irrigation Department in March 1990 has not been paid by the Corporation. The Board also stated (February 1993) that it was acting as an agent of the Corporation and was hence not responsible for remitting the water rate.

Further, no assessment of the water rate leviable for the period 1989-90 to 1991-92 has been made by the department so far (April 1993).

### (b) Other cases of omissions/delays in collection of water rate

Some other important cases of omissions/delays in collection of water rate in respect of water drawn for non-agricultural purposes are indicated below:



Sl. No.	Name of the Institution drawing water	Source from which drawn	Water rate pending collection		Remarks
			Period	Amount (In lakhs of rupees)	
1.	Karnataka Power Corporation (for Raichur Thermal Power Station)	Krishna river	1984-85 to 1991-92	11.85	Issues, such as fixing a device for measuring water, reckoning the water, if any, returned to the river etc., remain unresolved
2.	<u>Sugar factories</u>				
(i)	Pandavapura	Visweswariah Canal	1989 to 1992	0.44	
(ii)	Hiriyur	Vanivilas Canal	1972-73 to 1986-87	2.62	
3.	Mysore Paper Mills Ltd ,	Bhadra river	1979-80 to 1991-92	48.97	No agreement as regards terms and conditions of supply of water, payment of water rate, etc., has been executed by the company.
4.	Mandya National Paper Mills Ltd.	Krishnaraja-sagar Right Bank Canal	1986-87 to 1991-92	1.83	
5.	Shimoga Milk Dairy	Bhadra Reservoir-Left Bank Canal	October 1975 to August 1990	0.08	Demand for water rate for subsequent period not raised.
6.	12 Town Municipal Councils/ City Corporations	Various sources	1976-77 to 1991-92	102.64	
		<b>Total</b>		<b>168.43</b>	

**C. Lack of co-ordination between Irrigation Department and Revenue Department**

In view of the unsatisfactory operation of dual control and lack of co-ordination between Irrigation and Revenue Departments, while considering paragraphs 6.3 and 6.2 respectively of the Reports



(Revenue Receipts) of the Comptroller and Auditor General of India for the years 1983-84 and 1984-85, the Committee on Public Accounts (1988-89), in paragraph 1 of its thirty-eighth Report had recommended that the functions relating to assessment of demands and their collection be entrusted to one agency namely the Irrigation Department. This recommendation has not been implemented so far. Lack of co-ordination between the two departments continues. Some instances are indicated below:

(a) A comparative study of the records in the Irrigation and Revenue Departments in one district (Raichur) revealed that though the total demands of water rate of the Irrigation Department as per their demand statements for the period 1987-88 to 1991-92 amounted to Rs.1225.19 lakhs, the demands actually booked by the Revenue Department worked out to only Rs.1003.55 lakhs indicating short booking of demands amounting to Rs.221.64 lakhs by Revenue Department.

(b) In one taluk in another district (Dharwad), the demand statements for the years 1987-88, 1988-89, 1990-91 and 1991-92 amounting to Rs.2.62 lakhs sent by the Irrigation Department were returned by the revenue authorities stating that the demands could not be raised against the landholders for collection as the joint inspections as required under the rule were not conducted. No further action was taken in the matter. This resulted in non-realisation of revenue amounting to Rs.2.62 lakhs.

(c) Demand statements of water rate in respect of 4 taluks (Krishnarajanagar, Hunsur, Krishnarajapet and Biligi) for the period 1990-91 and 1991-92 received from the Irrigation Officers between February 1991 and October 1992 were not booked and collected by the concerned revenue authorities (January 1993 to March 1993) resulting in non-collection of water rate to the tune of Rs.37.89 lakhs.

(d) Under the rules, the Irrigation Officer is required to prepare the statement of water rate payable by each landholder immediately after the joint inspection and forward it to the Tahsildar for collection.

It was, however, seen that in one taluk (Saundatti) the demand statements relating to 2 crops of 1989-90 involving water rate and penal water rate amounting to Rs.7.90 lakhs and one crop of 1990-91 involving water rate of Rs.0.90 lakh was received from the Irrigation Officer only on 16th March 1993.



The inordinate delay in the receipt of demand statements resulted in accumulation of arrears and postponement of collection of revenue to the tune of Rs.8.80 lakhs.

**D. Improper maintenance of records**

(a) A review of the Demand Collection and Balance statements (DCB statements) in the taluk offices revealed that demands of water rate were reduced without indicating any authority for doing so in the instances noted below:

(i) In one taluk (Koppal), Rs.10.71 lakhs relating to normal water rate and Rs.151.66 lakhs relating to penal water rate were reduced in the DCB statements during the period 1987-88 to 1989-90 without recording any reasons for such reductions.

(ii) In Hospet taluk, the opening balance in the DCB statement for 1989-90 in respect of normal water rate was increased and the same in respect of penal water rate was reduced by Rs. 2.93 lakhs and Rs.14.86 lakhs respectively resulting in net reduction of Rs.11.93 lakhs in the demand, in order that the balances agreed with the Deputy Commissioner's figures.

(iii) In Malavalli taluk, penal water rate for the period 1987-88 and 1988-89 amounting to Rs.23 lakhs was taken in the DCB statement in February 1990 and the same was deducted from the statement subsequently while arriving at the opening balance for July 1991 without indicating any reasons therefor.

(b) In respect of water supplied for non-agricultural purposes, no consolidated record detailing the water rate due, recovered and outstanding is maintained by the Irrigation Department. No system or procedure exists for monitoring the levy and collection of these dues at the apex level. The Government stated (June 1993) that the details were available at the Executive Engineers level and that a compilation of the same for the State as a whole was not available.

The above points were brought to the notice of the departmental officers concerned, between January 1993 and April 1993 and reported to Government in June 1993 and followed up by reminders; their replies have not been received (December 1993).



### 6.3. Non-levy or short levy of maintenance cess

Under the Karnataka Irrigation Act, 1965, an annual maintenance cess of Rs.4 per acre of land in the area benefited by any irrigation work maintained by Government is to be levied. However, where water is not made available for the use of any land for a period of not less than 2 consecutive years, maintenance cess is not leviable in respect of such land during the said period. Further, as per the Karnataka Irrigation Rules, 1965, the Tahsildar concerned is the authority responsible for determining and levying the maintenance cess.

In 2 taluks falling in the 2 districts of Uttara Kannada and Raichur, in respect of 2.26 lakh acres of land benefited by irrigation works maintained by Government, maintenance cess amounting to Rs.16.94 lakhs as detailed in the table below was either not levied or levied short for the years between 1986-87 and 1991-92:

Sl. No.	Name of the taluk (and district)	Areas of land benefited (In acres)	Year	Non-levy/ short levy (In lakhs of rupees)
1.	Siddapura (Uttara Kannada)	2,904	1986-87 to 1991-92	0.55
2.	Manvi (Raichur)	2,22,866	1987-88 to 1989-90	16.39
	Total	2,25,770		16.94

These cases were pointed out to the department between March 1992 and August 1992 and were reported to Government between June 1992 and September 1992 followed up by reminders; their replies have not been received (December 1993).

### 6.4. Non-recovery or short recovery of conversion fine

Under the Karnataka Land Revenue Act, 1964 and the rules framed thereunder, when any land assessed or held for the purpose of agriculture is permitted to be used for any purpose unconnected with agriculture, conversion fine is leviable at the rate prescribed on



the basis of the area of the land, purpose for which it is used and the place in which the land is situated. Further, when any land assessed or held for the purpose of agriculture has been diverted or used for any other purpose without the permission of the Deputy Commissioner, conversion fine at the prescribed compounded rate is leviable.

(i) In a taluk in Bidar district, based on applications received in January 1990, permission for conversion of 8 acres of agricultural land for the purpose of locating a Khandasari Sugar Factory was granted in March 1990. Verification report of the Tahsildar (February 1990), however, indicated that the land was actually being used for manufacture of Khandasari Sugar for the past several years without obtaining the necessary permission and, as such, conversion fine at compounded rate of Rs.1.20 per square foot amounting to Rs.4.18 lakhs was recoverable as against conversion fine at the normal rate of 12 paise per square foot amounting to Rs.41,817 actually recovered. This resulted in short recovery of conversion fine of Rs.3.76 lakhs.

This was pointed out to the department in August 1992 and was reported to Government in November 1992 followed up by reminders; their replies have not been received (December 1993).

(ii) In a taluk in Raichur district, in 6 cases, though agricultural land admeasuring 3,93,347 square feet was used for residential purposes without obtaining prior permission, conversion fine at compounded rate amounting to Rs.94,403 leviable as aforesaid (between 1988-89 and 1990-91) was not levied.

On this being pointed out in audit (March 1992), the Tahsildar stated that necessary recovery would be made from the parties concerned. Further report has not been received (December 1993).

The case was reported to Government in June 1992 followed up by reminders; their reply has not been received (December 1993).



## CHAPTER 7

## OTHER TAX RECEIPTS

## A. STAMP DUTY AND REGISTRATION FEES

## 7.1. Results of audit

Test check of documents registered in the offices of the Registrars and Sub-Registrars conducted in audit during the year 1992-93, disclosed under-assessments of stamp duty and registration fees amounting to Rs.84.19 lakhs in 137 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Incorrect grant of exemption	46	37.18
2. Short levy/non-levy of stamp duty and registration fee	69	10.60
3. Other irregularities	<u>22</u>	<u>36.41</u>
Total	137	84.19

During the course of the year 1992-93, the concerned department accepted under-assessments, failure to raise demands etc., of Rs.14.82 lakhs involved in 38 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.21.81 lakhs are given in the following paragraphs.

## 7.2. Incorrect grant of exemption

Under the Karnataka Stamp Act, 1957, the State Government may, by rule or order published in the official Gazette reduce or remit, whether prospectively or retrospectively, in the whole or any part of the State of Karnataka, if in the opinion of the State Government it is necessary in public interest so to do, the duties with which any particular class of instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such classes are chargeable. A notification



issued by the Government in November 1986 provided for exemption from payment of stamp duty and registration fee of the instruments to be executed by the Karnataka State Co-operative Housing Federation (KSCHF), Bangalore in favour of the Life Insurance Corporation of India (LIC) creating a floating charge on the present and future properties/assets of the Federation pertaining to loans that were likely to be drawn by the Federation from the said Corporation to the extent of Rs.5 crores every year. Government clarified (May 1989) that the above notification applied to the financial year (i.e., from 1st April to 31st March).

In a sub-registry office in Bangalore city, two documents executed by the KSCHF in favour of the LIC in April 1987 and March 1988 for loans of Rs.4 crores and Rs.3 crores respectively were registered without realising stamp duty and registration fee. As the two loans amounting to Rs.7 crores were drawn in the same financial year (1987-88) and exceeded the prescribed limit of Rs.5 crores specified in the aforesaid notification, stamp duty and registration fee on the loan of Rs.2 crores, amounting to Rs.14 lakhs were required to be levied and collected.

On this being pointed out in audit (September 1988), the department initiated proceedings (March 1991) to recover the amount due. No further progress has been made (November 1993).

The case was reported to Government in November 1988 followed up by reminders; their final reply has not been received (December 1993).

### 7.3. Short levy of stamp duty and registration fee on lease deed

Under the Karnataka Stamp Act, 1957, the consideration affecting the chargeability of any instrument with duty shall be fully and truly set forth therein. In the case of instruments relating to immoveable property, the instrument shall set forth the annual land revenue, the annual rental or gross assets, the local rates, municipal or other taxes, if any, to which such property may be subject, and any other particulars which may be prescribed.

In case of lease, where the lease purports to be for a term exceeding 20 years but not exceeding 30 years, stamp duty is leviable at the rate applicable to conveyance on the market value equal to 3 times the amount or value of the average annual rent reserved. Also, where the lease is granted for money advanced in



addition to rent reserved, the amount of advance also is to be added to the market value.

In Government order dated 22nd August 1991, sanction was accorded for leasing of land measuring 150' x 300' belonging to a temple in Bangalore city in favour of an Educational Trust for a period of 30 years for the purpose of construction of a general hospital subject to payment of goodwill of Rs.30 lakhs and payment of lease rent of Rs.12,000 per annum with 5 per cent increase every year during the subsistence of the lease. As per the terms and conditions of lease stipulated in the Government order, the lessee was required to pay the goodwill of Rs.30 lakhs by way of demand draft in favour of the temple and also pay one year's lease rent in advance of the date of execution of the lease agreement. The Commissioner for Religious and Charitable Endowments was required to incorporate all the terms and conditions of the lease in the lease deed to be executed by him in favour of the Trust.

It was observed in audit (October 1992) that the lease deed in respect of the above lease, registered in the Sub-registry Office, Basavanagudi in Bangalore city during 1991-92 did not incorporate the conditions regarding payment of goodwill of Rs.30 lakhs and payment of one year's lease rent in advance. These omissions and incorrect calculation of average annual rent resulted in short levy of stamp duty and registration fee amounting to Rs.3.61 lakhs.

This was pointed out to the department in October 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).

#### **7.4. Short levy due to incorrect classification of instruments**

Under the Karnataka Stamp Act, 1957; conveyance includes a conveyance on sale and every instrument by which property whether moveable or immovable is transferred inter vivos and which is not otherwise specifically provided for by the schedule and mortgage deed includes every instrument whereby for the purpose of securing money advanced or to be advanced by way of loan, or an existing or future debt or the performance of an engagement, one person transfers, or creates to or in favour of another, a right over or in respect of specified property and shall be chargeable to duty and fee at the rates applicable to conveyance or mortgage.



(a) In a sub-registry office in Bangalore district, three documents in respect of transfer of immoveable properties for which full consideration of Rs.5.75 lakhs was received by the sellers and the properties transferred to the purchaser and taken possession of by him, were registered in 1989-90 treating them as 'agreements for sale' instead of as conveyance resulting in short levy of stamp duty amounting to Rs.74,720.

This was pointed out to the department in April 1990 and was reported to Government in May 1990 followed up by reminders; their replies have not been received (December 1993).

(b) In a sub-registry office in Bidar district, two instruments mortgaging immoveable properties for securing loans amounting to Rs.3.95 lakhs from a bank were registered in March 1989 as 'power of attorney' instead of as mortgage deeds resulting in stamp duty and registration fee being levied short by Rs.55,096.

This was pointed out to the department in January 1990 and was reported to Government in March 1990 followed up by reminders; their replies have not been received (December 1993).

(c) Under the Karnataka Stamp Act, 1957, an instrument of partition means any instrument whereby co-owners of any property divide or agree to divide such property in severalty. Hence there can be partition only among co-owners of property.

In the Sub-registry Office, Jayanagar in Bangalore city, a document was registered in April 1991 as partition deed by a husband and wife of their self-acquired property worth Rs.5 lakhs, distributing it among them and their two sons and one daughter and it was assessed to duty as a partition deed. As the property belonged to the husband and wife and as their children were not co-owners, the document was rightly classifiable as settlement and assessable to duty as such. The incorrect classification resulted in short levy of stamp duty and registration fee amounting to Rs.40,500.

This was pointed out to the department in August 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).



**7.5. Short levy due to incorrect determination of consideration**

(a) Under the Karnataka Stamp Act, 1957, conveyance includes a conveyance on sale and every instrument by which property, whether moveable or immoveable is transferred.

In the Sub-registry Office, Yadgir in Gulbarga district, as per a sale deed registered during 1989-90, the moveable and immoveable properties comprising land, building and plant and machinery were transferred for a consideration of Rs.6.07 lakhs. But stamp duty and registration fee were levied only on Rs.1.37 lakhs representing the value of land and building and the balance consideration of Rs.4.70 lakhs in respect of plant and machinery was not assessed to duty and fee. This incorrect determination of consideration in the sale deed resulted in short levy of stamp duty and registration fee amounting to Rs.61,100.

On this being pointed out in audit (February 1992), the department stated (December 1993) that order for recovering the amount has been passed and that the progress of recovery would be intimated.

The case was reported to Government in July 1992; their reply has not been received (December 1993).

(b) Under the Karnataka Stamp Act, 1957, where a lease of a mine is granted by or on behalf of the Government in which royalty is received in lieu of rent, stamp duty is leviable on the estimated royalty. Further, where the lease purports to be for a term exceeding 10 years but not exceeding 20 years, stamp duty is leviable as for conveyance for a market value equal to twice the amount or value of the average annual rent reserved.

In a sub-registry office in Bellary district, in the case of a mining lease deed for a term of 20 years registered in January 1992, stamp duty and registration fee were collected on the anticipated royalty (Rs.4,09,200) instead of on twice the amount of anticipated royalty. This resulted in short collection of stamp duty and registration fee amounting to Rs.49,340.

This was pointed out to the department in February 1993 and was reported to Government in April



1993 followed up by reminders; their replies have not been received (December 1993).

#### 7.6. Irregular grant of remission/reduction

As per the orders issued by Government from time to time, stamp duty is remitted on instruments executed by small and marginal farmers, as defined by National Bank for Agricultural and Rural Development (NABARD) for loans advanced up to Rs.15,000, while a reduction of 50 per cent in stamp duty was allowed up to 31st March 1991 for consideration beyond Rs.15,000. Government also prescribed that for availing the remission/reduction, a certificate from the credit agency concerned in the prescribed form regarding the status of the loanee (i.e., small/marginal farmer) was to be enclosed to the agreement for acceptance by the Registering Authority.

In the Sub-registry Office, Chikkodi in Belgaum district, in respect of 12 documents, remission/reduction of stamp duty, as aforesaid was allowed during 1990-91 without insisting on the prescribed certificates regarding the status of the loanees and in one case where remission of stamp duty was allowed, the certificate was not acceptable as the party was not actually a small/marginal farmer and in yet another case though the certificate was produced, stamp duty at the reduced rate of 50 per cent was not levied on the loan amount in excess of Rs.15,000. This resulted in non-levy and short levy of stamp duty amounting to Rs.66,670.

This was pointed out to the department in November 1992 and was reported to Government in February 1993 followed up by reminders; their replies have not been received (December 1993).

#### 7.7. Non-levy of fine

Under the Registration Act, 1908, a document other than a will is required to be presented for registration within 4 months from the date of its execution, failing which fine as prescribed under the Karnataka Registration Rules, 1965, is leviable for the delay involved.

In a sub-registry office in Bangalore South, in the case of 4 documents presented for registration in 1991-92, though there were delays ranging between 5 days and 2 months, after the expiration of the time allowed under the Act, the documents were registered



without levying fine for the delays involved. This resulted in non-levy of fine amounting to Rs.71,920.

This was pointed out to the department in December 1992 and was reported to Government in July 1993 followed up by reminders; their replies have not been received (December 1993).

## B. ENTRY TAX

### 7.8. Results of audit

Test check of records in Entry Tax Offices, conducted in audit during the year 1992-93, disclosed under assessments of tax amounting to Rs.8 lakhs in 26 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Incorrect grant of exemption	4	2.30
2. Application of incorrect rate of tax	15	3.51
3. Other irregularities	<u>7</u>	<u>2.19</u>
Total	26	8.00

During the course of the year 1992-93, the concerned department accepted under-assessments, failure to raise demands etc., of Rs.0.73 lakh involved in 3 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs.4.38 lakhs are given in the following paragraphs.

### 7.9. Non-levy and short levy of entry tax

Under the Karnataka Tax on Entry of Goods Into Local Areas for Consumption, Use or Sale Therein Act, 1979, on the entry of goods of the following description into local area, tax was leviable at the rates noted against each:



Sl. no.	Description of goods	Rate of tax	Effective period
(1)	(2)	(3)	(4)
1.	Coal and coke (excluding charcoal)	1 per cent	From 1st April 1983 to 23rd October 1984
2.	Industrial gases (other than LPG)	2 per cent	From 1st April 1982 to 30th April 1992
3.	Industrial machinery and parts and access- ories thereof	2 per cent	From 1st April 1982 to 30th April 1992
4.	Packing materials	1 per cent	From 1st April 1983 to 31st March 1987
5.	Sugar other than sugar candy, confectionery and the like	2 per cent	From 1st April 1982

Further, no assessment for any year shall be made after a period of three years from the date on which return for that year is submitted by a dealer.

(a) In Gulbarga district, an assessee purchased and brought into local area, coal, industrial gases, industrial machinery and packing materials amounting to Rs.78.91 lakhs during the years 1982-83 to 1984-85 on which entry tax at the aforesaid rates was leviable. Though full particulars were made available by the assessee, the assessments were not finalised by the assessing authority within the prescribed time limit of three years, resulting in non-levy of tax and resultant loss of revenue amounting to Rs.1.06 lakhs.

This was pointed out to the department in November 1992 and was reported to Government in May 1993 followed up by reminders; their replies have not been received (December 1993).

(b) In Mysore city, while finalising the assessments (November 1991) of a co-operative wholesale store for the assessment years (co-operative years) 1981-82 and 1982-83, entry tax on the purchase turnover







1	2	3	4	5	6	7	8	9
3.	Bangalore district	All raw materials, component parts and other inputs used in the manufacture of an intermediate or finished product	1988-89	7.26	30.01	22.75	2	0.46
4.	Belgaum district	Beedies	1989-90 and 1990-91	145.17	167.05	21.88	2	0.44
Total								1.81

On these being pointed out in audit (between May 1992 and February 1993), the department stated (August 1993) that the assessment had been revised in one case (Sl. No. 1) and thereupon the assessee preferred an appeal before the departmental appellate authority. Further report in respect of this case and replies in respect of the remaining cases have not been received (December 1993).

The cases were reported to Government (between January 1993 and June 1993) followed up by reminders; their reply has not been received (December 1993).

#### 7.10. Non-levy of penalty

Under the Karnataka Tax on Entry of Goods Into Local Areas For Consumption, Use or Sale Therein Act, 1979 and the Rules made thereunder, if an assessee fails to pay the tax demanded from him within 21 days from the date of service of the demand notice, he shall pay penalty equal to one per cent of the amount of tax remaining unpaid for each month for the first three months after the expiry of the time prescribed and at two and one half per cent of such amount for each month subsequent to the first three months, so long as the default continues.

No penalty was imposed on payment of tax amounting to Rs.43,281 for the years 1980-81, 1984-85 and 1985-86 by an assessee in Bangalore city and Rs.78,806 for the years 1987-88, 1988-89 and 1989-90 by another assessee in Bangalore district after delays ranging from 1 year and 5 months to 3 years and 4 months, though penalty of Rs.70,494 was leviable.



These were pointed out to the department in March 1993 and May 1993 and were reported to Government in June 1993 and July 1993 followed up by reminders; their replies have not been received (December 1993).



## CHAPTER 8

## NON-TAX RECEIPTS

## FOREST RECEIPTS

## 8.1. Results of audit

Test check of accounts of the Forest Department, conducted in audit during the year 1992-93 disclosed non-recovery and short recovery of forest receipts amounting to Rs.1141.03 lakhs in 71 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-recovery of royalty	14	447.19
2. Short collection of lease amount	24	67.57
3. Non-recovery or short recovery of fees	14	19.01
4. Non-recovery or short recovery of taxes	7	14.23
5. Other irregularities	<u>12</u>	<u>593.03</u>
Total	71	1141.03

During the course of the year 1992-93, the concerned department accepted under-assessments, failure to raise demands etc., of Rs.1131.08 lakhs involved in 68 cases which had been pointed out in audit in earlier years. A few illustrative cases and the results of a review on 'working of timber coupes and timber depots' involving Rs.427.75 lakhs are given in the following paragraphs.

## 8.2. Working of timber coupes and timber depots

## 8.2.1. Introduction

The working of the Forest Department is governed by the provisions in the Karnataka Forest Act, 1963, the Karnataka Forest Rules, 1969, the Karnataka Forest Manual, the Karnataka Forest Code, the Karnataka



Forest Account Code and instructions issued by the Government and the head of the department from time to time.

Timber coupes are worked in accordance with the Working Plans and the produce is disposed of through the timber depots by auction sales, retail sales and releases against specific allotment by Government and the Principal Chief Conservator of Forests.

#### **8.2.2. Organisational set-up**

The Principal Chief Conservator of Forests is the head of the department. At present, the Principal Chief Conservator of Forests is assisted by 4 Chief Conservators of Forests and one Additional Chief Conservator of Forests.

The department is divided into 9 circles (7 territorial and 2 others) each headed by a Conservator of Forests. Out of the 7 territorial circles consisting of 33 divisions, 4 circles (Kanara, Kodagu, Mysore and Shimoga) having 20 divisions were mainly engaged in the production of timber. 42 timber depots headed by Assistant Conservators of Forests or Range Forest Officers were attached to these divisions. Besides, there are 5 working plan divisions, each headed by a Deputy Conservator of Forests, responsible for preparation of working plans.

#### **8.2.3. Scope of audit**

A test check of the records of 6 divisions and 9 depots attached to them in Kanara, Kodagu, Mysore and Shimoga circles relating to the period from 1987-88 to 1991-92 was conducted during January 1993 to April 1993, with a view to ascertaining the efficiency of the working of the timber coupes and timber depots in the State.

#### **8.2.4. Highlights**

(i) Disposal of timber and firewood in auction sales below the average rates in 3 depots in April 1989, May 1990 and November and December 1991 resulted in loss of revenue of Rs.8.63 lakhs.

(Paragraph 8.2.8)



(ii) Auction sales of teak poles at less than the seigniorage rates in 9 depots between November 1988 and January 1992 resulted in loss of revenue of Rs.31.07 lakhs.

(Paragraph 8.2.9)

(iii) Failure to adopt common selling rate for rosewood logs sold to a company during 1987-91 resulted in loss of Rs.18.78 lakhs.

(Paragraph 8.2.13)

(iv) Loss on account of non-recovery of selection charges in respect of timber sold in 7 depots during 1987-91 amounted to Rs.13.47 lakhs.

(Paragraph 8.2.14)

(v) Failure of a company to remove the rosewood logs selected by it from 5 depots during August and September 1991 resulted in locking up of revenue of Rs.49.33 lakhs besides causing deterioration of the material.

(Paragraph 8.2.15)

(vi) Delay in remittance of demand drafts (Rs.584.06 lakhs) and call-deposit receipts (Rs.339.87 lakhs) relating to the period between April 1987 and December 1991 by 8 depots ranged between 25 days and 1139 days. In one depot, call-deposit receipts worth Rs.46.77 lakhs shown as remitted to treasury in November 1989 were actually remitted only on 13th January 1993.

(Paragraph 8.2.19)

#### 8.2.5. Production trends and revenue contribution

Sale of timber and firewood from the depots constitutes the major source of revenue to the department, as given in the table below:



Year	Production of		Total revenue receipts of the department	Revenue realised from sale of timber and firewood from depots
	Timber	Firewood		
	(Cu.m)	(Cu.m)		
1987-88	145259	421707	52.51	42.44
1988-89	94913	401294	46.40	34.89
1989-90	97409	407962	51.57	39.13
1990-91	94540	312715	58.18	42.08
1991-92	70971	315988	61.69	44.67

#### 8.2.6. Arrears in the preparation of working plans

Under the rules, timber coupes are to be worked as per the prescriptions in the working plans approved by the Government which normally cover a period of 10 to 30 years. In the absence of working plan, working scheme for a locality has to be prepared. Out of the 20 divisions mainly engaged in the production of timber, working plans are available for 11 divisions, working plans for 7 divisions are in the process of compilation and for the remaining 2 divisions working plans are yet to be drawn up.

Of the 6 divisions covered in test check, 3 divisions did not have approved working plans or working schemes. The working plan of Shimoga division expired in 1950 and a plan drawn up for the period 1982-83 to 1991-92 was not approved by the Government. In the case of Haliyal division, no working plan exists in respect of high forest blocks I to IX and XX. For Karwar division, no working plan has been drawn up after the working plan of Karwar and Honnavar divisions expired in 1987. No approved working schemes were available and the coupes were worked on *ad hoc* basis by all the 3 divisions. This resulted in unplanned exploitation of forest resources.

#### 8.2.7. Short delivery of firewood

Under the Karnataka Forest Rules, 1969, all materials prepared in a contract area are required to be transported to the forest depot under pass issued by the department. As per the conditions of logging contract, a contractor is required to transport the materials from the contract area to the depot and duly



stack them. For default, the value of materials not delivered shall be recoverable from the contractor at market rates.

In three depots (Hunsur, Kalbetta and Kirwatti), it was noticed (April 1993 and September 1993) that out of 3011.522 cubic metres of firewood shown to have been transported as per passes from coupes to the depots between August 1987 and May 1991, only 2538.109 cubic metres of firewood was finally accounted for in the depots after stacking, indicating short delivery of 473.413 cubic metres, valued at Rs.1.23 lakhs. No action was, however, taken by the divisions to recover the loss from the contractors (September 1993).

**8.2.8. Loss of revenue due to disposal of timber and firewood below the average rate**

The rule for fixing upset price which is meant as a guide to the sale-conducting officer for deciding the sale of forest produce provides that upset price be calculated based on the average sale price realised in the three preceding sales. The Conservator of Forests, Kanara circle had also pointed out (April 1991 and July 1992) that the upset prices fixed by the depot officers had no relationship with 3 years average rates and instructed them to ensure that upset prices were nearer to the 3 years average rates.

Scrutiny of the upset prices sanctioned for the auction sales held in April 1989, May 1990, November 1991 and December 1991 in 3 depots of Kanara circle disclosed that in a large number of cases the upset prices fixed were less than the average rates by 25 to 50 per cent. In 348 cases included in the above auction sales, the rates secured were less than the average rates resulting in loss to the tune of Rs.8.63 lakhs.

**8.2.9. Loss due to disposal of teak poles at less than the seigniorage rate**

Teak poles are classified into 6 categories: Ia, Ib, IIa, IIb, IIIa and IIIb, based on their length and girth at the butt-end. The seigniorage rates (value of poles excluding working cost) fixed by the Principal Chief Conservator of Forests for these categories of poles with effect from 1st April 1988 were Rs.214.50, Rs.171.60, Rs.161.70, Rs.64.35, Rs.64.35 and Rs.33 respectively. The upset prices fixed for 11 auction sales held between November 1988 and January 1992 in 9 depots did not cover even the



seigniorage value of the poles. Sale of 45,503 poles of various categories in 9 depots in the above auction sales at less than the seigniorage rates resulted in loss of revenue of Rs.31.07 lakhs.

**8.2.10. Violation of sale conditions and consequent loss in the disposal of defaulters' material**

The conditions of auction sale of timber stipulate, *inter alia*, payment of one-fourth value of the purchase money inclusive of earnest money deposit in addition to other statutory taxes on the full purchase money by the purchaser immediately on conclusion of the sale and payment of the balance within six calendar months (within 3 calendar months from 1st June 1991) after the closure of the sale or before removal of the material, whichever is earlier. Failure to pay the dues and remove the lots as above will result in the lot or lots being resold at the risk and cost of the purchaser who shall be liable to make good any loss arising out of such resale. The loss sustained shall be recoverable alongwith interest on the balance purchase money as arrears of land revenue under section 109 of the Karnataka Forest Act, 1963. Government reiterated the above instructions in February 1979 and September 1982.

(i) In 50 cases involved in sales conducted between January 1988 and December 1991 in 7 depots, sales were confirmed by the Deputy Conservators of Forests after collecting only Rs.8.63 lakhs as against Rs.14.81 lakhs due on the dates of sale. The balance was collected belatedly; the delay ranged from 7 days to 90 days.

(ii) Scrutiny of records relating to resale of defaulters lots disclosed loss of Rs.6.15 lakhs in 4 depots from September 1984 to June 1992. The department reported (March 1993) that in 2 cases involving Rs.2.59 lakhs, certificates for recovery of Government dues were issued (February 1991) to the revenue authorities concerned to recover the amounts as arrears of land revenue. In respect of the remaining cases, the details of action taken have not been received (May 1993).

**8.2.11. Loss of revenue due to delay in fixing seigniorage rate**

Under the Act, the Principal Chief Conservator of Forests is empowered to fix the seigniorage rate for timber, firewood, etc. By an order issued on 23rd May 1988, the Principal Chief



Conservator of Forests enhanced retrospectively from 1st April 1988 the seigniorage rate for various kinds of timber, firewood, etc. However, in 3 depots in Kanara circle, 334.017 cubic metres of timber, 4,500 cubic metres of firewood for industrial purposes and 1,740 cubic metres of firewood for domestic purposes were sold between 1st April 1988 and 30th June 1988 at the pre-revised rates. Belated approval of rates by Government and delayed communication of the rates by the department to the depots resulted in loss of revenue of Rs.2.44 lakhs inclusive of taxes.

#### **8.2.12. Revenue foregone due to fixation of different selling rates**

From 1st July 1989, the department fixed a lower selling rate for firewood meant for domestic consumption to be sold to the Karnataka State Forest Industries Corporation by adopting a lead of 50 kms for working out the transportation cost as compared to the selling rate fixed for sales to other societies, hostels, etc. by adopting a lead of 100 kms. When the disposal of firewood in a depot is from a common pool, there was no justification for adopting different leads. In respect of 5,620 cubic metres of firewood sold in two depots of Kanara Circle during 1989-92, the revenue foregone due to fixing of lower selling rate for sales to the above Corporation amounted to Rs.1.87 lakhs which constituted indirect subsidy to the Corporation.

#### **8.2.13. Loss of revenue due to non-fixation of common selling rates**

During 1986-87 to 1991-92, the Karnataka State Veeners Limited was allotted rosewood and plywood timber from various depots in different circles in the State by the Principal Chief Conservator of Forests subject to approval by the Government. While plywood timber was sold at the common rates sanctioned from time to time for the State, rosewood was sold at the highest rate obtained in the auction sale for each class of timber in the respective circles. It was observed in audit that fixing circle-wise rate was disadvantageous to the Government as (i) the rates fixed for same class and category varied widely from circle to circle, (ii) the company was allowed to select good logs and the left out logs were auctioned and the rate fixed represented the highest rate secured for such left out logs and (iii) unlike other kinds of timber, value of rosewood is based more on the quality and grains than on length and girth. In fact, in one of the divisions in Kanara circle, when the logs selected by the company were auctioned during September



1991 to assess the real value, the rates quoted were much higher than the upset prices fixed.

The department stated (September 1993) that circle-wise rates were fixed as the quality of rosewood varied from circle to circle. The reply is not tenable as a common schedule of rate for release of rosewood on retail sale has been fixed by the department from 1st April 1992 based on class and not on area. Further, in the case of other kinds of timber also, uniform schedule of rates for the State as a whole is in vogue.

Non-fixing of common selling rate resulted in loss of revenue of Rs.18.78 lakhs to Government in respect of 115.433 cubic metres of rosewood sold to the company during 1987-88 to 1990-91 from 3 depots in Kanara Circle and one depot each in Kodagu and Mysore circles.

#### **8.2.14. Non-recovery of selection charges**

During the period 1987-88 to 1990-91, rosewood and other kinds of timber valued at Rs.110.29 lakhs were sold on selection basis to the Karnataka State Veneers Limited, the Karnataka State Forest Industries Corporation and other industries and public from 7 depots of Kanara, Shimoga, Mysore and Kodagu circles for which recovery of selection charges at 10 per cent of their value was required to be effected. The depots did not, however, recover selection charges on a large number of logs sold to 3 companies and 9 private parties on the ground that either full lots or 75 per cent of the stacks were selected by the purchasers without disturbing the lots or stacks in which cases selection charges were not recoverable as per the circular instructions (June 1981 and January 1986) of the Chief Conservator of Forests. But the relevant records test checked in respect of 308 logs in the depots did not indicate that all the logs selected by the purchasers were either full lots or 75 per cent of the stacks and that they were allowed to select the logs only after the lots were properly measured and lotted in the depots as stipulated. Loss on account of non-recovery of selection charges in these cases amounted to Rs.13.47 lakhs inclusive of taxes.

#### **8.2.15. Locking up of revenue due to non-removal of reserved material**

In July 1991, the department with the approval of Government (June 1991), allotted from Kanara, Kodagu, Shimoga, Belgaum and Mysore circles 200



cubic metres of rosewood to the Karnataka State Veneers Limited for the year 1991-92 as requested by the company at the existing circle-wise rates plus 10 per cent extra over the price and taxes, pending sanction of final rates. Neither time limit for removal of the allotted material nor security deposit was, however, fixed.

The company selected 76 rosewood logs measuring 57,360 cubic metres from 5 depots of Kanara circle during August 1991 and September 1991 but failed to pay the amount as stipulated and to remove the material. When final rates were sanctioned by the department in April 1992, the company represented to Government (April 1992) that the rates were on the high side. On the advice of Government (May 1992) to take suitable action in the matter, the department revised and fixed (March 1993) a uniform selling rate for the supply of rosewood to the company throughout the State. However, the company has not removed the material so far (September 1993).

Thus, reserving and retaining the valuable material in the depots without specific time limit and absence of penal provision for default in payment and removal resulted in locking up of Government revenue of Rs.49.33 lakhs. The material had been lying in the depots exposed to deterioration from September 1991.

The department stated (September 1993) that proposal had been submitted to Government to cancel the allotment and the Conservator of Forests, Kanara circle had been instructed to dispose of the material in the next auction sale.

#### **8.2.16. Stock Accounts - Non-receipt of consolidated return**

As per the provisions in the Karnataka Forest Account Code, every Depot Officer shall maintain a register of receipts, disposals and balance of timber and other forest produce received in his depot in the prescribed form and shall furnish the same to the Deputy Conservator of Forests before 20th of the following month. The Deputy Conservator of Forests is required to furnish a consolidated return of the division to the Conservator of Forests at the end of each month. It was observed (January 1993) from the records of the Conservator of Forests, Mysore circle, that consolidated returns from 1980-81 onwards had not been received from 2 divisions (Mysore and Chamarajanagar) and those from 1990-91 from one division (Kollegal). In the absence of the consolidated returns, shortages, if any, could not be



ascertained by the Conservator of Forests with reference to the ground balances certified by the officers nominated by him annually for physical check of stock in the 4 depots under these 3 divisions.

**8.2.17. Shortages noticed during physical verification of stock**

According to the Karnataka Forest Account Code, stock taking of timber in the depots shall be conducted annually for the period ending 30th September each year by the Deputy Conservator of Forests or any other officer authorised by the Conservator of Forests, who shall submit the stock taking report to the Conservator. Discrepancies and shortages, if any, found in stock taking are required to be investigated promptly and suitable action taken.

In 3 depots (Kollegal, Yerehalli and Alkola) as per the stock taking reports for the period ended 30th September 1991, 75 logs measuring 52.185 cubic metres of timber, 17.418 cubic metres of billets, 2,001 poles and 25,720 bamboos were found short as compared to the book balance.

The Conservator of Forests, Mysore Circle, instructed (November 1991) the Deputy Conservator of Forests, Kollegal division, to investigate the shortages and fix personal responsibility on the concerned staff and recover the loss. However, the value of shortages had not been assessed nor responsibility fixed so far (September 1993). Further report in respect of Alkola and Yerehalli depots has not been received so far (September 1993).

**8.2.18. Discrepancies in timber accounts**

In the timber depot at Hunsur, the monthly opening and closing balances in respect of rosewood had not been indicated from July 1988. 532 rosewood logs measuring 173.197 cubic metres had been shown as disposed of in September 1990 as per the consolidated stock account whereas the register of disposals for that month indicated disposal of only 5 logs measuring 2.596 cubic metres. The depot officer could not produce evidence of disposal (way-permits) for the remaining quantity. The excess accounting of 527 logs under disposals in the consolidated stock account of September 1990 reduced the balance which tallied with the balance found on the ground during stock taking. Account of private rosewood indicated an excess of 220 logs measuring 44.711 cubic metres. Thus, there was a net shortage of 307 logs measuring 125.890 cubic metres



valued at Rs.6.55 lakhs at the rate applicable to the lowest quality of rosewood as per the schedule of rates effective from July 1988.

The depot officer stated (April 1993) that these would be rectified. However, the discrepancies have not been investigated so far (September 1993).

#### B.2.19. Delay in remittance of money into treasury

The conditions of auction sale of timber in forest divisions, provide, *inter alia*, for the payment, by the purchasers, of the moneys payable by them on the date of sale and the balance payable subsequently, either in cash or by means of demand drafts. Though demand drafts are treated as cash, money does not accrue to Government unless they are remitted to bank/treasury and realised. According to the financial rules, all moneys received are required to be accounted for in Government accounts and paid into the treasury without undue delay.

In B depots attached to 5 divisions in Kanara, Mysore and Kodagu circles, a total amount of Rs.923.93 lakhs relating to auction sales of timber conducted between April 1987 and December 1991 was collected in the form of demand drafts (Rs.584.06 lakhs) and call-deposit receipts (Rs.339.87 lakhs) and subsequently paid into Government account on various dates between May 1987 and January 1993 after delays ranging from 25 days to 1139 days.

Of the above, in the timber depot at Joida attached to Karwar division in Kanara Circle, out of a total amount of Rs.54.65 lakhs being one-fourth value together with statutory taxes on full purchase money collected during the auction sale held in November 1989 and charged off in the cash book as having been remitted to treasury in the same month, call-deposit receipts worth Rs.46.77 lakhs were actually remitted into Government account on 13th January 1993 after a delay of 1139 days. Demand drafts worth Rs.7.88 lakhs had not been remitted into the treasury so far (February 1993).

The irregularity did not come to notice of the division due to non-observance of the codal provisions as under:

- (i) The demand drafts were neither entered in the Demand Draft Register nor their remittances into the treasury watched.



(iii) The incorrect entries regarding remittances of demand drafts into the treasury made in the cash book remained undetected as the depot officer did not ensure that valid challans were produced in respect of the demand drafts/call deposits charged off in the cash book as remitted.

(iii) The Divisional Officer did not reconcile the monthly receipts as per the treasury schedule with the divisional schedule of remittances.

In the timber depot at Kadra attached to Karwar division, details of remittances into treasury of 18 demand drafts valued at Rs.2.02 lakhs received in April 1987 were not available (February 1993).

The Deputy Conservator of Forests, Karwar division reported (July 1993) to the Conservator of Forests that all the call-deposit receipts and demand drafts of November 1987 sale in the timber depot at Joida had been got revalidated and remitted to treasury, that interest of Rs.26.31 lakhs had been demanded from the bank concerned for belated realisation of call-deposit receipts and that disciplinary action had been initiated against the delinquent officials concerned.

#### **8.2.20. Non-levy of taxes**

In respect of sales from depots, the sale price includes working cost and supervision charges at 10 per cent thereon besides seigniorage rate. In 3 depots in Kanara Circle, for timber and firewood sold to a private company during the period 1987-88 and 1988-89, forest development tax and sales tax amounting to Rs.1.46 lakhs and Rs.1.06 lakhs respectively were not levied on working cost and supervision charges.

#### **8.2.21. Short levy of forest development tax**

The rate of tax leviable for the timber supplied to industries was enhanced from 8 to 12 per cent on the amount of consideration from 1st April 1983. The Chief Conservator of Forests (General), however, issued instructions in September 1983 that tax on timber released to the Karnataka State Forest Industries Corporation be collected at the old rate of 8 per cent pending clarification by Government which has not been issued so far (April 1993). The short levy of tax on this account during 1987-91 amounted to Rs.2.74 lakhs in 6 depots (5 in Kanara circle and 1 in Shimoga circle).



**8.2.22. Non-recovery of income-tax**

According to Section 206 C of the Income-tax Act, 1961, amended in April 1989 with retrospective effect from 1st June 1988, income-tax at 5 per cent on the value including taxes and surcharge at the prescribed percentage was required to be recovered by the depot officers in respect of timber and firewood disposed of by sale, unless the purchasers produced certificate for no-collection of tax at source issued by the Income-tax Officers concerned.

In two depots (Joida and Kadra) during 1988-92, income-tax and surcharge amounting to Rs.4.94 lakhs and Rs.0.41 lakh respectively were not recovered in 85 cases though there was no evidence to show that the prescribed certificates were received in these cases.

**8.2.23. Non-recovery of interest on belated payment**

According to orders of Government issued from time to time, interest at 9 per cent for the first 90 days and penal interest at 18 per cent for default beyond 90 days are required to be levied and collected on all revenue remaining unpaid. The final rates payable by the Karnataka State Veneers Limited for the rosewood logs selected by them between 7th July 1987 and 6th July 1988 and 7th July 1988 and 6th July 1989 were sanctioned by the Principal Chief Conservator of Forests in September 1989. In Mundgod depot in Kanara circle, in respect of 36.392 cubic metres of rosewood released during September 1988, the division prepared the valuation statement for the differential value of Rs.2.25 lakhs in July 1990 and the company paid the same in July 1991. Interest and penal interest amounting to Rs.0.72 lakh calculated at the aforesaid rates from the date of sanction of the final rate to the date of payment (30th July 1991) was not levied and collected.

The above points were reported to Government in July 1993 followed up by reminders; their reply has not been received (December 1993).



### 8.3. Non-recovery of seigniorage rate, interest and penal interest

By an order issued in February 1986, Government accorded sanction for the recovery of arrears of seigniorage rate along with taxes thereon payable by certain industries for the forest raw materials supplied during the period 23rd February 1981 to 28th June 1982 in five equal annual instalments beginning from the financial year 1985-86. Interest on the arrears was chargeable at the rate of 5 per cent during the period from 23rd February 1981 to 13th January 1984 and at the rate of 10 per cent thereafter. Accordingly, the first instalment of arrears along with taxes and interest thereon was payable on or before 31st March 1986 (subsequently extended up to 30th June 1986) and the remaining instalments on or before 31st March each year from 1987 to 1990.

As per orders issued by Government from time to time in respect of revenue outstandings of the Forest Department in general, the rate of penal interest leviable was 18 per cent from 23rd September 1983.

In Madikeri and Mangalore divisions, arrears of seigniorage rate, taxes, interest and penal interest up to 31st March 1990 amounting to Rs.250.80 lakhs due from 19 wood-based industries (1 public sector unit: Rs.32.72 lakhs and 18 private parties: Rs.218.08 lakhs) in respect of supplies made between 23rd February 1981 and 28th June 1982 were not recovered.

On this being pointed out in audit (March 1992 and May 1992), the department stated (November 1993) that proposals to file civil suits against the defaulting industries had been submitted to Government in 8 cases and were yet to be finalised in 10 cases and that the amount was being recovered from the security deposit in the remaining one case. Report regarding further progress has not been received (December 1993).

The cases were reported to Government in June-July 1992 followed up by reminders; their reply has not been received (December 1993).

### 8.4. Loss of revenue due to short levy of forest development tax

By an amendment to the Karnataka Forest Act, 1963, forest development tax on the value of specified



minor forest produce sold to certain specified industries was enhanced from 8 per cent to 12 per cent with effect from 1st April 1983. Cenex oil being wood oil is a minor forest produce.

In a forest division in Dakshina Kannada district, on supplies of cenex oil to industries during the period June 1989 to May 1990 amounting to Rs.4.41 crores made by the Karnataka Forest Development Corporation from the rubber plantation held by it, forest development tax was, however, recovered at the pre-revised rate of 8 per cent instead of at the correct rate of 12 per cent. This resulted in short recovery of tax amounting to Rs.17.64 lakhs.

This was pointed out to the department in July 1991 and was reported to Government in April 1992 followed up by reminders; their replies have not been received (December 1993).

#### **8.5. Loss of revenue due to non-sale of minor forest produce**

Under the Karnataka Forest Rules, 1969, forest produce shall be sold by (i) auction or tender or tender-cum-auction, (ii) sale at the sanctioned schedule of rates in depots, (iii) sale by issue of licences at the sanctioned seigniorage rates or (iv) any other method with the previous sanction of the Government. Under the rules *ibid*, the Divisional Forest Officer shall consider and decide each year, before the collection season begins, about the articles of minor forest produce to be exploited and the localities, having regard to local conditions and past results and also about the arrangements to be made for their exploitation. The period of minor forest produce leases, ordinarily, shall not exceed three years commencing from 1st July. The rules also provide for excluding specific areas and or produce, if any, reserved from sale.

In Mangalore division, proposal for leasing the minor forest produce for the year 1991-92 in respect of two units in a range to a society at an upset price of Rs.55,000 was sent to Government (July 1991) for sanction. Neither the sanction of Government was received nor the forest produce was extracted departmentally till the expiry of the lease period on 30th June 1992. This resulted in loss of revenue amounting to Rs.55,000.

On this being pointed out in audit (April 1992), the department stated (August 1993) that there



was no loss as non-collection of minor forest produce helped the natural regeneration and increased the fertility of the land which would yield higher revenue in the coming years. The Government to whom the case was reported (July 1992), endorsed the reply of the department (November 1993).

The reply of the department is not tenable as non-extraction of minor forest produce was not the accepted method for helping natural regeneration and increasing fertility of the forest land.

#### **8.6. Short recovery of cost of minor forest produce**

Under the Karnataka Forest Code, when minor forest produce is disposed of by tender-cum-auction sale, the person whose bid or offer is accepted shall at the close of the auction, make a deposit equal to 25 per cent of the bid amount inclusive of the earnest money deposit already paid together with sales tax at the rates in force. The balance 75 per cent of the bid amount due shall be paid by the contractor in three equal instalments as specified in the agreement to be executed by him during the lease period. If the contractor fails to pay the instalments as per the agreement, the contract shall be suspended and the minor forest produce collected during the suspended period will be forfeited to Government. Even after suspension of contract, if the contractor does not pay the instalments due within one month, the contract will be cancelled and the minor forest produce will be resold at the risk and cost of the original contractor.

In Chickmagalur division, though the minor forest produce in three units for the years 1987-89 and 1989-91 was sold in auction for a total amount of Rs.1.10 lakhs, it was noticed in audit (June 1992) that only Rs.55,600 had been collected resulting in non-recovery of balance lease amount of Rs.54,437 and interest and penal interest thereon. In these cases, the department failed to take necessary action as aforesaid and the period of lease expired in 1989 and 1991.

On this being pointed out in audit (June 1992), the department reported (August 1993) that a sum of Rs.15,000 had been recovered up to June 1993 and action had been initiated for recovery of the balance as arrears of land revenue. Report regarding further progress has not been received (December 1993).



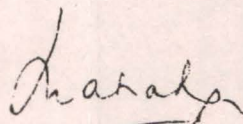
The Government to whom the case was reported (August 1992), endorsed the reply of the department (November 1993).

#### B.7. Evasion of fees for way-permits

Under the Karnataka Forest Act, 1963, and the rules made thereunder, forest produce includes all products of mines or quarries found in or brought from a forest and no person shall transport or move any forest produce without way-permits issued by an authorised person on payment of a fee of Rs.5 for each such permit. As per clarification issued by the department in February 1990, 10 tonnes of minerals make a load for which a way-permit could be issued.

In Bellary division, during the period January 1991 to December 1991, a lessee had removed 27,83,539 tonnes of iron ore without obtaining way-permits as aforesaid, resulting in non-realisation of fee amounting to Rs.13.92 lakhs.

This was pointed out to the department in August 1992 and was reported to Government in January 1993 followed up by reminders; their replies have not been received (December 1993).



(K.G. MAHALINGAM)

Accountant General (Audit)-II  
Karnataka

Bangalore  
The

12 MAR 1994

Countersigned



(C.G. SOMIAH)

Comptroller and Auditor General  
of India

New Delhi  
The

12 2 MAR 1994



