



GOVERNMENT OF KARNATAKA

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

**For the year 1984-85**

**(REVENUE RECEIPTS)**



## TABLE OF CONTENTS

	<i>Reference to Paragraph</i>	<i>Page</i>
Prefatory Remarks		(v)
<b>CHAPTER 1 GENERAL</b>		
Trend of revenue receipts	1.1	1
Variations between Budget estimates and actuals	1.2	4
Cost of collection	1.3	6
Uncollected revenue	1.4	7
Writes-off and remission of revenue	1.5	9
Assessments in arrears	1.6	9
Internal Audit	1.7	11
Outstanding local audit reports and audit objections	1.8	11
<b>CHAPTER 2 SALES TAX</b>		
Results of Audit	2.1	14
Non-levy or short levy of turnover tax	2.2	14
Non-levy or short levy of additional tax	2.3	18
Non-levy of Surcharge/Rural Development Cess	2.4	19
Application of incorrect rates of tax	2.5	20
Incorrect or irregular grant of exemption from tax	2.6	36
Incorrect determination of turnover	2.7	42
Credit afforded twice	2.8	44
Short levy of tax due to incorrect grant of concession	2.9	45
Non-levy of penalty	2.10	46
Working of sales tax check posts in Karnataka	2.11	48

## CHAPTER 3 STATE EXCISE DUTIES

Results of Audit	3.1	52
Non-recovery of duty and cess on spirit/ liquor wasted in excess of norms	3.2	52
Non-recovery of duty and cess	3.3	55
Short recovery of interest on belated payments	3.4	55
Short recovery of supervision charges	3.5	56
Short account of arrack	3.6	56
Short recovery of licence fee	3.7	57
Short levy of duty due to application of incorrect rate	3.8	58

## CHAPTER 4 TAXES ON MOTOR VEHICLES

Results of Audit	4.1	60
Short levy due to irregular restriction of laden weights	4.2	60
Incorrect grant of exemption from tax	4.3	61
Short levy of motor vehicles tax due to adoption of incorrect registered laden weight	4.4	63
Tax levied at incorrect rate	4.5	63
Short recovery of tax on vehicles covered by temporary permits	4.6	66
Loss of revenue due to registration of motor vehicles with incorrect seating capacity	4.7	67

## CHAPTER 5 TAXES ON AGRICULTURAL INCOME

Results of Audit	5.1	69
Income from coffee escaping assessment	5.2	69
Under assessment due to grant of incorrect allowance for expenditure	5.3	75
Short levy of tax due to arithmetical error	5.4	75
Short levy due to mistakes in computation of taxable income	5.5	76

*Reference to  
Paragraph Page*

Short levy due to incorrect adoption of status	5.6	78
Under-assessment due to non-clubbing of wife's income from firm	5.7	79
Short levy due to application of incorrect rates	5.8	79

## CHAPTER 6 LAND REVENUE

Results of Audit	6.1	81
Omission to raise demand for water rate	6.2	81
Non-levy or short levy of maintenance cess	6.3	84
Non-levy or short levy of water rate in respect of lift irrigation works	6.4	86
Non-levy of penal water rate for unauthorised use of water	6.5	87
Non-levy of land revenue and fine for unauthorised occupation of Government lands	6.6	88

## CHAPTER 7 STAMP DUTY AND REGISTRATION FEES

Results of Audit	7.1	89
Short levy of duty on documents	7.2	89
Short levy due to incorrect classification of documents	7.3	92
Short levy of stamp duty due to application of incorrect rates	7.4	95
Irregular grant of exemptions	7.5	95
Short recovery of registration fees	7.6	99

## CHAPTER 8 FOREST RECEIPTS

Results of Audit	8.1	100
Non-recovery or short recovery of Government dues	8.2	100
Short recovery of cost of forest produce	8.3	104
Non-recovery or short recovery of dead rent/royalty	8.4	107

Loss of revenue due to release of timber on fake challans	8.5	109
Loss of revenue due to shortage of firewood	8.6	111
Loss of revenue due to defective estimate	8.7	111
Non-recovery of licence fee from saw mills	8.8	112
Short recovery of taxes	8.9	112
Loss of revenue due to non-transportation of softwood	8.10	114

## CHAPTER 9 OTHER TAX AND NON-TAX RECEIPTS

### A-ENTERTAINMENT TAX

Results of Audit	9.1	115
Short levy of entertainments tax and health cess	9.2	115

### B-INTEREST RECEIPTS

9.3 117

### C—RECEIPTS OF GUARANTEE COMMISSION

9.4 125

---

## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Karnataka, for the year 1984-85, is presented in this separate volume. The Report has been arranged in the following order :

(i) Chapter 1 refers to trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue, the variations between the Budget estimates and the actual receipts under principal heads of revenue, the revenue in arrears for collection and the audit objections and inspection reports outstanding for settlement.

(ii) In Chapters 2 to 9 are set out some of the important irregularities, which came to the notice of audit during test check of records relating to Sales Tax, State Excise Duties, Taxes on Motor Vehicles, Taxes on Agricultural Income, Land Revenue, Stamp Duty and Registration Fees, Forest Receipts and Other Tax and Non-Tax Receipts.

PHILADELPHIA

THE PHILADELPHIA

THE PHILADELPHIA

THE PHILADELPHIA

# CHAPTER 1

## GENERAL

### 1.1. Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Karnataka during the year 1984-85, the share of taxes and grants-in-aid received from the Government of India during the year, the percentage of revenue from each source to the total revenue during the year 1984-85 and the corresponding figures for the preceding two years are given below :

	1982-83	1983-84	1984-85	Percentage of total receipts (1984-85)
<i>(In crores of rupees)</i>				
I Revenue raised by the State Government				
(a) Tax Revenue	674.11	759.52	909.39	52.27
(b) Non-tax Revenue	265.59	316.37	346.69	19.92
Total	939.70	1,075.89	1,256.08	72.19
II Receipts from the Government of India				
(a) State's share of divisible Union Taxes	240.08	271.15	298.88	17.18
(b) Grants-in-aid	100.88	142.41	184.94**	10.63
Total	340.96	413.56	483.82	27.81
III Total receipts of the State Government (I+II)	1,280.66	1,489.45	1,739.90	100.00

---

\*\*For details see Statement No. 11—Detailed account of revenue by minor heads in the Finance Accounts of the Government of Karnataka 1984—85.

(i) The details of tax revenue raised during the year 1984-85 alongside figures for the preceding two years are given below :

	1982-83	1983-84	1984-85	Percentage increase (+) or decrease (—) in 1984-85 over 1983-84
	(In crores of rupees)			
(i) Sales Tax	344.78	399.30	484.59	(+) 21
(ii) State Excise	131.69	154.66	180.62	(+) 17
(iii) Taxes on Vehicles	59.17	67.84	79.91	(+) 18
(iv) Stamps and Registration Fees	32.64	39.96	46.80	(+) 17
(v) Taxes on Agricultural Income	6.88	9.68	7.12	(—) 26
(vi) Other Taxes on Income and Expenditure	12.56	5.68	5.55	(—) 2
(vii) Taxes on Goods and Passengers*	11.10	11.17	17.24	(+) 54
(viii) Land Revenue	7.31	8.61	7.30	(—) 15
(ix) Taxes and Duties on Electricity*	26.42	23.14	39.13	(+) 69
(x) Other Taxes and Duties on Commodities and Services*	41.56	39.48	41.13	(+) 4
Total	674.11	759.52	909.39	(+) 20

(a) The increase of 69 per cent in receipts under the head 'Taxes and Duties on Electricity' was mainly due to revision of rates of taxes with effect from 1st October 1984.

\*The figures under 'Other Taxes and Duties' for the years 1982-83 and 1983-84 in the Audit Report 1983-84 have been sub-divided here into serial Nos. (vii), (ix) and (x).

(b) The increase of 54 per cent under 'Taxes on Goods and Passengers' was mainly on account of inclusion of 7 more additional commodities within the purview of the Karnataka (Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein) Act, 1979.

(c) The decrease of 26 per cent in collection of 'Taxes on Agricultural Income' was due to the grant of exemptions from levy of tax, upto certain limits, in respect of income from crops other than plantation crops.

(ii) The details of major non-tax revenue received during the year 1984-85, alongside figures for preceding two years, are given below :

	1982-83	1983-84	1984-85	Percentage increase(+) or decrease(—) in 1984-85 over 1983-84
	(In crores of rupees)			
(i) Interest	108.94	121.74	141.82	(+) 16
(ii) Forest	44.47	53.39	55.74	(+) 4
(iii) Industries	1.51	2.99	2.40	(—) 20
(iv) Irrigation, Navigation, Drainage and Flood Control Projects	4.25	7.34	5.92	(—) 19
(v) Education	7.82	6.55	6.83	(+) 4
(vi) Medical	5.02	6.06	4.14	(—) 32
(vii) Miscellaneous General Services	18.89	20.28	27.34	(+) 35
(viii) Power Projects	12.93	23.73	29.43	(+) 24
(ix) Agriculture*	1.95	6.33	2.15	(—) 66
(x) Others*	59.81	67.96	70.92	(+) 4
Total	265.59	316.37	346.69	(+) 10

\*The figures under 'others' for the years 1982-83, 1983-84 in the Audit Report 1983-84 have been sub-divided into Serial Nos. (ix) and (x).

(a) The decrease of 66 per cent in revenue under 'Agriculture' was mainly due to decline in receipts from Drought Prone Area Programme (Rs. 2.69 crores), commercial crops (Rs. 1 crore) and Horticulture (Rs. 0.46 crore).

(b) The decrease of 32 per cent under 'Medical' was mainly due to shortfall in receipts from the Employees' State Insurance Scheme (Rs. 2.15 crores).

(c) The increase of 35 per cent under 'Miscellaneous General Services' was mainly due to additional revenue under 'State Lotteries' on account of increase in the number of draws resulting in sale of more tickets (Rs. 3.45 crores) and under 'Sale proceeds of liquor etc.,' due to increased consumption of liquor (Rs. 1.49 crores) and transfer of lapsed deposits to revenue heads (Rs. 1.43 crores).

(d) The increase of 24 per cent in receipts under 'Power Projects' was due to increase in recovery of royalty from the Karnataka Power Corporation (Rs. 6.66 crores), partly offset by decrease in royalty recovered from the Karnataka Electricity Board (Rs. 0.96 crore).

## 1.2. Variations between Budget estimates and actuals

1.2.1. The variations between the Budget estimates of tax and non-tax revenue, share of Central taxes and grants-in-aid from the Central Government for the year 1984-85 and the actual receipts are given below :

	<i>Budget Estimates for 1984-85 (In</i>	<i>Actuals for 1984-85 crores</i>	<i>Variation Increase(+) Decrease(-)</i>	<i>Percentage of variation</i>
	<i>of rupees)</i>			
1. Tax Revenue	890.00	909.39	(+)19.39	(+) 2
2. Non-Tax Revenue	344.77	346.69	(+) 1.92	(+) 1
3. Share of Central Taxes	287.08	298.88	(+)11.80	(+) 4
4. Grants from Government of India	185.49	184.94	(-) 0.55	..
Total	1,707.34	1,739.90	(+) 32.56	(+) 2

1.2.2. The variations between Budget estimates of principal heads of revenue for the year 1984-85 and the actual receipts are indicated below :

<i>Head of Revenue</i>	<i>Budget estimates</i>	<i>Actuals</i>	<i>Variation Increase (+) Shortfall(—)</i>	<i>Percentage of variation</i>
<i>(In crores of rupees)</i>				
(1)	(2)	(3)	(4)	(5)
Sales Tax	450.00	484.59	(+) 34.59	(+) 7.68
State Excise	171.50	180.62	(+) 9.12	(+) 5.32
Taxes on Vehicles	86.38	79.91	(—) 6.47	(—) 7.49
Stamps and Registration Fees	50.00	46.80	(—) 3.20	(—) 6.40
Land Revenue	8.50	7.30	(—) 1.20	(—) 14.12
Other Taxes and Duties	107.62	97.50	(—) 10.12	(—) 9.40
Taxes on Agricultural Income	11.50	7.12	(—) 4.38	(—) 38.09
Interest	149.20	141.82	(—) 7.38	(—) 4.95
Education	8.21	6.83	(—) 1.38	(—) 16.81
Medical	8.15	4.14	(—) 4.01	(—) 49.20
Forest	55.00	55.74	(+) 0.74	(+) 1.35
Industries	3.40	2.40	(—) 1.00	(—) 29.41
Irrigation, Navigation, Drainage and Flood Control Projects	5.00	5.92	(+) 0.92	(+) 18.40

(a) The decrease of 38.09 per cent under 'Taxes on Agricultural Income' is mainly due to grant of exemption from levy of tax, upto certain limits, in respect of income from crops other than plantation crops, not contemplated at the time of framing the estimates.

(b) The decrease of 16.81 per cent under 'Education' is mainly due to less receipts from tuition and other fees.

(c) The decrease of 49.20 per cent under 'Medical' is mainly due to less receipts from the Employees State Insurance Scheme.

(d) The decrease of 29.41 per cent under 'Industries' is mainly due to less receipts under minor head 'Other receipts' and decline in receipts from Government silk filatures as a result of accumulation of stock because of low prices prevailing in the market.

1.2.3. The receipts from 'Taxes on Agricultural Income' and 'Industries' were less than the budget estimates for the fourth consecutive year. The variation was the highest (49.20 per cent) under 'Medical' receipts and the actuals were less than the estimates for the third consecutive year.

### 1.3. Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1984-85, alongside figures for the preceding two years is indicated below:—

Sl. No.	Heads of Account	Year	Gross collection*	Expenditure on collection	Percentage of expenditure to gross collection
			(In crores of rupees)		
1	2	3	4	5	6
1.	Sales Tax	1982-83	344.78	5.08	1.47
		1983-84	399.30	5.89	1.48
		1984-85	485.36	7.01	1.44
2.	State Excise Duties	1982-83	131.69	4.12	3.13
		1983-84	154.66	4.04	2.61
		1984-85	180.77	5.39	2.98
3.	Taxes on Vehicles	1982-83	59.17	1.99	3.36
		1983-84	67.84	2.17	3.20
		1984-85	79.99	2.74	3.43
4.	Taxes on Agricultural Income	1982-83	6.88	0.34	4.94
		1983-84	9.68	0.34	3.51
		1984-85	7.15	0.40	5.59
5.	Forest	1982-83	44.47	7.21	16.21
		1983-84	53.39	7.98	14.95
		1984-85	55.80	10.26	18.39
6.	Stamps and Registration Fees	1982-83	32.64	2.54	7.78
		1983-84	39.96	2.71	6.78
		1984-85	47.68	3.29	6.90

\* The figures for 1984-85 represent gross collection before deduction of refunds.

#### 1.4. Uncollected Revenue

The arrears of revenue pending collection as on 31st March 1985 in respect of certain important sources of revenue, as reported by the departments concerned, are indicated below :

<i>Source of Revenue</i>	<i>Amount pending collection as on 31st March 1985</i>	<i>Amount outstanding for more than 5 years</i>	<i>Remarks</i>
<i>(In crores of rupees)</i>			
1. Sales Tax	128.39	30.47	<p>The arrears which had shown a marginal decrease when compared to 1983-84 included a sum of Rs. 65.45 crores, the recovery of which is held up due to stay orders.</p> <p>In respect of Rs. 3.25 crores, no action had been initiated by the department for recovery.</p>
2. State Excise Duties	36.70	0.61	<p>The arrears pending collection (Rs. 36.70 crores) at the end of March 1985 had increased by 77 per cent as compared to those (Rs. 20.73 crores) at the end of March 1984. Out of Rs. 36.70 crores, arrears of Rs. 4.19 crores related to cases pending in litigations. A sum of Rs. 0.12 crore (pertaining to the period prior to 1956-57) was considered to be irrecoverable, as whereabouts of the parties concerned were not known.</p>
3. Taxes on Vehicles	11.74	..	<p>Out of Rs. 11.74 crores, demands amounting to Rs. 1.45 crores had been certified for recovery as arrears of land</p>

revenue. Recovery of Rs. 0.15 crore had been stayed by courts. A sum of Rs. 0.42 crore was considered as irrecoverable and proposals for its write-off had been initiated. Arrears amounting to Rs. 4.58 crores were recoverable from the State Road Transport Corporation.

4. Taxes on Agricultural Income 3.58 ..

The arrears at the end of March 1985 (Rs. 3.58 crores) had increased by 19 per cent as compared to those (Rs. 3.00 crores) at the end of March 1984. Out of Rs. 3.58 crores, recovery of arrears of Rs. 0.97 crore was held up due to stay orders of Courts. Arrears of Rs. 0.87 crore were covered by recovery proceedings under Section 43(A) of the Act and of Rs. 0.51 crore had been certified for recovery as arrears of land revenue. In respect of Rs. 0.22 crore, no action had been initiated by the department for recovery.

5. Forest Receipts 28.19 3.55

Out of Rs. 28.19 crores, dues amounting to Rs. 22.62 crores were recoverable from private companies and individuals, Rs. 3.57 crores from Government companies, Rs. 0.98 crore from other Departments of the State Government and Rs. 1.02 crores from Railways. A sum of Rs. 0.17 crore was considered to be irrecoverable. Action for recovery of Rs. 10.99 crores had been initiated under the provisions of the Forest Act. The earliest year from which these arrears had been pending recovery was 1932-33.

Details of revenue pending collection in respect of Land Revenue, Stamp Duty and Registration Fees had not been received from the departments (April 1986).

### 1.5. Writes-off and remission of revenue

Details of amounts written off and remissions allowed during 1984-85, as furnished by some departments, are given below :

<i>Department</i>	<i>Number of cases</i>	<i>Amount written-off (In lakhs of rupees)</i>	<i>Reasons for write-off</i>
1. State Excise	2	0.05	Defaulters did not have property from which arrears could be realised.
2. Motor Vehicles	3	0.14	Found irrecoverable
3. Forest	..	0.03	Found irrecoverable
4. Sales Tax	12	0.06	Defaulters adjudged insolvent and their whereabouts were not known.

In addition, a sum of Rs. 367 lakhs was remitted by the Motor Vehicles Department during the year by way of abatement of demands which had been raised erroneously in the past.

### 1.6. Assessments in arrears

The number of assessments pending finalisation at the beginning of the year 1984-85, number of assessments due for finalisation during the year, number of assessments actually finalised and the number of assessments pending finalisation at the close of the year in respect of Sales Tax,

Entertainment Tax and Agricultural Income Tax, as reported by the departments, are given below :

	<i>Karnataka Sales Tax</i>	<i>Central Sales Tax</i>	<i>Enter- tainment Tax</i>	<i>Agricul- tural In- come Tax</i>
1. Number of assessments pending finalisation as on 31st March 1984	2,13,615	92,785	18,570	2,13,881
2. Number of assessments to be finalised during 1984-85	2,17,137	90,300	65,617	28,332
3. Number of assessments finalised during 1984-85	2,24,782	90,480	60,072	57,844
4. Number of assessments pending finalisation as on 31st March 1985	2,05,970	92,605	24,115	1,84,369

The year-wise pendency of the assessments in arrears is given below :

	<i>Karnataka Sales Tax</i>	<i>Central Sales Tax</i>	<i>Enter- tainment Tax</i>	<i>Agricul- tural Income Tax</i>
1978-79 and earlier years	5,991	2,728	..	..
1979-80	8,578	3,188	275	1,07,192
1980-81	17,096	7,154	99	30,824
1981-82	31,613	12,951	514	21,532
1982-83	49,998	23,644	1,972	10,330
1983-84	92,694	42,940	5,396	9,062
1984-85	..	..	15,859	5,429
	<hr/> 2,05,970 <hr/>	<hr/> 92,605 <hr/>	<hr/> 24,115 <hr/>	<hr/> 1,84,369 <hr/>

Under the Karnataka Sales Tax Act, 1957, prior to 1st August 1985 no time limit, within which the assessments were to be completed, had been prescribed. However, as per amendment introduced with effect from 1st August

1985, all assessments are required to be finalised within a period of 3 years from the date of submission of the returns, while all pending assessments, relating to any year ending before 1st August 1985, are to be completed within three years approximately, i.e., by 31st July 1988.

No such provision has been made under the Karnataka Agricultural Income Tax Act, 1957, even though the desirability for introduction of a provision similar to the one contained in the Indian Income Tax Act, 1961, was pointed out in the Audit Report 1979-80.

### **1.7. Internal Audit**

The Public Accounts Committee (Sixth Assembly) had, in paragraph 15.7 in their Fourteenth Report, presented to the Karnataka Legislature on 4th September 1982, recommended that a separate internal audit machinery should be established in the Registration Department. However, no internal audit has been established in that department so far (January 1986). There is no internal audit machinery in the State Excise Department also.

1.7.2. In the Motor Vehicles department, out of 36 offices to be internally audited every year, 20 offices had not been audited during 1984-85 due to inadequacy of staff. During that year, the internal audit wing had raised objections in 16 institutions having a tax effect of Rs. 7.66 lakhs, which included 24 cases involving tax effect amounting to more than Rs. 10,000 each.

1.7.3. In the Forest Department, in 51 offices audited by the internal audit department during 1984-85, objections were raised in 507 cases, out of which 15 cases (Rs. 12.52 lakhs) related to objections with money value of Rs. 10,000 and above in each case.

### **1.8. Outstanding local audit reports and audit objections**

Irregularities in assessments of revenue and defects in the accounting of revenue receipts noticed in audit and not settled on the spot are communicated to Heads of Offices

and to the departmental authorities through local audit reports. The more important and serious irregularities are reported to the Heads of departments and to the Government. In addition, statements indicating the number of objections outstanding for over six months are also sent to Government for their information. Government have prescribed a time limit of one month for furnishing of replies to audit objections. In respect of cases requiring action at higher levels, a period of three months has been fixed.

At the end of September 1985, in respect of local audit reports issued upto March 1985, audit objections were still to be settled as per details given below. The corresponding position in the earlier two years has also been indicated alongside.

	<i>As at the end of</i>		
	<i>September</i> 1983	<i>September</i> 1984	<i>September</i> 1985
Number of local Audit Reports	1,061	1,044	963
Number of Audit objections	10,203	10,589	7,468
Value of receipts involved (In crores of rupees)	25.66	39.12	52.38

Yearwise break-up of the outstanding local audit reports as at the end of September 1985 is given below :

<i>Year</i>	<i>Number of local audit reports</i>	<i>Number of audit objections</i>	<i>Value of receipts involved (in crores of rupees)</i>
Upto 1982-83	342	3,527	21.18
1983-84	211	1,466	5.28
1984-85	410	2,475	25.92
Total	963	7,468	52.38

Out of 963 reports which are pending settlement, even first replies had not been received (November 1985) in respect of 240 reports (containing 1,233 objections).

The department-wise break-up of the outstanding local audit reports is as follows :

<i>Name of the Department</i>	<i>Number of local audit reports</i>	<i>Number of audit objections</i>	<i>Value of receipts involved</i> (In crores of Rupees)
1. Finance Department	306	3,144	9.67
2. Animal Husbandry, Fisheries and Forest Department	73	476	5.46
3. Revenue Department	365	2,964	7.18
4. Food and Transport Department	29	365	8.21
5. Home Department	186	497	21.20
6. Public Works and Electricity Department	4	22	0.66
Total	963	7,468	52.38

The receipt-wise break-up of outstanding audit objections, as on 30th September 1985 is indicated below :

<i>Name of receipts</i>	<i>Number of local audit reports</i>	<i>Number of audit objections</i>	<i>Amount</i> (In lakhs of rupees)
1. Sales Tax	247	2,777	751.84
2. State Excise Duties	186	497	2,120.43
3. Taxes on Vehicles	29	365	821.32
4. Taxes on Agricultural Income	24	299	169.40
5. Land Revenue	227	2,581	368.03
6. Stamp Duty and Registration Fees	138	383	349.40
7. Forest Receipts	73	476	545.64
8. Electricity Duty	4	22	65.86
9. Entertainment Tax	17	26	5.05
10. Profession Tax	17	41	40.58
11. Betting Tax	1	1	0.01
	963	7,468	5,237.56

Of the nine Sales Tax Divisions, two city divisions alone accounted for 56.01 per cent of the total money value of the outstanding audit objections of the Commercial Taxes Department (included at Serial No. 1 of the table).

## CHAPTER 2

### SALES TAX

#### 2.1. Results of Audit

Test check of records in Sales Tax offices, conducted in audit during the year 1984-85, disclosed under-assessments of tax amounting to Rs. 223.80 lakhs in 1321 cases, which fall broadly under the following categories.

	<i>Number of assessment cases</i>	<i>Under (In lakhs of rupees)</i>
1. Incorrect computation of tax	299	46.23
2. Incorrect computation of taxable turnovers	76	9.85
3. Irregular grant of exemption from tax	110	54.68
4. Non-levy of penalty	283	8.15
5. Other irregularities	553	104.89
Total	1,321	223.80

Some of the important cases are mentioned in the following paragraphs.

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

Under Section 6-B of the Karnataka Sales Tax Act, 1957, with effect from 29th March 1981, every dealer whose total turnover in a year exceeded rupees one lakh upto March 1982 or rupees one and a half lakhs from 1st April 1982 onwards, whether or not the whole or any portion of such turnover was liable to tax, was required to pay a tax (called turnover tax) at the rate of one-half per cent of his total turnover. 'Total turnover' means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not tax is leviable on the whole or any portion of such turnover. The Act defines a 'dealer' as including a commission agent who carries on the business of buying

selling, supplying or distributing goods on behalf of any principal.

(i) In Belgaum and Bijapur districts, turnover of 28 commission agents during the period 29th March 1981 to 4th November 1983 amounted to Rs. 1,023.92 lakhs. The turnover was in respect of sale of jaggery by those commission agents on behalf of certain agriculturists. Turnover tax amounting to Rs. 5,11,960 was leviable, but was not levied.

On the omission being pointed out in audit (July 1984), the assessing authorities stated that the total turnover in a year of each of the agriculturist principals did not exceed rupees one lakh (or one and a half lakh from 1st April 1982) and that the liability of the commission agents was co-extensive with that of the principal. The reply given is not correct since, for purposes of levy of turnover tax, turnover of the commission agents and not that of the agriculturist principals is relevant. The sales turnover of each of the selling commission agents exceeded the aforementioned limits each year.

(ii) In assessing 3 dealers in Belgaum and Bangalore districts, for the period 29th March 1981 to 31st March 1983, turnover tax was omitted to be levied on sales turnover amounting to Rs. 1,08,87,657, resulting in non-realisation of tax amounting to Rs. 54,438.

On the omission being pointed out in audit between January 1984 to July 1984, the department recovered a sum of Rs. 44,186 from two dealers and issued (February 1985) a demand notice to the third dealer. Report on the recovery of the balance amount is awaited (February 1986).

(iii) In Bangalore City, on sale of petroleum products amounting to Rs. 68,21,878 made by a dealer during the year 1981-82, turnover tax amounting to Rs. 34,109 was leviable, but was not levied.

On the omission being pointed out in audit (March 1985), the department stated (August 1985) that an amount of Rs. 15,000 had since been recovered between March and June 1985. Report on recovery of the balance amount is awaited (February 1986).

(iv) In 12 districts, on sales of arrack amounting to Rs. 2,59,95,800 during the year 1981-82, turnover tax amounting to Rs. 55,417 only was collected, as against Rs. 1,29,979 actually recoverable, resulting in short recovery of turnover tax amounting to Rs. 74,562.

The mistake was pointed out in audit between September 1983 and December 1984. The department stated (October 1985) that an amount of Rs. 3,650 had since been recovered between January and June 1985. Report on recovery of the balance amount is awaited (February 1986).

(v) In 54 Commercial Tax Offices, while assessing 398 dealers during the year 1983-84, turnover tax was either not levied or was levied short, resulting in turnover tax amounting to Rs. 10,12,927 not being realised.

The omission was pointed out in audit between April 1984 and March 1985. Report on action taken is awaited (February 1986).

(vi) By a notification issued in September 1981, Government exempted levy of turnover tax (with effect from 7th September 1981) on sale of arecanut made by certain commission agents to registered dealers. However, turnover of such commission agents relating to the sales made during the period 29th March 1981 to 6th September 1981 was liable to turnover tax.

In Dakshina Kannada district, on sales of arecanut amounting to Rs. 12,22,72,000 made by twenty one commission agents during the period 29th March 1981 to 6th

September 1981, turnover tax amounting to Rs. 6,11,360 was leviable, but was not levied.

On the omission being pointed out in audit (February 1985), the assessing authority stated that the commission agents in question were selling arecanut on behalf of agriculturists, who were not dealers under the Act and that the commission agents were, therefore, not liable to turnover tax. This reply is not tenable in view of the specific provision in the Act for levy of turnover tax, even in cases where such turnover is not liable to tax under any other provision of the Act.

(vii) As per notification issued on 13th April 1982, exemption was granted with effect from 16th April 1982 in respect of turnover tax payable under the Act by registered dealers on second and subsequent sales of kerosene oil, petrol and high speed diesel oil.

In Gulbarga district, on sales turnover of kerosene, petrol and high speed diesel oil of a dealer for the earlier period from 28th October 1981 to 15th April 1982, amounting to Rs. 41,73,239, and of mobil oil, motor spare parts and cotton waste etc., for the entire year 1981-82 amounting to Rs. 11,72,687, turnover tax amounting to Rs. 2,635 only was levied, as against Rs. 26,730 actually leviable. The mistake resulted in turnover tax being levied short by Rs. 24,095.

On the mistake being pointed out in audit (January 1985), the assessing officer stated (September 1985) that the assessment had since been rectified and the difference of tax of Rs. 24,095 demanded in July 1985. Report on recovery is awaited (February 1986).

(viii) As per notification issued in June 1981, on the second and subsequent sales of chemical fertilisers, bone meal, oil cake, insecticides and pesticides, levy of turnover tax is exempted. However, the first point sales are liable to turnover tax.

In Bangalore City, on the first point sales of pesticides and fertilisers, amounting to Rs. 25,55,809 made by a dealer during the period from 1st July 1982 to 30th June 1983, turnover tax was omitted to be levied, resulting in tax amounting to Rs. 12,779 not being realised.

On the omission being pointed out in audit (February 1985), the department stated (August 1985) that the assessment had since been rectified and the amount of Rs. 12,779 collected in April 1985.

(ix) In two forest divisions in Mysore and Belgaum districts, on sales of forest produce amounting to Rs. 1.57 crores made during the year 1981-82, turnover tax amounting to Rs. 78,703 was leviable, but was not levied and collected.

On the omission being pointed out in audit during March 1982 and October 1983, the department collected Rs. 23,285 in January 1984 and March 1985. Report on the recovery of the balance amount is awaited (February 1986).

The above cases were reported to Government between August 1982 and July 1985; their reply is awaited (February 1986).

### **2.3. Non-levy or short levy of additional tax**

Under the Karnataka Sales Tax Act, 1957, on sales made between 1st April 1975 and 28th March 1981 by any dealer, whose annual turnover exceeded Rs. 10 lakhs upto March 1977 or Rs. 5 lakhs during April 1977 to March 1981, additional tax was leviable at rates ranging from  $7\frac{1}{2}$  per cent to  $12\frac{1}{2}$  per cent of the sales tax or purchase tax or both payable by the dealer.

(i) In Bangalore district, additional tax amounting to Rs. 66,637 was omitted to be demanded on tax levied on purchases of sugarcane effected by three dealers during the year 1980-81.

On the omission being pointed out in audit (September 1984), the department stated (July 1985) that demand notices had since been issued to the dealers. Report on recovery is awaited (February 1986).

(ii) In Bangalore City, additional tax amounting to Rs. 11,274 was omitted to be demanded on sales tax amounting to Rs. 90,192 levied on sale of edible oils made by a dealer during 1980-81.

On the omission being pointed out in audit (February 1985), the assessing officer initiated rectificatory action. Results of action taken are awaited (February 1986).

(iii) In 21 Commercial Tax Offices, while assessing 26 dealers relating to periods upto 28th March 1981, additional tax was not levied correctly, resulting in tax being realised short by Rs. 61,063.

On the mistake being pointed out in audit (between April 1984 and March 1985), the assessing officers agreed to take rectificatory action. Report on action taken is awaited (February 1986).

The above cases were reported to Government between March and July 1985; their reply is awaited (February 1986).

## **2.4. Non-levy of Surcharge/Rural Development Cess**

(i) Under the Karnataka Sales Tax Act, 1957, a surcharge at the rate of ten per cent of the sales tax or purchase tax is leviable with effect from 1st April 1979.

In thirteen Commercial Tax Offices, surcharge was omitted to be levied while assessing 24 dealers during the year 1983-84. The omission resulted in surcharge amounting to Rs. 43,918 not being realised.

On the omission being pointed out in audit (between April 1984 and March 1985), the assessing officers agreed

to take rectificatory action. Report on action taken is awaited (February 1986).

(ii) Under the Karnataka Sales Tax Act, 1957, sales tax payable under the Act was increased by a cess (called rural development cess) calculated at the rate of 10 per cent of such tax from 1st April 1984.

In respect of sales of timber and firewood amounting to Rs. 16,04,657, made by a forest division in Kodagu district in April 1984, rural development cess amounting to Rs. 12,661 was recoverable, but was not recovered.

On the omission being pointed out in audit (November 1984), the department agreed to effect the recovery. Report on recovery is awaited (February 1986).

The above cases were reported to Government between May and July 1985 ; their reply is awaited (February 1986).

## **2.5. Application of incorrect rates of tax**

(i) As per provisions of the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods), which are not supported by prescribed declarations, tax is leviable at the rate of 10 per cent or at the rate applicable to sale or purchase of such goods inside the State under the State Act, whichever is higher. With effect from 1st April 1979, the tax leviable under the State Act was increased by a surcharge at the rate of 10 per cent of the tax payable.

(a) In Bangalore City, on inter-State sales of textile machinery amounting to Rs. 1,20,98,838 (which were not supported by prescribed declarations), made by four dealers during the years 1980-81 to 1982-83, tax was levied at the rate of 10 per cent, instead of at 11 per cent (including surcharge). The mistake resulted in tax being levied short by Rs. 1,20,988.

On this being pointed out in audit (August 1984), the department recovered (January to June 1985) Rs. 56,609

from two dealers and issued demand notices to the remaining two dealers (June 1985). Report on recovery of the balance amount is awaited (February 1986).

(b) In Belgaum district, on inter-State sales of cement valuing Rs. 104.85 lakhs (which were not supported by the prescribed declarations), made by two dealers during the period from 1st April 1979 to 30th June 1980 and from 1st April 1982 to 31st March 1983, tax was levied at 10 and 11 per cent, instead of at the correct rates of 11 and 12.1 per cent (including surcharge). The mistake resulted in tax being levied short by Rs. 1,06,071.

On the mistake being pointed out in audit (July 1984), the department recovered (February 1985) Rs. 13,338 in one case. However, in the other case, the High Court stayed the recovery proceedings. The decision of the court is awaited (February 1986).

The case was reported to Government in January 1985; they confirmed the facts in July 1985.

(c) In Bangalore City, on inter-State sales of electrical goods valuing Rs. 13,71,208 (which were not supported by the prescribed declarations), made by a dealer during the year 1981-82, tax was levied at the rate of 10 per cent, instead of at 11 per cent (including surcharge), resulting in short levy of tax by Rs. 13,712.

On the mistake being pointed out in audit (May 1984), the department stated (July 1985) that the amount of Rs. 13,712 had since been recovered.

Government to whom the case was referred in March 1985, confirmed the facts (August 1985).

(ii) Under the Karnataka Sales Tax Act, 1957, on sale of motor vehicles, batteries of motor vehicles and parts thereof, tax is leviable at 15 per cent (13 per cent upto 28th March 1981) at the point of first or earliest of successive sales in the State.

(a) In Bangalore City, on sales of lead battery plates amounting to Rs. 10,68,637, made by a manufacturer during the years 1979-80 to 1982-83, tax was levied at 4 per cent upto 31st March 1982 and at 5 per cent thereafter (which rates were applicable to sale of unclassified goods), instead of at 13 per cent and 15 per cent, as aforesaid. The mistake resulted in tax being levied short by Rs. 1,14,795.

On the mistake being pointed out in audit (June 1984), the assessing authority stated that the case would be sent for **suo moto** revision. Report on action taken is awaited (February 1986).

(b) In Bangalore district, on first point sale of motor vehicles amounting to Rs. 6,90,651 made by a dealer, during the period from 1st April 1982 to 31st March 1984, tax was erroneously levied at the rate of 13 per cent, instead of at 15 per cent, resulting in tax being levied short by Rs. 15,194.

The short levy was reported to the department in October 1984; their reply is awaited (February 1986).

(c) In Bangalore City, on first-point sale of fuel tankers amounting to Rs. 1,35,000 made by a manufacturer during the year 1978-79, tax was erroneously levied at the general rate of 4 per cent, instead of at the rate of 13 per cent, resulting in tax being levied short by Rs. 12,150.

On the mistake being pointed out in audit (January 1984), the department rectified the assessment and raised (July 1985) additional demand for Rs. 12,150. Report on recovery is awaited (February 1986).

(iii) Under the Karnataka Sales Tax Act, 1957, on sale of 'Industrial gas such as oxygen, acetylene, nitrogen and the like', tax is leviable at the rate of 10 per cent at the point of first or earliest of successive sales in the State.

In Bangalore City, on first point sales of anhydrous ammonia gas amounting to Rs. 34,74,999, made by two

dealers during the years 1979-80 to 1981-82, tax was incorrectly levied at 8 per cent (treating it as 'heavy chemicals'), instead of at 10 per cent. The mistake resulted in tax being levied short by Rs. 79,776.

On the mistake being pointed out in audit (November 1984 and January 1985), the department stated (July 1985) that in one case the original assessment had been set aside in **suo moto** proceedings and the case remanded for fresh disposal. In the other case, the assessing officer had initiated rectificatory action. Report on the final action taken is awaited (February 1986).

(iv) Under the Karnataka Sales Tax Act, 1957, on sale of 'gold thread', tax is leviable at the rate of 4 per cent at the point of first or earliest of successive sales in the State. Goods, which are not covered by any of the Schedules to the Act, are treated as unclassified goods and on their sale, tax is leviable at 5 per cent with effect from 1st April 1982. Imitation **jari** and imitation **jari** powder are unclassified goods.

In Bangalore City, on sale of imitation **jari** and imitation **jari** powder, amounting to Rs. 66,34,394, made by seven dealers during the period from April 1982 to November 1983, tax was levied at 4 per cent (erroneously treating them as gold thread), instead of at 5 per cent applicable to unclassified goods. The mistake resulted in tax being levied short by Rs. 72,978.

On the mistake being pointed out in audit between June and December 1984, the department stated (July 1985) that in one case the relevant assessment had been revised and additional demand raised for Rs. 14,854. Report on recovery and action taken in other cases is awaited (February 1986).

The cases were reported to Government between January and March 1985; they confirmed the facts in one case in August 1985; their reply in the other cases is awaited (February 1986).

(v) Under the Karnataka Sales Tax Act, 1957, on sale of straw boards, hard boards, plywood and the like, tax is leviable at 10 per cent at the point of first or earliest of successive sales in the State with effect from 1st September 1978. Laminated sheets are plywood sheets with a thin coat of plastic and, therefore, on their sale, tax is leviable at 10 per cent.

In Bangalore City, on sale of plywood and laminated sheets amounting to Rs. 23,60,209 made by a dealer during the years 1979-80 to 1981-82, tax was levied at the rate of 8 per cent (applicable to sale of plastic sheets), instead of at 10 per cent, as aforesaid. The mistake resulted in tax being levied short by Rs. 54,104, including surcharge and additional tax.

On this being pointed out in audit (October 1984), the assessing officer initiated action for rectification of the mistake. Report on recovery is awaited (February 1986).

(vi) The Central Sales Tax Act, 1956 provides that if under the sales tax law of the appropriate State, any class of goods are liable to tax generally at a rate lower than 4 per cent, their inter-State sales will also be liable to tax at such lower rate prevalent in the State.

(a) As per the Karnataka Sales Tax Act, on sales of cotton within the State, tax is leviable at the rate of 3 per cent. In addition, surcharge at the rate of 10 per cent of tax is chargeable.

In Bangalore City, on inter-State sales of cotton amounting to Rs. 1,68,80,920, made by a dealer during the years 1980-81 and 1981-82, tax was incorrectly levied at 3 per cent, instead of at 3.3 per cent (inclusive of surcharge), resulting in tax being levied short by Rs. 50,643.

On the mistake being pointed out in audit (April 1984 to June 1984), the department stated (July 1985) that the assessee had obtained stay orders from the High Court against the revision of assessments. Report on further action is awaited (February 1986).

The case was reported to Government in January 1985 ; they confirmed the facts in August 1985.

(b) In Chitradurga district, on inter-State sales of cotton and cotton seeds amounting to Rs. 1,37,21,667, made by three dealers during the years 1979-80 to 1981-82, tax was levied at 3 per cent, instead of at 3.3 per cent (inclusive of surcharge), resulting in tax being levied short by Rs. 41,165.

On the omission being pointed out in audit (April 1984), the department stated (June 1985) that the assessments had been revised in all the three cases and recovery of Rs. 30,307 effected in two cases during July and August 1984. Report on recovery of Rs. 10,858 in the third case is awaited (February 1986).

The case was reported to Government in March 1985 ; they confirmed the facts in July 1985.

(c) On sale of gingelly seeds (declared goods) inside the State, tax is leviable at the rate of 3.3 per cent (including surcharge).

In Bellary district, on inter-State sales of gingelly seeds valuing Rs. 73,57,427, made by a dealer during the years 1979-80 and 1980-81 and duly supported by the prescribed declarations, tax was levied at 3 per cent, instead of at 3.3 per cent (including surcharge). The mistake resulted in tax being levied short by Rs. 22,072.

On this being pointed out in audit (July 1984), the assessing authority agreed to rectify the mistake.

The case was reported to Government in January 1985 ; they stated (June 1985) that action had been initiated for revision proceedings. Final reply is awaited (February 1986).

(vii) Under the Karnataka Sales Tax Act, 1957, on sale of plastic sheets and all articles made of plastic, polythene or poly-vinyl-chloride material, tax was leviable at

8 per cent during the period 1st September 1978 to 31st March 1982 at the point of first or earliest of successive sales within the State.

In Bangalore City, on sales of tanks and fume cabin pipes made of polythene sheets for use in laboratories, amounting to Rs. 10,90,128, made by a manufacturer during the years 1980-81 and 1981-82, tax was levied at the general rate of 4 per cent, instead of at the correct rate of 8 per cent. The mistake resulted in tax being levied short by Rs. 47,965, including surcharge.

On the mistake being pointed out in audit (August 1984), the assessing officer agreed to re-examine the case.

Government, to whom the case was reported in January 1985, stated (July 1985) that the assessing authority had initiated rectificatory action.

(viii) Under the Karnataka Sales Tax Act, 1957, on sale of "all kinds of paper including carbon paper, PVC coated paper, waterproof paper, pulp boards, art boards, card boards, corrugated boards and the like", tax is leviable at the rate of 7 per cent at the point of first or earliest of successive sales in the State from 1st September 1978.

In Bangalore, on sale of hessian and polythene-backed paper amounting to Rs. 15,18,559, made by a manufacturer during the years 1978-79 to 1982-83, tax was levied at 4 per cent upto 31st March 1982 and at 5 per cent from 1st April 1982, instead of at the correct rate of 7 per cent. This resulted in tax being levied short by Rs. 45,394 (including surcharge and additional tax).

On the short levy being pointed out in audit (October-November 1984), the department stated (June 1985) that the assessee had sold packing material manufactured by using paper, hessian and plastic so as to get the required thickness and strength and that, in common parlance, this commodity is not understood as paper, but only as packing material. This is not correct as the entry refers not only

to paper of all kinds but includes hard boards, card boards, corrugated boards and the like. It is comprehensive enough to include hessian and polythene-backed paper also. The purpose for which the commodity is put to use cannot change the nature of the commodity.

The above views were communicated to Government/Department in August 1985; their final reply is awaited (February 1986).

(ix) As per provisions of the Karnataka Sales Tax Act, 1957, on sales of all machinery and spare parts and accessories thereof, tax was leviable at the rate of 8 per cent upto 14th March 1980, at 10 per cent from 15th March 1980 to 31st December 1982 and at 6 per cent from 1st January 1983 onwards at the point of first or earliest of successive sales in the State. "Buffing wheels" made out of Kora cloth for buffing watch glasses form parts of the machinery used for such purposes, as these wheels have to be mounted and connected to the drive of mechanical contrivance.

In Bangalore City, on sale of "buffing wheels" (valuing Rs. 8,20,955) made by a manufacturing dealer during the years 1978-79 to 1982-83, tax was levied at the general rate of 4 per cent upto 31st March 1982 and at 5 per cent from 1st April 1982, instead of at the correct rates aforesaid. The mistake resulted in tax being levied short by Rs. 43,853.

On this being pointed out in audit (June 1984), the department stated (July 1985) that the relevant assessment had been revised and additional demand raised. Report on recovery is awaited (February 1986).

The case was reported to Government during January 1985; they confirmed the facts (August 1985).

(x) Under the Karnataka Sales Tax Act, 1957, on sale of electrical goods, instruments, apparatus, appliances and other parts and accessories, tax is leviable at 10 per cent at the point of first sale in the State, while on sale of articles made of poly-vinyl-chloride (P.V.C.), tax is leviable at 8

per cent. It has been judicially held\* that when a commodity can be brought under two different items listed in the schedule to the Act, it is classifiable under specific item and not under the general one.

In Bangalore City, on sale of electrical conduit pipes amounting to Rs. 17.33 lakhs made by a dealer during the period from 1st July 1979 to 31st December 1981, tax was levied at 8 per cent (erroneously treating the goods as made of P.V.C.), instead of at the rate of 10 per cent applicable to sale of accessories of electrical goods. The application of incorrect rate of tax resulted in tax being levied short by Rs. 42,431 (including additional tax and surcharge).

On the mistake being pointed out in audit (September 1983), the department revised (September 1984) the assessment. The assessee, however, preferred an appeal before the Appellate Tribunal. Further developments are awaited (February 1986).

(xi) Under the Karnataka Sales Tax Act, 1957, on sale of rice soji, tax is leviable at the general rate of 5 per cent from 1st April 1982. Turnover tax is also leviable at one-half per cent if the total turnover of the dealer in a year exceeds rupees one and a half lakhs. (This commodity is different from rice which is one of the declared goods and is taxable at 4 per cent at the point of first or earliest of successive sales within the State).

In Bangalore City, during the year 1982-83 the total turnover of 10 dealers including sales turnover of rice soji amounted to Rs. 8,89,335. In assessing the dealers, turnover amounting to Rs. 4,41,363 was exempted from levy of tax, erroneously treating it as the second point sale of rice and the remaining turnover amounting to Rs. 4,47,972 was taxed at the incorrect rate of 4 per cent. In both the cases, tax <sup>leviable</sup> ~~was leviable~~ at 5 per cent (with surcharge thereon). Turnover

---

\* State of Tamil Nadu Vs. Blue Star Engineering Co. Madras (P) Limited (1971) 39 STC 194.

tax was also leviable as the total turnover of each dealer was more than Rs. 1.5 lakhs. The mistake resulted in tax being levied short by Rs. 35,444.

On the mistake being pointed out in audit (August 1984), the assessing officer passed rectificatory orders. Report on recovery is awaited (February 1986).

(xii) Under the Karnataka Sales Tax Act, 1957, on sale of 'chemicals of all kinds', tax was leviable at the rate of 8 per cent upto 31st March 1982 and at 10 per cent thereafter at the point of first sale in the State. It has been judicially held\* that calcuim oxide, commonly known as 'lime' or 'quick lime' got by roasting lime stone, is a chemical.

In Bangalore district, on sales of 'burnt limestone' amounting to Rs. 5,34,914, made by a manufacturer during the years 1980-81 to 1982-83, tax was levied at the rate of 4 per cent upto 31st March 1982 and at 5 per cent from 1st April 1982 (which rates were applicable to sale of unclassified goods), instead of at the aforesaid rates applicable to chemicals. The incorrect classification resulted in tax being levied short by Rs. 25,285 (including surcharge).

On the mistake being pointed out in audit (October 1984), the assessing officer revised (November 1984) the assessment and raised additional demand for Rs. 25,285. Report on recovery is awaited (February 1986).

The case was reported to Government in March 1985; they confirmed the facts (June 1985).

(xiii) Under the Karnataka Sales Tax Act, 1957, on sale of timber, rose wood and sandal wood, tax is leviable at 8 per cent at the point of first sale in the State with effect from 1st April 1982. On sale of firewood for non-domestic purposes, tax is leviable at the general rate of 5 per cent.

---

\* High Court of Gujarat in the case of State of Gujarat Vs. Shah Bhagwanji Manekchand (1982)50 STC 147.

(a) In Bangalore City, on sale of eucalyptus wood amounting to Rs. 5,15,922, made by a dealer to a factory manufacturing nylon and polyester fibres (by using eucalyptus as raw material) during the period 12th August 1982 to 30th June 1983, tax was levied at the general rate of 5 per cent, as applicable to firewood sold for non-domestic use, instead of at 8 per cent as applicable to timber. The mistake resulted in tax being levied short by Rs. 17,026 (including surcharge).

On the mistake being pointed out in audit (October 1984), the department rectified the assessment in July 1985 and raised additional demand for the difference of tax. Report on recovery is awaited (February 1986).

Government, to whom the case was reported in March 1985, confirmed (August 1985) the facts.

(b) In Bangalore district, on sale of timber amounting to Rs. 4,06,880, made by a dealer during 1982-83, tax was erroneously levied at the rate of 5 per cent, instead of at 8 per cent, resulting in short levy of tax by Rs. 13,427 (including surcharge).

On the mistake being pointed out in audit (November 1984), the department rectified the assessment and collected the amount in November 1984.

The matter was reported to Government in March 1985; they confirmed the facts in June 1985.

(c) In a forest division in Tumkur District, on sale of eucalyptus wood valuing Rs. 3,27,435, made during the period April 1982 to October 1982, tax was levied at 4 per cent, instead of at the correct rate of 8 per cent. The mistake resulted in short levy of tax by Rs. 14,407 (including surcharge).

On the mistake being pointed out in audit (May 1984), the divisional officer agreed to recover the amount. Report on recovery is awaited (February 1986).

(xiv) As per the provisions of the Karnataka Sales Tax Act, 1957, the State Government may, by notification, exempt or reduce the rate of tax payable under the Act on sale or purchase of any specified goods or class of goods. As per an amendment to the Act made in 1981, which was to have retrospective effect, where the rate of tax under the Act in respect of any goods or class of goods is modified by an amendment to the Act, any earlier notification by Government exempting or reducing the tax leviable on sale or purchase of such goods shall be deemed to have been cancelled with effect from the date the amendment came into force.

(a) By a notification issued by Government in November 1975, the rate of tax, leviable on sale of cakes was reduced from 6 per cent to 3 per cent. The Act was, however, amended with effect from 15th March 1980, increasing the rate of tax on sale of cakes to 8 per cent. Therefore, the earlier notification of November 1975 ceased to have effect from 15th March 1980.

In assessing 4 dealers in Bangalore City, on sale of cakes made during the years 1980-81 and 1981-82 amounting to Rs. 3,22,587, tax was levied at the rate of 3 per cent, instead of at 8 per cent, resulting in tax being levied short by Rs. 17,742 (including surcharge).

On the mistake being pointed out in audit (May 1983), the assessing officer revised the assessments and collected Rs. 11,556 between December 1983 and February 1985. Report on the recovery of the balance amount is awaited (February 1986).

(b) By a notification issued in November 1975, the rate of tax leviable on sale of bread was reduced to  $1\frac{1}{2}$  per cent. By an amendment to the Act the general rate of tax was increased from 4 to 5 per cent with effect from 1st April 1982 (relating to unclassified goods). The notification of November 1975, therefore, ceased to have effect from 1st April 1982. (Subsequently, another notification had been

issued on 13th August 1982 reducing the rate of tax on bread from 5 per cent to 2 per cent).

In Gulbarga district, on sale of bread amounting to Rs. 4,95,000. made by a dealer during the period 1st April 1982 to 12th August 1982, tax was levied at  $1\frac{1}{2}$  per cent, instead of at 5 per cent, as aforesaid, resulting in tax being levied short by Rs. 19,058.

On the omission being pointed out in audit (January 1985), the assessing officer stated that notice for rectification of assessment had been issued. Report on final action taken is awaited (February 1986).

(c) As per amendments to the Karnataka Sales Tax Act, 1957, and notifications issued by Government from time to time, on sale of cakes and biscuits, tax is leviable at the rate of 8 per cent with effect from 15th March 1980. Similarly, on sale of bread, tax is leviable at 5 per cent from 1st April 1982 and at 2 per cent from 13th August 1982.

In Bangalore City, on sale of biscuits, cakes and bread amounting to Rs. 9,07,000 made by a manufacturer during 1981-82 and 1982-83, tax was incorrectly levied at the rates of 6, 3 and 1.5 per cent respectively, instead of at the correct rates as aforesaid, resulting in short levy of tax by Rs. 19,377 (inclusive of surcharge).

On the mistake being pointed out in audit (January 1984), the department rectified the assessment and collected (March 1984) the difference of tax.

The case was reported to Government in March 1985; they confirmed the facts in June 1985.

(d) By a notification issued in April 1975, the rate of tax leviable on sale of 'dies' (which are regarded as spare parts/accessories of machinery) was reduced from 8 per cent to 4 per cent. The Act was amended from 15th March 1980, increasing the rate of tax on machinery spare parts and accessories thereof, to 10 per cent. Therefore, the earlier notification of April 1975 ceased to have effect

after 15th March 1980. Subsequently, another notification was issued in November 1980 (effective from 1st December 1980), again reducing the rate of tax on 'dies' from 10 per cent to 4 per cent. Therefore, during the period from 1st April 1980 to 30th November 1980, sales of 'dies' were taxable at the rate of 10 per cent.

In Bangalore City, on sales of 'dies' amounting to Rs. 2,16,914, made during the period 1st April 1980 to 30th November 1980, tax was levied at the rate of 4 per cent, instead of at 10 per cent, resulting in short levy of tax by Rs. 15,390 (inclusive of surcharge and additional tax).

On the mistake being pointed out in audit (November 1984), the department stated (August 1985) that the assessment had been revised and the difference of tax recovered (May 1985).

The case was reported to Government in March 1985; they confirmed the facts in July 1985.

(xv) Under the Karnataka Sales Tax Act, 1957, on sale of parts and accessories of cinematographic projectors, tax is payable at 15 per cent at the point of first or earliest of successive sales in the State.

In Bangalore City, on sale of parts of arc lamps of Cinematographic projectors amounting to Rs. 1,40,896, made by a dealer in June 1982, tax was levied at 5 per cent (which rate is applicable to sale of unclassified goods), instead of at the rate of 15 per cent. The mistake resulted in tax being levied short by Rs. 15,499 (including surcharge).

On the mistake being pointed out in audit (January 1985), the department stated (July 1985) that the assessee had preferred second appeal to the Karnataka Appellate Tribunal and obtained stay order against the revisional order passed by the appellate authority. Further developments are awaited (February 1986).

The case was reported to Government in March 1985; they confirmed the facts in August 1985.

(xvi) Under the Karnataka Sales Tax Act, 1957, on sale of iron scrap (declared goods) tax was leviable at 4 per cent at the point of first or earliest of successive sales within the State upto 31st October 1982. Under the Central Sales Tax Act, 1956, on inter-State sales of declared goods, not supported by prescribed declarations, tax is leviable at twice the rate applicable to sale of these goods under the State Act.

In Uttara Kannada district, on intra-State and inter-State sales of iron scrap amounting to Rs. 4,54,300 and Rs. 5,03,766 (not supported by prescribed declarations) made by a dealer during the years 1977-78 to 1979-80, tax was incorrectly levied at 3 and 6 per cent instead of at 4 and 8 per cent respectively. The mistake resulted in tax being levied short by Rs. 14,618.

The case was reported to the department in June 1983. They stated (August 1985) that the relevant assessment had been rectified and additional demand raised. Report on recovery is awaited (February 1986).

(xvii) Under the Karnataka Sales Tax Act, 1957, with effect from 1st September 1978, on sale of articles made of stainless steel (other than such articles as are used as parts of industrial machinery), tax is leviable at 10 per cent, at the point of first or earliest of successive sales in the State.

In Bangalore City, on first sale of surgical goods made of stainless steel valuing Rs. 5,16,222, made by a dealer during 1979-80, tax was levied at 8 per cent, instead of at 10 per cent, resulting in tax being levied short by Rs. 12,493 (including surcharge and additional tax).

On the mistake being pointed out in audit (June 1984), the department agreed to examine the case. Report on the result of examination is awaited (February 1986).

(xviii) Under the Karnataka Sales Tax Act, 1957, on sale of 'toddy', tax is leviable at the rate of 5 per cent (4 per cent upto 31st March 1982) at the point of first sale in the State.

In Bangalore district, on sale of toddy amounting to Rs. 10,33,850, made by a dealer during the period 1st April 1982 to 30th June 1983, tax was, by mistake, levied at the rate of 4 per cent, instead of at 5 per cent. The mistake resulted in short levy of tax by Rs. 11,372 (including surcharge).

On the mistake being pointed out in audit (October 1984), the department stated (July 1985) that the assessments had been rectified and additional demand raised. Report on recovery is awaited (February 1986).

Government, to whom the case was reported in March 1985, confirmed the facts in August 1985.

(xix) As per notification dated 13th October 1980, issued under the Karnataka Sales Tax Act, 1957, the rate of tax leviable on sale of hand-made washing soaps manufactured out of a combination of edible and non-edible oils by a registered dealer, whose sales turnover did not exceed rupees two and a half lakhs per annum, was reduced from 6 per cent to 3 per cent. By a Government notification issued on 31st March 1983, this turnover limit was increased to rupees five lakhs from 1st April 1983.

In Dharwad district, on sale of hand-made washing soaps amounting to Rs. 4,94,168 made by a dealer during the accounting year 1st July 1982 to 30th June 1983, tax was erroneously levied at the rate of 3 per cent on the entire turnover of Rs. 4,94,168, instead of at 6 per cent on sales made upto 31st March 1983 (Rs. 3,17,978) and at 3 per cent on sales made thereafter (Rs. 1,76,190). The mistake resulted in tax being levied short by Rs. 10,493.

On the mistake being pointed out in audit (December 1984), the assessing officer agreed to examine the case. Report on result of examination is awaited (February 1986).

The above cases were reported to Government between April 1984 and August 1985 ; their reply is awaited (February

1986) except in respect of sub-paragraphs 2.5 (i)(b), (c), 2.5 (iv), 2.5 (vi) (a), (b), (c), 2.5 (vii), 2.5 (ix), 2.5 (xii), 2.5 (xiii) (b), 2.5 (xiv) (c), (d) and 2.5 (xv).

## **2.6. Incorrect or irregular grant of exemption from tax**

(i) Under the Central Sales Tax Act, 1956, on inter-State sales of goods made to registered dealers, tax is leviable at 4 per cent. if such sales are supported by prescribed declarations. However, on inter-State sales of declared goods, which are not so supported by declarations, tax is leviable at twice the normal rate applicable to the sale or purchase of such goods inside the State.

Further, any subsequent sale of goods to any authorised registered dealer, effected by transfer of documents of title to the goods during the movement of such goods from one State to another, shall be exempt from levy of tax, provided the prescribed certificates in Form EI/EII and 'C' from the seller and the purchaser respectively are furnished to the assessing authority.

In Bellary district, on inter-State sales of cotton (declared goods), amounting to Rs. 47,36,548, made by a dealer during the year 1977-78 and not supported by the prescribed declarations, tax was levied at the normal rate (3 per cent). instead of at double the rate (6 per cent), resulting in tax being levied short by Rs. 1,42,096.

In the case of the same dealer, sales of cotton amounting to Rs. 25,67,032 were exempted from levy of tax on grounds of their being subsequent sales, effected by transfer of documents of title to the goods during the movement of goods from Karnataka to other States. The exemption allowed was irregular as these sales were not supported by the prescribed certificates as aforesaid and resulted in tax amounting to Rs. 1,54,022 not being realised.

Further, sales amounting to Rs. 7,03,724 were exempted from levy of tax as having been effected outside the State. The precise nature of these sales and the manner in which

these were effected was not clear from the assessment records. In fact, there was no proof of any such sales having at all been effected. The irregular grant of exemption in this case resulted in non-realisation of tax amounting to Rs. 42,223.

On the above irregularities being pointed out in audit (July 1984), the assessing officer agreed (July 1984) to initiate rectificatory action. Report on action taken is awaited (February 1986).

Government, to whom the case was reported in January 1985, confirmed (September 1985) the facts.

(ii) Under the Central Sales Tax Act, 1956, on inter-State sales of declared goods not supported by prescribed declaration, tax is leviable at twice the rate prescribed in State Act. Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods on the ground that the movement of such goods from one State to another was occasioned by transfer of goods to any other place of his business and not by reason of sale, he shall furnish, to the assessing authority, the prescribed declarations in form 'F', duly signed by the principal officer of the other place of business, along with the evidence of despatch of such goods. The burden of proving that the movement of those goods was so occasioned shall be on that dealer.

On inter-State transfers of goods (cotton yarn) valuing Rs. 19,63,589, made by a manufacturer in Belgaum during the year 1976, tax was not levied on the ground that these transfers were made by the assessee to his branches outside the State and were not by way of sale. But these transfers were not supported by the prescribed declaration in form 'F', nor was any evidence produced by the assessee to show that the transfers were not by reason of sale.

On the omission being pointed out in audit (July 1984), the assessing officer rectified the assessment and raised an additional demand for Rs. 58,908. Report on recovery is awaited (February 1986).

(iii) The Karnataka Sales Tax Act, 1957 and the rules made thereunder provide that all amounts realised by a dealer by sale of his business as a whole shall be deducted from his total turnover in determining the taxable turnover for purposes of assessment. Under item 73 of Schedule-II to the Act, on sales of articles used generally as parts and accessories of motor vehicles, tax is leviable at 12 per cent with effect from 29th March 1981 at the point of first sale.

In 1982-83, a registered dealer of Bangalore City sold to another registered dealer, his entire stock of automobile parts (book value Rs. 5,52,392), which were stated to be either slow moving or non-marketable items for a bargain price of Rs. 3,50,000. No tax was levied by the assessing authority, taking the sale to be sale of the business as a whole. As the dealer had only sold the closing stock of taxable goods at a bargain price to the purchaser and not the business as a whole, the sales had to be subjected to tax at the hands of the assessee as the first seller. The exemption allowed was, therefore, irregular and resulted in tax amounting to Rs. 47,950 (including surcharge and turnover tax) not being realised.

On the omission being pointed out in audit (February 1985), the department stated (October 1985) that the revision proceedings were in progress. Report on action taken is awaited (February 1986).

(iv) Under the Karnataka Sales Tax Act, 1957, on purchase of cotton by the last dealer in the State, tax is leviable at the rate of 3 per cent.

In Tumkur district, on purchase of cotton amounting to Rs. 11.43 lakhs, made by a manufacturer of cotton yarn during the years 1978-79 and 1979-80, tax amounting to Rs. 37,719 (including additional tax) was leviable, but was not levied, erroneously treating the goods as 'cotton waste'.

On the omission being pointed out in audit (March 1982), the assessing officer referred the cases for cross verification with other assessing officers, in whose jurisdiction the pur-

chases had been made. One of the officers subsequently confirmed (September 1983) that the purchase of Rs. 4.13 lakhs made in his jurisdiction related to cotton. But tax on this purchase was stated to have not been levied. Report on cross verification in other cases and recovery of tax is awaited (February 1986).

(v) As per the notification issued by Government in December 1978 under the Karnataka Sales Tax Act, 1957, on sale of products of village industries specified therein, levy of tax is exempt provided a dealer's annual sales turnover thereof does not exceed one and a half lakh of rupees.

In Dharwad district, total sales of a dealer of hand-made soap (a specified product) during the year 1978-79, amounted to Rs. 1,57,139 (local sales Rs. 1,43,080 and inter-State sales Rs. 14,059). Total sales of another dealer during the year 1978-79 amounted to Rs. 1,95,456 (local sales of soap Rs. 1,40,601 and by-products Rs. 54,855). Even though in each of these cases the total turnover exceeded Rs. 1,50,000, the turnovers relating to the sale of soaps within the State were exempted from levy of tax on the ground that the sales within the State (Rs. 1,43,080) in the first case and sales of soap alone (Rs. 1,40,601) in the second case did not exceed the prescribed limit of Rs. 1,50,000. The exemption allowed was not correct as the "turnover" includes not only sales within the State but also inter-State sales and sales of by-products. The irregular grant of exemption resulted in tax amounting to Rs. 18,723 not being realised.

The case was reported to the Department in December 1982; their reply is awaited (February 1986).

(vi) Under the Karnataka Sales Tax Act, 1957, on sale of any item of goods of 'iron and steel', referred to in entry number 2 of Fourth Schedule to the Act, tax is leviable at 4 per cent on the first or earliest of successive sales within

the State. It has been judicially held\* that each sub-item referred to under 'iron and steel' is a separate taxable commodity for purposes of levy of sales tax and each item forms a separate species for each series of sales, although they may all belong to the genus 'iron and steel'. Explanation-II below Fourth Schedule to the Act provides that where tax has been paid in respect of any item of goods of iron and steel referred to in entry number 2 and, out of the said goods, any other items of goods of iron and steel are manufactured, the tax on 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.

In Dakshina Kannada district, a dealer sold steel wires manufactured out of wire rods for Rs. 45,09,102. Instead of allowing set off of the tax paid on wire rods from the tax leviable on sale of steel wires and recovering the balance from the dealer, the assessing authority exempted the sales of steel wires from levy of tax during the years 1979-80 to 1982-83. The incorrect grant of exemption, resulted in tax amounting to Rs. 16,766 not being realised.

On the mistake being pointed out in audit (May 1984), the department revised the assessment and demanded the difference of tax. However, the assessee preferred an appeal and obtained a stay order against the recovery. Final report is awaited (February 1986).

(vii) As per the Karnataka Sales Tax Act, 1957, on sale of any goods not falling under any of the Schedules to the Act, tax is leviable at the general rate of 5 per cent (4 per cent prior to 1st April 1982) at every point of sale.

In Bellary district, on sales of 'safety fuse' amounting to Rs. 2,51,297, made by a dealer during the period from 1979-80 to 1982-83, levy of tax was exempted on the ground

---

\*State of Tamil Nadu Vs. Pyarelal Malhotra [1976] 37 STC 319.

that the goods had already suffered tax on first point of sales. As these goods were not covered by any of the Schedules to the Act, on their sales, tax was leviable at the general rate of 5 per cent at every point of sale. The incorrect grant of exemption resulted in tax amounting to Rs. 12,071 (including surcharge) not being realised.

On the omission being pointed out in audit (January 1985), the assessing officer stated that notice for rectification of assessment had been issued. Report on recovery is awaited (February 1986).

(viii) Under the Karnataka Sales Tax Act, 1957, on sale of coffee in any form such as coffee beans, coffee seeds, coffee powder including French coffee, but not including coffee drink, tax is leviable at the rate of 10 per cent at the point of first sale in the State. However, as per an amendment to the Act, introduced with effect from 15th November 1979, in respect of French Coffee, tax is leviable only on the turnover relating to components thereof (viz., coffee and chicory) which have not already suffered tax. As per a clarification issued in June 1980, sale of French coffee effected prior to 15th November 1979 need not be subjected to tax if the relative ingredients had already suffered tax and if the dealers had not collected tax on such sales.

In Mangalore City, no tax was levied on sales of French coffee (containing chicory) made by a dealer during the years 1977-78 to 1979-80, although tax was leviable on chicory (purchased by the dealer from outside the State for Rs. 1,05,019) as it had not already suffered tax. The omission to levy tax on chicory resulted in tax amounting to Rs. 11,740 not being realised.

On the omission being pointed out in audit (May 1984), the department stated (June 1985) that the entire amount had been recovered by December 1984.

The above case was reported to Government in February 1985; they confirmed the facts (July 1985).

The <sup>above</sup> ~~other~~ cases were reported to Government during January and June 1985; their reply is awaited (February 1986) except in respect of sub paragraphs 2.6 (i) and 2.6 (viii) above.

## 2.7. Incorrect determination of turnover

(i) According to the Karnataka Sales Tax Act, 1957, "turnover" means the aggregate amount for which goods are bought or sold or supplied or distributed by a dealer whether for cash or for deferred payment or other valuable consideration. The amount for which goods are sold include any sums charged or anything done by the dealer in respect of the goods at the time of or before the delivery thereof.

In Bangalore City, while determining the taxable turnover of an assessee dealing in sheet glass during the years 1980-81 to 1982-83, a sum of Rs. 23,33,500 collected and retained by the assessee as "assurance charges" to cover the losses of goods in transit, was allowed by the assessing authority as a deduction, relying on a decision of the Madras High Court.<sup>1</sup> In that case, the Court had held that "insurance charges" incurred by the seller at the specific request of his customer to cover the risk of loss of goods in transit and not included in the price of goods would not form part of the turnover. However, in the instant case "assurance charges" (not "insurance charges" payable to any insurance company) were collected by the seller, compulsorily from all customers as a fixed percentage of the invoice price and were retained by him. These "assurance charges," therefore, formed part of the taxable turnover of the dealer and their exclusion by the assessing authority from the turnover was not in order. The incorrect deduction allowed by the assessing authority resulted in tax being levied short by Rs. 2,35,257 (including surcharge, additional tax and turnover tax).

---

1. State of Madras Vs. Baliga Lighting Equipment (23 STC 154).

On the mistake being pointed out in audit (April-June 1984), the assessing officer agreed to examine the case. The result of examination is awaited (February 1986).

(ii) Under the Karnataka Sales Tax Act, 1957, on the last purchase of sugarcane in the State, tax is leviable at the rate of Rs. 9 per tonne when purchased by manufacturers of jaggery and at Rs. 16 per tonne in other cases. Under the provisions of the Sugarcane Control Order, 1966, the Director of Sugar, Government of Karnataka allowed 25 per cent reduction in the price fixed by Government in respect of burnt sugarcane.

In Belgaum district, a deduction of 25 per cent was made by the assessing authority from the total quantity of burnt and under-developed sugarcane purchased during the years 1975-76 to 1979-80 by two co-operative sugar factories and purchase tax, as aforesaid, was levied on the reduced quantity. The deduction admissible under the orders issued by the Director of Sugar was only in price and not in quantity of burnt sugarcane. The incorrect assessment resulted in tax being levied short by Rs. 96,810.

On the mistake being pointed out in audit (February 1984), the department referred the case for **suo motu** revision ; the result thereof is awaited (February 1986).

(iii) Under the Karnataka Sales Tax Act, 1957, on sale of cinematographic equipment, tax is leviable at 15 per cent at the point of first or earliest of successive sales within the State.

In Bangalore City, on sales of cinematographic projector equipment valuing Rs. 4,19,522 made by a dealer during the year 1980-81, tax amounting to Rs. 69,221 (approximately) was leviable, but was not levied.

On the omission being pointed out in audit (May 1984), the department stated (July 1985) that the assessment had been taken up for **suo motu** revision. Report on final action taken is awaited (February 1986).

Government, to whom the case was reported in March 1985, confirmed (September 1985) the facts.

The above cases were reported to Government between January 1985 and March 1985 ; their final reply is awaited (February 1986) except in respect of sub-para (iii) above.

## **2.8. Credit afforded twice**

Under the Karnataka Sales Tax Act, 1957 and the rules made thereunder, every dealer has to file monthly returns of turnover and pay the tax in advance according to the returns. These payments are credited to their accounts in the commercial tax offices and finally adjusted against the demand after final assessment.

(i) In a Commercial Tax Office in Bangalore, in 15 cases, tax deposited by the dealers during the years 1978-79 to 1981-82 was found to have been credited to their accounts twice. The credits afforded in excess, amounted to Rs. 1,53,813. The irregularity remained undetected in the department due to non-attestation of payment entries in the demand registers by the assessing officers in token of their check with reference to the entries in the daily collections register, as required under the prescribed procedure.

The irregularity was reported to the department in April-May 1984. In view of the seriousness of the irregularity, a detailed departmental investigation was also suggested by Audit. The department collected Rs. 14,863 from nine assesseees in April and May 1984 and initiated rectificatory action in the remaining cases. Report on recovery of the balance amount, results of the departmental investigation and on the remedial action taken or proposed to be taken to prevent recurrence of such irregularities is awaited (February 1986).

Government, to whom the case was reported in March 1985, confirmed the facts (January 1986).

Similar cases of irregular reduction of demand were also reported in paragraphs 25, 2.14, 2.20 and 2.13 of the Audit Reports for the years 1974-75, 1975-76, 1976-77 and 1977-78 respectively.

(ii) In a Commercial Tax Office in the Mysore district, tax amounting to Rs. 28,582 paid by an assessee in advance on 27th June 1970, was, by mistake, credited in his ledger account twice, once in February 1976 (while working out his net demand for the year 1970-71) and again in August 1984 (while revising his assessment for the year 1969-70). The mistake resulted in tax being realised short by Rs. 28,582.

On the mistake being pointed out in audit (February 1985), the assessing authority recovered (February 1985) Rs. 28,582 from the assessee.

Government, to whom the case was reported in May 1985, confirmed the facts (September 1985).

## **2.9. Short levy of tax due to incorrect grant of concession**

Under the Karnataka Sales Tax Act, 1957, on sale of wooden, bamboo and cane furniture and parts and accessories thereof, tax is leviable at 10 per cent (8 per cent upto 31st March 1982) on the first or earliest of successive sales within the State. As per notification issued in December 1979, in respect of sales to departments or Public Sector Undertakings of Government of India, Government of Karnataka or Government of any other State, or Government Companies situated in the State, made by a dealer in respect of goods produced in his manufacturing unit located in Karnataka, the rate of tax was reduced to 4 per cent with effect from 1st January 1980.

In Mysore City, on sale of wooden furniture valuing Rs. 1,90,981, made by a dealer during 1980-81 to 1982-83 to an autonomous research institution, tax was levied at the concessional rate of 4 per cent, although the institution was

not eligible to avail of the concessional rate. Tax on these sales was leviable at the rates of 8 and 10 per cent, as aforesaid. In respect of other sales of wooden furniture amounting to Rs. 28,740 made during the year 1982-83, tax was levied at the rate of 8 per cent, instead of at the correct rate of 10 per cent. The mistakes resulted in tax being levied short by Rs. 10,266 (including surcharge).

On the mistakes being pointed out in audit (February 1985), the assessing officer initiated rectificatory action. Report on action taken is awaited (February 1986).

The case was reported to Government in May 1985; their reply is awaited (February 1986).

## **2.10. Non-levy of penalty**

(i) Under the Karnataka Sales Tax Act, 1957, on sale of goods by one registered dealer to another for use by the latter as a component part of any other goods (mentioned in the Second Schedule to the Act), which he intends to manufacture inside the State for purposes of sale, tax is leviable at a concessional rate of 4 per cent (3 per cent upto 31st March 1981), provided the sales are supported by prescribed declarations from the purchasing dealer. But if the goods so purchased by the registered dealer at a concessional rate of tax are not used by him for the declared purpose, the assessing authority may impose upon him, by way of penalty, a sum not exceeding one and a half times the amount of tax payable on the turnover relating to the sale of such goods.

In Mysore City, an assessee purchased raw materials (viz., chemicals such as formaldehyde) valuing Rs. 17,83,910 during the period 1979-80 to 1982-83 at a concessional rate of tax by furnishing the prescribed declarations, but used them in the manufacture of 'resins' which do not fall under any of the entries in the Second Schedule to the Act. For availing of the concessional rate of tax by furnishing an incorrect declaration, the dealer was liable to pay penalty not exceeding Rs. 1,45,270, but no penalty was imposed by the assessing authority.

On the omission being pointed out in audit (May 1984), the department stated (March 1985) that penalty of Rs. 1,09,419 had been levied, but the dealer had preferred an appeal before the appellate authority which was, however, dismissed (September 1985). Report on recovery is awaited (February 1986).

Act,

(ii) Under the Karnataka Sales Tax, 1957, a registered dealer is forbidden to collect any amount, by way of tax or purporting to be by way of tax at rates exceeding the rates specified in the Act or in respect of sales 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 half times the amount of such collection.

In Bangalore City, in assessing a dealer of bus body building, on his turnover for the year 1979-80, the assessing authority allowed a deduction of Rs. 90,050 from the turnover, as amounts collected by the dealer by way of tax. However, the assessee was finally assessed to tax amounting to Rs. 53,773 only. The difference of Rs. 36,277 was mainly due to collection, by the dealer, of tax in excess of the prescribed rate of 4 per cent, on sales of bodies of buses made to Government departments and public sector undertakings during the period 1st March 1980 to 2nd September 1980. Instead of imposing penalty for the excess collection as aforesaid, the amount of Rs. 36,277 was refunded to the assessee.

On the mistake being pointed out in audit (November 1984), the department stated (July 1985) that notice had been issued to the assessee for recovery of the excess tax collected.

The matter was reported to Government in March 1985; they confirmed the facts in July 1985.

(iii) As per the Karnataka Sales Tax Act, 1957, if a dealer fails to pay the tax demanded within twenty one days from

the service of demand notice, he is liable to pay penalty at the rate of one per cent per month of the amount of tax remaining unpaid for the first three months and at two and a half per cent per month of such amount for each subsequent month, so long as the default continues.

In fourteen districts, for belated payment of tax by 606 dealers during the year 1983-84, penalty amounting to Rs. 7.44 lakhs was leviable, but was not levied.

On the omission being pointed out in audit (between April 1984 and March 1985), the department reported (July 1985) recovery of Rs. 22,245. Report on recovery of the balance amount is awaited (February 1986).

The above cases were reported to Government between January 1985 and July 1985; their reply is awaited (February 1986) except in respect of sub-paragraph (ii) above.

## **2.11. Working of sales tax check posts in Karnataka**

### **2.11.1. Introductory**

The Karnataka Sales Tax Act, 1957, which came into force with effect from 1st October 1957, provides for single point of levy of tax in respect of scheduled goods and multi-point levy of tax in respect of non-scheduled goods. With a view to preventing evasion of tax, Government established during the period from 1962 to 1984, thirty-two check posts at strategic points along the borders with the neighbouring States, on some important highways and around big trade centres in the State.

### **2.11.2. Checking of vehicles passing through check posts**

The owner or person in-charge of a goods vehicle is required to carry with him the vehicle record, trip sheet or log book and bill of sale or delivery note obtained from the prescribed authority containing the prescribed particulars and produce the same before the officer in-charge of check posts. In the case of vehicles entering or leaving the State

limits, he is also required to furnish a declaration in form 34 and also the particulars of goods carried. Failing this, he is liable to pay a penalty not exceeding double the amount of tax in respect of the goods carried.

The number of vehicles checked, offences detected and penalty levied and collected at the check posts during the three years from April 1981 to March 1984 are shown below.

<i>Year</i>	<i>Number of check posts</i>	<i>Number of vehicles checked</i>	<i>Number of offences detected</i>	<i>Amount of penalty collected (In lakhs of rupees)</i>
			Not available	
1981-82	29	27.08 lakhs		69.00
1982-83	31	28.92 „	70,469	89.67
1983-84	32	22.80 „	46,549	82.21

### **2.11.3. Physical verification of goods under transport**

As per standing instructions, which were reiterated in November 1984, the officers in-charge of check posts are required to conduct physical verification of goods by unloading twice in each shift of eight hours in order to detect cases of major evasions. However, during the years 1981-82 to 1983-84 physical verification of goods was not done to the required extent in 9 check posts located in Bangalore (except in 2 check posts during 1981-82 and 1982-83) and in all the 3 check posts located in Mysore. The actual number of vehicles physically checked in all the 12 check posts during the three years was 49,858, which constituted only one per cent of 49.08 lakh vehicles which passed through these 12 check posts. The information regarding the extent of evasion noticed during such physical check was not available.

### **2.11.4. Utilisation of information collected at the check posts**

The documents that are collected at the check posts viz., the delivery notes (Form 39) or bills of sale are classified

into two categories viz., (1) those relating to certain important commodities, irrespective of value and those relating to goods valued at more than Rs. 50,000 and (2) others. Guidelines were issued by the Commissioner of Commercial Taxes from time to time for a systematic cross-verification of bills of sale or delivery notes collected at the check posts. The documents collected at the check posts, classified under special and ordinary categories, are sorted out assessing officer-wise and sent to the concerned assessing officers for check with the accounts of the dealer. According to the instructions issued in March 1974, the assessing officers were required to enter them in the prescribed 'L' Register for a systematic watch and to cross verify at least 25 per cent of the delivery notes with the accounts of the dealers and keep a record of the result of verification in the assessment files. In the case of special documents, cent per cent verification was required to be made.

The total number of documents collected at the check posts around Bangalore during the three years and sent to the assessing officers were as follows :

	1981-82	1982-83	1983-84
	(Number of documents)		
1. Special documents	66,382	1,65,207	1,49,052
2. General documents	27,65,767	37,94,908	59,57,765

A test check of the records in this connection in six circle offices in Bangalore revealed that :

(i) The delivery notes or bills of sale received by the assessing officers were not entered in the prescribed register ('L' Register). In some cases this register was not maintained at all.

(ii) The special documents were not cross verified to the extent necessary (100 per cent). In two circles, no cross verification was done.

(iii) Details of number of documents received for verification and the extent of verifications done, if any, were not

kept in three circle offices for the years 1981-82 and 1982-83 and in two offices for the year 1983-84.

(iv) The general documents were also not cross verified in one circle during 1982-83 and in two circles during 1983-84.

(v) There was nothing in 'L' Register to show that the delivery notes selected for cross verification were actually got verified and filed in the assessment records.

#### **2.11.5. Special check by Intelligence Wing**

Cross verification of selected delivery notes by the officers of the Intelligence Wing of the department was also prescribed by the Commissioner during 1975-76. The check post officers were required to select one or two per cent of the documents collected every day in suspected cases requiring quick investigation and send them to the respective Commercial Tax Officers (Intelligence) for necessary cross verification. This was not being done.

#### **2.11.6. Goods vehicles passing through Karnataka**

In the case of vehicles entering the State limits through one check post and leaving the State limits through another check post carrying goods to another State, one copy of the declaration in form 34 is required to be collected by the check post officer. But no procedure had been prescribed regarding utilisation of such declarations. There was no co-ordination between the entry and exit check posts in such cases to ensure that the goods vehicles actually moved to other States. Due to the non-transmission of the declarations to other States, it could not be ensured whether the goods covered by such declarations were actually transported to other States or were sold within Karnataka and tax thereon evaded.

2.11.7. The foregoing points were brought to the notice of the department and to Government in September 1985; their replies are awaited (February 1986).

## CHAPTER 3

### STATE EXCISE DUTIES

#### 3.1. Results of Audit

Test check of the records in the departmental offices, conducted in audit during the year 1984-85, disclosed short levy of duty and licence fees amounting to Rs. 2,014 lakhs in 59 cases, which broadly fall under the following categories.

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Errors in computation	47	30.36
2. Short levy of licence fee	4	2.04
3. Production losses or wastages	4	4.52
4. Other irregularities	4	1,977.23
Total	59	2,014.15

Some of the important cases are mentioned in the following paragraphs.

#### 3.2. Non-recovery of duty and cess on spirit/liquor wasted in excess of norms

(i) In May 1980, Government issued orders fixing the norms for wastage of spirit, permissible on redistillation at 3 per cent of the quantity of rectified spirit, which was redistilled for producing neutral spirit. This limit was enhanced to 5 per cent in August 1984, based on the recommendations of a Technical Committee constituted by Government in April 1982.

In a distillery in Kolar district, during the years 1982-83 and 1983-84, out of 3,11,455 proof litres of rectified spirit redistilled, 2,56,618 proof litres of neutral spirit were pro-

duced and the difference of 54,837 proof litres was claimed to be wastage. Wastage at 3 per cent was to be limited to 9,344 proof litres. Excise duty and cess amounting to Rs. 4,17,420, leviable on 45,493 proof litres of rectified spirit wasted in excess of the norms, were not demanded. Even on allowing the wastage at the enhanced limit of 5 per cent, the duty and cess leviable on excess wastage (39,264 proof litres) works out to Rs. 3,60,193.

The omission was reported to the department in October 1984; their reply is awaited (February 1986).

(ii) As per standards laid down in a Government Order issued during May 1980, loss of spirit occurring during maturation of spirit, which is stored in wooden casks for the purpose of manufacture of Indian made liquors, is allowed to be waived for the purpose of levy of duty. But this allowance is subject to certain limits varying from 2.5 per cent to 22 per cent, depending on the period of storage ranging from 6 months to 36 months.

In a distillery in Bangalore district, the loss of spirit stored for maturation in casks, for the purpose of manufacture of Indian made liquor during the year 1983-84, exceeded the aforesaid limits by 32,035 proof litres. On the spirit wasted in excess of the prescribed limits, excise duty and cess amounting to Rs. 3,12,341 were leviable, but were not levied.

The omission was reported to the department in February 1985; their reply is awaited (February 1986).

(iii) As per the project report of a chemical industrial unit in Dharwad district, based on which a permit was issued for the manufacture of Ethyl Acetate, 1,500 bulk litres of rectified spirit were required for manufacturing 1,470 kilograms of Ethyl Acetate.

During the years 1982-83 and 1983-84, for manufacturing 3,23,655 kilograms of Ethyl Acetate, the industry utilised

3,58,850 bulk litres of rectified spirit, as against 3,30,260 bulk litres required as per the project report. Duty leviable on the excess quantity of 28,590 bulk litres of rectified spirit consumed, amounted to Rs. 4,39,364, but was not levied.

The non-levy was pointed out to the department in February 1985. They stated (November 1985) that the industry had to consume more spirit than that was required as per the formula, owing to the use of spirit of lower strength and that the manufacturer's requirement was partly met by medium grade alcohol also. The reply is not tenable as the original project report did not contemplate the use of medium grade alcohol and as the revised formula, if any, did not have the approval of the Government.

(iv) In May 1982, the Excise Commissioner granted permission to a distillery in Bidar district for redistillation and rebottling of 61,233.800 bulk litres of sedimented Indian made liquor, subject to the condition that no allowance towards any wastage in the process would be admissible.

However, out of a total quantity of 33,563.640 bulk litres of sedimented Indian made liquor redistilled by the distillery, only 32,815.885 bulk litres were bottled, and the remaining quantity of 747.755 bulk litres was treated as wastage. Excise duty and cesses amounting to Rs. 24,303 leviable on the liquor wasted in the process were not demanded from the distillery.

On the omission being pointed out in audit (June 1984), the department stated (August 1985) that the entire amount had since been recovered in July 1985.

Government, to whom the case was reported in September 1985, confirmed the facts (January 1986).

The above cases were reported to Government between September 1984 and May, 1985; their reply is awaited (February 1986) except in respect of sub paragraph (iv) above.

### 3.3. Non-recovery of duty and cess

Under the Karnataka Excise (Excise Duties) Rules, 1968, duty is leviable at concessional rate in respect of liquor exported outside the State but within India. According to the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules, 1967, in cases where the reports of verification of consignments or warehousing of the intoxicants are not received from the importing States, within 10 days after the expiry of the period of validity of the export permits issued, the differential duty shall be collected from the exporter and the sureties.

In respect of 116 consignments of Indian made liquor and beer exported to other States from three distilleries/breweries in Bangalore District during 1982-83 and 1983-84, acknowledgments/verification reports had not been received from other States so far (October 1985), even though more than one to three years had elapsed since then. Excise duty and cesses involved in these cases amounted to Rs. 1.10 crores.

The matter was reported to the department in December 1984. The Department stated (November 1985) that circular instructions were being issued to all the district officers to review all outstanding cases and report the results thereof. Report on final action taken is awaited (February 1986).

The matter was reported to Government in February 1985 : their reply is awaited (February 1986).

### 3.4. Short recovery of interest on belated payments

As per Rule 15 of the Karnataka Excise Licences (General Conditions) Rules, 1967, on shop rentals which are not paid within the tenth day of the month to which they relate, interest is chargeable at the rate of  $6\frac{1}{4}$  per cent per annum for the period of delay.

In the districts of Mysore, Tumkur, Shimoga, Mandya, Bijapur, Chitradurga, Belgaum, Hassan and Chickmagalur,

interest chargeable (for various periods falling between 1st July 1982 and 30th June 1984), on belated payments of shop rentals by arrack and toddy contractors was recovered short by Rs. 24.16 lakhs.

The short recoveries were pointed out in audit between April 1984 and March 1985. The department stated in November 1984, January 1985, October 1985 and December 1985 that a sum of Rs. 2.06 lakhs had since been recovered. Report on recovery of the balance amount is awaited (February 1986).

The cases were reported to Government between January 1985 and April 1985 ; their reply is awaited (February 1986).

### **3.5. Short recovery of supervision charges**

The Karnataka Excise Rules require that the cost of establishment in respect of the excise officers and staff working in the premises of the excise licensees, for securing compliance with the provisions of the Excise Act and Rules, be recovered by Government from the licensees in advance in annual, half yearly or quarterly instalments.

From nine licensees in 3 districts, the cost of establishment was not collected in full during the years 1981-82 to 1984-85. The short fall in recovery amounted to Rs. 1,32,227.

The short recovery was reported to the department between May and December 1984. The department stated (November 1985) that a sum of Rs. 30,976 had since been recovered. Report on recovery of the balance amount is awaited (February 1986).

The above case was reported to Government in February 1985 ; their reply is awaited (February 1986).

### **3.6. Short accountal of arrack**

In the consolidated accounts of all the arrack bonded depots of the Kodagu district (maintained at the District Excise Office), based on the monthly accounts received

from taluks, the opening balance for the month of May 1983 was incorrectly adopted as 4,967 bulk litres, as against the closing balance of 7,967 bulk litres at the end of April 1983. Further examination of the initial accounts of the taluks revealed that there was short accountal of 3,000 bulk litres of arrack in one depot for the month of April 1983. This short accountal resulted in loss of revenue amounting to Rs. 17,876.

On the wastage being pointed out in audit (June 1984), the department confirmed (January 1985) the short accountal of 3,000 bulk litres of arrack and stated (July 1985) that the entire amount (Rs. 17,876) had since been recovered in May and June 1985 from the contractor.

The case was reported to Government in January 1985; their reply is awaited (February 1986).

### **3.7. Short recovery of licence fee**

(i) Under the Karnataka Excise (Distillery and Warehouse) Rules, 1967, the fee for grant of renewal of a distillery licence is Rs. 7,500 per annum in the case of distilleries, manufacturing spirits out of fruits like cashew, pineapple, apple and grapes and Rs. 1,00,000 per annum (Rs. 80,000 per annum upto 30th June 1983) in the case of distilleries manufacturing spirit out of materials other than such fruits. A licence granted or renewed shall expire on the last day of June next following.

A distillery in Bangalore used rectified spirit (obtained from molasses) and grape spirit, in the manufacture of Indian made liquor (Brandy) during the excise years 1982-83 and 1983-84. Therefore, licence fee amounting to Rs. 1,80,000 (for use of spirit obtained from molasses) and Rs. 15,000 (for use of spirit obtained from grape spirit) were recoverable from the distillery for these years. But licence fee amounting to Rs. 15,000 only was recovered, resulting in short recovery of Rs. 1,80,000.

The short recovery was pointed out in audit in June 1984. The department stated (June 1985) that the rectified spirit was only blended with grape spirit in the process of manufacture and was not used as such in manufacturing Indian made liquor. However, the rules require recovery of additional licence fee even in such cases. This view was reiterated in July 1985; the department's final reply is awaited (October 1985).

(ii) During the excise years 1983-84 and 1984-85, a distillery in Bangalore District manufactured spirit out of grapes, in addition to the manufacture of Indian made liquor out of molasses. However, it obtained a licence for the manufacture of spirit out of molasses only after paying the prescribed fee of Rs. 1 lakh per year. Licence fee amounting to Rs. 15,000 for the manufacture of spirit out of grapes during the years 1983-84 and 1984-85 was not levied and collected.

The omission was reported to the department in February 1985; their reply is awaited (February 1986).

The above cases were reported to Government in September 1984 and April 1985; their replies are awaited (February 1986).

### **3.8. Short levy of duty due to application of incorrect rate**

(i) By a notification issued by Government (in June 1983), the rate of excise duty payable on Indian made liquor was revised from Rs. 26 per proof litre (plus 25 per cent cess thereon) to Rs. 34.67 per proof litre with effect from 24th June 1983.

In Bangalore City, on clearance of 4951.800 proof litres of Indian made liquor from a bonded warehouse during the period 24th June 1983 to 27th June 1983, duty was levied at the old rate of Rs. 26 per proof litre (plus 25 per cent cess thereon), instead of at the rate of Rs. 34.67 per proof litre, resulting in short levy of duty amounting to Rs. 10,744.

On the omission being pointed out in audit (August 1984), the department recovered the entire amount between August 1984 and October 1984.

The case was reported to Government in October 1984; they confirmed the facts in January 1985.

(ii) By an amendment to the Karnataka Excise (Excise Duties) Rules, 1968, duty payable in respect of rectified spirit supplied to alcohol based industrial concerns was increased from 20 paise (with 25 per cent cess thereon) to 50 paise per bulk litre with effect from 24th June 1983.

On supply of 40,000 bulk litres of rectified spirit made to two industrial concerns by a distillery in Chitradurga district from 27th June 1983 to 29th June 1983, excise duty was levied at the old rate of 20 paise (plus 25 per cent cess thereon), instead of at the rate of 50 paise per bulk litre, resulting in duty being realised short by Rs. 10,000.

On the mistake being pointed out in audit (October 1984), the department stated (June 1985) that the entire amount had been recovered from the two concerns in May and June 1985.

The case was reported to Government in December 1984; they confirmed the facts in July 1985.

## CHAPTER 4

### TAXES ON MOTOR VEHICLES

#### 4.1. Results of Audit

During the period 1st April 1984 to 31st March 1985, test check of records in the Regional Transport Offices of the Motor Vehicles Department, conducted in audit, disclosed under-assessments of taxes amounting to Rs. 99.57 lakhs in 67 cases, which broadly fall under the following categories.

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Short levy of tax on motor vehicles	55	93.59
2. Non-levy of fees	3	3.34
3. Non-levy of penalty and other miscellaneous irregularities	9	2.64
Total	67	99.57

Some of the important cases are mentioned in the following paragraphs.

#### 4.2. Short levy due to irregular restriction of laden weights

In a notification issued by the Government of Karnataka during November 1978, the gross maximum laden weight of articulated vehicles permitted to operate on certain national highways was enhanced from 20 tonnes to 25.4 tonnes. All permits in which the maximum laden weight had been restricted to 20 tonnes at the time of their issue, based on the maximum prevailing prior to the issue of the notification, should therefore have been reviewed and the permitted laden weight in respect of such vehicles refixed subject to a maximum of 25.4 tonnes.

In three regions (Bangalore South, Dharwad and Kolar), no action for revision of the registered laden weight was taken till the registered owners themselves applied (during May 1982 and April 1983) for the enhancement of the permitted laden weight of the vehicles or till the dates of renewal of the permits falling between February and June 1984. Tax being assessable on the permitted laden weight, failure to take suitable action within a reasonable time to enhance the maximum load indicated in the permit, resulted in tax being demanded short by Rs. 1,65,849 for various periods between February 1979 to June 1984 in respect of 8 articulated vehicles alone.

On the loss of revenue being pointed out in audit between March 1984 and August 1984, the department stated that in respect of one vehicle, an amount of Rs. 32,400 had since been recovered in August 1985 and that in the case of another vehicle the recovery had been stayed by the Deputy Commissioner for Transport, Bangalore.

Government, to whom the cases were reported between August 1984 and January 1985, waived (April 1985) the recovery of tax amounting to Rs. 1,03,304 in respect of 6 vehicles.

#### **4.3. Incorrect grant of exemption from tax**

(i) By a notification issued in October 1980 under the Karnataka Motor Vehicles Taxation Act, 1957, tax leviable on tractor-trailers, the registered owners of which are agriculturists and whose main source of income is from agriculture, was exempted in the first year after registration. In subsequent years, tax became leviable at concessional rate of Rs. 10 per year. By another Government notification effective from 1st April 1983, the exemption/concessional rate of tax was also extended, to tractor-trailers owned by agricultural co-operative societies.

In Raichur district, a tractor-trailer with a registered laden weight of 11,175 kilograms was exempted from payment of tax from the date of its registration (1st June 1982)

under the aforementioned notification, although its registered owner was the Superintendent, Regional Research Training, University of Agricultural Sciences, who was neither an agriculturist, nor derived his income mainly from agriculture. The irregular grant of exemption resulted in tax amounting to Rs. 17,600 (for the period from 1st June 1982 to 31st March 1985) not being realised.

On the mistake being pointed out in audit (February 1985), the department stated (October 1985) that the entire amount had been recovered in July 1985.

The case was reported to Government in May 1985; their confirmation is awaited (February 1986).

(ii) Under the Karnataka Motor Vehicles Taxation Act, 1957, on omnibuses permitted to carry eleven persons or more (excluding the driver), tax is leviable at the rate of Rs. 100 per seat per quarter. Under the Act, the State Government is empowered to exempt or reduce the tax payable in respect of any class of motor vehicles, by issue of a notification.

In the Bangalore (West) region, in respect of an omnibus registered on 2nd March 1983 with a seating capacity of 52 (excluding the driver), no tax had been levied although it was leviable at the rate of Rs. 5,720 per quarter (including surcharge at 10 per cent).

On the non-recovery being pointed out in audit (May 1984), Government issued a notification on 10th December 1984, exempting the vehicle from payment of tax. In the absence of any specific mention in the notification regarding the date from which the exemption was admissible, the exemption should have been granted with effect from the date of issue of the notification viz., 10th December 1984. However, tax (amounting to Rs. 43,888) for the earlier period from 2nd March 1983 to 9th December 1984 was also not recovered. On the omission being pointed out in audit, the department stated (October 1985) that demand notices had since been issued to the vehicle owners.

The case was reported to Government in January 1985 ; their reply is awaited (February 1986).

#### **4.4. Short levy of motor vehicles tax due to adoption of incorrect registered laden weight**

Under the provisions of the Motor Vehicles Act, 1939, the State Government may, with the approval of the Central Government and by notification specify, in relation to each make and model of transport vehicles, the maximum safe laden weight for such a vehicle. By a notification issued on 20th October 1975, Government fixed, for purposes of levy of tax, the maximum laden weight of transport vehicles at 125 per cent of the gross vehicle weight, as certified by the manufacturer in respect of the models of the year 1953 and later years.

In a regional transport office (Bijapur region), in respect of a transport vehicle, the gross laden weight of which had been certified by the manufacturer as 18,295 kilograms, the registered laden weight for purposes of levy of tax was erroneously fixed at 21,875 kilograms, instead of at 22,869 kilograms, resulting in short levy of tax by Rs. 27,685 for the period from 1st May 1977 to 31st July 1984.

On the mistake being pointed out in audit (September 1984), the Department stated (September 1985) that the registered laden weight had since been refixed and difference of tax recovered in August 1985.

The case was reported to Government (February 1985) ; they confirmed the facts in September 1985.

#### **4.5. Tax levied at incorrect rate**

(i) As per item 8 of Schedule 'A' to the Karnataka Motor Vehicles Taxation Act, 1957, on an articulated vehicle, tax is leviable at the rate of Rs. 1,450 per quarter for the first 15,000 kilograms of permitted laden weight **plus** Rs. 80 for every 250 kilograms or part thereof in excess of 15,000 kilograms.

(a) However, in a Sub-Regional Transport Office (Bagalkot), an articulated vehicle, with a permitted laden weight of 22,940 kilograms, was assessed to tax incorrectly. Tax was levied at the rate of Rs. 1,450 per quarter for the first 15,000 kilograms plus Rs. 50 instead of Rs. 80 for every 250 kilograms or part thereof in excess of 15,000 kilograms. The mistake resulted in motor vehicle tax being levied short by Rs. 19,445 for the period from April 1979 to April 1983.

On this being pointed out (September 1984), the department stated (October 1985) that the difference of tax had been recovered in June 1985.

The case was reported to Government in January 1985 ; their confirmation is awaited (February 1986).

(b) In the Raichur region, two articulated vehicles with permitted laden weights of 45,720 and 25,000 kilograms respectively were assessed to tax incorrectly under item 3 of the Schedule (applicable to goods vehicles), instead of under item 8 of the Schedule, resulting in tax being levied short by Rs. 54,887 for various periods falling between April 1979 and March 1985.

On this being pointed out in audit (February 1985), the taxation authority stated that the vehicles were registered as single units and, therefore, classified as goods vehicles and assessed to tax under item 3 of the Schedule. But an articulated vehicle is a combination of a prime-mover (not constructed to carry any load but used solely for haulage) and a semi-trailer (for carrying load) superimposed on and drawn by the former and hence assessable to tax under item 8 only.

The case was reported to the department in April 1985 and to Government in May 1985. They stated (August 1985/September 1985) that a sum of Rs. 23,911 had since been recovered in August 1985. Report on recovery of the balance amount is awaited (February 1986).

(c) In a Regional Transport Office (Chitradurga), three articulated vehicles with a registered laden weight of 22,869, 25,000 and 34,200 kilograms each were assessed to tax incorrectly at the rates under item 3 of Schedule 'A', instead of at the rates applicable to articulated vehicles under item 8 of the Schedule. The mistake resulted in tax being levied short by Rs. 21,352 for the period from February 1983 to March 1985.

On this being pointed out in audit (March 1985), the department stated that the difference of tax of Rs. 10,560 due in respect of one vehicle had been recovered in June 1985 and that demand notices in respect of the remaining two vehicles had been issued.

The case was reported to Government in July 1985 ; their reply is awaited (February 1986).

(ii) Under item 8 of Part 'A' of the Schedule to the Karnataka Motor Vehicles Taxation Act, 1957, on a tractor-trailer, tax is leviable based on the laden weight of the combined unit as per permit issued and, if not covered by such a permit, on its registered laden weight.

In Uttara Kannada region, a tractor-trailer, which was not covered by a permit, was assessed to tax incorrectly at Rs. 8,700 per quarter (including surcharge), instead of at Rs. 12,876 per quarter, based on its registered laden weight of 44,000 kilograms. The mistake resulted in motor vehicle tax being levied short by Rs. 58,464 for the period from April 1979 to September 1982.

On the mistake being pointed out in audit (December 1984), the department stated (October 1985) that action had been initiated to collect the difference of tax. Report on recovery is awaited (February 1986).

The case was reported to Government in April 1985 ; their reply is awaited (February 1986).

(iii) According to Part 'A' of the Schedule to the Karnataka Motor Vehicles Taxation Act, 1957, as amended

by Amendment Act 19 of 1978, on Motor Vehicles owned by industrial undertakings, tax was leviable at Rs. 100 per seat per quarter with retrospective effect from 1st July 1972. As per Amendment Act 21 of 1979, with effect from 1st April 1979, on omnibuses tax was leviable at Rs. 100 per seat per quarter in cases where omnibuses were permitted to carry more than 10 persons (excluding the driver) and at Rs. 50 per seat per quarter where those were permitted to carry 10 persons or less.

In Uttara Kannada region, two omnibuses (each with a seating capacity of more than 10 persons) owned by an industrial undertaking were assessed to tax at the rate of Rs. 10 from March 1974 and at Rs. 50 from July 1976, instead of at Rs. 100 per seat per quarter for the period March 1974 to February 1979. Another omnibus (registered in August 1982 with a seating capacity of 15) owned by an educational institution was incorrectly assessed to tax at Rs. 50 (applicable to motor vehicles owned by such institutions upto 31st March 1979) instead of at Rs. 100 per seat per quarter for the period from 1st August 1982 to 31st October 1984. The mistake resulted in short collection of tax amounting to Rs. 33,315 (including surcharge).

On the short levy being pointed out in audit (December 1984), the department recovered the entire amount between January and June 1985.

The cases were reported to Government during March 1985; they confirmed the facts in July 1985.

#### **4.6. Short recovery of tax on vehicles covered by temporary permits**

Under the reciprocal agreement entered into by the Government of Karnataka with the State of Tamil Nadu for regulation of inter-State vehicular traffic, transport vehicles registered in that State can ply in Karnataka on temporary permits issued by the transport authorities of Tamil Nadu for period not exceeding 30 days at a time. The tax payable by those vehicles (at the rates specified in

the Schedule to the Karnataka Motor Vehicles Taxation Act, 1957) according to their registered laden weight is collected by the transport authorities of Tamil Nadu and remitted to the Transport Commissioner, Karnataka by means of bank drafts.

In respect of 22 goods vehicles, for which temporary permits were issued by the transport authorities of Tamil Nadu during the period from August 1982 to December 1983 for plying of those vehicles in Karnataka, tax was assessed, based on their permitted laden weight, instead of on their registered laden weights. The mistake resulted in tax being realised short by Rs. 60,336.

The mistake was reported to the department in November 1984 and to Government in March 1985 ; their final replies are awaited (February 1986).

#### **4.7. Loss of revenue due to registration of motor vehicles with incorrect seating capacity**

Under the Karnataka Motor Vehicles Taxation Act, 1957, on motor vehicles plying for hire and used for transport of passengers and permitted to carry, in all, six persons (other than the driver), tax is leviable at Rs. 200 per quarter, whereas on vehicles permitted to ply as contract carriages, tax is leviable at Rs. 180 per passenger per quarter. Surcharge at 20 per cent of the tax is also leviable thereon.

In March 1980, Government of Karnataka permitted the use of Matador F 305 vehicles as luxury taxis with a seating capacity of 6+1 each. However, these motor vehicles had been designed by the manufacturers to carry 8 passengers excluding the driver. In the course of surprise checks of such vehicles in the Mangalore region, the executive staff of the department had also found seven such vehicles to be carrying 8 to 23 passengers each during July 1982 to February 1984. Even if the actual seating capacity of these vehicles be taken as 8 (excluding the driver), the incorrect fixation of their seating capacity by Government

at 6+1 resulted in loss of revenue amounting to Rs. 19,344 per quarter in the case of 13 vehicles alone.

The case was reported to Government in June 1985. Government stated (August 1985) that, at the time of registration, these vehicles had been altered as luxury taxis with a seating capacity of 6+1 by providing head rest, hand rest and luxury seats and that, although the manufacturers had certified the capacity as 8+1, there was no specific category of permit for vehicles with that seating capacity if the registered owners intended to use them for carrying passengers upto that capacity. This reply is not tenable as in the Government order dated 15th March 1980 permission was accorded only in respect of vehicles manufactured with a seating capacity of 6+1. Government were requested (October 1985) to consider the desirability of providing a separate category of permits for such vehicles. Report on further action taken is awaited (February 1986).

## CHAPTER 5

### TAXES ON AGRICULTURAL INCOME

#### 5.1. Results of Audit

Test check of the documents in Agricultural Income Tax Offices, conducted in audit during the year 1984-85, revealed under-assessment of tax amounting to Rs. 16.49 lakhs in 101 cases, which broadly fall under the following categories.

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Errors in computation of income and tax	53	7.60
2. Income escaping assessment	24	3.10
3. Non-levy of penalty	8	3.80
4. Other irregularities	16	1.99
Total	101	16.49

Some of the important cases are mentioned in the following paragraphs.

#### 5.2. Income from coffee escaping assessment

Under the Karnataka Agricultural Income Tax Act, 1957, the income from coffee crop during the relevant previous year is computed on the basis of valuation of points declared by the Coffee Board in respect of such crop. Any receipt in respect of an earlier season's coffee crop received during the previous year, over and above the amount already taken into account in the assessment of the preceding years, is considered as income of the previous year.

(i) In Kodagu district, the agricultural income returned by an assessee for the assessment year 1979-80 included a sum of Rs. 1,02,058 being the coffee income in respect of 45,342 points awarded to him for the 1977-78 crop season.

However, the statement of income enclosed to the return for the assessment year 1980-81 revealed that he had been actually awarded 55,342 points in respect of the 1977-78 crop season. Thus, on income of Rs. 67,500 representing value of 10,000 points (at the rate of Rs. 6.75 per point) not declared by the assessee had escaped assessment in the assessment year 1979-80. The mistake resulted in tax being levied short by Rs. 43,875.

On the omission being pointed out in audit (July 1984), the department rectified (October 1984) the assessment and collected the amount due along with a penalty of Rs. 6,828 in December 1984.

The case was reported to Government in April 1985; they confirmed the facts in July 1985.

(ii) In Kodagu district, the coffee income returned by an assessee upto the end of the assessment year 1978-79 was in respect of 47,114 points at the rate of Rs. 8.25 per point awarded to him by the Coffee Board for the 1975-76 coffee season. The statement of accounts enclosed to his revised return for the assessment year 1980-81 (filed on 30th October 1980), however, showed that he had been actually awarded 52,225 points for the 1975-76 season. Thus, income amounting to Rs. 42,166 being the value of 5,111 points, not declared by the assessee, escaped assessment. Further, the assessee had, in his return, shown the dividend income in respect of the points awarded to him as Rs. 5,744 although it actually amounted to Rs. 7,792 (at the rate of Rs. 0.1492 per point on 52,225 points). The mistake resulted in further under assessment of income by Rs. 2,048. These mistakes in the computation of taxable income resulted in tax being levied short by Rs. 28,739.

On the short levy being pointed out in audit (July 1984), the assessment was revised under Section 37 of the Act and the entire amount collected in December 1984.

(iii) In Hassan district, five assesseees belonging to a family group had received from the Coffee Board during

the previous year 1981-82 (relevant to the assessment year 1982-83), dividends amounting to Rs. 91,537 relating to the 1979-80 crop season. But they did not declare this income in their returns for the assessment year 1982-83, nor did the assessing authority notice the omission. The failure resulted in tax being levied short by Rs. 34,514.

On the short levy being pointed out in audit (February 1985), the department stated (July 1985) that the assessments had since been revised on 11th March 1985 and an additional demand for Rs. 28,829 raised, out of which a sum of Rs. 22,072 had been recovered by adjustment. Report on recovery of the balance amount and the details for difference in tax effect are awaited (February 1986).

(iv) In Hassan district, two assessees received a total sum of Rs. 95,045 from coffee curers for the 1975-76 and 1976-77 crop seasons on different dates during the previous years relevant to the assessment years 1978-79, 1979-80 and 1980-81. But they did not include this amount in their returns of income for those assessment years. The assessing officer also failed to detect this fact while finalising the assessments. The failure resulted in income amounting to Rs. 95,045 escaping assessment and consequent short levy of tax by Rs. 25,575 for the three years.

On the mistakes being pointed out in audit (January 1984 and January 1985), the department revised the assessments (March 1984 and February 1985) and raised demand for Rs. 27,524 which was collected during March to July 1985.

The matter was reported to Government in April 1985; they confirmed the facts in July 1985.

(v) In his return for the previous year 1978-79 (relevant to the assessment year 1979-80), an assessee in Kodagu district had declared Rs. 51,834 as his coffee income from 8,639 coffee points (at the rate of Rs. 6 per point) in respect of the 1978-79 crop season and he was assessed accordingly. He had, however, been actually awarded 14,555 points for the 1978-79 crop season, as per details given in his return

for the assessment year 1980-81. The adoption of incorrect number of points resulted in under-assessment of income by Rs. 35,496 on 5,916 points and consequent short levy of tax by Rs. 13,544.

On the mistake being pointed out in audit (July 1984), the department revised the assessment (December 1984) and collected the amount of Rs. 13,544 in January 1985.

The case was reported to Government in April 1985; they confirmed the facts in September 1985.

(vi) In Kodagu district, the income declared by an assessee for the assessment year 1977-78 included coffee receipts amounting to Rs. 51,217.50 relating to the 1975-76 crop season. This amount was stated to have been received by the assessee over and above the receipts of Rs. 1,02,435 already taken into account in assessment of the preceding year 1976-77. But receipts amounting to Rs. 72,800 only had actually been considered for assessment in the year 1976-77. In the result, income was under assessed to the extent of Rs. 29,635 with consequent short levy of tax by Rs. 11,574.

On the short levy being pointed out in audit (July 1984), the department revised the assessment and raised an additional demand for Rs. 11,574 in October 1984. Half the tax due was paid by the assessee in January and March 1985 and recovery of the balance amount was stayed by the Court. Further developments are awaited (February 1986).

The case was reported to Government in September 1984 and April 1985; they confirmed the facts in September 1985.

(vii) In Chickmagalur district, while computing the taxable agricultural income of a Hindu Undivided Family for the previous year ending 30th June 1975 (relevant to the assessment year 1976-77), on 64,458 points of coffee crop of 1974-75 season, income at the rate of Rs. 3.50

per point was incorrectly determined as Rs. 2,19,523 instead of as Rs. 2,25,603, resulting in short computation of income by Rs. 6,080. An additional dividend amounting to Rs. 16,115 (at 25 paise per point), declared in June 1975 for the same season, was also not considered for assessment. Further, an allowance of Rs. 4,000 was granted to the assessee towards earned income relief, which was not correct, as this benefit was withdrawn from the assessment year 1976-77. However, a deduction of Rs. 4,950 from the total agricultural income was admissible towards insurance premium paid by the assessee, but this deduction was not made. The mistakes resulted in short computation of taxable income by Rs. 21,245 and consequent short levy of tax by Rs. 10,486.

On the short levy being pointed out in audit (June 1984), the department stated (October 1985) that the assessment had been rectified and an additional demand for Rs. 9,484 raised. Details for the difference in tax effect and report on recovery of Rs. 10,486 are awaited (February 1986).

(viii) In Chickmagalur district, an assessee had declared, for the assessment year 1980-81, coffee income from two estates supported by statements issued by curers who had made the payments to the assessee. However, in the earlier annual returns for the previous years relevant to the assessment years 1978-79 and 1979-80, income from only one estate had been declared by the assessee and assessments for those years had been finalised on that basis.

On the non-consideration of the income from the second estate for the assessment years 1978-79 and 1979-80 being pointed out in audit (October 1982), the assessing officer revised (March 1984) the assessments for these years, taking the income (Rs. 2,17,015 and Rs. 2,39,386) for those years into account and raised additional demand for Rs. 1,15,369 and Rs. 1,30,149 respectively. The department further intimated (October 1985) that an amount of Rs. 48,948 had been recovered in March 1985 and revenue recovery certificate issued for the balance amount. Report on recovery of Rs. 1,96,570 is awaited (February 1986).

(ix) In Chickmagalur district, an assessee firm returned coffee income amounting to Rs. 6,83,149 and Rs. 8,36,890 during the previous years, relevant to the assessment years 1978-79 and 1979-80, although it had actually received, from various coffee curers, Rs. 7,35,524 and Rs. 8,62,196 during the respective years. This resulted in escapement of income amounting to Rs. 77,681 from assessment during the relevant assessment years and consequent short levy of tax by Rs. 29,091. Besides, the assessee had claimed deduction towards interest at the rate of 16 per cent on loans obtained from private parties to be spent on the land, as against the maximum of 12 per cent admissible under the Act. The assessing authority allowed the deduction on account of interest at the rate of 13 per cent, instead of at 12 per cent. This resulted in taxable income being computed less by Rs. 11,039 and tax being levied short by Rs. 3,864.

The mistakes were pointed out in audit in October 1984. The department stated (March 1985) that action had since been initiated to revise the assessment. Report on recovery is awaited (February 1986).

(x) Two assessees in Hassan district were keeping accounts on cash basis. However, payments received by them from the Coffee Board through curers by means of cheques dated 27th March 1982 and 29th March 1982 amounting to Rs. 1,01,755, were not included by them in their annual returns for the previous year relevant to the assessment year 1982-83. This resulted in escapement of taxable turnover by Rs. 1,01,755 and consequent short levy of tax by Rs. 62,575.

On this being pointed out in audit (February 1985), the department stated (February 1986) that the assessments had been revised and additional demand for Rs. 62,575 raised. Report on recovery is awaited (February 1986).

The above cases were reported to Government between September 1984 and June 1985; their reply is awaited (February 1986) except as indicated in sub-paragraphs a(i) (iv), (v) and (vi) above.

### **5.3. Under assessment due to grant of incorrect allowance for expenditure**

Under the Karnataka Agricultural Income Tax Act, 1957, any expenditure (not being in the nature of capital expenditure) incurred in the previous year wholly and exclusively for the purpose of deriving the agricultural income is to be deducted in computing the taxable income of an assessee.

In Mysore district, while computing the taxable agricultural income of an assessee company for the assessment years 1980-81 and 1981-82, the entire expenditure of Rs. 72,893 and Rs. 1,15,913 incurred by the company on the maintenance of its registered office was allowed as a deduction, although the company was deriving other income also, in addition to agricultural income. Only such portion of this expenditure as was attributable to the earning of agricultural income should have been allowed as a deduction from that income. The deduction allowed in excess in the assessment years 1980-81 and 1981-82 amounted to Rs. 43,736 and Rs. 69,457 respectively (based on the ratio of apportionment of the salary of the Managing Director of the company between agricultural income and other income, as adopted by the company and accepted by the assessing authority in the earlier assessment year 1978-79). The allowance of excess deduction resulted in tax being levied short by Rs. 73,634.

On the short levy being pointed out in audit (June 1984), the department revised (April 1985) the assessment and raised an additional demand for Rs. 73,634. Report on recovery is awaited (February 1986).

The case was reported to Government in April 1985; their reply is awaited (February 1986).

### **5.4. Short levy of tax due to arithmetical error**

(i) Under the Karnataka Agricultural Income Tax Act, 1957, when an order of assessment is amended with a view to rectifying any mistake and the amendment has the effect

of enhancing the assessment, the sum payable after giving credit to the tax already paid, shall be demanded from the assessee.

In Kodagu district, the revised assessment of a Company for the assessment year 1973-74 (finalised in February 1982) had the effect of enhancing the assessment already made in March 1981. While computing the additional amount of tax due from the assessee, credit was given for the gross amount of tax of Rs. 8,08,508 levied earlier without taking into account a rebate of Rs. 29,180 allowed therefrom by the assessing authority. The mistake resulted in tax being demanded less by Rs. 29,180.

On the mistake being pointed out in audit (July 1984), the department rectified (October 1984) the mistake and collected the amount in October 1984.

(ii) In Hassan district, in finalising the assessments for the years 1981-82, 1982-83 and 1983-84 in respect of three assesseees, the taxable agricultural income and tax payable were not correctly determined by the assessing Officer due to arithmetical mistakes. The mistakes resulted in tax being levied short by Rs. 13,649.

On the mistakes being pointed out in audit (February 1985), the department stated (October 1985) that the assessments had since been revised in all the three cases in March and April 1985 and an additional demand for Rs. 15,414 raised. Report on recovery and the details for the difference in tax effect are awaited (February 1986).

The cases were reported to Government in April and May 1985; they confirmed the facts in August 1985 and October 1985.

### **5.5. Short levy due to mistakes in computation of taxable income**

(i) Under the Karnataka Agricultural Income Tax Act, 1957, only 10 per cent of the expenditure incurred on young

and immature plants is an allowable deduction in the computation of agricultural income.

In Kodagu district, for the assessment year 1979-80, an assessee incurred an expenditure of Rs. 20,200 on young and immature plants (including replantation of coffee plants). Out of this, Rs. 1,800 being 10 per cent of expenditure on immature plants (Rs. 18,000) only should have been allowed as a deduction in computing the agricultural income. But the entire expenditure (Rs. 20,200) was allowed as a deduction resulting in short levy of tax by Rs. 11,960.

On the short levy being pointed out in audit (September 1984), the department rectified the assessment in October 1984 and raised an additional demand for Rs. 11,960, which was collected in March 1985.

The matter was reported to Government in July 1985; they confirmed the facts in October 1985.

(ii) Under the Karnataka Agricultural Income Tax Act, 1957, a deduction from agricultural income is allowed towards depreciation of assets owned by the assessee and used for the purpose of deriving agricultural income.

In Hassan district, while computing the agricultural income of an assessee for the assessment year 1981-82, depreciation amounting to Rs. 52,315 was allowed in respect of the assessee's store house, although depreciation allowance amounting to Rs. 41,853 only was admissible. In computing the agricultural income of another assessee for the assessment year 1981-82, a depreciation of Rs. 14,600 was allowed, on the value of improvements made to the assessee's residence, although no such depreciation allowance was admissible. The mistakes resulted in reduction of taxable income in these cases by Rs. 25,062 and consequent short levy of tax by Rs. 11,855.

On the mistakes being pointed out in audit (February 1985), the assessing officer revised the assessment in one case and raised additional demand for Rs. 4,935. Report

on recovery and action taken in the other case are awaited (February 1986).

The above cases were reported to Government in May 1985 and July 1985 ; their reply is awaited (February 1986), except as indicated in sub-paragraph(i) above.

### **5.6. Short levy due to incorrect adoption of status**

The Karnataka Agricultural Income Tax Act, 1957, requires that, on partition of a Hindu Undivided Family, income of the undivided family received after partition is to be assessed to tax as if the Hindu Undivided Family were still in existence. The divided members are liable to pay tax so assessed.

In Hassan district, a Hindu Undivided Family sold its entire coffee land on 14th September 1978 along with the 1978-79 season crop. On the same date, the Hindu Undivided Family was partitioned between the father and his minor son, with a stipulation in the deed of partition that they shall hence forth enjoy the properties as tenants-in-common with specified shares in it. During the previous years relevant to the assessment years 1979-80 and 1980-81, a sum of Rs. 1,47,990 was received by them towards coffee pool payments relating to the coffee crops of the 1977-78 season and earlier years. These receipts, being income from coffee pooled prior to the date of partition, had to be treated as income of the erstwhile Hindu Undivided Family and assessed to tax as such. However, it was incorrectly assessed to tax as tenants-in-common at the hands of the individuals, treating it as income earned subsequent to partition. The mistake resulted in tax being levied short by Rs. 17,193.

The short levy was pointed out in audit in February 1985; the department stated (October 1985) that the assessment had since been revised in August 1985 and the entire amount collected in October 1985.

The matter was reported to Government in May 1985 ; their reply is awaited (February 1986).

### 5.7. Under assessment due to non-clubbing of wife's income from firm

As per the provisions of 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 his wife from her membership in a firm, of which the individual is a partner.

In Hassan district, with effect from 1st April 1982, an individual was introduced as a partner in a firm along with his wife, who was hitherto the absolute owner of the property. In respect of the previous year, relevant to the assessment year 1983-84, the taxable agricultural income of the husband and wife from the firm were determined by the assessing officer as Rs. 41,512 and Rs. 83,025 respectively. However, the incomes of husband and wife were assessed to tax separately, instead of clubbing them and assessing the aggregate income to tax at the hands of the husband, as required under the Act. The mistake resulted in tax being levied short by Rs. 15,831.

On the mistake being pointed out in audit (February 1985), the department stated (October 1985) that the husband was taken as a working partner in the status of **Karta** of the Hindu Undivided Family (HUF) and not in his individual capacity and hence his income was not to be clubbed with that of his wife. The reply is not tenable as the husband had not brought in any capital from HUF funds and was taken into the partnership on considerations extraneous to his being the Karta of the HUF. Final reply of the department is awaited (February 1986).

The matter was reported to Government in May 1985; their reply is awaited (February 1986).

### 5.8. Short levy due to application of incorrect rates

The Karnataka Agricultural Income Tax Act, 1957, was amended in May 1983, enhancing the rates of tax on agri-

cultural income derived in the previous year ending on or after 31st March 1982.

In a circle in Chickmagalur district, the old rates of tax were applied in eleven cases relating to the assessment year 1982-83, resulting in short levy of tax amounting to Rs. 11,212.

On the mistakes being pointed out in audit (September 1984), the department passed rectificatory orders in all the 11 cases and raised an additional demand for Rs. 11,212. The demands were collected during October 1984 to October 1985.

The cases were reported to Government in January 1985 and April 1985; they confirmed the facts in September 1985.

## CHAPTER 6

### LAND REVENUE

#### 6.1. Results of Audit

Test check of records in taluk offices relating to land revenue, conducted in audit during the year 1984-85, revealed short levy of land revenue amounting to Rs. 114.08 lakhs in 72 cases, which broadly fall under the following categories.

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Short levy of land revenue and cesses	10	4.46
2. Short levy of water rate	24	62.30
3. Short levy or non-levy of maintenance cess	32	46.38
4. Other irregularities	6	0.94
Total	72	114.08

Some of the important cases are mentioned in the following paragraphs.

#### 6.2. Omission to raise demand for water rate

(a) Under the Karnataka Irrigation Act, 1965 and the rules made thereunder, at the commencement of each irrigation season, the Irrigation Officer was required to notify the quantity of water to be released from an irrigation work and the areas to be irrigated, as also the kinds of crops to be grown thereon. On the basis of this notification, the Tahsildars raised demand for water rate and recovered it from the land holders. However, from the crop year 1980-81 onwards, the rules were amended, whereby the Irrigation Officer is required to prepare a statement of water rates payable by each land holder and forward it to the Tahsildars concerned for collection.

(i) In four taluks in the Bangalore and Shimoga districts, demand for water rate for supply of water over 60,387 acres of land for the periods ranging from one to three years between 1980-81 and 1983-84 was not raised by the Tahsildars concerned. Based on the water rate applicable to paddy crop (which crop is normally grown in these areas), the water rate leviable, but not levied amounted to Rs. 35.76 lakhs approximately.

On this being pointed out in audit between March 1984 and December 1984, the department stated that the omission was due to non-receipt of demand statements from the Irrigation Officers and that action would be taken for raising the demand. Report on action taken is awaited (February 1986).

(ii) In a taluk in Shimoga district, during the crop year 1979-80, water was supplied from an irrigation work over 5,653 acres of land, as per a notification published by the Irrigation Officer on 19th July 1979, but demand for water rate was not raised by the Tahsildars. In the same taluk, demands for water rates for supply of water over 23,589 acres of land during the year 1980-81 were also not raised by the Tahsildar, although the Irrigation Officer had forwarded to him the statements of water rate payable by the land holders. The omissions resulted in water rate amounting to Rs. 13,30,145 not being realised during the years 1979-80 and 1980-81.

The omissions were pointed out in audit in June 1983. The department stated (September 1985) that the demand had since been raised for the entire amount.

(iii) In two taluks in Kolar district, although statements of water rates payable by land holders for the year 1981-82 were received from the Irrigation Officer, demands were not raised by the Tahsildar against the land holders, resulting in revenue amounting to Rs. 8,14,666 not being realised.

On the omission being pointed out in audit (November 1984), one Tahsildar agreed to raise the demand (Rs. 2,70,327). The other Tahsildar stated that the statements furnished by the Irrigation Officer were defective and that correct demand would be raised as soon as revised statements, as called for by him, were received. Report on action taken is awaited (February 1986).

(iv) In a taluk in Mysore district, as against Rs. 2,00,016 intimated by the Irrigation Officer as due from land holders (in 48 villages) towards water rate for the years 1980-81 and 1981-82, a sum of Rs. 56,444 only was demanded by the Tahsildar, resulting in water rate being levied short by Rs. 1,43,572.

On the short levy being pointed out in audit (January 1984), the department stated (October 1984) that the additional demand had since been raised. Report on recovery is awaited (February 1986).

(v) In two taluks in Chickmagalur and Belgaum districts, demands for water rates in respect of supply of water over 14,440 acres of land relating to the years 1980-81 to 1982-83 were not raised by the Tahsildars concerned, although the Irrigation Officers had forwarded to them (between November 1982 and February 1984) the statements of water rates payable by the land holders. The omission resulted in water rates amounting to Rs. 7,60,280 not being realised.

(vi) In a taluk in Chitradurga district, for the crop year 1979-80, no demand for water rate was raised by the Tahsildar for the reason that the notification specifying the area irrigated etc., was not received. Based on the irrigable area of 11,109 acres of land the demand not raised amounted to Rs. 3.33 lakhs.

(vii) In three taluks in Bangalore and Tumkur districts, demands for water rate for the years 1980-81 to 1983-84

were not raised by the Tahsildars concerned, as the statements of water rate due from each land holder had not been received from the Irrigation Officers. Based on the irrigable area of 35,782 acres of land, the demand not raised amounted to Rs. 21.22 lakhs.

The omissions referred to in sub paragraphs (v) to (vii) above were pointed out in audit between June 1984 and January 1985. The department replied that demand for Rs. 4,63,971 relating to Belgaum district had since been raised in January 1985. Reply in respect of the other taluks is awaited (February 1986).

(b) Under the Karnataka Irrigation (Levy of Water Rates) Rules, 1965, as amended in December 1975, where water is supplied, made available or is used from any irrigation work for growing crops twice in a year, water rate in respect of second crop is leviable at the same rate as for the first crop.

In a taluk in Mandya district, water rate leviable for water supplied to 37 villages for growing summer crop (second crop) over an area of 3335 acres during the year 1981-82 was not levied. Based on the amount demanded for the same area for the summer crop during the year 1980-81, the total water rate leviable for the second crop during the year 1981-82 amounted to Rs. 1.41 lakhs approximately.

On this being pointed out in audit (May 1984), the department stated (May 1984) that the demand in respect of the water rate for that crop year was yet to be finalised.

The cases were reported to Government between July 1984 and May 1985 ; their reply is awaited (February 1986).

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

As per the Karnataka Irrigation Act, 1965, annual maintenance cess at the rate of Rs. 4 per acre is leviable on lands benefited by any irrigation work maintained by Government. However, no cess is leviable, if water had

not been made available during the previous two consecutive years.

(i) In eleven taluks, in respect of 1,01,382 acres of land benefited by Government irrigation works during the years 1978-79 to 1983-84, maintenance cess amounting to Rs. 7,50,692 was leviable, but was not levied.

On the omission being pointed out in audit between July 1984 and January 1985, demand for Rs. 22,880 in respect of one taluk was raised in May 1985. Replies in other cases are awaited (October 1985).

(ii) In four taluks, maintenance cess was levied short by Rs. 24,99,701 on 2,45,481 acres of land irrigated from Government irrigation works during the years 1980-81 to 1983-84.

On the mistakes being pointed out in audit between August 1984 and January 1985, demand for Rs. 1,12,800 in respect of two taluks was raised in May and December 1985. Replies in other cases are awaited (February 1986).

(iii) In eight taluks in Kolar, Bangalore and Shimoga districts, on 1,31,924 acres of land benefited by Government irrigation works during the years 1977-78 to 1983-84, maintenance cess amounting to Rs. 15,07,376 was leviable, but was not levied.

On the omission being pointed out in audit between April 1984 and January 1985, the Tahsildar of one taluk raised a demand for Rs. 1,25,064 between July 1984 and August 1985 and two other Tahsildars agreed to raise demand after the demand statements were received from the Irrigation Officers. Report on action taken by them and reply in the remaining cases are awaited (February 1986).

(iv) In six districts, in respect of 3,57,605 acres of land benefited by irrigation works maintained by Government, during the years 1978-79 to 1982-83, maintenance cess was levied short by Rs. 6.55 lakhs.

The short levy was pointed out in audit between April 1983 and September 1984; reply of the department is awaited (February 1986).

The above cases were reported to Government between June 1984 and May 1985; their reply is awaited (February 1986).

#### **6.4. Non-levy or short levy of water rate in respect of lift irrigation works**

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 chargeable at thrice the normal rate where water is supplied for growing sugarcane or paddy crop and at twice the rate where water is supplied for growing other kinds of crop.

(i) In a taluk in Tumkur district, for water supplied from three lift irrigation works for growing paddy crops, over areas ranging from 25 to 55 acres of land during the years 1980-81 to 1983-84, water rate was levied at the normal rate (Rs. 11,520) instead of at thrice that rate (Rs. 34,560). The mistake resulted in water rate being levied short by Rs. 23,040.

(ii) In a taluk in Raichur district, in respect of water supplied from three lift irrigation works for growing crops other than paddy and sugarcane over an area of 347 acres of land during the years 1982-83 and 1983-84, demand for water rate was omitted to be raised, resulting in water rate amounting to Rs. 24,984 not being realised.

The mistakes were pointed out in audit in January 1985; reply of the department is awaited (February 1986).

(iii) In a taluk in Bijapur district, in respect of water supplied from a lift irrigation work over 700 acres of land during the year 1979-80 and 291 acres 12 guntas of land during the year 1980-81 for raising wheat and maize crops,

demand for the water rate was raised at the normal rate of Rs. 18 per acre, instead of at twice the normal rate viz., Rs. 36 per acre. The mistake resulted in water rate being levied short by Rs. 17,844.

On the short levy being pointed out in audit (July 1984), the Tahsildar stated that the matter would be referred to the Irrigation Officer. Report on action taken is awaited (October 1985).

The cases were reported to Government between September 1984 and May 1985; their reply is awaited (February 1986).

#### **6.5. Non-levy of penal water rate for unauthorised use of water**

Under the Karnataka Irrigation Act, 1965, any person using water from an irrigation work without permission is liable for penal action. He is also liable to pay water rate at not less than ten times the normal water rate that he would have been required to pay for using water with permission.

In two taluks in Mandya district, water from an irrigation work was unauthorisedly used over an area of 1,654 acres of land during the years 1980-81 and 1981-82. The minimum water rate leviable amounted to Rs. 5,78,900, but it was not levied.

On the omission being pointed out in audit (April and May 1984), the department stated (August 1985) that the necessary demand had since been raised by the two Tahsildars in June 1985. Report on recovery is awaited (October 1985).

The matter was reported to Government in May 1985; their reply is awaited (February 1986).

### **6.6. Non-levy of land revenue and fine for unauthorised occupation of Government land**

As per the Karnataka Land Revenue Act, 1964, any person who unauthorisedly occupies Government land for cultivation, shall pay twice the land revenue for each year of unauthorised occupation and also a fine not exceeding Rs. 500 per acre per year, as may be fixed at the discretion of the Deputy Commissioner.

In a taluk in Shimoga district, in respect of 491 cases of unauthorised occupation of Government land during the years 1978-79 to 1981-82 for cultivation purposes, which were regularised during the years 1980-81 and 1981-82, land revenue (including cesses) and fine amounting to Rs. 50.873 were leviable, but were not levied.

On the omission being pointed out in audit (May 1983), the department stated (April 1984) that the amount had since been recovered.

The matter was reported to Government in August 1983 ; they confirmed the facts in August 1985.

## CHAPTER 7

### 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 1984-85, disclosed under-assessments of stamp duty and registration fees amounting to Rs. 28.49 lakhs in 45 cases, which broadly fall under the following categories.

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Incorrect grant of exemption	29	23.66
2. Misclassification of documents	11	4.52
3. Other irregularities	5	0.31
Total	45	28.49

Some of the important cases are mentioned in the following paragraphs.

#### 7.2. Short levy of duty on documents

(i) According to the Karnataka Stamp Act, 1957, the consideration (if any) and other facts and circumstances affecting the chargeability of an instrument with duty and the amount of duty, with which it is chargeable shall be fully and truly set forth therein.

In a sub-registry in Hassan district, a conveyance deed relating to a sale of a coffee estate had been registered (2nd February, 1980) on the basis of sale price of Rs. 15.75 lakhs. It was, however, seen in audit from the assessee's returns and other related documents that a sum of Rs. 4.25 lakhs had been paid by the vendee to the vendor over and above the sale price of Rs. 15.75 lakhs towards the value of

standing coffee crop for the 1979-80 season, which was harvested in December 1980. But the payment of Rs. 4.25 lakhs had not been included in the value of consideration for transfer of property (along with the standing crops). This resulted in short levy of stamp duty and registration fee amounting to Rs. 29,750 and Rs. 4,250 respectively.

On the omission being pointed out in audit (March 1985), the sub-registrar stated that the amount of Rs. 4,25,000 represented dividend due from the Coffee Board for the 1979-80 season and not the value of the standing crops. As it is specifically stated in the deed that 'the purchaser shall be entitled to pool dividends of the crop for the year 1979-80 and all future crops of the coffee estate', the consideration should have been construed as the value of standing crops and taken into account for the purpose of levy of duty.

(ii) Under the Karnataka Stamp Act, 1957, stamp duty on mortgage deed is leviable with reference to the consideration for such mortgage as set forth in the deed. The Inspector General of Registration had clarified in April 1975 that for the purpose of levy of duty on mortgage deeds, executed in respect of loans, a portion of which is subsequently treated as subsidy, the value of consideration shall also include the amount of subsidy.

In a sub-registry in Tumkur district, on 512 mortgage deeds, executed during the year 1983-84 by beneficiaries for obtaining financial assistance of Rs. 4,000 (Rs. 2,500 as loan and Rs. 1,500 as subsidy) in each case from a Municipal Council under the scheme for low cost houses, duty was not levied on the subsidy portion (Rs. 1,500), although the amount of consideration was shown in the mortgage deeds as Rs. 4,000. This resulted in short levy of stamp duty and registration fees by Rs. 30,720 and Rs. 7,680 respectively.

The short levy was reported to the department in January 1985; their reply is awaited (February 1986).

(iii) Under the Karnataka Stamp Act, 1957, stamp duty chargeable on documents relating to a transaction of lease-cum-sale agreement in connection with the allotment of a building site, with or without building thereon, effected by the Karnataka Housing Board shall be as on 'conveyance' for a market value equal to the security deposit and the amount of average annual rent reserved under such agreement.

In a sub-registry in Bijapur district, on 81 cases of lease-cum-sale agreement executed by the beneficiaries in favour of the Karnataka Housing Board during 1981-82 to 1983-84, the stamp duty was levied based only on the amount (Rs. 2,90,638) paid initially, instead of on the full amount of advance deposit as set forth in the instruments and the average annual rent (Rs. 10,39,668). The mistake resulted in short levy of stamp duty by Rs. 19,380.

The omission was reported to the department in December 1984; their reply is awaited (February 1986).

(iv) According to the Karnataka Stamp Act, 1957, when a lease purports to be for a term exceeding 20 years, but not exceeding 30 years, stamp duty is leviable as on a 'conveyance' based on market value equal to three times the amount or value of the annual rent reserved, while in cases where a lease purports to be for a period exceeding 30 years, but not exceeding 100 years, levy of stamp duty is to be based on market value equal to four times the amount or value of the average annual rent reserved.

In a sub-registry in Bangalore City, on a lease deed executed by the Bangalore Turf Club limited, during the year 1983-84, levy of stamp duty was based on market value equal to three times the amount of annual rent reserved (Rs. 5 lakhs), taking the lease to be for a period of 30 years. Actually, the lease was for a period of 31 years. Stamp duty was, therefore, leviable based on a market value equal to four times the amount of annual rent reserved. The mistake resulted in stamp duty and registration fees being charged short by Rs. 55,000.

On the mistake being pointed out in audit (February 1985), the department recovered Rs. 50,000 in September 1985. Report on recovery of the balance amount is awaited (February 1986).

The above cases were reported to Government between March and August 1985; their reply is awaited (February 1986).

### **7.3. Short levy due to incorrect classifications of documents**

(i) As per the Schedule to the Karnataka Stamp Act, 1957, on instruments relating to reconveyance of mortgaged property situated in the Bangalore Urban Agglomeration, stamp duty is chargeable at the rate of Rs. 100.

In two Sub-Registries in Bangalore City, 768 discharge certificates issued during the years 1982-83 and 1983-84 by the mortgagees (e.g., Life Insurance Corporation of India, Co-operative Banks, etc.) on repayment of loans and payment of interest due from the mortgagors, were registered as 'receipts' (on payment of stamp duty of 20 paise in each case), instead of as 'reconveyance' assessable to duty at the rate of Rs. 100 each. The mistake resulted in stamp duty being levied short by Rs. 76,646.

On the mistake being pointed out in audit (October 1984 and December 1984), the department stated that the documents comprised 'receipts' under the Act, acknowledging the receipt of the amounts. The reply given is not correct as the documents not only evidenced acknowledgement of the receipt of moneys but also reconveyed the right in respect of the mortgaged properties to the mortgagors.

(ii) Under the Karnataka Stamp Act, 1957, for purposes of levy of stamp duty on conveyance deeds, the term 'conveyance' includes conveyance by sale, as also every instrument by which property, whether movable or immovable is transferred *inter vivos*. An 'agreement' is a promise or set of promises for consideration. On a deed

of conveyance, stamp duty is leviable at a rate higher than that applicable to an agreement.

In a Sub-Registry in Bangalore City, an instrument registered in June 1983 whereby a person transferred all his rights, title and interest in an immovable property in favour of another and also placed the latter in possession of the property for a consideration of Rs. 4,00,000 was wrongly classified as an 'agreement', instead of as a 'conveyance'. The incorrect classification of the document resulted in short levy of stamp duty amounting to Rs. 47,995.

The case was reported to the department in August 1984 ; their reply is awaited (February 1986).

(iii) Under the Karnataka Stamp Act, 1957, any instrument through which a person renounces a claim upon another person, who has a pre-existing right or claim, so as to enlarge the transferee's right or claim is treated as 'release'. Under the Act, the rate of stamp duty chargeable on a deed of 'release' is less than that on a 'conveyance' deed.

In a sub-registry at Dakshina Kannada district, a deed evidencing transfer of a property by one person to another in consideration of Rs. 3,40,000 was registered in December 1982 as a release deed. As per recitals in the deed, the transferor had purchased the property in March 1982 on behalf of the transferee, out of funds provided by the latter, and the transferor was formally relinquishing her right in favour of the transferee, to whom the property actually belonged.

However, in the sale deed, executed earlier in March 1982, it was stated that the property had been purchased for a consideration of Rs. 3,40,000 paid out of 'farm funds'. There was also no indication therein to the effect that the purchase was made on behalf of the aforementioned transferee. As the transferee was not a co-owner of the property, the transfer was of the nature of a conveyance and not a release. The mis-classification of the document

resulted in stamp duty and registration fee being levied short by Rs. 33,970 and Rs. 3,300<sup>9</sup> respectively.

On the incorrect classification being pointed out in audit (January 1985), the sub-registrar agreed to examine the case.

(iv) 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 between co-owners of a property.

In a sub-registry in Chickmagalur district, a document styled as 'partition deed' was executed in June 1981 by a Hindu widowed mother and her four sons apportioning properties worth Rs. 7,08,000 among the four sons without any share to the mother, and was registered after assessing it to duty applicable to a partition deed. As per the recitals in the deed itself, the Hindu widowed mother had acquired life-time ownership of those properties through a will executed by her late husband who had bequeathed the properties to his wife and as per the will only on her death those properties were to devolve on her four sons. Thus, the sons were not the co-owners of the properties and the mother was the absolute owner on the date of execution of this deed. As the right and ownership of the properties were transferred during the widow's lifetime, the deed was rightly classifiable as a 'gift deed'. The incorrect classification of the deed resulted in short levy of stamp duty by Rs. 56,380 and of registration fees by Rs. 2,270.

The mistake was pointed out to the department in September 1984; their reply is awaited (February 1986).

The above cases were reported to Government between December 1984 and July 1985; their reply is awaited (February 1986).

#### **7.4. Short levy of stamp duty due to application of incorrect rates**

According to Section 6 of the Karnataka Stamp Act, 1957, when an instrument is so framed as to come within two or more of the descriptions in the Schedule to the Act and the duties chargeable thereunder are different, the instrument shall be chargeable with the highest of such duties.

In two Sub-Registries in Bangalore district, 8 simple mortgage deeds were executed during the year 1982-83 by owners of new industries in favour of the Karnataka State Financial Corporation for securing loans (amounting to Rs. 26,15,000) received. The documents included a clause giving irrevocable general power of attorney in favour of the Corporation to do all acts, deeds and things on behalf of the mortgagors and to have the right to sell or dispose of the properties in any manner in case of default by the mortgagors. The documents were, therefore, both 'simple mortgage deeds' and 'power of attorney for consideration' viz., the amount of money received as loan. Therefore, duty at higher of the two stamp duties leviable (viz., that applicable to the power of attorney for consideration) was to be levied. But duty at the lower rate applicable to simple mortgage deeds was actually levied. The mistake resulted in short levy of stamp duty by Rs. 2,55,230 and short recovery of registration fees by Rs. 26,081.

On the mistake being pointed out in audit (September 1984 and October 1984), the department agreed to examine the cases. Report on the result of the examination is awaited (February 1986).

The case was reported to Government in January 1985 and April 1985; their reply is awaited (February 1986).

#### **7.5. Irregular grant of exemption**

(i) The Government of Karnataka, in exercise of the powers vested in them under the Karnataka Stamp Act,

1957, issued orders in January 1980 exempting, from payment of stamp duty, mortgage deeds executed by beneficiaries for obtaining loans from Government under the 'Peoples Housing Scheme' and the 'HUDCO' assisted 'Peoples Housing Scheme'. As clarified by Government in April 1980 and the Inspector General of Registration and Commissioner of Stamps in November 1982, similar exemption from payment of stamp duty was not available on mortgage deeds executed in favour of non-Government bodies (e.g., Taluk Development Board) in respect of the loans obtained from them under the aforesaid schemes.

(a) In a Sub-registry in Hassan district, 418 mortgage deeds executed during the years 1982-83 and 1983-84 by the beneficiaries in favour of Taluk Development Board were exempted from levy of stamp duty, which was irregular. The irregular grant of exemption resulted in stamp duty and registration fee amounting to Rs. 1,08,010 being not realised.

The case was reported to the department in January 1985 ; their reply is awaited (February 1986).

(b) In 9 sub-registries, in 3046 cases, mortgage deeds (registered during 1980-81 to 1983-84) relating to houses constructed by beneficiaries by obtaining financial assistance from Taluk Development Boards and Municipal Councils under their own housing schemes, were exempted from levy of stamp duty and registration fees, which was not correct, as the notification of January 1980 does not cover loans sanctioned by such Boards/Councils. The incorrect grant of exemption resulted in short levy of stamp duty amounting to Rs. 5,23,335 and registration fees amounting to Rs. 89,295, not being realised.

This mistake was reported to the department in January and March 1985 ; their reply is awaited (February 1986).

(c) In a sub-registry in Tumkur district, on 67 mortgage deeds executed by the beneficiaries in favour of a Municipal Council and registered during 1982-83 and 1983-84 for

drawal of financial assistance of Rs. 4,000 in each case from the Municipal Council under the 'low cost housing scheme,' stamp duty and registration fees were not levied, which was not correct. The incorrect grant of exemption resulted in stamp duty and registration fees amounting to Rs. 13,400 not being realised.

The mistake was pointed out to the department in January 1985; their reply is awaited (February 1986).

(ii) In February 1969, the Government of Karnataka, in exercise of the powers vested in them under the Karnataka Stamp Act, 1957, remitted levy of stamp duty on instruments executed by housing societies or by officers or members thereof, in cases where the amount or value specified in the instruments did not exceed Rs. 8,000.

In a Sub-Registry in Bangalore City, on 205 sale deeds (in respect of house sites) executed by a tailoring co-operative society during the year 1982-83 in favour of its members, (on the basis of the general power of attorney given to it by the owners of the land), stamp duty was not charged, although it was chargeable as the society was not a housing co-operative society. The mistake resulted in stamp duty and registration fees being levied short by Rs. 98,630.

The non-levy was reported to the department in June 1984. Their reply is awaited (February 1986).

(iii) As per notification issued by the Government of Karnataka in May 1975, and extended from time to time, on instruments executed by new industries located in specified districts and industrial areas, in respect of loans taken from approved financial institutions, levy of stamp duty is exempt and registration fee at a concessional rate of rupee one per Rs. 1,000 (as against the normal fee of Rs. 10 per Rs. 1,000) is chargeable. While extending the concession for a period of 5 years from 1st November 1982, Government laid down (October 1982) that certain specified industries such as 'Roller Flour Mills' and 'Rice Mills

other than Modern Rice Mill with stabilisers' shall be excluded from these concessions.

In 4 sub-registries, levy of stamp duty was exempted and registration fees charged at concessional rate on 12 mortgage deeds executed by owners of Roller Flour Mills and Rice Mills (established for conversion of paddy into rice), in favour of the Karnataka State Financial Corporation during the period from 1st November 1982 to 31st March 1984, although the concessions were not admissible in respect of documents executed by these industries from 1st November 1982 onwards. The mistake resulted in stamp duty amounting to Rs. 1,49,445 and registration fee amounting to Rs. 31,495, not being realised.

This mistake was pointed out to the department between December 1984 and March 1985; their reply is awaited (February 1986).

(iv) Government, in exercise of the powers vested in them under the Karnataka Stamp Act, 1957, issued orders in February 1969 for remission of stamp duty on instruments executed by a Co-operative society dispensing production finance and by their members relating to the business of such society. Similar exemption exists in respect of registration fees also.

In a sub-registry in Dakshina Kannada district, on a sale deed for Rs. 1,40,000 executed in November 1983, in favour of an arecanut marketing and processing co-operative society by an individual (who happened to be a member of that society) for selling his land to the society, levy of stamp duty and registration fee was exempted under the above orders, although the sale/purchase of land was not the 'business' of the society. The incorrect grant of exemption resulted in stamp duty amounting to Rs. 14,000 and registration fees amounting to Rs. 1,400, not being realised.

On the mistake being pointed out in audit (February 1985), the department agreed to examine the case. Report on action taken is awaited (February 1986).

The above cases were reported to Government between August 1984 and May 1985; their reply is awaited (February 1986).

### **7.6. Short recovery of registration fees**

Government, in exercise of the powers vested in them under the Indian Registration Act, 1908, issued orders in June 1981 for the levy of registration fee at a concessional rate of Re. 1 per Rs. 1,000 (as against the normal fee of Rs. 10 per Rs. 1,000) for registration of instruments executed to secure loan taken from approved financial institutions like Industrial Development Banks, Financial Corporations, Nationalised Banks etc., for the purpose of new industrial investments in certain specified districts and industrial areas.

In a sub-registry in Dakshina Kannada district, on two guarantee bonds, executed during 1981-82, by beneficiaries in favour of the Director of Industries and Commerce for obtaining interest-free loans aggregating Rs. 11,60,000 for new Industrial investments, registration fee was recovered at the concessional rate under the aforesaid orders, even though the concession was not admissible in respect of loans received from Government. The mistake resulted in short recovery of registration fees by Rs. 10,440.

The short recovery was pointed out in audit during February 1985. The department stated (February 1986) that action had been taken to recover the deficit duty from the concerned officer. Report on recovery is awaited (February 1986).

The case was reported to Government in August 1985; their reply is awaited (February 1986).

## CHAPTER 8

### FOREST RECEIPTS

#### 8.1. Results of Audit

Test check of accounts in the divisions in the Forest Department, conducted in audit during the year 1984-85, revealed non-recovery and short recovery of forest receipts amounting to Rs. 134.56 lakhs in 135 cases, which broadly fall under the following categories.

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Non-revision and non-fixation of rates	9	21.47
2. Non-recovery or short recovery of Forest Development Tax	15	2.03
3. Short collection of lease amount	11	6.27
4. Non-recovery of seigniorage rate (royalty)	11	16.19
5. Non-recovery of administrative charges	6	4.59
6. Loss due to resale	10	3.04
7. Other irregularities	73	80.97
Total	135	134.56

Some of the important cases are mentioned in the following paragraphs.

#### 8.2. Non-recovery or short recovery of Government dues

(i) As per Government orders issued in July 1976, 1,46,000 acres of forest land was transferred to the Karnataka Forest Plantation Corporation on lease basis for a period of 20 years. On 87,000 acres of this land, the

Forest Department had already grown eucalyptus plantations. In respect of this area, it was agreed (August 1977) that the Corporation would pay to Government supervision charges at the rate of 10 per cent of the revenue realised by them from sale of those plantations.

The Corporation realised revenue amounting to Rs. 321.62 lakhs from sale of the eucalyptus plantations during the period from 1st October 1978 to 30th June 1984. The Corporation, however, did not pay supervision charges (Rs. 32.16 lakhs) to the department, nor were these charges demanded by the department.

The non-recovery was reported to the department in September 1984; their reply is awaited (February 1986).

(ii) As per the terms of agreement for supply of sleepers entered into between the Forest Department and the Railways, the clamps required to be fixed to the sleepers were to be supplied by the Railways. As, however, clamps were not supplied by the Railways, the Forest Department purchased them locally and fixed them to the sleepers before despatching them. But cost of 64,558 clamps attached to the sleepers supplied by three forest divisions in Shimoga and Uttara Kannada districts, during the years 1982-83 to 1983-84, was recovered from the Railways short by Rs. 52,740.

On the mistake being pointed out in audit (between January 1985 and February 1985), one division recovered an amount of Rs. 12,983 in June 1985. The second division agreed to recover the amount while the third division agreed to examine the matter. Report on recovery and result of examination is awaited (February 1986).

The cases were reported to Government in May 1985 and July 1985; they confirmed the recovery in one case in October 1985; their reply in respect of the remaining two cases is awaited (February 1986).

(iii) As per the conditions attached to the lease of right for extraction of minor forest produce, if the contractor fails to pay the instalments of lease money on the due dates, the contract is to be cancelled and the right resold at the risk and cost of the original bidder. In addition, interest has to be recovered on belated payment of instalments.

In Kolar district, the right to extract tamarind (a minor forest produce) in one range in a forest division, for the period 1982-84, was leased for Rs. 1,91,666, of which a sum of Rs. 46,550 was deposited by the lessee immediately. The balance of lease money amounting to Rs. 1,45,116 was payable in three equal instalments on 1st October 1982, 1st April 1983 and 1st October 1983. The contractor paid only Rs. 90,000 in two instalments, one on 6th January 1983 (Rs. 50,000) and the other on 24th March 1984 (Rs. 40,000). Since the lessee did not pay the balance amount of Rs. 55,116, the right to extract forest produce was to be re-auctioned at the risk and cost of the lessee. But he was allowed to continue extraction of the forest produce. As at the end of August 1984, the amount due from the lessee (including interest) amounted to Rs. 69,554.

On this being pointed out in audit (August 1984), the department stated (August 1984) that the case had been referred to the revenue authorities for recovery of Government dues as arrears of land revenue.

(iv) In a forest division in Uttara Kannada district, on 8284.300 cubic metres of firewood supplied to the Karnataka State Forest Industries Corporation, the transportation charges were recovered at the rate of Rs. 20 per cubic metre, as against Rs. 25 per cubic metre actually paid by the division to the transport contractors. The mistake resulted in Government dues being realised short by Rs. 42,250 (including supervision charges).

On the mistake being pointed out in audit (March 1985), the department stated (September 1985) that the amount of Rs. 42,250 had since been recovered from the Corporation in April 1985.

(v) With effect from 1st June 1979, on sale of timber to wood-based industries, administrative charges at the rate of Rs. 5 per cubic metre of timber are recoverable. Being not in the nature of tax, but forming part of the consideration for sale, these charges form part of sale price on which forest development tax and sales tax are leviable.

In two forest divisions in Shimoga district, on sale of 8,351 cubic metres of timber in the form of 'lops and tops' to three wood-based industries during the years 1982-83 and 1983-84, administrative charges amounting to Rs. 41,755 were not realised. As a result, forest development tax and sales tax were also levied short by Rs. 7,014.

On the omission being pointed out in audit (April 1984), the department stated that a sum of Rs. 19,704 had since been recovered from one company. Report on recovery of the balance amount of Rs. 29,065 is awaited (February 1986).

(vi) As per Government orders issued in September 1976, recoveries for supply of raw materials to the Karnataka State Forest Industries Corporation were to be made at the intake rates to be fixed by the Forest Department from time to time. In September 1983, the Department fixed the intake rates to be charged for supplies to be made to the Corporation during the period from 1st June 1983 to 31st March 1984. Subsequently, in February 1984, the department decided to charge 10 per cent premium over the rates fixed in September 1983 to cover the increase in rates.

In a forest division in Shimoga district, in respect of timber valued at Rs. 3,24,019 supplied to the Corporation during the period from July 1983 to February 1984, 10 per cent premium over the approved rates was not charged, resulting in short recovery of Government dues by Rs. 32,401.

On the omission being pointed out in audit (January 1985), the division agreed to take necessary action. Report on action taken is awaited (February 1986).

(vii) According to the terms of agreement entered into between the Forest Department and industrial concerns engaged in extraction of timber and firewood, the concerns are required to pay 'Kamagari charges'\* in respect of forest officials engaged in marking, issuing permits etc.

In a forest division in Shimoga district, 'Kamagari charges' amounting to Rs. 18,345 were not recovered from three industrial concerns during the period August 1981 to May 1982.

On the omission being pointed out in audit (June 1982), the department recovered (July 1983) Rs. 8,465 from one industrial concern. Report on recovery of the balance amount of Rs. 9,880 is awaited (February 1986).

The above cases were reported to Government between July 1984 and July 1985; their reply is awaited (February 1986) except as indicated in sub-paragraph (ii) above.

### **8.3. Short recovery of cost of forest produce**

(a) (i) Two forest divisions supplied 328.807 tonnes of sandalwood to a Government company during the period from August 1982 to August 1983. Pending fixation of issue rates to be charged in respect of such supplies, cost of sandalwood was recovered at the provisional rates fixed by Government in September 1981. On fixation of the issue rates subsequently by Government in September 1983, an additional amount of Rs. 21,60,352 (including taxes) became recoverable from the company for supplies made to it during the period from August 1982 to August 1983, as per the orders issued in September 1983, but no additional demand was raised by the forest divisions.

On the omission being pointed out in audit (January 1984 and April 1984), the department recovered

---

\*'Kamagari charges' represent pay and allowances paid to forest officials engaged by industrial concerns in marking, issuing permits etc.

Rs. 15,53,938 in September 1984. Report on recovery of the balance amount of Rs. 6,06,414 is awaited (February 1986).

The cases were reported to Government in March 1985. Government confirmed (May 1985) the recovery of Rs. 15,53,938 ; reply in respect of recovery of the balance amount of Rs. 6,06,414 is awaited (February 1986).

(ii) Similarly, in a forest division in Mandya district, no action was taken to raise additional demand in respect of 7.142 tonnes of sandalwood supplied to the company in March 1983 and July 1983. The omission resulted in short recovery of price of sandalwood amounting to Rs. 47,798 (including taxes).

On the omission being pointed out in audit (March 1985), the division agreed to recover the differential amount. Report on recovery is awaited (February 1986).

(b) (i) By an order dated 29th June 1982, the Chief Conservator of Forests enhanced the seigniorage rate in respect of eucalyptus timber supplied to industries from Rs. 65 per metric tonne to Rs. 205 per metric tonne with effect from 29th June 1982.

In a forest division in Chickmagalur district, in respect of 822.15 metric tonnes of eucalyptus timber supplied to an industrial concern on 29th June 1982, the demand was raised at the old rate of Rs. 65 per tonne, resulting in short recovery of Rs. 1,34,438 (including forest development tax, sales tax and surcharge).

On the short recovery being pointed out in audit in November 1984, the department stated (October 1985) that the amount had since been recovered in February 1985.

The case was reported to Government in January 1985 and May 1985 ; they confirmed the facts in October 1985.

(ii) In September 1983, the seigniorage rate (royalty) recoverable in respect of debarked eucalyptus timber

recovered from forests was revised from Rs. 205 per tonne to Rs. 264.50 per tonne. The revised rate was to be applied to all supplies from 29th June 1982 onwards.

In a forest division in Bangalore district, in respect of 344 tonnes of debarked eucalyptus timber, which had already been supplied to an industry on 29th January 1983, the revised demand was incorrectly raised (October 1983) for Rs. 95,152, as against Rs. 1,06,274 actually due from the industry at the revised rate. The mistake resulted in seigniorage rate being realised short by Rs. 11,122.

On the mistake being pointed out in audit (August 1984), the department stated (October 1985) that the amount of Rs. 11,122 had since been recovered on 29th August 1984.

The case was reported to Government in June 1985; they confirmed the facts (January 1986).

(iii) The Bangalore Forest Division supplied 126 cubic metres of 'Hale' wood to a private party during January-February 1980 after recovering advance royalty amounting to Rs. 6,200. In November 1980, the Divisional Office pointed out that the correct amount recoverable from the party was Rs. 18,872. Although the demand for the additional amount of Rs. 12,672 was raised in February 1982, it could not be recovered as the whereabouts of the party were not known. Failure to assess the value of wood correctly in the first instance and to obtain adequate deposit before releasing the wood thus resulted in loss of revenue amounting to Rs. 12,672.

(c) A forest division in Mysore district supplied 41.489 cubic metre of rosewood to a company during the period from 1st July 1979 to 6th July 1980 at rates provisionally fixed by the Forest Department in September 1979. On fixation of the issue rates by Government subsequently in December 1982, an additional amount of Rs. 85,794 became recoverable from the company for supplies made to it during the period from 1st July 1979 to 6th July 1980 as per the orders issued, but it was not demanded by the division.

On the omission being pointed out in audit (November 1984), the department recovered the entire amount in April 1985.

The above cases were reported to Government between January and June 1985; their replies are awaited (February 1986), except as stated in sub-paragraphs 8.3(a)(i), 8.3 (b)(i) and (ii) above.

#### **8.4. Non recovery or short recovery of dead rent/royalty**

As per the terms and conditions for lease of quarries for extraction of granite stones, dolomite, kaolin, sand etc., the lessee is required to pay, for each year of lease, royalty or dead rent at prescribed rates, whichever is higher.

(a) (i) In 17 cases in Bangalore division where the lease holders had not extracted any material from the leased areas during various periods falling between 1979-80 and 1983-84, dead rent amounting to Rs. 2,17,434 was recoverable, but was not recovered.

On the omission being pointed out in audit (August 1984), the department stated (October 1985) that an amount of Rs. 2,946 had since been recovered in two cases; that in two other cases the lessees filed writ petitions in the High Court and that in the remaining thirteen cases, as there was no response to the demand notices issued, action had been initiated to recover the dues as arrears of land revenue.

(ii) In another division in Bangalore district in 21 cases, where the lease holders for extraction of granite stones had not extracted any material from the leased lands during the year 1983-84, dead rent amounting to Rs. 61,881 was recoverable, but was not recovered.

On the omission being pointed out in audit (June 1984), the department stated that in most of these cases, the quarrying operation was not started at all after the execution of the agreements. The department, however, agreed to take action as per the penal clauses of the agreement. Report on action taken is awaited (February 1986).

(iii) In a forest division in Mysore district, lease holders extracted 516.715 tonnes of black granite stones from quarries situated in forest lands and transported them in December 1982. On these removals, royalty amounting to Rs. 11,161 was recoverable, but was not recovered.

On the omission being pointed out in audit (November 1984), the Divisional Officer agreed to examine the case. Report on the result of examination is awaited (February 1986).

(b) By an order issued by Government in June 1984, under the Karnataka Forest Act, 1963, the seigniorage rate (royalty) for supply of eucalyptus wood and bamboo, to a Government company as raw material for manufacture of newsprint was revised from Rs. 120 to Rs. 60 per metric tonne for a period of five years from 1st October 1983.

In respect of 16,840 tonnes of bamboo supplied to a company by a forest division in Shimoga district during the period from 1st October 1983 to 7th May 1984, the demand for seigniorage rate was initially raised at the rate of Rs. 120 per tonne. Consequent upon issue of the Government order in June 1984 reducing the seigniorage rate by 50 per cent, the company, claimed a rebate of 50 per cent on 13,603.430 tonnes (out of 16,840 tonnes) of bamboo utilised by it for manufacturing news print. While revising the demand for this quantity, the division preferred a bill for Rs. 13,18,042, as against Rs. 14,36,707 (including sales tax and other charges) actually due from the company. The mistake resulted in Government dues being recovered short by Rs. 1,18,665.

On the mistake being pointed out in audit (March 1985), the department stated that a revised claim had since been preferred against the company. Report on recovery is awaited (February 1986).

(c) In Shimoga division, two lease holders had not extracted any minerals (dolomite, kaolin, sand etc) from

263.05 hectares of land leased out to each of them in June 1976 and August 1979. Nevertheless, dead rent amounting to Rs. 46,034 (Rs. 32,881 in one case upto June 1984 and Rs. 13,153 in the other case upto August 1984) was recoverable, but was not recovered.

On the omission being pointed out in audit (February 1985), the division agreed to take action for recovery of the amount. Report on recovery is awaited (February 1986).

(d) As per the agreement entered into by a Government company with the Forest Department for extraction of Black-dyke from an area leased to it by Government, royalty at the rate of Rs. 20 per tonne of Black-dyke extracted from the leased area or dead rent at the rate of Rs. 500 per acre per annum, whichever is more, is payable by the company. The ores or minerals are to be removed from the leased area only on payment of the Government dues.

In a forest division in Raichur district, the company extracted 1473.860 tonnes of Black-dyke during the period from January 1984 to April 1984 and removed it from the leased area, without paying royalty (and taxes due thereon) amounting to Rs. 34,636 to the department.

On the omission being pointed out in audit (July 1984), the department stated (March 1985) that a sum of Rs. 34,636 had since been recovered in July and August 1984.

The above cases were reported to Government between February and June 1985; their reply is awaited (February 1986).

### **8.5. Loss of revenue due to release of timber on fake challans**

As per terms and conditions of auction sale of timber, each purchaser, after a lot of timber has been knocked down in his favour by the auction officer, is required to pay one-fourth amount of his bid plus taxes thereon immediately on conclusion of the auction sale either in cash or by demand

draft. The remaining three-fourth amount of the bid is required to be paid into the treasury and the receipted challan should reach the forest depot officer within four months after the conclusion of the auction or before removal of the material from the site, whichever is earlier. In respect of retail sale, the purchaser, before removal of the material, is required to pay in full the purchase money plus taxes thereon to the department or pay the amount into Government treasury and produce a receipted challan. The departmental rules also provide that in cases, where the purchase price is deposited into the treasury, the material is to be released to the purchaser only after verification of the credit in the treasury accounts.

In Shimoga District, timber from forest depots was released (during April 1983 to November 1984) to the purchasers on production of their own copies of the challans, without verifying that the credits in respect of the amounts purported to have been paid by them had appeared in the treasury accounts. After release of the material, the department noticed that in 25 cases of auction sale and 16 cases of retail sale, the challans produced by the purchasers were not genuine, as no amounts had actually been deposited by them into the treasury. This had resulted in loss of revenue amounting to Rs. 5.20 lakhs. Had the department followed the prescribed procedure of verifying the challans with reference to the treasury accounts before releasing the material, the fraud would have been detected and the loss avoided.

On the failure being pointed out in audit (January/February 1985), the department stated that the matter was already under investigation and that instructions had also been issued (January 1985) to all the forest divisions to release material to contractors on payment of purchase price by demand draft only, in future.

Government, to whom the case was reported in March 1985, stated (January 1986) that an amount of Rs. 1,89,558 had since been recovered (May to August 1985) from 5

timber merchants and that investigation regarding the submission of fake challans by the timber merchants had been referred to the Police department. Report on recovery of the balance amount and the result of investigation is awaited (February 1986).

#### **8.6. Loss of revenue due to shortage of firewood**

In a forest division in Uttara Kannada district, out of 3,351.770 cubic metres of firewood extracted from October 1977 to April 1979 and meant to be transported to the departmental sale depots from the coupes, only 1627 cubic metres were actually transported between October 1980 and March 1981. The whereabouts, of the balance of 1,724.770 cubic metres of firewood valuing Rs. 1,65,296 were reported to be not traceable. The department fixed (April 1983) the responsibility for the loss on the contractor originally entrusted with the extraction work and issued a notice to him in April 1983, requiring him to make good the loss immediately, but there was no response. The matter was not pursued with the contractor thereafter.

The loss was reported to the department and Government in July 1984 and January 1985; their replies are awaited (February 1986).

#### **8.7. Loss of revenue due to defective estimate**

For the purpose of selling the right of carbonisation and collecting charcoal from the residual material available in the Varahi Project area, the area was divided into four units, each estimated to contain approximately 5,100 bags of charcoal. The units were sold for Rs. 35,100 in an auction sale held in March 1982.

Upto April 1984, the actual extraction of charcoal by the contractors from three of these units was 1,08,800 bags, which exceeded the estimated quantity (16,500 bags) by 560 per cent and the exploitation in these three units was still in progress. The extraction from the fourth unit was still to be started by the contractors. The quantity of charcoal

in these units was thus grossly under-estimated by the department. This, coupled with the absence of any condition in the tender/auction notice regarding recovery of the cost of material removed in excess of the estimated quantity, resulted in loss of revenue of over Rs. 1.61 lakhs (upto April 1984) to Government. The loss would increase with further removal of charcoal from the units by the contractors.

The case was reported to Government in July 1984 and March 1985; their reply is awaited (February 1986).

### **8.8. Non-recovery of licence fees from saw mills**

As per Karnataka Forest Rules, 1969, for running a saw mill, the mill owner has to obtain a licence. He is also required to pay a licence fee of Rs. 200 every year.

In a forest division in Bangalore district, 51 saw mill owners ran mills during the period 1974-75 to 1982-83, without obtaining licences from the department. No effective steps were also taken by the department to require the mill owners to obtain licences and pay the licence fee. The omission resulted in loss of revenue amounting to Rs. 63,200.

On the omission being pointed out in audit (August 1984), the division agreed to issue notices to the concerned owners. Report on action taken is awaited (February 1986).

The case was reported to Government in April 1985; their reply is awaited (February 1986).

### **8.9. Short recovery of taxes**

As per the Karnataka Forest Act, 1963, on forest produce sold or otherwise disposed of by the Forest Department, forest development tax at the rate of 12 per cent (8 per cent upto 31st March 1983) is leviable.

As per the departmental instructions issued during October 1980, the sale value of any forest produce comprises actual cost of extraction, seigniorage fees, transportation and supervision charges.

(i) In a forest division in Mysore district, on sale of 6,54,950 bamboos made by the department during April 1982 to June 1983, taxes (forest development tax, sales tax and surcharge) were levied only on the seigniorage fee, instead of on the entire sale value. The omission to include the cost of extraction (Rs. 2,50,756) and supervision charges (Rs. 25,076) in the sale value, for purpose of levy of taxes, resulted in taxes being levied short by Rs. 46,340.

On the omission being pointed out in audit (October 1984), the department agreed to examine the case. Report on examination is awaited (February 1986).

(ii) Selection charges recovered on retail sales of timber form part of the sale price and, therefore, sales tax, surcharge and forest development tax are also payable thereon.

In Hunsur forest division, selection charges amounting to Rs. 1,89,700 collected on retail sales of timber during the period from 17th February 1981 to 31st July 1983 were not taken into account at the time of levy of taxes (forest development tax, sales tax and surcharge) on sale price, resulting in short recovery of taxes amounting to Rs. 27,257.

The mistake was pointed out in audit to the department in October 1983; their reply is awaited (February 1986).

(iii) In a forest division in Shimoga district, on supply of timber valued at Rs. 4,57,619 to a plywood manufacturing company subsequent to 1st April 1983, forest development tax was incorrectly levied at the old rate of 8 per cent. instead of at 12 per cent. The mistake resulted in tax being levied short by Rs. 18,304.

On the mistake being pointed out in audit (April 1984), the department stated (August 1985) that the amount of Rs. 18,304 had since been recovered during May 1985.

The above cases were reported to Government between December 1983 and May 1985; their reply is awaited (February 1986).

### 8.10. Loss of revenue due to non-transportation of softwood

(i) In Shimoga district, forty seven logs of softwood species measuring 26.279 cubic metres extracted departmentally from certain coupes prior to 1981-82 for sale at the timber depot continued to lie in the coupes uncleared. With the passage of time, the logs deteriorated in quality and were eventually abandoned as unfit for transportation to the timber depot. Failure to transport the timber to the sale depot in time resulted in loss of revenue amounting to Rs. 17,035 (inclusive of taxes), based on the seigniorage rates prevalent during the year 1980-81.

The matter was reported to the department in May 1984; their reply is awaited (February 1986).

(ii) As per the agreement entered into by a firm for extracting softwood of conceded species in the forest area of Belgaum division, 50 per cent of the lops and tops extracted by the firm was to be delivered to the Government timber depot and the balance removed by them on payment of royalty.

Out of 426.312 cubic metres of lops and tops required to be delivered by the firm to Government depot during 1983-84, only 299.334 cubic metres were delivered. The balance of 126.978 cubic metres of lops and tops (softwood) remained in the forest area for over one and a half years and deteriorated, resulting in loss of revenue amounting to Rs. 12,697 (based on the average market value of Rs. 100 per cubic metre during 1983-84).

On the irregularity being pointed out in audit (September 1984), the Divisional Officer stated (September 1984) that the value of wood not delivered to the depot would be recovered from the firm. Report on recovery is awaited (February 1986).

The above cases were reported to Government between May 1984 and March 1985; their reply is awaited (February 1986).

## CHAPTER 9

### OTHER TAX AND NON-TAX RECEIPTS

#### A. ENTERTAINMENT TAX

##### 9.1. Results of Audit

Test check of records in Entertainments Tax Offices, conducted in audit during the year 1984-85, disclosed under-assessments of tax amounting to Rs. 2 lakhs in 10 cases, which broadly fall under the following categories.

	<i>Number of cases</i>	<i>Amount (In lakhs of rupees)</i>
1. Incorrect computation of tax	3	0.89
2. Other irregularities	7	1.11
Total	10	2.00

Some of the important cases are mentioned in the following paragraphs.

##### 9.2. Short levy of entertainments tax and health cess

As per the Karnataka Entertainments Tax Act, 1958, entertainments tax is payable at a prescribed percentage of "payment for admission" (excluding the amount of tax), depending upon the class of admission. In addition, surcharge equal to the rate of entertainments tax is also leviable. Further, additional tax on cinematograph shows called "show tax" is payable at prescribed rate per show, depending on the "payment for admission" (including entertainments tax and surcharge). Fractions of entertainment tax and surcharge are to be rounded off to the next higher multiple of five paise. As per the Karnataka Health Cess Act, 1962, health cess is leviable at 15 per cent of the show tax.

(i) In respect of a cinema theatre in Bijapur district, due to computation mistakes, entertainments tax, surcharge, show tax and health cess were levied short by Rs. 17,124 during the period 30th July 1982 to 25th November 1984.

On the mistakes being pointed out in audit (November 1984), the assessing officer agreed to examine the case. Report on the result of examination is awaited (February 1986).

(ii) In Bellary district, health cess due on show tax of Rs. 69,930 for the period from 1st July 1982 to 31st March 1984 was not collected from 12 theatres, which had availed of the benefit of composition, resulting in loss of revenue amounting to Rs. 10,490.

On the omission being pointed out in audit (July 1984), the department stated (June 1985) that an amount of Rs. 7,488 had since been recovered. Report on recovery of the balance amount is awaited (February 1986).

(iii) Under the Karnataka Entertainments Tax Act, 1958, on cinematograph shows where payment for admission to the highest class of accommodation (including entertainments tax and surcharge) does not exceed Rs. 2.50, additional tax at the rate of Rs. 20 per show is leviable with effect from 1st July 1982. In respect of cinematograph shows held in cinema theatres situated within the limits of a local authority, whose population does not exceed fifteen thousand, entertainment tax at fifteen per cent of the gross collection capacity is leviable with effect from 1st July 1982.

In Dharwad district, additional tax was not levied on 417 cinematograph shows conducted by a cinema theatre during the period 1st July 1982 to 15th September 1983, resulting in tax being realised short by Rs. 8,340. Also, entertainments tax was levied at 12 per cent, as against 15 per cent of the gross collection capacity, resulting in short levy of entertainment tax by Rs. 2,773.

On the mistakes being pointed out in audit (June 1984), the department stated (July 1985) that the entire amount had since been recovered between February and April 1985.

The case was reported to Government in June 1985 ; they confirmed the facts in August 1985.

The other cases in sub-paragraphs (i) and (ii) above were reported to Government in January and March 1985 ; their replies are awaited (February 1986).

## B. INTEREST RECEIPTS

### 9.3.1. Introduction

'Interest receipts' is the principal source of non-tax revenue of the State. Interest is realised on loans granted to (i) Government Commercial Undertakings and Public Sector Undertakings ; (ii) Local Bodies and Co-operative Societies ; (iii) Cultivators and (iv) Government servants and private parties.

The table below indicates the receipts on account of interest during the years 1981-82 to 1983-84 :—

<i>Year</i>	<i>Amount (In crores of of rupees)</i>
1981-82	92.90
1982-83	108.94
1983-84	121.74

These receipts constituted between 38 and 41 per cent of the total non-tax revenue of the State, which amounted to Rs. 243.68 crores, Rs. 265.59 crores and Rs. 316.37 crores in 1981-82, 1982-83 and 1983-84 respectively.

No consolidated record, indicating year-wise details of the arrears of interest pending collection at the beginning of each year, interest realisable and demanded during the

year, interest realised during the year and the balance recoverable at end of the year was being maintained by any department.

### 9.3.2. Regulation of the rates of interest on loans

As per the provisions of the Karnataka Financial Code, interest shall be charged at the rate prescribed by Government in the sanction order, for any particular loan or class of loans concerned and, where no such rate is prescribed in the sanction order, it shall be charged at the rates laid down in the Code according to the category of loans, such as loans for commercial purposes, industrial purposes, for infra-structure development, etc., and also depending upon the period of repayment. The rates of interest laid down varied from  $6\frac{1}{2}$  per cent to 9 per cent per annum during April 1975 to July 1983 and from  $8\frac{1}{2}$  to  $15\frac{1}{2}$  per cent from August 1983 onwards. Penal interest at the rate of 4 per cent per annum (over and above the normal rate of interest) was chargeable on all overdue instalments of principal and interest except where recovery of penal interest was remitted by Government.

9.3.3. A review of interest receipts for the years 1980-81 to 1983-84, conducted during November 1984 to March 1985, with particular reference to the loans sanctioned by three departments (Rural Development and Co-operation, Commerce and Industries and Agriculture) revealed the following points :—

(i) Non-recovery of interest due to omission to prescribe terms and conditions of loans.

In respect of loans amounting to Rs. 7.16 crores paid to eight Government companies, corporations, autonomous bodies, etc., during the years 1977-78 to 1982-83, the terms and conditions governing the loans, (viz., the rate of interest, terms of repayment, initial moratorium period, etc.), had not been specified in the sanction orders. Although it was stated in the sanctions that orders containing the

terms would be issued separately, this was not followed up. In some cases, where loans amounting to Rs. 39.68 crores had been paid to 13 institutions during the years 1966-67 to 1982-83, sanction orders were not available with the Director of Industries and Commerce who was responsible for maintaining the loan ledgers. No interest was paid by any of these institutions nor were any demands raised by the department. Presuming a minimum interest rate of 6 per cent per annum, the arrears of interest pending recovery in these cases, as on 31st March 1985, amounted to Rs. 16.64 crores approximately.

The Director of Industries and Commerce had brought these omissions to the notice of Government in December 1983. Although nearly two years had elapsed since then, Government's decision was still awaited (February 1986).

(ii) Loss of interest due to delay in disbursement of loans

(a) Five loans aggregating Rs. 37.75 lakhs sanctioned by Government to a Co-operative Apex Bank (for augmenting Agricultural Credit Stabilisation Fund) during the years 1979-80 to 1982-83 and four loans aggregating Rs. 102.50 lakhs (for augmenting Agriculture Stabilisation Fund) sanctioned during the years 1980-81 to 1983-84 carried interest at rates varying from  $5\frac{1}{2}$  to 8 per cent per annum. The Registrar of Co-operative Societies drew these loan amounts from the treasury as soon as they were sanctioned, but kept them in a bank account operated by him and released them to the Bank as and when the conditions attached to the release were satisfied by it. In eight (out of these nine) cases, loan amounts of Rs. 127.75 lakhs were released after delays ranging from one month to eight months, resulting in loss of interest amounting to Rs. 4.23 lakhs, calculated at the rate(s) at which interest was payable by the Bank.

On the loss being pointed out in audit (December 1984), the department agreed to move Government to stipulate

a condition that interest would be payable from the date of drawal of loan amounts from the treasury. Final decision is awaited (February 1986).

(b) Similarly, two loans of Rs. 10 lakhs each sanctioned by Government to 2 Co-operative Central Banks between March 1983 and March 1984 for meeting deficits in their internal resources were drawn from the treasury by the Registrar of Co-operative Societies and kept in his personal deposit account. These amounts were released to the loanees after delays ranging from 5 to 14 months. This resulted in loss of interest to the extent of Rs. 1.03 lakhs for the intervening period (calculated at 7 per cent per annum, the rate at which interest was payable by the beneficiaries).

#### **9.3.4. Loss of interest due to non-release of loans after drawal from Treasury**

(i) A loan of Rs. 9.10 lakhs sanctioned by Government in March 1983 to a consumers' federation (for taking over a fruit processing unit of a co-operative dairy) carried interest at 10 per cent per annum from the date of its drawal from the treasury. The entire amount was drawn by the Registrar of Co-operative Societies on 31st March 1983 and kept in his personal deposit account pending release to the federation. In September 1984, the Federation informed the Registrar that it would not be availing of the loan facility as its relevant scheme could not be implemented. The Registrar, thereupon, refunded the amount into the treasury on 29th October 1984. Due to non-release of the amount after its drawal from the treasury, there was loss of revenue of Rs. 1.44 lakhs by way of interest for the period from April 1983 to October 1984. When the omission to collect interest from the date of drawal of the loan amount from the treasury (as per the condition attached to the loan) was pointed out in audit (December 1984), the department stated (December 1984) that it was not considered reasonable to demand any interest from the

Federation as the loan amount was not actually released to it.

This is one of the cases in which loans were paid out of the assistance obtained by Government from the National Co-operative Development Corporation in the form of reimbursement finance. In respect of this assistance, Government had paid a sum of Rs. 91,000 as interest to the Corporation for a period of one year from 5th October 1983.

(ii) In March 1981, Government sanctioned the release of Rs. 12.84 lakhs as loan and Rs. 7.49 lakhs as Government's contribution to share capital to a co-operative institution for establishing a printing unit. The loan carried interest at  $9\frac{1}{2}$  per cent per annum. The entire amount of Rs. 20.33 lakhs was drawn from the treasury by the Additional Director of Industries and Commerce on 31st March 1981 and kept in a joint account in a co-operative bank operated by him and the loanee institution. As the institution did not initiate any action for the establishment of the printing unit, the entire amount was recredited to Government account in September 1983. The unnecessary withdrawal of the amount from the treasury and its retention in the bank resulted in loss of interest of Rs. 2,07,635 on the loan portion only. (Interest of Rs. 2,97,458 due, less Rs. 89,823 allowed as interest by the Bank).

On the loss being pointed out in audit (January 1985), the department stated that the loss was unavoidable as all possible steps had been taken by the department at the proper time.

(iii) In a large number of other cases also, loan amounts sanctioned by Government to co-operative societies during the years 1979-80 to 1983-84 for construction of godown, etc., were drawn from the treasury and kept in co-operative banks in the accounts operated by the Assistant Registrars of Co-operative Societies. While in some cases these loan amounts were refunded to Government after delays ranging

from 11 to 63 months, in others, these amounts were continued to be retained in those accounts as the beneficiary institutions had failed to take timely action for fulfilment of the conditions attached to the release of loans. The loss of interest (due to delayed refunds of loans aggregating Rs. 1.23 lakhs, to Government), in 7 cases amounted to Rs. 0.25 lakh. Similarly, loss of interest due to continued retention of loan amounts, aggregating Rs. 6.50 lakhs, in 35 other cases amounted to Rs. 0.96 lakh (upto the end of December 1984).

### **9.3.5. Loss due to levy of interest at rates lower than the borrowing rates**

(i) In seven cases during the years 1979-80 to 1983-84, loans amounting to Rs. 86.04 lakhs were sanctioned by Government to the Agricultural Co-operative Marketing Societies (for establishment of oil mills, cotton ginning and processing units, etc.), out of funds provided by the National Co-operative Development Corporation in the form of reimbursement finance (treated as loans to the State Government). The terms of repayment of loans (such as period of repayment etc.) prescribed by the State Government in respect of loans to the co-operative societies were similar to those fixed by the Corporation. However, although the Corporation charged interest at  $10\frac{1}{4}$  per cent per annum ( $12\frac{3}{4}$  per cent in case of default) on the loans sanctioned by them, loans sanctioned by Government to societies carried interest at a lower rate of  $9\frac{1}{2}$  per cent per annum ( $12\frac{1}{4}$  per cent in case of default). The amount of interest recovered short by Government amounted to Rs. 2.17 lakhs in those 7 cases to end of December 1984.

(ii) In 43 similar cases of sanction of loan by Government to Agricultural Co-operative Marketing Societies for establishment/modernisation of rice mills during the years 1978-79 to 1982-83, Government charged interest at rates which were lower than the rates charged by the Corporation on loans and advances paid by them to Government

by  $\frac{1}{2}$  per cent or  $\frac{1}{4}$  per cent per annum. The loss on account of difference in the rates of interest in those cases amounted to Rs. 1.66 lakhs for the period ended December 1984.

In July 1984, the Registrar of Co-operative Societies had requested the Government to consider the desirability of increasing the rates of interest payable by the societies to Government, so as to bring them at par with the rates charged by the Corporation to Government. However, Government's decision is still awaited (February 1986).

### **9.3.6. Loss due to delay in crediting loan amounts received from the financing agency**

During the years 1981-82 to 1983-84, the National Co-operative Development Corporation advanced loans aggregating Rs. 25.67 crores as financial assistance to the State Government (for execution of various schemes) in the form of reimbursement finance. These amounts were received by way of demand drafts by various departments.

A test check of records in the Rural Development and Co-operation department showed that in 27 cases involving a loan amount of Rs. 1.18 crores, the bank drafts were credited to Government account after delays ranging from one month to four months, although as per financial rules such deposits are required to be made within two days. The interest lost in these cases during the periods the bank drafts were kept out of Government accounts amounted to Rs. 1.87 lakhs at the effective rate of 10 per cent per annum charged by the Corporation.

### **9.3.7. Non-recovery/short recovery of interest in specified cases**

In the following cases penal interest on belated repayments of principal amounts was found to have been recovered

short by the departments.

<i>Name of the Institution</i>	<i>Month/Year of drawal of loan</i>	<i>Amount of loan paid (In lakhs of rupees)</i>	<i>Short recovery of interest</i>
1. Karnataka State Co-operative Marketing Federation	1979-80 to 1982-83	1,290.00	70.13
2. Mysore Tobacco Company	October 1983	125.00	7.31
3. Karnataka State Seeds Corporation	November 1982	60.00	5.56
4. Karnataka State Seeds Corporation	July 1983	60.00	7.56
5. Karnataka Agro Proteins	1982-83	55.00	16.27

On the short recovery being pointed out in audit (February 1985), the department stated (February 1985) that the institutions had been reminded several times to pay the above amounts of interest.

### **9.3.8. Arrears of interest pending recovery**

As at the end of March 1985, interest amounting to Rs. 149.53 crores was overdue for recovery in respect of loans paid to local bodies, statutory corporations, Government companies etc., the detailed accounts in respect of which were maintained by the Accountant General (Accounts).

Particulars of similar arrears of interest at the end of 1984-85 in respect of loans, the detailed accounts of which were maintained by the departmental officers were not furnished (November 1985) to Audit by any of the 17 Chief Controlling Officers. However, the information for the period ending March 1984 as received from one Chief Controlling Officer (Registrar of Co-operative Societies) showed that a recovery of Rs. 2.80 crores was overdue as on 31st March 1984.

9.3.9. The above points were reported to Government in March 1985; their reply is awaited (February 1986).

## C. RECEIPTS OF GUARANTEE COMMISSION

### 9.4.1. Introductory

(i) Under Article 293 of the Constitution of India, the executive power of the State Government extends to the giving of guarantees on the security of the Consolidated Fund of the State within such limits as may be fixed by the Legislature. No law has been passed by State Legislature laying down the limit upto which Government may give guarantees. The guarantees constitute a contingent liability on the revenue of the State.

(ii) In consideration of the guarantees given by Government, the institutions (except those specifically exempted) are required to pay guarantee commission at rates varying from  $\frac{1}{2}$  to 1 per cent on the amounts outstanding towards principal and interest at the end of each month. The commission is payable on half yearly basis.

### 9.4.2. Loans guaranteed and outstanding

The total amount of loans guaranteed by Government in respect of various categories of institutions upto end of March 1984 aggregated Rs. 1,256.90 crores. The outstanding along with interest, as on 31st March 1984 were Rs. 758.41 crores, as indicated below :

Category of Loanee	Maximum amount guaranteed, excluding interest  (In lakhs of rupees)	Amount outstanding as on 31st March 1984		Total
		Principal	Interest	
1. Statutory Corporations and Boards	57,553.58	28,868.87	73.29	28,942.16
2. Government companies	29,868.98	19,768.15	16.83	19,784.98
3. Joint Stock Companies	2,641.50	206.80	25.15	231.95
4. Co-operative Banks and Societies	33,671.05	24,962.30	463.20	25,425.50
5. Municipal Corporations and Municipalities	1,951.25	1,401.03	51.99	1,453.02
6. Other Institutions	3.50	3.00	0.14	3.14
Total	1,25,689.86	75,210.15	630.60	75,840.75

### 9.4.3. Discharge of guaranteed liabilities

(i) During 1979-80 to 1981-82, Government paid Rs. 122.16 lakhs towards discharge of guaranteed liabilities due to failure on the part of principal debtors to repay the loans.

The amounts paid by Government were treated as loan to institutions/bodies concerned.

(ii) In January 1975, a sum of Rs. 63.38 lakhs (Rs. 40 lakhs towards principal and Rs. 23.38 lakhs towards interest) was demanded by the Karnataka State Financial Corporation invoking the guarantee given to them by Government on behalf of two companies. Government, however, did not pay the amount, as the two companies had been taken over by the National Textile Corporation and the claims were pending settlement with the Supreme Court. However, during 1984-85 Government have paid a loan of Rs. 40 lakhs to the Corporation as advance payment to discharge guarantee obligations (April 1986).

(iii) Government stood guarantee in respect of loan of Rs. 100 lakhs raised by a sugar factory during the year 1973-74. As the sugar factory failed to repay the loans and interest amounting to Rs. 112.36 lakhs (as on December 1978), the lending Bank decided to invoke the guarantee. In August 1980, Government decided to pay this sum in three instalments as a loan to the factory. Even after payment of Rs. 112.36 lakhs in August 1981 the bank put in (June 1984) another claim of Rs. 92.51 lakhs invoking the same guarantee. The Bank's claim of Rs. 92.51 lakhs (on account of further interest due, upto end of 31st March 1984) owing to delayed repayment is pending settlement (February 1986). Had the Government terminated the guarantee at the time of payment of Rs. 112.36 lakhs in August 1981, the question of meeting further liability against the same guarantee would not have arisen.

#### **9.4.4. Non-recovery of guarantee commission**

(i) Guarantee commission amounting to Rs. 25.90 lakhs due from 8 sugar factories for the period from 1979-80 to 1983-84 was not recovered, as the lending institutions insisted on the repayment of their loans before Government could recover the commission.

(ii) In respect of 5 sugar factories, on whose behalf Government had stood guarantee for loans aggregating Rs. 1,796 lakhs during the years 1982-83 and 1983-84, no commission could be recovered as the rate of commission payable was not specified in the sanction orders. So also, in respect of another loan of Rs. 346 lakhs guaranteed in October 1982 on behalf of a co-operative spinning mill, no commission could be recovered for the same reason.

(iii) Recovery of commission of Rs. 10.75 lakhs due (in respect of the outstanding loan amount of Rs. 336 lakhs as on 31st March 1984) from 3 co-operative spinning mills was not enforced due to the bad financial position of the mills.

(iv) On loans aggregating Rs. 2,965.20 lakhs, guaranteed to end of March 1984 in respect of 24 industries, no guarantee commission was recovered, as details regarding the amount outstanding as on 31st March 1984 and the commission due thereon were not available with the department.

(v) Guarantee commission of Rs. 80,000 due for the period from October 1967 to January 1982 from a textile mill in respect of a loan of Rs. 5.45 lakhs guaranteed during April 1966 could not be recovered as the mill had since been taken over by the National Textile Corporation during 1974 and the claim was pending with the Claims Commissioner.

(vi) In 1971, Government had stood guarantee in respect of loans amounting to Rs. 141 lakhs and Rs. 35 lakhs drawn by a textile mill from a bank. When the mill was taken over by the National Textile Corporation in April 1974, a sum of Rs. 8.10 lakhs was due to Government towards guarantee commission and another sum of Rs. 1.61 lakhs towards interest thereon. The amount of Rs. 9.71 lakhs is still pending recovery. (February 1986).

Out of a further claim of Rs. 2.15 lakhs due towards commission from the same mill, the Claims Commissioner allowed (December 1978) only Rs. 61,108 due to the department's failure to prove the correctness of the claim.

(vii) In respect of a loan of Rs. 135 lakhs taken by a cement company and guaranteed by Government in December 1969, commission at 1 per cent was not realised, although the loan had been discharged fully, as no watch was kept by the department.

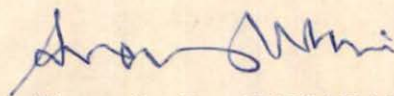
(viii) In 12 other cases of outstanding loans, guarantee commission amounting to Rs. 57.34 lakhs was overdue for recovery as on 31st March 1984. No effective steps had been taken by the department to recover these amounts.

#### **9.4.5. Procedural defects**

The demand and collection registers prescribed by Government were not being maintained by any department. No other procedure had also been evolved for proper

assessment of the demands and timely collection of the commission from the beneficiaries, resulting in non-recovery of commission in a number of cases.

9.4.6. The above points were reported to Government in August 1985; their reply is awaited (February 1986).



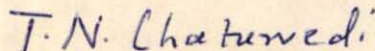
(Smt. A. L. GANAPATHI)

Accountant General (Audit)-II, Karnataka.

Bangalore,  
The

111 JUL 1986

Countersigned



(T. N. CHATURVEDI)

Comptroller and Auditor General of India.

New Delhi,  
The

123 JUL 1986

