

**Report of the
Comptroller and Auditor General
of India**

For the year ended 31 March 2006

**(REVENUE RECEIPTS)
GOVERNMENT OF UTTAR PRADESH**

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Preface

This report for the year ended 31 March 2006 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in the report are among those which came to notice in the course of test audit of records during the year 2005-06 as well as those which came to notice in earlier years but could not be included in previous years' reports.

OVERVIEW

This report contains 21 paragraphs including two reviews relating to non/short levy of tax, penalty, interest etc., involving Rs. 906.66 crore. Some of the major findings are mentioned below:

I. General

- During the year 2005-06 revenue raised by the State Government, both tax (Rs. 18,857.90 crore) and non tax (Rs. 2,930.32 crore) amounted to Rs. 21,788.22 crore as against Rs. 18,412.90 crore during the previous year.

(Paragraph 1.1.1)

- Test check of records of trade tax, state excise, taxes on vehicles, goods and passengers, stamp duty and registration fees, land revenue and other departmental receipts conducted during 2005-06 revealed under assessment, short levy, loss of revenue etc. amounting to Rs. 1,159.59 crore in 1,817 cases. During the course of the year 2005-06, the concerned departments accepted under assessment and short levy etc. of Rs. 3.55 crore in 55 cases of which Rs. 37.20 lakh in 11 cases had been recovered upto August 2006.

(Paragraph 1.7)

- Inspection reports numbering 7,832 issued up to 31 December 2005 containing 19,257 audit observations with money value of Rs. 4,225.60 crore were not settled upto June 2006.

(Paragraph 1.8)

II. Trade Tax

A review on "Deferment scheme to new industrial units under Trade Tax Act, 1948" revealed as under :-

- Eight manufacturers who had availed wholly or partly the facility of exemption under Section 4-A were granted irregular deferment (moratorium) amounting to Rs. 44.95 crore out of which Rs. 25.19 crore was availed.

(Para 2.2.6.1)

- In six cases, deferment (moratorium) of Rs. 15.37 crore was irregularly availed by manufacturers who were ineligible for exemption under Section 4-A.

(Para 2.2.6.2, 2.2.6.4 and 2.2.6.5)

- Two manufacturers availed irregular deferment (moratorium) amounting to Rs. 32.59 crore though they could not achieve the base production.

(Para 2.2.6.3)

- Nine manufacturers availed CST deferment of Rs. 12.69 crore which was inadmissible.

(Para 2.2.6.6)

- Deferment (moratorium) amounting to Rs. 2.08 crore with interest Rs. 1.52 crore was not recovered.

(Para 2.2.6.7, 2.2.7.1 and 2.2.7.2)

- Irregular allowance of exemption under the compounding scheme resulted in short levy of tax of Rs. 6.75 crore.

(Paragraph 2.3)

- Non levy of interest of Rs. 2.54 crore.

(Paragraph 2.5)

- Non levy of penalty under CST Act amounting to Rs. 1.13 crore.

(Paragraph 2.8.1)

III. State Excise

A review on "Levy, assessment and collection of taxes in State Excise Department" revealed as under :-

- Due to failure of the department, penalty of Rs. 381.78 crore for unlawful manufacture of alcohol by a distillery was not imposed.

(Para 3.2.7.1)

- Low yield of alcohol from molasses as compared to norms resulted in loss of revenue of Rs. 16.03 crore.

(Para 3.2.7.2)

- Allowing sale of stock of previous year in ensuing year without recovery of differential rate of duty resulted in loss of excise duty amounting to Rs. 6.10 crore.

(Para 3.2.10)

IV. Taxes on vehicles, goods and passengers

- Application of incorrect rates of additional tax resulted in short levy of tax of Rs. 1.36 crore.

(Paragraph 4.3)

V. Other Tax Receipts

- *Nazul* land valued at Rs. 342.26 crore was not reverted by Government, on expiry of leases.

(Paragraph 5.5)

- Non realisation of unutilised maintenance charges amounting to Rs. 4 crore.

(Paragraph 5.6.1)

VI. Other Departmental Receipts

- Short levy of guarantee fees amounting to Rs. 12 crore.
(Paragraph 6.3)
- Blockade of revenue due to non felling of matured/over matured sal trees amounting to Rs. 88.03 crore.
(Paragraph 6.4)

CHAPTER-I GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by Government of Uttar Pradesh during the year 2005-06, State's share of divisible Union taxes and grants in aid received from Government of India during the year and corresponding figures for the preceding four years are given below:

(Rupees in crore)

	2001-02	2002-03	2003-04	2004-05	2005-06
I. Revenue raised by the State Government					
• Tax revenue	10,388.82	12,783.81	13,601.23	15,692.61	18,857.90
• Non tax revenue	1,787.07	1,913.49	2,282.08	2,720.29	2,930.32
Total	12,175.89	14,697.30	15,883.31	18,412.90	21,788.22
II. Receipts from the Government of India					
• State's share of divisible Union taxes	10,130.49	10,814.87	13,272.97	15,055.26	¹ 18,203.13
• Grants in aid	3,291.53	2,309.02	2481.69	4,149.28	5,357.80
Total	13,422.02	13,123.89	15,754.66	19,204.54	23,560.93
III. Total receipts of the State (I + II)	25,597.91	27,821.19	31,637.97	37,617.44	45,349.15
IV. Percentage of I to III	48	53	50	49	48

1.1.2 The details of tax revenue for the year 2005-06 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Revenue Head	2001-02	2002-03	2003-04	2004-05	2005-06	Increase (+) or decrease (-) in 2005-06 with reference to 2004-05	Percentage of increase or decrease with reference to 2004-05
1.	Trade tax	5,052.40	6,850.93	7,684.13	8,888.31	11,284.67	(+) 2396.36	(+) 26.96
2.	State excise	1,961.38	2,555.05	2,472.37	2,686.19	3,088.54	(+) 402.35	(+) 14.98
3.	Stamp duty and registration fees	1,429.29	2,078.68	2,296.06	2,682.36	2,996.78	(+) 314.42	(+) 11.72
4.	Taxes on goods and passengers	76.65	77.33	80.21	81.74	105.19	(+) 23.45	(+) 28.69
5.	Taxes on vehicles	503.04	618.84	676.96	775.84	965.20	(+) 189.36	(+) 24.41
6.	Taxes and duties on electricity	9.22	145.29	174.72	354.36	182.26	(-) 172.10	(-) 48.57
7.	Land revenue	72.93	64.23	117.67	102.44	108.69	(+) 6.25	(+) 6.10
8.	Other taxes and duties on commodities and services	152.34	100.02	92.78	112.28	114.76	(+) 2.48	(+) 2.21
9.	Other (hotel receipts, corporation tax, etc.)	3.67	3.70	6.33	9.09	11.81	(+) 2.72	(+) 29.92
	Total	10,388.82	12,783.81	13,601.23	15,692.61	18,857.90	(+) 3,165.29	(+) 20.17

¹ For details, please see statement No. 11- detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Uttar Pradesh for the year 2005-06. Figures under the major heads "0020 - corporation tax, 0021 - other taxes on income and expenditure, 0028 - taxes on income other than corporation tax, 0032 - taxes on wealth, 0037- Customs, 0038 - Union excise duties, 0044 - Service tax and 0045- Other taxes and duties on commodities and Services" - share of net proceeds assigned to states booked in the Finance Accounts under 'A-Tax revenue' have been excluded from revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

1.1.3 The details of non tax revenue for the year 2005-06 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Revenue Head	2001-02	2002-03	2003-04	2004-05	2005-06	Increase (+) or decrease (-) in 2005-06 with reference to 2004-05	Percentage of increase/decrease with reference to 2004-05
1.	Misc. general services	39.44	48.28	41.80	58.02	75.02	(+) 17.00	(+) 29.30
2.	Interest receipts	543.49	515.38	658.09	597.93	457.94	(-) 139.99	(-) 23.41
3.	Forestry and wild life	68.31	86.27	60.96	107.42	161.98	(+) 54.56	(+) 50.79
4.	Major and medium irrigation	115.76	90.12	136.10	176.60	53.78	(-) 122.82	(-) 69.55
5.	Education, sports, art and culture	137.66	255.35	227.68	581.02	934.81	(+) 353.79	(+) 60.89
6.	Other administrative services	131.47	110.95	116.91	128.23	99.96	(-) 28.27	(-) 22.05
7.	Non ferrous mining and metallurgical industries	190.19	262.54	251.05	292.01	354.60	(+) 62.59	(+) 21.43
8.	Police	67.38	95.40	75.91	97.58	96.66	(-) 0.92	(-) 0.94
9.	Crop husbandry	75.77	25.58	188.73	18.60	40.84	(+) 22.24	(+) 119.57
10.	Social security and welfare	36.33	19.59	33.65	17.25	14.23	(-) 3.02	(-) 17.51
11.	Medical and public health	31.14	41.44	42.69	42.03	39.75	(-) 2.28	(-) 5.42
12.	Minor irrigation	17.73	12.11	18.53	12.53	21.21	(+) 8.68	(+) 69.27
13.	Roads and bridges	16.27	17.97	41.79	31.67	55.36	(+) 23.69	(+) 74.80
14.	Public works	14.66	25.26	19.92	31.44	36.09	(+) 4.65	(+) 14.79
15.	Cooperation	5.23	6.18	7.57	8.15	6.27	(-) 1.88	(-) 23.07
16.	Others	296.24	301.07	360.70	519.81	481.82	(-) 37.99	(-) 7.31
	Total	1,787.07	1,913.49	2,282.08	2,720.29	2,930.32	(+) 210.03	(+) 7.72

1.2 Variations between budget estimates and actuals

The variations between budget estimates and actuals of tax and non tax revenue during the year 2005-06 are given below:

(Rupees in crore)

Revenue Head	Budget estimates	Actuals	Variation increase (+) short fall (-)	Percentage of variations
1	2	3	4	5
Tax revenue				
1. Trade tax	10,524.00	11,284.67	(+) 760.67	(+) 7.23
2. State excise	3,200.00	3,088.54	(-) 111.46	(-) 3.48
3. Stamp duty and registration fee	2,928.00	2,996.78	(+) 68.78	(+) 2.35
4. Taxes on goods and passengers	653.00	105.19	(-) 547.81	(-) 83.89
5. Taxes on vehicles	588.74	965.20	(+) 376.46	(+) 63.94
6. Other taxes and duties on commodities and services	117.46	114.76	(-) 2.70	(-) 2.30
7. Taxes and duties on electricity	194.99	182.26	(-) 12.73	(-) 6.53
8. Land revenue	76.50	108.69	(+) 32.19	(+) 42.08

1	2	3	4	5
Non tax revenue				
1. Misc. general services	81.10	75.02	(-) 6.08	(-) 7.50
2. Interest receipts	657.60	457.94	(-) 199.66	(-) 30.36
3. Forestry and wild life	79.10	161.98	(+) 82.88	(+) 104.78
4. Major and medium irrigation	32.86	53.78	(+) 20.92	(+) 63.66
5. Education, sports, art and culture	63.70	934.81	(+) 871.11	(+) 1,367.52
6. Non ferrous mining and metallurgical industries	320.10	354.60	(+) 34.50	(+) 10.78

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and percentage of such expenditure¹ to the gross collection during the years 2003-04, 2004-05 and 2005-06 along with the relevant all India average percentage of expenditure on collection to gross collection for 2004-05 are given below:

(Rupees in crore)					
Revenue head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2004-05
Trade tax	2003-04	7,684.13	197.13	2.60	0.95
	2004-05	8,888.31	178.53	2.00	
	2005-06	11,284.67	193.51	1.71	
Taxes on vehicles, goods and passengers	2003-04	757.17	12.71	1.70	2.74
	2004-05	857.58	12.99	1.60	
	2005-06	1,070.39	31.27	2.92	
State excise	2003-04	2,472.37	28.51	1.20	3.34
	2004-05	2,686.19	29.66	1.10	
	2005-06	3,088.54	33.39	1.08	
Stamp duty and registration fees	2003-04	2,296.06	50.59	2.20	3.44
	2004-05	2,682.36	58.84	2.20	
	2005-06	2,996.78	52.55	1.75	

1.4 Arrears in assessment

The number of assessments pending at the beginning of the year, cases becoming due during the year, cases disposed of during the year and cases pending finalisation at the end of the year, as reported by the Trade Tax Department for the years 2001-02 to 2005-06¹ are given below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
2001-02	4,28,833	5,24,561	9,53,394	4,85,771	4,67,623	50.95
2002-03	4,67,623	5,29,858	9,97,481	5,21,969	4,75,512	52.33
2003-04	4,75,512	4,83,428	9,58,940	4,76,263	4,82,677	49.67
2004-05	4,82,677	5,83,693	10,66,370	5,38,168	5,28,202	50.47
2005-06	5,30,722	5,33,349	10,64,071	5,22,962	5,41,109	49.15

¹ Figures as intimated by the department are at variance with figures in Finance Account and with last years' information. The reasons for difference though called for have not been received.

1.5 Collection of trade tax per assessee

Number of assessees, trade tax revenue and revenue per assessee during the years 2001-02 to 2005-06 as intimated by the department is given below:

(Rupees in lakh)			
Year	No. of assessees (in lakh)	Trade tax revenue	Revenue per assessee
2001-02	3.85	6,15,855	1.59
2002-03	4.07	7,10,393	1.74
2003-04	4.52	7,65,135	1.69
2004-05	4.76	8,88,831	1.87
2005-06	4.77	11,80,533	2.47

1.6 Arrears of revenue

As on 31 March 2006, arrears of revenue under principal heads of revenue as reported by the concerned departments were as under:

(Rupees in crore)				
Sl. No.	Heads of revenue	Arrears pending collection		Remarks
		Total	More than 5 years old	
1	2	3	4	5
1	Trade tax	8,456.33	7,143.69	Out of Rs. 8,456.33 crore, demand for Rs. 710.13 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 930.07 crore had been stayed by the Courts/Government. Recoveries amounting to Rs. 299.42 crore is outstanding on Government/semi-government departments. Demand of Rs. 1,064.35 crore was likely to be written off. Rs. 49.92 crore is outstanding on transporters. Recovery certificates amounting to Rs. 745.98 crore has been sent to other States. Remaining arrears of Rs. 4,656.46 crore, are pending with the department.
2	Entertainment tax	11.97	N.A. ¹	Out of Rs. 11.97 crore demand for Rs. 5.93 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 4.44 crore had been stayed by courts/Government. Further notices were issued for remaining balance of Rs. 1.60 crore.
3	State excise	55.86	N.A.	Out of Rs. 55.86 crore demand for Rs. 9.46 crore had been certified for recovery as arrear of land revenue. Recoveries amounting to Rs. 12.62 crore had been stayed by the court. Demand for Rs. 1.94 crore was likely to be written off. Recoveries amounting to Rs. 0.23 crore is related to penal interest. Detail of remaining arrears of Rs. 31.61 crore had not been intimated by the department.
4.	Taxes on vehicles goods and passengers Road tax Goods tax Passenger tax Total	5.31 5.77 12.62 23.70	N.A.	Out of Rs. 23.70 crore demands for Rs. 1.06 crore and Rs. 0.27 crore had been stayed by Judicial and administrative orders respectively. Balance demand of Rs. 22.37 crore were pending for recovery.
5.	Stamp and registration	288.88	N.A.	Out of Rs. 288.88 crore demands for Rs. 61.55 crore had been recovered as arrears of land revenue. Recoveries amounting to Rs. 16.52 crore had been exempted by appeal court. Demand for Rs. 145.83 crore had been stayed by different courts. Balance demand of Rs. 64.98 crore were pending for recovery.
6.	Land revenue	13.40	N.A.	Out of Rs. 13.40 crore demands for Rs. 1.69 crore had been stayed by the Government. Balance demand for Rs. 11.71 crore were pending for recovery.

¹ Not Available.

1.7 Results of audit

Test check of records of trade tax, State excise, taxes on vehicles, goods and passengers, stamp duty and registration fee, land revenue, and public works department, irrigation, housing and urban development, education, mines and minerals, police, finance department, etc. conducted during the year 2005-06 revealed underassessments/short levy/loss of revenue amounting to Rs. 1,159.59 crore in 1,817 cases. During the course of the year 2005-06, the concerned departments accepted underassessments etc. of Rs. 3.55 crore involved in 55 cases, of which Rs. 37.20 lakh in 11 cases had been recovered upto March 2006.

This report contains 21 paragraphs including two reviews relating to non/short levy of tax, penalty, interest etc. involving Rs. 906.66 crore. The departments/Government accepted audit observations during discussion in August 2006 involving Rs. 3.55 crore in 55 cases out of which Rs. 37.20 lakh have been recovered in 11 cases. No replies have been received in remaining cases (August 2006).

1.8 Outstanding inspection reports and audit observations

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

The number of IRs and audit observations relating to revenue receipts issued up to 31 December 2005 which were pending settlement by the departments as on 30 June 2006, along with corresponding figures for the preceding two years are as given below:

Sl. No.		2004	2005	2006
1.	Number of inspection reports pending settlement	8,412	8,567	7,832
2.	Number of outstanding audit observations	17,506	17,394	19,257
3.	Amount of revenue involved (Rs. in crore)	4,296.86	4,102.33	4,225.60

Departmentwise breakup of the IRs and audit observations outstanding as on June 2006 is given below:

Sl. No.	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Amount of revenue involved (in crores of rupees)	Year to which the observations relate
1	Forestry and wild life	873	1,562	1,502.01	1991-92 to 2005-06
2	Trade tax	1,490	6,947	1,699.37	1984-85 to 2005-06
3	State excise	593	1,089	352.13	1984-85 to 2005-06
4	Land revenue	942	1,324	43.52	1987-88 to 2005-06
5	Taxes on vehicle, goods and passengers	1,183	2,598	91.15	1984-85 to 2005-06
6	Public works	214	765	29.85	1985-86 to 2005-06
7	Irrigation	393	667	87.01	1984-85 to 2005-06
8	Taxes on purchase of sugarcane	131	147	59.37	1985-86 to 2005-06
9	Stamp duty and registration fee	1,050	2,855	256.26	1984-85 to 2005-06
10	Agriculture	211	313	24.97	1985-86 to 2005-06
11	Electricity duty	320	365	41.96	1985-86 to 2005-06
12	Food and civil supplies	124	187	19.81	1991-92 to 2005-06
13	Cooperation	105	113	5.97	1985-86 to 2005-06
14	Entertainment tax	141	183	6.25	1986-87 to 2005-06
15	Medical and public health	51	128	1.46	2002-03 to 2005-06
16	Jail	11	14	4.51	2002-03 to 2005-06
Total		7,832	19,257	4,225.60	

This was brought to the notice of Government in September 2006; intimation regarding steps taken by Government to clear the outstanding IRs and audit observations has not been received (November 2006).

1.9 Audit paragraphs/reviews outstanding for discussion by Public Accounts Committee

The details of audit paragraphs and reviews awaiting discussion by the Public Accounts Committee (PAC) as on 31 July 2006 are as follows:

Year	Trade tax	State excise	Taxes on vehicle, goods and passengers	Stamp duty and registration fees	Land revenue	Other tax receipts	Forest receipts	Other departmental receipts
1984-85	10	Nil	09	09	02	Nil	11	09
1985-86	11	07	16	04	05	07	11	14
1986-87	12	04	23	04	03	05	11	14
1987-88	14	10	17	05	05	06	08	Nil
1988-89	19	11	09	04	04	05	07	16
1989-90	12	10	09	02	06	04	11	20
1990-91	17	06	07	02	04	05	11	16
1991-92	13	06	05	04	02	05	06	11
1992-93	13	09	11	03	02	05	09	14
1993-94	15	07	12	03	02	04	06	13
1994-95	09	07	12	03	02	Nil	Nil	Nil
1995-96	05	03	05	01	Nil	05	04	03
1996-97	13	06	08	03	01	04	02	05
1997-98	Nil	Nil	Nil	Nil	Nil	04	Nil	04
1998-99	03	Nil	Nil	05	Nil	02	03	Nil
1999-00	08	01	08	04	04	Nil	Nil	Nil
2000-01	05	04	01	01	01	02	04	04
2001-02	14	Nil	05	02	01	04	01	03
2002-03	13	02	03	03	01	02	Nil	01
2003-04	12	02	03	05	01	Nil	Nil	02
2004-05	08	02	03	01	01	Nil	Nil	07
Total	226	97	166	68	47	69	105	156
Grand Total								934

1.10 Follow up on Audit Reports -- summarised position

To ensure accountability of the executive in respect of all the issues dealt in the various Audit Reports (ARs), the Department of Finance issued instructions in June 1987 to initiate *suo moto* action on all paragraphs/reviews figuring in the ARs irrespective of whether the cases were taken up for examination by the PAC or not. Out of paragraphs/reviews included in ARs relating to the period 2000-01 to 2004-05 which have already been laid before the State legislature, explanatory notes (ENs) in respect of paragraphs/reviews were not received in audit office as on July 2006 even after the lapse of the prescribed period of three months. The outstanding ENs dating back to 2000-01 are as detailed below:

Year of Report	Date of presentation of Audit Report to the legislature	No. of paragraphs/ reviews included in the Audit Reports	No. of paragraphs/ reviews on which EN has been received from the departments	No. of paragraphs/ reviews on which EN is awaited from the departments
2000-01	17-09-2003	32	29	03
2001-02	27-07-2004	34	25	09
2002-03	08-11-2004	26	11	15
2003-04	20-07-2005	25	10	15
2004-05	11-03-2006	22	12	10
TOTAL		139	87	52

The ARs for the year ended March 2001, March 2002, March 2003, March 2004 and March 2005 were laid on the table of the State Vidhan Sabha in September 2003, July 2004, November 2004, July 2005 and March 2006. Though the time limit of three months for furnishing the ENs for the ARs for the period from 2000-01 to 2004-05 has elapsed, the departments have not submitted/furnished remedial ENs on 52 paragraphs.

1.11 Recovery of revenue of accepted cases

During the years between 2000-01 and 2004-05 the department/Government accepted audit observations involving Rs. 310.63 crore of which only an amount of Rs. 19.16 crore was recovered till 31 August 2006 as detailed below:

Year of Audit Report	Total money value	Accepted money value	(Rupees in crore)
			Recovery made
2000-01	948.06	15.37	0.54
2001-02	987.71	50.95	17.27
2002-03	1,546.48	109.91	0.05
2003-04	473.20	104.01	0.12
2004-05	449.74	30.39	1.18
Total	4,405.19	310.63	19.16

CHAPTER-II

TRADE TAX DEPARTMENT

2.1 Results of audit

Test check of assessments and other records of trade tax offices conducted during 2005-06 revealed under assessment of tax, non/short levy of penalty/interest, irregular exemption of tax etc. amounting to Rs. 161.29 crore in 1,169 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of penalty/interest	603	9.77
2	Irregular exemption	178	19.75
3	Non levy of additional tax/entry tax	68	5.20
4	Incorrect rate of tax	88	2.54
5	Misclassification of goods	63	20.87
6	Turnover escaping tax	24	0.16
7	Irregularities relating to central sales tax	21	0.13
8	Computation mistake	2	0.03
9	Under assessment of tax	15	0.05
10	Review on "Deferment scheme to new industrial units under Trade Tax Act, 1948"	1	89.04
11	Other irregularities	106	13.75
	Total	1,169	161.29

During the year 2005-06, the departments accepted underassessment etc. of Rs. 1.45 crore involved in 47 cases out of which a sum of Rs. 11.36 lakh involved in six cases had been recovered.

A few illustrative cases and one review on "Deferment scheme to new industrial units under Trade Tax Act, 1948" involving Rs. 101.85 crore, are mentioned in succeeding paragraphs:

2.2 Review on Deferment scheme to new industrial units under Trade Tax Act, 1948

Highlights

- Eight manufacturers who availed wholly or partly the facility of exemption under Section 4-A were granted irregular deferment (moratorium) amounting to Rs. 44.95 crore out of which Rs. 25.19 crore was availed.
[Para 2.2.6.1]
- In six cases deferment (moratorium) of Rs. 15.37 crore was irregularly availed by manufacturers who were ineligible for exemption under Section 4-A.
[Para 2.2.6.2, 2.2.6.4 and 2.2.6.5]
- Two manufacturers availed irregular deferment (moratorium) amounting to Rs. 32.59 crore though they could not achieve the base production.
[Para 2.2.6.3]
- Nine manufacturers availed CST deferment of Rs. 12.69 crore which was inadmissible.
[Para 2.2.6.6]

- Deferment (moratorium) amounting to Rs. 2.08 crore with interest of Rs. 1.52 crore was not recovered.

[Para 2.2.6.7, 2.2.7.1 and 2.2.7.2]

Recommendations

Government may consider that:

- deferment (moratorium) may be allowed to eligible units only;
- facility of deferment (moratorium) may not be allowed under CST Act;
- internal control needs to be strengthened to ensure that moratorium is allowed to only such units which fulfill the conditions for deferment (moratorium) and eligibility certificate.

Introduction

2.2.1 With a view to attract new industrial investment and to promote industrial growth in the State, the Commissioner Trade Tax, on an application of a manufacturer may grant moratorium (deferment) for payment of tax admitted by such manufacturer in lieu of exemption under UP Trade Tax Act, 1948 (UPTT Act) and Rules made thereunder on sale of goods manufactured by him as prescribed under rules. The deferment scheme to new industrial unit is available on the basis of eligibility certificate (EC) issued by the Industries Department. Commissioner Trade Tax may cancel or amend the EC under UPTT Act if he is of the opinion that EC has been issued incorrectly or misused. Under deferment scheme, an eligible unit would collect tax levied on the sale of manufactured goods and retain it for a specified period and thereafter the tax so retained by the unit be deposited in Government account in prescribed number of instalments. As per the scheme, Government implementing agency PICUP¹/UPFC² may sanction interest free loan equal to admitted tax in favour of manufacturer and pay the same through book transfer in the account of Trade Tax Department on completion of the formalities.

Organisational set up

2.2.2 The over all control of Trade Tax Department vests with the Commissioner of Trade Tax. Deferment schemes (moratorium) are implemented by the Commissioner, Trade Tax through Joint Commissioners (Executive) Trade Tax (JCTT) and Deputy Commissioners (Assessment), Trade Tax (DCTT).

Audit objectives

2.2.3 A review on deferment scheme (moratorium) to new industrial units under the UPTT Act was conducted during the period from July 2005 to March 2006 and records for the years from 2001-02 to 2005-06 were test checked to ascertain whether:

¹ Pradeshiya Industrial Investment Corporation of Uttar Pradesh

² Uttar Pradesh Financial Corporation

- conditions laid down in Act/Rules and deferment scheme for deferment (moratorium) of payment of tax have been followed by the Trade Tax Department.
- recovery of dues is being monitored regularly.

Scope of audit

2.2.4 Test check of records in 13¹ out of 36 ranges (on the basis of number of deferment cases) which ensures representation of entire State was conducted. Out of 157² cases of deferment in the entire state, 71 cases were examined. Besides this, the records relating to grant of EC issued by Industry Department, deferment orders issued by the Commissioner Trade Tax, and grant of interest free loan sanctioned by PICUP/UPFC to the units were also test checked.

Audit findings

2.2.5 Scrutiny of records of 13 ranges revealed irregular grant of deferment (moratorium) of Rs. 89.04 crore and improper pursuance of recovery of dues, which are discussed in the succeeding paragraphs:

2.2.6 Irregular grant of deferment (moratorium)

2.2.6.1 Under UPTT Act and Rules made thereunder, the Commissioner, on an application of a manufacturer, may in lieu of exemption, grant deferment (moratorium) for payment of tax admittedly payable by such manufacturer on the sale of his manufactured goods beyond the prescribed period. As per rules, manufacturers who have already availed the facility of exemption from or reduction in rate of tax whether wholly or partly, shall not be entitled to the grant of deferment (moratorium).

Test check of records of six trade tax offices³ revealed that in case of eight dealers, ECs for exemption of tax of Rs. 33.66 crore to be availed during the period from January 1995 to March 2010 were issued by the Industry Department. Against this, the dealers availed exemption of tax of Rs. 10.35 crore upto March 2003. These dealers were also granted deferment (moratorium) of tax of Rs. 44.95 crore for the period from January 1995 to March 2010 out of which Rs. 25.19 crore was availed. Since the dealers had already availed the facility of exemption in part, grant of deferment (moratorium) of tax of Rs. 44.95 crore was irregular.

After this was pointed out, department stated in August 2006 that matter will be examined.

2.2.6.2 Under the provisions of UPTT Act, and notifications issued thereunder, exemption/reduction in rate of tax or deferment (moratorium) is to be allowed to manufacturers only when the goods manufactured are of different nature from the goods manufactured earlier by them.

¹ Agra (2 ranges), Allahabad, Bareilly (2 ranges), Ghaziabad (2 ranges), Kanpur (3 ranges), Lucknow (2 ranges) and Noida.

² As list provided by PICUP/UPFC.

³ DC (A)-I TT Allahabad, DC (A)-IA TT Ghaziabad, DC (A)-XI TT Ghaziabad, DC (A) TT Gautam Budh Nagar, DC (A)-IV and DC (A) IX TT Noida.

Test check of records of DC (A)-IV and VIII TT Ghaziabad revealed that three¹ manufacturers were granted ECs to avail deferment of tax (moratorium) for Rs. 9.54 crore during the period between 26 May 1993 to 25 March 2006 for manufacture of rolling products (IPE beam and HE beams) and mill tandem (sugar cane mill machinery parts). It was however, observed that these units were already manufacturing rolling products and sugar cane machinery parts. As such, no new products were manufactured by them under diversification. The units availed the moratorium of tax of Rs. 6.59 crore upto February 2004 which was undue favour to the dealers.

After this was pointed out, department stated in August 2006 that matter will be examined.

2.2.6.3 The benefit of exemption/reduction in tax or moratorium shall be available on the turnover of a unit, in any financial year, to units which had undertaken expansion, if such units manufacture goods in excess of base production. It was clarified by Commissioner on 27 February 1993 and 6 February 2003 that in order to ascertain the base production, turnover of stock transfer/consignment of goods would not be considered for the purpose of total production as this is not sale under State Sales Tax/CST Act.

Audit of records of DC (A)-I, TT, Allahabad and DC (A)-XII, TT, Agra revealed that two² manufacturers were granted deferment (moratorium) amounting to Rs. 1,646.67 crore for the period from March 1998 to February 2011 in lieu of exemption under the scheme of expansion. In both the cases, though annual base production was not achieved after reducing the turnover of stock transfer, deferment (moratorium) was allowed. The dealers availed deferment (moratorium) of tax of Rs. 32.59 crore up to March 2006 which was irregular.

After this was pointed out, department stated in August 2006 that matter will be examined.

2.2.6.4 Under the UPTT Act and Rules, moratorium shall cease and total amount of the tax admittedly payable shall become payable on the date on which the unit becomes ineligible for exemption. The amount shall be paid in lumpsum within three months. In case of a unit having undertaken expansion, default in payment of any dues under the UPTT Act, renders it ineligible for exemption/reduction of tax and EC.

During audit of records of the office of the DC (A)-IV TT, Ghaziabad, it was noticed that two units³ were granted deferment of tax (moratorium) of Rs. 56.45 crore in lieu of exemption of tax under expansion scheme for the period from November 1995 to February 2004. Scrutiny of records, however, revealed that a sum of Rs. 1.64 crore was outstanding against these units as tax relating to the period from 1993-94 to 1995-96. Due to default in payment of tax, the units were not eligible for deferment amounting to Rs. 56.45 crore. Out of this, the units had availed deferment of tax (moratorium) of Rs. 6 crore upto February 2006.

¹ (i) M/s H.V.R. Alloys and Steel Ltd. Bulandshahar Road, Greater Noida, Gautam Budh Nagar. (ii) M/s Uttam Sukrotech Ltd., Ghaziabad. and (iii) M/s Uttam Industrial Engineering Pvt. Ltd., Ghaziabad.

² M/s IFFCO Ltd. Phoolpur Unit Allahabad and M/s Asian Paints Ltd., Agra

³ M/s Shri Ram Piston and Rings Ltd. Ghaziabad and M/s Uttam Industrial Engineering Pvt. Ltd. Ghaziabad

After this was pointed out, department replied in August 2006 that matter is under examination.

2.2.6.5 The UPTT Act provides that if a manufacturer, availing exemption from or reduction in tax, is succeeded by another manufacturer in any manner, such manufacturer may apply for grant of exemption/reduction in rate of tax within 60 days from the date of succession. In such case the successor is eligible for exemption/reduction of tax for unexpired portion of period of exemption granted to the former manufacturer.

During audit of records of the office of the DC (A) Trade Tax, Gautam Budh Nagar, it was noticed that a unit was granted EC to availment of benefit of deferment of tax of Rs. 25.26 crore for the period from 3 March 1999 to 2 March 2009. This unit was amalgamated into another unit on 29 September 2000. The former unit had availed deferment (moratorium) of Rs. 1.23 crore upto the date of amalgamation. Scrutiny of records, however, revealed that successor unit did not apply for fresh EC but continued to avail deferment of tax (moratorium) on the basis of EC issued to the original unit. This resulted in irregular availment of deferment (moratorium) of Rs. 2.78 crore upto December 2003.

After this was pointed out, department stated in August 2006 that EC for unexpired portion of former firm has been amended under Section 4-A (2-B).

2.2.6.6 Under the UPTT Act, rule and notification, the Commissioner may, grant deferment (moratorium) for payment of State trade tax admittedly payable by the manufacturer on sale of goods within the State in lieu of exemption/reduction in tax. Under the CST Act, Government is competent to exempt from payment of tax or levy tax at lower rate, but no deferment (moratorium) is allowed under CST Act.

Test check of records of six¹ trade tax circles revealed that nine dealers were granted deferment (moratorium) of tax for the period from October 1994 to April 2009. The department issued orders for deferment of tax (moratorium) on the basis of ECs issued under Section 4-A of State Act and not under CST Act. The assessing authorities while finalising the assessments for the years from 1999-2000 to 2002-03, between March 2002 and February 2006, allowed deferment (moratorium) of Rs. 12.69 crore under CST Act which was irregular.

After this was pointed out, department stated in August 2006 that matter would be examined.

2.2.6.7 Under UPTT Act, Rule and notification, a manufacturer to whom deferment of payment of tax has been granted, shall create first or second charge on its property in favour of the State Government, atleast equal to the amount of tax in respect of which deferment (moratorium) has been granted. If he fails to do so, the facility of deferment (moratorium) shall be ceased immediately and entire deferred amount of tax availed shall be payable in lumpsum within three months from the date of violation of this condition. Besides, simple interest at the rate of two *per cent* per month will also be chargeable for deferred period and thereafter.

¹ DC (A)-V TT Ghaziabad, DC (A)-X TT Kanpur, DC (A)-II, IV & IV-A of Noida and DC (A) Gautam Budh Nagar Noida.

During audit of records of the office of the DC (A)-II, TT, Lucknow, it was noticed that in case of a manufacturer, deferment of payment of tax amounting to Rs. 90.88 lakh was granted in lieu of exemption of tax for the period from 2 June 1999 to 1 June 2007 which was fully availed till 2002-03. The assessment was completed in March 2005. The manufacturer had not created first and second charge on his property in favour of State Government, hence the amount of deferred tax amounting to Rs. 90.88 lakh was payable in lumpsum within three months. In addition, the manufacturer was also liable to pay interest of Rs. 1.08 crore with effect from November 1999 to March 2006.

After this was pointed out, department assured in August 2006 speedy action in the matter.

Improper pursuance/non realisation of dues

2.2.7 Under the UPTT Act and notification, the Commissioner Trade Tax, on the application of a manufacturer, may grant deferment (moratorium) for payment of tax admitted by such manufacturer on sale of manufactured goods. During deferment period, the unit would collect tax and retain it for a specified period and thereafter the tax so retained by the unit be deposited in Government account in prescribed number of instalments. If he fails to do so, the facility of deferment (moratorium) shall immediately be ceased and entire deferred amount of tax shall be payable in lumpsum within three months from the date of violation of this condition. Besides this, simple interest at the rate of two *per cent* per month will also be chargeable for deferred period and thereafter. Under the scheme, the manufacturer availing moratorium may avail facility of interest free loans from PICUP and UPFC which are to be adjusted by book transfer in Government account. In that event, the manufacturer would repay the amount to PICUP/UPFC.

2.2.7.1 During audit of records of the office of the DC (A)-II TT, Ghaziabad, it was noticed that deferment of tax (moratorium) was granted to a manufacturer for the period from 10 March 1997 to 9 March 2005. The manufacturer collected tax of Rs.80.64 lakh on account of sale of manufactured goods during the period upto 2003-04 and retained it. UPFC sanctioned interest free loan of Rs. 40.25 lakh to the manufacturer upto December 1999 through book transfer in the account of Trade Tax Department. Thereafter, neither further loan of balance of Rs. 40.39 lakh was sanctioned in favour of the dealer by the UPFC nor was payment of deferment (moratorium) made by the dealer to the department. Besides this, an interest of Rs. 44.04 lakh was also recoverable for the period from January 2000 to March 2006.

After this was pointed out, department stated in August 2006 that steps are being taken for recovery of balance amount.

2.2.7.2 During audit of records of the DC (A)-VII TT, Ghaziabad, it was noticed that a manufacturer who was availing exemption of tax since 31 March 1999 submitted his application for deferment of tax to the Commissioner, in January 2002 which was not disposed of till the date of audit (July 2005). The manufacturer collected tax amounting to Rs. 76.59 lakh for the period from 1 April 1999 to 31 December 2001 and retained it. Neither the deferment (moratorium) was granted as applied by the manufacturer nor amount of tax due of Rs. 76.59 lakh for the aforesaid period was recovered.

After this was pointed out, department did not furnish any specific reply.

Internal control

2.2.8 Implementation of deferment scheme (moratorium) to new industrial units is controlled by the Commissioner with the assistance of JCTT and DCTT. They may ensure that the provisions of Act/Rules/circulars have been followed in implementation of deferment scheme.

Although control mechanism (application of provisions of Act/Rules/notifications and implementation of departmental circulars and the directions by Commissioner, JC and DC Trade Tax) exists in the department to some extent but it is not functioning effectively, thereby attributing to weak and inefficient internal control mechanism.

Acknowledgement

2.2.9 Audit findings as a result of review on "Deferment scheme to new industrial units under UPTT Act" were reported to the State Government in June 2006 with a specific request for attending the meeting of Audit Review Committee for State Receipts (ARC/SR) so that viewpoints of the Government/department may be taken into account before finalising the review. The meeting of ARC /SR was held on 8 August 2006 with Special Secretary (Finance/Kar Evam Nibandhan) and the representatives of Trade Tax Department. The views expressed by the members have been taken into consideration during finalisation of the review.

2.3 Irregular allowance of exemption

Under Section 7-D of UPTT Act, assessing authority may agree to accept a composition money either in lumpsum or at an agreed rate on his turnover in lieu of tax that may be payable by a dealer in respect of such goods or class of goods and for such period as may be agreed upon. As per Commissioner's circular dated 4 April 2002, facility of the compounding scheme is not admissible to new industrial units holding EC for manufacturing vanaspati ghee availing exemption from or reduction in rate of tax.

During audit of records of DC (A)-XVII, TT, Kanpur, it was noticed (December 2005) that in 2002-03 a dealer, holding EC under new industrial unit, sold vanaspati ghee valued at Rs. 200.52 crore and facility of compounding scheme was irregularly allowed by the assessing authority, whereas facility for manufacturing of vanaspati ghee under compounding scheme was not admissible under Act. Consequently tax of Rs. 10.03 crore was leviable but was not levied and the dealer had deposited Rs. 3.28 crore. This resulted in short levy of tax of Rs. 6.75 crore.

The case was reported to department and Government (March 2006), their replies have not been received (July 2006).

2.4 Non levy of tax due to turnover escaping assessment

Under UPTT Act, turnover means the aggregate amount for which goods are supplied or distributed by way of sale, or sold by a dealer, whether for cash or deferred payment or other valuable consideration under the Act. It is the duty of the assessing authority to ascertain the total turnover of the dealer from the records maintained by him irrespective of the fact that it is taxable or not.

During audit of three trade tax offices, it was noticed between November 2003 to July 2005, that while finalising the assessment of six dealers for the year 2000-01 to 2002-03, between July 2002 and September 2004, taxable turnover amounting to Rs. 85.92 lakh escaped assessment. This resulted in non levy of tax amounting to Rs. 6.19 lakh as shown below:

(Rupees in lakh)								
Sl. No	Name of office	No. of dealer	Year Month of assessment	Name of commodity	Escaped turnover	Rate of tax leviable (per cent)	Tax not levied	Remarks
1.	DC(A)-VIII, TT, Agra	4	2002-03 June-04 to Nov-04	Automobile parts	27.23	12	3.26	Warranty claim not included in turnover.
2.	AC, Sec.-V, TT, Agra	1	2000-01 July-2002	Empty bottle, old furniture and office equipment	21.84	5	1.09	Imported empty bottles were wrongly treated as tax paid item in turnover.
3.	AC, Sec.-VIII, TT, Ghaziabad	1	2002-03 July-04	Empty bottles	36.85	5	1.84	Sale of empty bottles was not included in turnover.
Total		6			85.92		6.19	

After this was pointed out between November 2003 to July 2005, the assessing officer Agra stated in November 2004 that demand of Rs. 1.09 lakh has been raised in one case. Reply in other cases was awaited (July 2006).

The cases were reported to department and Government between May 2004 and September 2004. Their replies are awaited (July 2006).

2.5 Non-levy of interest

Under UPTT Act, every dealer, liable to pay tax, is required to deposit the amount of tax into Government treasury before the expiry of month following the month in which the tax was due. The tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of two *per cent* per month on the unpaid amount, till the date of deposit.

Audit of assessment records of four trade tax offices, conducted between September 2004 to October 2005 revealed that in case of four dealers, assessed between September 2002 to March 2005 for the assessment years 1987-88 to 2002-03, admitted tax of Rs. 2.52 crore was deposited late. Delay ranged from 305 days to 5,780 days. Interest of Rs. 2.54 crore was chargeable but not charged by the department as detailed below:

(Rupees in lakh)						
Sl. No	Name of office	No. of dealers	Year Month of assessment	Amount of admitted tax	Period of delay for which interest was not charged	Amount of Interest
1.	DC(A)-XVII, TT, Kanpur	1	1999-2000 Sep.-02	11.34	1644 days to 1879 days	9.13
2.	DC(A)-XII, TT, Lucknow	1	2001-02 Dec.-03	5.86	1178 days	4.57
3.	DC(A)-II, TT, Bareilly	1	1987-88 to 2002-03 Dec.-04	225.79	305 days to 5780 days	235.03
4.	DC(A), TT, Gautam Budh Nagar	1	2002-03 March-05	8.54	970 days	5.46
Total		4		251.53		254.19

In case of DC (A)-II TT, Bareilly though the recovery certificates were issued to recover the amount of interest but the same was not charged from the date when it became due. The above amount has been worked out for the period which was not included in the recovery certificates.

After this was pointed out between September 2005 and October 2005, the assessing officer stated in June 2006 that demand of Rs. 4.57 lakh has been raised in January 2006 in the case of Kanpur. The reply in other cases was awaited (July 2006).

The cases were reported to department and Government between November 2004 and December 2005; replies are awaited (July 2006).

2.6 Non levy of entry tax

Under UP Tax on Entry of Goods Act, 2001 (which came into effect from 1 November 1999), entry tax on purchase of machinery and their spares valued at Rs. 10 lakh and above is leviable at the rate of two *per cent* with effect from 1 November 1999 and paper at the rate of four *per cent* of value of goods with effect from 1 November 2001.

During audit of records of three trade tax offices, it was noticed between June 2004 and June 2005, that in three cases during the period 2000-01 to 2002-03, the assessing officers while finalising the assessments in March 2004, February 2005 and December 2005 failed to levy entry tax amounting to Rs. 8.84 lakh on the purchase of machinery and their spares and paper valued at Rs. 4.29 crore as detailed below:

(Rupees in lakh)							
Sl. No.	Name of the Unit	No. of dealers	Assessment year Month of assessment	Name of commodity	Value of commodity	Rate of entry tax (in <i>per cent</i>)	Non levy of entry tax
1.	TTO, Sect-V, Varanasi	1	2001-02 Dec.-2005	Machinery and their spares	340.96	2	6.82
2.	A.C. Sect.-II, TT, Khurja	1	2000-01 March-2004	Machinery	74.91	2	1.50
3.	D.C. (A)-I, TT, Kanpur	1	2002-03 Feb.-2005	Paper	13.09	4	0.52
Total		3			428.96		8.84

The cases were reported to department and Government between August 2004 and August 2005; their replies have not been received (July 2006).

2.7 Incorrect levy/realisation of tax

2.7.1 Short levy of tax due to application of incorrect rate of tax

Under UPTT Act, tax is leviable as per schedule of rates notified by Government from time to time. The goods which are not classified in the prescribed schedule of rates are taxable at the rate of 10 *per cent*.

During audit of records of 16 trade tax offices¹, it was noticed between May 2003 to July 2005 that while finalising the assessments of 18 dealers for the period from 1991-92 to 2002-03 assessed between March 2001 and February 2005 the assessing officers levied tax at incorrect rates on the goods valued at Rs. 12.06 crore. This resulted in short levy of tax of Rs. 55.48 lakh.

After this was pointed out between May 2003 to July 2005, the seven² assessing officers stated between March 2004 to July 2005 that assessments had been revised in case of seven dealers and demand of Rs. 9.41 lakh raised. Reply in other cases was awaited (July 2006).

The cases were reported to department and Government between January 2004 and December 2005; replies are awaited (July 2006).

2.7.2 Short realisation of security/penalty due to misclassification of goods

As per instructions of the Commissioner Trade Tax of 31 January 2001 read with circular dated 16 October 2003, if goods transported by a registered dealer are found without proper documents, security at the rate of twice the tax in case of goods transported within the State and three times of the tax in respect of goods transported outside the State or 40 per cent of value of the goods whichever is less is to be realised from the dealers.

During test check of records of three mobile squad units³ and three Sahayata Kendras⁴, it was noticed that in 14 cases security/penalty of Rs. 3.85 lakh was realised short from the registered dealers during the period 2003-04 and 2004-05 due to application of incorrect rate of tax.

The cases were reported to department and Government in June 2006, replies are awaited (July 2006).

2.8 Non levy of penalty

2.8.1 Under the CST Act, if a registered dealer purchases any goods from outside the State at concessional rate of tax on the strength of declaration in form 'C' by falsely representing that such goods are covered by his registration certificate under CST Act or if the goods purchased from outside the State at concessional rate of tax, are used for a purpose other than that for which registration certificate is granted, the dealer is liable to be prosecuted. However, in lieu of prosecution, if the assessing authority deems it fit, he may impose a penalty upto one and a half times of the tax payable on sale of such goods.

¹ (1) DC(A)-X, TT, Ghaziabad, (2) AC, Sec.XII, TT, Lucknow, (3) DC (A), TT, Chandausi, (4) DC (A)-I, TT, Muzaffar Nagar, (5) DC (A)-VIII, TT, Lucknow (6) DC (A)-IX, TT, Lucknow, (7) DC (A), TT, Faizabad, (8) AC, Sec.I, TT, Sultanpur, (9) DC (A)-VIII, TT, Agra, (10) DC(A)-XVIII, TT, Kanpur, (11) DC (A)-VIII, TT, Ghaziabad, (12) DC(A)-XI, TT, Agra, (13) AC, Sec.III, TT, Ghaziabad, (14) AC Sec.XI, TT, Lucknow, (15) DC(A)-I, TT, Gorakhpur and (16) DC (A)-III, TT, Varanasi.

² DC (A) TT Faizabad, DC (A)-VIII TT Ghaziabad, DC (A)-X TT Ghaziabad, DC (A)-XVIII TT Kanpur, DC (A)-VIII TT Lucknow, DC (A)-IX TT Lucknow and DC (A)-I TT Muzaffarnagar.

³ MS-II Lucknow, MS-III Kanpur and MS-I Ghaziabad.

⁴ SK Mohan Nagar, SK Vijay Nagar and SK Kotban

Test check of assessment records of 20 trade tax offices revealed between May 2003 and September 2005 that 21 dealers, assessed between May 2002 and June 2005, for the years 1991-92 to 2002-03, purchased goods of Rs. 6.80 crore against declaration in forms 'C' which were not covered by their certificates of registration. The dealers were, therefore, liable to pay a penalty of Rs. 1.13 crore as shown in Appendix-A.

After this was pointed out, the assessing officers intimated between March 2004 and September 2005 that penalty of Rs. 43.46 lakh in 12 cases has been imposed. Reply in other cases was awaited (July 2006).

The cases were reported to department and Government between November 2003 to December 2005; replies are awaited (July 2006).

2.8.2 Under CST Act, every dealer liable to pay tax under the Act shall get himself registered for purchase of any goods from outside the State and to carry on business relating to inter state sales. If the dealer purchases/sells goods, without obtaining registration, he shall be prosecuted with simple imprisonment which may extend upto six months or punished with fine, or both. In case the default continues, a fine of Rs. 50 per day is imposable.

During the audit of records of DC (A) IV TT Ghaziabad and DC(A) IX TT Noida, it was noticed in June 2004 that two dealers sold their goods outside the state in 2001-02 and 2002-03 without getting themselves registered. Further, it was seen that one dealer had been selling goods since 1 April 1979 and another dealer since 1 April 1996. Though their cases were being assessed every year but the assessing authorities failed to notice the fact of non registration of dealers. The dealers were liable to pay penalty of Rs. 6.22 lakh which was not imposed by the department.

After this was pointed out, department imposed penalty of Rs. 4.73 lakh in case of Ghaziabad.

The cases were reported to department and Government between July 2004 and August 2004; replies are awaited (July 2006).

2.8.3 Under the UPTT Act, a person responsible for making payment to a contractor, for discharge of any liability, on account of valuable consideration payable for the transfer of property in goods, in pursuance of work contract, shall deduct an amount equal to four *per cent* of such sum payable under the Act on account of such works contract. In case of failure to deduct the amount or deposit the amount so deducted into Government treasury before the expiry of month following the month in which the deduction was made, the assessing authority may direct that such person shall pay by way of penalty a sum not exceeding twice the amount so deducted.

During the audit of records of six trade tax offices, it was noticed between June 2004 and October 2005 that eight dealers deducted tax of Rs. 30.01 lakh from contractors during the period from 2000-01 to 2002-03 but did not deposit the same in Government treasury within time prescribed. Delay ranged from two to 665 days. The assessing authorities while finalising the assessments between August 2003 and March 2005 failed to levy penalty of Rs. 60.02 lakh, as per details given below:

(Rupees in lakh)						
Sl. No.	Name of office	No. of dealers	Year Month of assessment	Amount of tax	Period of delay	Amount of penalty
				Date of deposit		
1.	AC, Sec. II, TT, Gonda	1	2001-02 March-04	3.76	2 days to 202 days	7.52
				24.6.02		
2.	AC, Sec. I, TT, Deoria	1	2001-02 Aug.-03	4.50	30 days to 90 days	9.00
				-		
3.	AC, Sec. XII, TT, Lucknow	1	2002-03 Feb.-05	7.64	2 days to 206 days	15.28
				31.3.03		
4.	AC, Sec. II, TT, Khurja	3	2002-03 March-05	6.94	27 days to 57 days	13.88
				29.5.03		
			2002-03 Feb.-05	0.26	4 days to 34 days	0.52
				12.5.03		
			2001-02 March-05	0.29	425 days to 665 days	0.58
				31.3.03		
5.	DC (A)-IV, TT, Ghaziabad	1	2000-01 & 2001-02 Feb. 03 & March-04	5.48	49 days to 173 days	10.96
				23.10.02		
6.	DC (A)-II, TT, Aligarh	1	2002-03 Dec.-04	1.14	23 days	2.28
				23.10.02		
Total		8		30.01		60.02

After this was pointed out, department imposed penalty of Rs. 8.89 lakh in case of Ghaziabad and Gonda between July 2004 and December 2005. Replies in other cases are awaited (July 2006).

The cases were reported to Government between August 2004 and December 2005. Reply has not been received (July 2006).

2.8.4 Under the UPTT Act, if the assessing authority is satisfied, that a dealer has concealed his turnover or has deliberately furnished incorrect particulars of his turnover, he may direct such dealer to pay by way of penalty, in addition to tax, a sum not less than 50 *per cent*, but not exceeding 200 *per cent* of the amount of tax which would thereby have been avoided.

Test check of records of 26 trade tax offices revealed between May 2003 and August 2005 that out of 30 dealers, the assessing officers while assessing 25 cases and reassessing five cases between March 1999 and August 2005, found that the dealers had concealed turnover of Rs. 24.82 crore during the period from 1995-96 to 2004-05 but failed to levy minimum penalty of Rs. 72.60 lakh on the tax assessed of Rs. 1.45 crore as shown in Appendix-B.

After this was pointed out, between January 2004 and December 2005, the assessing officers intimated that penalty of Rs. 52.26 lakh in 19 cases has been imposed. Replies in other cases are awaited (July 2006).

The cases were reported to department and Government between January 2004 and December 2005; replies are awaited (July 2006).

2.8.5 Under UPTT Act, if the assessing authority is satisfied that any dealer or other person has without reasonable cause failed to furnish the return of his turnover or furnish it within the time allowed in the manner prescribed, or deposit the tax due under this Act, before furnishing the return or alongwith the return as required under the provision of this Act, he may direct the dealer

to pay by way of penalty in addition to tax, if any, payable by him, a sum which shall not be less than 10 *per cent* but not exceeding 25 *per cent* of the tax due, if the tax due is upto Rs. 10,000 and 50 *per cent* if it is above Rs. 10,000.

Test check of records of four trade tax offices¹ revealed between January 2003 and January 2005 that four dealers who were assessed between June 2002 and October 2003 for the period 1999-2000 to 2001-02 had not deposited their admitted tax of Rs. 84 lakh in time. Delay ranged from three to 159 days. Belated payment of admitted tax attracted penalty amounting to Rs. 13.76 lakh which was not imposed by the assessing officers.

After this was pointed out, between February 2003 and December 2004, department imposed penalty of Rs. 4.48 lakh in three cases between July 2004 and November 2005; reply in other cases is awaited (July 2006).

The cases were reported to department and Government between April 2004 and March 2006; replies are awaited (July 2006).

2.8.6 Under UPTT Act, read with Government notification dated 21 May 1994, a manufacturer is allowed to purchase raw materials and packing materials etc. without payment of tax, required for use in the manufacture of such goods, which he is authorised to manufacture, for sale within the State or in the course of inter State sale or export out of India. In case, the raw materials or goods are disposed of for a purpose other than that for which the recognition certificate² was granted, the dealer shall be liable to pay by way of penalty, a sum which shall not be less than the amount of relief in tax so secured by him, but not more than three times of such relief.

Test check of records of three³ trade tax offices revealed between November 2002 to June 2005 that during the period from 1994-95 to 2002-03, three dealers holding recognition certificate for the manufacture of goods, purchased raw materials without payment of tax/at concessional rate of tax and got relief in tax to the tune of Rs. 12.22 lakh. Since the raw materials were disposed of otherwise/sold in the same form and condition and not used in the manufacture of such goods for which the recognition certificates were granted, the dealers were liable to pay minimum penalty of Rs. 12.22 lakh which was not imposed.

After this was pointed out, in one case assessing officer imposed the maximum penalty of Rs. 9.69 lakh in October 2004; reply in other cases is awaited (July 2006).

The cases were reported to department and Government between March 2003 and August 2005; replies are awaited (July 2006).

¹ DC (A)-II TT Allahabad, DC (A)-I TT Ghaziabad, DC (A)-II TT Ghaziabad and AC TT Gulawati.

² Recognition Certificate - A certificate issued by the department to manufacturer stating the names of goods to be manufactured and its raw material.

³ TTO Sec. XVII Kanpur, DC(A)-IV TT Kanpur and DC(A)-I TT Kanpur.

CHAPTER-III STATE EXCISE DEPARTMENT

3.1 Results of audit

Test check of records of State excise offices conducted during the year 2005-06 revealed non/short levy of duties and fees amounting to Rs. 470.67 crore in 126 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Non levy of interest	12	0.45
2.	Non realisation of licence fee	13	1.21
3.	Less recovery of alcohol from molasses	21	3.88
4.	Irrational fixation of MGQ	20	24.29
5.	Excess transit / storage wastage	03	0.27
6.	Loss of excise duty due to non lifting of MGQ of country liquor	11	7.14
7.	Review on "Levy, assessment and collection of taxes in State Excise Department"	01	406.40
8.	Other irregularities	45	27.03
	Total	126	470.67

During the year 2005-06, the department accepted under assessment etc. of Rs. 24.07 lakh involved in four cases which has been recovered.

A few illustrative cases and a review on "Levy, assessment and collection of taxes in State Excise Department" involving financial effect of Rs. 408.15 crore are given in the succeeding paragraphs:

3.2 Review on Levy, assessment and collection of taxes in State Excise Department

Highlights

- Due to failure of the department, penalty of Rs. 381.78 crore for unlawful manufacture of alcohol by a distillery was not imposed.
[Para 3.2.7.1]
- Low yield of alcohol from molasses as compared to norms resulted in loss of revenue of Rs. 16.03 crore.
[Para 3.2.7.2]
- Allowing sale of stock of previous year in ensuing year without recovery of differential rate of duty resulted in loss of excise duty amounting to Rs. 6.10 crore.
[Para 3.2.10]

3.2.1 Recommendations

Government may consider to:

- monitor the production of distilleries as per the installed capacity,
- alcohol yield should commensurate with the norms prescribed,

- PD-2¹ licences may be renewed before the commencement of excise year and
- strengthen the internal control mechanism.

3.2.2 Introduction

Excise duty on liquor for human consumption, fees in case of other intoxicants such as *charas*, *bhang*, and *ganja* etc. and confiscation imposed or ordered is levied under the UP Excise Act, 1910 (UPE Act) and rules made thereunder. These rules are made to have a proper check over leakages of revenue in the department by enforcing control over illicit production, import and export of alcohol, illegal purchase and sale of liquor and other intoxicants in effective manner for which internal control mechanism has been developed.

Alcohol is produced in distilleries mainly from molasses obtained as a byproduct during manufacturing of sugar. Various kinds of liquor, such as country liquor (CL), Indian made foreign liquor (IMFL) like whisky, brandy, rum and gin are manufactured from alcohol. Excise duty on production of alcohol and liquor in distilleries forms major part of the excise revenue. Liquor for human consumption is issued from distilleries either under bond without excise duty or on pre payment thereof at the prescribed rates. Apart from export duty, licence fee also forms part of excise revenue. The District Collector (DC) with the assistance of the district excise officer (DEO) is responsible for settlement of liquor shops in the district.

3.2.3 Organisational set up

The collection of duty, fee and other taxes is administered and monitored by the Commissioner, Excise who is assisted by two Additional Excise Commissioners, three Joint Excise Commissioners (JECs), 10 Dy. Excise Commissioners (DECs) and six Assistant Excise Commissioners (AECs) at headquarters. For the purpose of effective administration, the State is divided into four² zones and 17³ circles. At district level DEOs/AECs are posted to assess, levy and collect revenue. At distillery, AEC/officer incharge (inspector) is posted for levy and collection of excise duty.

3.2.4 Audit objectives

A review on levy, assessment and collection of tax in State Excise Department was conducted during the period from June 2005 to March 2006. Records for the period 2000-01 to 2004-05 were test checked to ascertain whether:

- duties, fees and penalties were realised as per the provisions of Act/Rules and executive instructions issued by the department,
- settlement of shops was done as per provisions of New Excise Policy and
- effective internal control mechanism was in existence.

¹ PD-2 licence: Licence granted to work a distillery in a premises owned by any person other than Government.

² Agra, Lucknow, Meerut and Varanasi.

³ Allahabad, Azamgarh, Agra, Bareilly, Basti, Chitrakoot, Devipatan, Faizabad, Gorakhpur, Jhansi, Kanpur, Lucknow, Meerut, Mirzapur, Moradabad, Saharanpur and Varanasi.

3.2.5 Scope of audit

In order to achieve the objectives, 17 out of 44 distilleries of the State and 13 out of 70 district excise offices were test checked in 17¹ districts. Maximum revenue earning distilleries/district excise offices were selected for review.

3.2.6 Trend of revenue

Years	Budget estimates	Actuals	Shortfall	(Rupees in crore)
				Percentage
2001-02	2,300.00	1,963.89	(-) 336.11	(-) 14.62
2002-03	2,696.33	2,556.79	(-) 139.54	(-) 05.20
2003-04	2,850.00	2,473.16	(-) 376.84	(-) 13.20
2004-05	3,000.00	2,686.83	(-) 313.17	(-) 10.40

It would be seen that percentage of shortfall in actual receipts as compared with budget estimates ranged between 5.2 per cent to 14.62 per cent during the years 2001-02 to 2004-05.

New Excise Policy 2001 was introduced during 2001-02 and shortfall in revenue in that year was expected. The department attributed the increase in actuals during 2002-03 as compared to 2001-02 to revision in the rate of excise duty on CL, IMFL, beer, and increase in administrative fee on molasses and in licence fees. During the year 2003-04, there was decrease in the amount of settlement of shops and reduction in the rate of excise duty of CL. Amount of Rs. 182.76 crore on account of settlement of shops for the year 2004-05 was deposited in the year 2003-04 (March 2004), yet there was an increase of Rs. 213.67 crore in revenue in the year 2004-05 in comparison to 2003-04.

3.2.7 Non imposition of penalty

3.2.7.1 Manufacture of alcohol in excess of installed capacity

As per UPE Act a distillery may manufacture spirit under the licence granted by the competent authority. Government issued instructions on 23 July 1998 that officer of Excise Department posted at distillery should ensure that no distillery produces spirit/alcohol in excess of its installed capacity fixed for production. Under the UPE Act, unlawful manufacturing and removal of intoxicant by any distillery will be punishable with imprisonment for two years and with fine of Rs. 500 or not less than 10 times of the duty due, whichever is higher.

Test check of records of a distillery in Simbhouli in Ghaziabad district revealed that Commissioner Excise doubled the installed capacity of the distillery on 26 April 2003 from 13,636 kls² to 27,272 kls. As per the condition imposed, increased capacity of 13,636 kls was made available only for manufacture of industrial alcohol.

¹ Balrampur, Bulandshahar, Fatehpur, Ghaziabad, Gonda, Gautam Budh Nagar (Noida), Gorakhpur, Jaunpur, Kanpur nagar, Lucknow, Lakhimpur Kheri, Moradabad, Meerut, Rampur, Saharanpur, Shahjahanpur and Unnao.

² kilo litre

It was noticed that during 2004-05 the distillery produced 1,94,93,591¹ BL of alcohol which included 27,78,728.4 BL alcohol for industrial use. The balance 1,67,14,862.6 BL alcohol was produced for human consumption against the installed capacity of 1,36,36,000 BL. Thus, the distillery produced 30,78,862.6 BL alcohol in excess of installed capacity for human consumption for which fine of Rs. 381.78 crore was leviable which was not levied by the department.

After this was pointed out, the department/Government replied in July 2006/August 2006 that the installed capacity of distillery was 27,272 kls and no excess alcohol was produced. The reply is not tenable as the commissioner had increased installed capacity with condition that 13,636 kls alcohol was for industrial use. After deducting production of alcohol for industrial use, production of alcohol for human consumption exceeded the installed capacity; hence, penalty was leviable.

3.2.7.2 Low yield of alcohol from molasses

Under the UP Excise Working of Distilleries (Amendment) Rules, 1978, for every quintal of fermentable sugar content present in the molasses the distillery shall yield alcohol of 52.5 alcoholic litre (AL). For this purpose, composite samples of molasses are required to be drawn by the officer incharge of the distillery and sent for examination to the alcohol technologist. Failure to maintain the minimum yield of alcohol from molasses entails cancellation of licence and forfeiture of security deposit besides other penalties.

Test check of records of 15 distilleries², revealed that 2,140 composite samples of molasses were sent to the alcohol technologist during the year 2002-03 to 2004-05. Based on the reports of alcohol technologist, out of 21.43 lakh quintal of fermentable sugar content present in molasses, 11.24 crore AL of alcohol should have been produced against which actual production was 10.91 crore AL. This resulted in shortfall of 33.39 lakh AL of alcohol and loss of excise revenue of Rs. 16.03 crore. Besides, neither the licence of the distilleries was cancelled nor the security deposit of Rs. 26.87 crore forfeited for low production of alcohol.

It was also observed that while compounding low production of alcohol in 2001-02, Commissioner Excise had warned the distillers between February 2002 to July 2002 to improve the recovery of alcohol within six months failing which their licences would be cancelled and securities deposited by them be forfeited. In spite of this, the distillers did not improve the recovery of alcohol and Commissioner continued to compound the cases with the same warning in a routine matter which had no deterrent effect on the distillers.

After this was pointed out, the department/Government replied in July 2006/August 2006 that strict instructions have been issued in May 2006 by the Commissioner Excise for controlling the disorder of plant and machinery and to check the reasons for low recovery explained by the distillers. It was further added that proposal for enhancement of amount of compounding fee from Rs. 5,000 to Rs. 50,000 has been sent to Government.

¹ As intimated by the department to the Commissioner

² Balrampur (1), Ghaziabad (3), Gorakhpur (1), Gonda (1), Lakhimpur Kheri (1), Lucknow (1), Meerut (2), Rampur (1), Shahjahanpur (1), Saharanpur (2) and Unnao (1).

3.2.8 Short realisation of licence fees

Under UP Bottling of Foreign Liquor Rules, 1969, as amended from time to time, licence fees shall be deposited in advance for obtaining and renewal of licence of FL-3 on or before 28 February each year. The rate of licence fee for obtaining FL-3 licence was Rs. 1 lakh upto 31 March 2003 and Rs. 2 lakh thereafter.

During scrutiny of records of a distillery at Rampur it was noticed that licence fee for renewal of FL-3 licence of Rs. 6.98 lakh was either not deposited or deposited short by the distiller during year 2000-01 to 2004-05. No action was taken by the department to realise the same.

After this was pointed out, the department/Government stated in July 2006/August 2006 that FL-3 licence for the year 2000-01 to 2004-05 was being renewed by the District Collector. Further action was awaited (August 2006).

3.2.9 Loss of excise duty due to short lifting of minimum guaranteed quota of country liquor

Under the provisions of the Uttar Pradesh Excise (Settlement of licenses for retail sale of Country Liquor) Rules 2001, a licensee is liable to lift the entire minimum guaranteed monthly quota (MGQ) fixed for each licensee during the year. In case of failure, the licensing authority shall adjust the amount of duty from the security deposit of the licensee and ask the licensee to replenish security or cancel the licence of the shop.

During scrutiny of records of four DEOs¹ it was noticed that 102 licensees lifted 12,68,903.735 BL against MGQ of 13,37,595 BL of CL during the period from 2002-03 to 2004-05. This resulted in short lifting of 68,691.265 BL MGQ involving excise duty of Rs. 54.50 lakh as shown in Appendix-C.

After this was pointed out, the department/Government intimated between June 2006 and August 2006 that demand of Rs. 54.50 lakh had been raised against the licensees out of which recovery of Rs. 3.19 lakh had been made/adjusted from the security deposited by the licensees and for the balance amount recovery certificates had been issued.

3.2.10 Loss of excise duty due to non recovery of difference rate

Under the Uttar Pradesh Excise (Settlement of licenses for retail sale of country liquor) Rule 2002, entire quantity of CL lifted by the licensee during the year shall have to be sold during the validity of his licence and on expiry of licence unsold stock is to be returned to Government. The rate of excise duty of CL was Rs. 79 per BL for the year 2003-04 whereas it was Rs. 69 per BL in 2002-03.

Test check of records of the office of Commissioner Excise revealed that in 29 districts the balance stock of 61 lakh BL of CL for the year 2002-03 was not returned by the licensees to the distillery after the expiry of their licences. As such they were liable to pay difference of excise duty for the year 2003-04

¹ Gorakhpur, Jhansi, Kushinagar and Saharanpur.

at the rate of Rs. 10 per BL. Although the Commissioner Excise allowed on 26 March 2003 to sell the balance stock of the year 2002-03 in the month of April 2003 but there was no mention regarding recovery of differential rate of excise duty. This omission resulted in loss of excise duty amounting to Rs. 6.10 crore.

After this was pointed out, the department/Government replied in July 2006/August 2006 that permission was given for the sale of balance CL of 2002-03 in the year 2003-04 to save probable loss of revenue for 2003-04 and loss occurred during 2002-03. It was presumed by the department that no additional duty was leviable, so no duty was realised. Reply is not tenable because the presumption was not based on facts and recovery of excise duty at differential rates was to be made.

3.2.11 Non fixation of norms for food grain based distilleries

UPE Act provides for maintaining minimum fermentation and distillation efficiency to achieve minimum recovery of alcohol from molasses consumed in a distillery. However, in the case of foodgrain based distilleries the department has prescribed no norms for production of alcohol.

A distiller had been requesting the Commissioner Excise for fixation of norms for yield of alcohol from foodgrains since 1997 but no norms were fixed so far (May 2006). Thus, due to non fixing of norms for yield of alcohol, Government suffered loss of excise duty.

After this was pointed out, the department replied in July 2006 that draft rules for providing norms for production of alcohol from foodgrain had been sent to Government for their approval in April 2006. The approval of Government is awaited.

3.2.12 Irregular adjustment of security

The Commissioner Excise declares its policy every year for settlement of retail shops and each year it is clarified that 10 *per cent* security on basic licence fee would be deposited into treasury. At the end of the year after adjusting dues, if any, the balance security will be refunded. As per Financial Hand Book Volume V Part I all deposits or balances unclaimed for more than three complete accounts years will, at the close of March in each year, be lapsed to Government and credited to the appropriate head of revenue through transfer entries in the office of the Accountant General.

During scrutiny of records of eight DEOs¹, it was noticed that securities of the shops owners amounting to Rs. 1.88 crore deposited in the year 2002-03 were adjusted against their security due for the year 2005-06 which was irregular. As the amount of security deposit was more than three years old it should have lapsed to Government. This was irregular adjustment of security of Rs. 1.88 crore.

After this was pointed out, Government accepted the audit contention and instructed the Commissioner Excise on 9 May 2006 that the security for which three complete accounts years have lapsed, should not be, adjusted against the security of current year. The amount of previous years' security may be arranged to be refunded to licensees from the treasury. In future, provisions of

¹ Fatehpur, Gonda, Gorakhpur, Jaunpur, Kanpur city, Meerut, Shahjahanpur and Saharanpur.

Excise Rules and Financial Hand Book may be followed and security may not be carried forward for the next financial year.

3.2.13 Inordinate delay in renewal of PD-2 licence

As per UPE Act, an application for renewal of licence for the excise year shall be made to the Commissioner Excise on or before 28 February each year. A licence fee as prescribed from time to time shall be payable in advance for such a renewal for a year or part thereof. In case renewal of licence is not submitted in time or the renewal is delayed, the distillery would be liable for penalty as provided by law. In the event of licence being refused for a distillery which had been previously licenced, permission may be granted to continue operation temporarily, for a reasonable time pending appeal.

During scrutiny of records of 12 distilleries for the year 2000-01 to 2004-05 it was observed that their licences (PD-2) were not renewed before the commencement of the excise year though their applications for renewal of licences were submitted in time to the Commissioner Excise. No permission was also granted to continue operation temporarily. The Commissioner Excise has taken three to 37 months to issue the licences as shown in Appendix-D.

After this was pointed out, the department/Government stated in July 2006/August 2006 that the applications for renewal are mostly submitted late by the Collectors. It was also stated that delay was due to irregularities found during inspection, which were rectified and licences renewed. Obviously, this process is time taking. Further, this offence which is covered under Section 64 of the Act is punishable under Section 74 (1).

The reply is not tenable as there are no provisions in the Act and Rule to run a distillery without licence. Commissioner had also issued orders from time to time stressing for renewal of licence till 31 March of every preceding excise year. If the licence is not renewed in time, production and sale of alcohol of such distilleries would not be carried out after 31 March. Even then such distilleries continued production and sale of alcohol which was unlawful and attracts penalty under the Act. But no penalty was imposed.

3.2.14 Internal control

3.2.14.1 Non conducting of periodical inspection of distillery

In order to have an effective control over working of the distilleries, the Commissioner Excise vide order dated 18 August 1990 prescribed the norms for periodical inspection of distilleries by excise staff as under:

Sl. No.	Designation	Periodicity
1.	Officer incharge	To inspect every section of the distillery once a month
2.	District excise officer	To do detailed inspection of the distillery quarterly
3.	Dy. Excise Commissioner	To do detailed inspection of the distillery half yearly

Test check of records of 11 distilleries¹, revealed that required inspections were not conducted during the period from 2000-01 to 2004-05 as under:

¹ Balrampur, Bulandshahar (Sikandarabad), Ghaziabad (Simbhauli & Modinagar), Gonda, Gorakhpur, Lakhimpur kheri, Lucknow, Rampur, Shahjahanpur and Saharanpur (Tapri)

Sl. No.	Category of Officer	No. of Inspections due	No. of inspections carried out	Shortfall	Percentage of shortfall
1.	Officer incharge	660	415	245	37.12
2.	District Excise Officer	220	25	195	88.64
3.	Dy. Excise Commissioner	110	90	20	18.18
4.	Total	990	530	460	46.46

It would be seen that shortfall in inspections, ranged between 18.18 *per cent* to 88.64 *per cent* at different levels during these years. This indicated that the department had failed to exercise proper control over the distilleries. Had periodical inspection been conducted as per prescribed norms, excess production and low yield of alcohol would have been avoided.

After this was pointed out, the department/Government stated between July 2006/August 2006 that reasons for shortcomings in periodical inspections were rush of work, non posting of any officer incharge in some distilleries, inspection of liquor shops by the DEOs and appointment of officers in local elections. Strict instructions have been issued to all the inspecting officers to adhere to the norms of inspections in the industrial units.

3.2.14.2 Improper supply of excise locks

Under UPE Act, excise locks are supplied by the department for locking all warehouses, spirit pipes and vessels etc. to prevent any misuse, or leakage of spirit in the distillery.

During the test check of records of 14 distilleries¹, it was noticed that the required number of excise locks were not provided by the department for the period from 2000-01 to 2004-05 as detailed below:

Year	Locks required	Locks provided by the department	Shortage
2000-01	134	88	46
2001-02	102	65	37
2002-03	100	50	50
2003-04	114	54	60
2004-05	121	65	56
Total	571	322	249

Due to shortage of excise locks, misuse and leakage of spirit could not be ruled out. Out of requirement of 571 locks, only 322 locks were provided leaving a gap of 249 locks.

It was further noticed that in four² distilleries against the demand of 72 excise locks the department had supplied 129 locks, which were in excess.

After this was pointed out, the department/Government stated in July 2006/August 2006 that the report of excess or short supply of locks has been called for from all distilleries. Factual position will be intimated as and when reports are received from distilleries and locks would be supplied to every distillery against demand.

¹ Balrampur, Bulandshahar (Sikandarabad), Ghaziabad (Mohan Meikins, Mohan Nagar, Modinagar and Simbhauli), Gorakhpur (Sarriya), Gonda (Nawabganj), Lakhimpur Kheri, Lucknow (Mohan Meikins), Rampur, Saharanpur (Tapari and Pilkhani), Shahjahanpur and Unnao.

² Bulandshahar, Gonda, Lucknow and Unnao.

3.2.14.3 Internal audit

An internal audit wing functions under the control of Finance Controller and Chief Accounts Officer. The wing consists of one Sr. Finance and Accounts Officer and one Assistant Accounts Officer. The audit wing is responsible for conducting the audit of distilleries, offices of the DEOs and other excise units of the State.

During test check of records of internal audit wing, it was noticed that percentage of units audited was very low as detailed below:

Year	Units due for audit	No. of units audited	Short fall	Percentage
2000-01	108	14	94	87.03
2001-02	108	21	87	80.55
2002-03	108	2	106	98.14
2003-04	112	30	82	73.21
2004-05	112	25	87	77.67

As the percentage of test check by the internal audit wing was very low, the purpose of internal audit was defeated.

After this was pointed out, the department/Government stated in July 2006/August 2006 that there was deployment of 26 *per cent* staff against the sanctioned strength hence, performance of internal audit was affected. The reply is not tenable, as State Government had already issued instructions dated 15 January 2003 to reorganise and strengthen internal audit, which was not done by the department.

3.2.15 Conclusion

Failure of the department to check excess production of alcohol, non fixing of norms for production of alcohol by the department for foodgrain based distilleries, short realisation of licence fees, unlawful adjustment of security and other irregularities resulted in loss of revenue amounting to Rs. 406.40 crore.

3.2.16 Acknowledgment

Audit findings as a result of review on "Levy, assessment and collection of taxes in State Excise Department" was reported to the State Government in June 2006 with a specific request for attending the meeting of Audit Review Committee for State Receipts (ARC-SR) so that viewpoint of Government/department was taken into account before finalising the review. The meeting of ARC (SR) was held on 8 August 2006 with Special Secretary (Finance/State Excise) and the representatives of State Excise Department. The views expressed by the members had been taken into consideration during finalisation of the review.

3.3 Loss of revenue due to non settlement of shops

According to the New Excise Policy, Government ordered¹ for settlement of shops for the year 2004-05. MGQ fixed for the district is to be settled through renewal of quota of the existing licenced shops as per existing provisions. Remaining MGQ is to be settled by creation of new shops for which lottery

¹ No. 518 -2/13 2004-07 dated 26.2.2004

system is to be adopted as prescribed. The rate of basic licence fee and excise duty was Rs. 10 and Rs. 79 per BL respectively for the year 2004-05.

During audit of records of district excise office, Ghazipur, it was noticed in April 2005 that 27,70,000 BL of MGQ was fixed for Ghazipur district in 2004-05. Only 167 shops were settled at 25,73,431 BL against fixed MGQ of 27,70,000 BL. Department failed to carry out the orders of Government as existing shops were settled by reducing their annual MGQ. Thus due to non-creation of new shops, 1,96,569 bulk litre (MGQ) remained unsettled and Government was deprived of revenue in the shape of basic licence fee and excise duty of Rs. 1.75 crore.

After this was pointed out, Government/department replied in June 2006 that the new shops could not be settled due to deployment of staff in Lok Sabha elections of May 2004 and in view of code of conduct imposed by Election Commission and opposition by the existing licensees. The reply is not tenable as the department failed to create new shops, run the shops departmentally or to settle the shops even after Lok Sabha elections were over.

CHAPTER-IV

TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1 Results of audit

Test check of records of various offices of the Transport Department conducted in audit during 2005-06 revealed non/short levy of taxes, under assessment of road tax, goods tax and other irregularities amounting to Rs. 20.45 crore in 250 cases, which broadly fall under the following categories:

Sl. No.	Category	(Rupees in crore)	
		Number of cases	Amount
1.	Non / short-levy of passenger tax / additional tax	126	15.38
2.	Underassessment of road tax	11	0.69
3.	Short levy of goods tax	17	0.93
4.	Incorrect computation of lump sum passenger tax	4	0.08
5.	Other irregularities	92	3.37
	Total	250	20.45

During the year 2005-06, the department accepted underassessment etc. of Rs. 1.73 crore involved in three cases out of which Rs. 1.77 lakh had been recovered in one case.

A few illustrative cases involving financial effect of Rs. 1.73 crore are given in the succeeding paragraphs:

4.2 Non assessment of additional tax

Under the provisions of UP Motor Vehicles Taxation Act, 1997 (UPMVT Act) additional tax in respect of maxicab, was fixed at the rate of Rs. 4,500 per quarter per vehicle from 9 November 1998, Rs. 4,950 per quarter per vehicle from 10 March 2000 and Rs. 10,000 per quarter per vehicle from 6 October 2001.

Test check of records of Regional Transport Officer (RTO) Allahabad and Assistant Regional Transport Officer (ARTO) Ambedkar Nagar between July 2004 and June 2005 revealed that additional tax on 32 maxicabs plying during the period April 2001 to May 2005 was not assessed. Non assessment of additional tax resulted in loss of Rs. 21.84 lakh.

After this was pointed out in November 2005, the department stated in August 2006 that action was being taken and further intimation will be sent after recovery.

The matter was reported to Government in November 2005; reply has not been received (August 2006).

4.3 Loss of revenue due to under assessment of additional tax

According to fourth schedule under Section 6 of UPMVT Act, additional tax on stage carriage upto a distance of 9,000 km. on 'A' class routes was

applicable in four¹ slabs upto 1 November 2002. From 2 November 2002, these slabs were merged into one slab, and additional tax upto 9,000 km. on 'A' class routes was payable at the rate of Rs. 376 per seat per quarter.

During audit of records of five² offices of Transport Department, it was noticed between June and November 2005 that during the period between November 2002 and August 2005, 1,010 vehicles were plying on 'A' class route. Additional tax was levied at slab rates applicable upto 1 November 2002 instead of revised rates effective from 2 November 2002. This resulted in short levy of additional tax of Rs. 1.36 crore.

After this was pointed out between November 2005 and February 2006; department accepted the observation and stated in August 2006 that due to matter being under dispute for a long time and pending for decision in Government, recovery at enhanced rate could not be made regularly.

The matter was reported to Government between November 2005 and February 2006; reply has not been received (August 2006).

4.4 Non realisation of additional tax on vehicles plying without permit

Under Motor Vehicles Act, 1988, no vehicle owner shall use transport vehicle in a public place without proper permit. Under UPMVT Act, as amended from 6 October 2001, no motor vehicle (stage carriages) registered or adapted to carry more than nine persons excluding driver shall be kept for use without permit unless the vehicle owner has paid in addition to tax, an additional tax at the rate of 25 per cent of tax payable in respect of such vehicles.

Test check of records of office of RTO, Kanpur Nagar and ARTO, Pratapgarh for the period April 2001 to October 2005, revealed that during the period between September 2004 and October 2005, 15 stage carriages were plying on their prescribed routes after expiry of validity of their permits. The vehicle owners did not get their permits renewed. Though tax was paid by them but additional tax as required was not paid. This resulted in non realisation of additional tax amounting to Rs. 14.85 lakh.

After this was pointed out in January 2005, department accepted the observation and recovered Rs. 1.77 lakh in two cases of Pratapgarh and stated in August 2006 that action was being taken for recovery in remaining cases.

The matter was reported to Government in January 2006; reply has not been received (August 2006).

¹	Distance run in a quarter (in km.)	'A' class route rates per seat per quarter
	Upto 4,500	Rs. 177
	Exceeding 4,500 but not exceeding 5,700	Rs. 223
	Exceeding 5,700 but not exceeding 7,200	Rs. 283
	Exceeding 7,200 but not exceeding 9,000	Rs. 376
²	RTO Moradabad, ARTO Barabanki, Bulandsahar, Mau and Muzaffar Nagar.	

CHAPTER-V OTHER TAX RECEIPTS

5.1 Results of audit

Test check of records of concerned departmental offices conducted during the year 2005-06, disclosed non/short realisation or loss of revenue of Rs. 380.30 crore in 192 cases under the following broad categories:

(Rupees in crore)			
Sl.No	Categories	Number of cases	Amount
	Stamp Duty and Registration Fee		
1.	Short levy of stamp duty and registration fee due to under valuation of properties	112	1.63
2.	Short levy due to misclassification of documents	26	0.67
3.	Other irregularities	12	0.76
	Total:	150	3.06
	Land Revenue		
1.	Short realisation of collection charges	1	0.003
2.	Non recovery of fees for supplying <i>Kishan Bahis</i> ¹	3	0.06
3.	Non/short realisation of land revenue	17	0.12
4.	Non reversion of nazul land from the lease holder	1	376.56
5.	Other irregularities	6	0.08
	Total:	28	376.82
	Entertainment Tax		
1.	Non recovery of entertainment tax	8	0.08
2.	Other irregularities	6	0.34
	Total:	14	0.42
	Grand Total	192	380.30

A few illustrative cases involving Rs. 382.80 crore are given in the succeeding paragraphs.

Stamp Duty and Registration Fee

5.2 Short levy of stamp duty and registration fee due to incorrect computation of lease period

Under Indian Stamp Act, 1899 (IS Act), on an instrument where lease purports to be for a term exceeding 30 years or in perpetuity or does not purport to be for any definite term, stamp duty is chargeable as for conveyance for a consideration equal to market value of the property. The Inspector General of Registration (IGR) clarified on 22 April 2003 that if a lease, for a period less than 30 years, contained provision for further extension for a certain or indefinite period, stamp duty is to be charged on the consideration of market value of the property.

Test check of records of seven sub registrars² (SRs) revealed between October 2004 and October 2005 that eight lease deeds for a period ranging between 20 and 31 years were registered during December 2003 to July 2005 on which stamp duty of Rs. 1.67 lakh and registration fees of Rs. 0.27 lakh were levied. The recital of deeds, however, revealed that provision for further extension of lease was also made with transfer of ownership rights to the

¹ Books of ledger account on farmers maintained by Land Revenue Department

² S.R. Ballia Sadar, Bansdeeh, Haidergarh, Lucknow I, Mohamaddi, Sirathu and Tundla.

lessees on which stamp duty and registration fee of Rs. 39.27 lakh was leviable. Incorrect computation of lease period resulted in short levy of stamp duty and registration fees amounting to Rs. 37.33 lakh.

The matter was reported to the department/Government between March 2005 and February 2006; their replies have not been received (July 2006).

5.3 Short levy of stamp duty due to misclassification of document

Under the provisions of the IS Act, stamp duty on an instrument depends upon the substance of the transaction recorded in the instrument and not on any title, description or nomenclature given to the instrument by the executant. Under U.P. Zamindari and Land Reforms Act, 1950, (Land Reform Act), unrestricted transfer of *bhumidhari* (ownership of land) right by way of lease is not permissible. Further Article-23 of Schedule-I.B of the IS Act provides that stamp duty shall be charged on documents relating to transfer of property rights as "conveyance".

Test check of records of SRs, Meja and Phoolpur in Allahabad district revealed that land measuring 35,176 sq.m. was transferred on lease for 30 years and stamp duty and registration fee of Rs. 5,520 was charged. Transfer of land on lease was not permissible under Land Reform Act. As such, stamp duty and registration fee of Rs. 18.66 lakh treating the transaction as conveyance deed was leviable. This resulted in short levy of stamp duty and registration fee of Rs. 18.60 lakh.

The cases were reported to the department and Government in November 2005; their reply has not been received (July 2006).

5.4 Short levy of stamp duty due to undervaluation of property

Under the IS Act, (as amended in its application to Uttar Pradesh), stamp duty on a deed of conveyance is chargeable either on the market value of the property or on the value of consideration set forth therein, whichever is higher. As per Uttar Pradesh Stamp (Valuation of property Rules), 1997 market rates of various categories of land/property situated in a district are to be fixed biennially by the collector concerned for the guidance of the registering authorities. As per guideline contained in circle rates approved by the Distt. Collector, Faizabad on 16 June 2004, in case a land of one *khassra* is situated both within and outside the limit of municipal committee, the valuation of land would be made at the rates applicable to land situated in the area of municipal committee.

During test check of records of SR, Akbarpur (Ambedkar Nagar) it was noticed in June 2005 that a deed of conveyance showing sale of land measuring 2,630 sq.m. situated on Akbarpur Faizabad road (within the jurisdiction of Akbarpur municipal committee) was registered in July 2004. For levy of stamp duty and registration fee, valuation of part of land measuring 100 sq.m. was done at commercial rate and remaining land measuring 2,530 sq.m. was assessed at agricultural rate, whereas the whole property was required to be assessed at commercial rate as the market rate of any single *khassra* remains the same. Thus due to undervaluation of property, Government was deprived of stamp duty and registration fee of Rs. 9.84 lakh.

The matter was reported to the department/Government in October and December 2005; their reply has not been received (July 2006).

Land Revenue

5.5 Non reversion of nazul land from the lease holder

*Nazul land*¹ is land held by Government in public trust, in perpetuity, the possession of which can be transferred in the form of lease or by sale. The district magistrate of the respective district is the overall incharge of the management and administration of *nazul land*. In Lucknow, the work of management is entrusted to the Lucknow Development Authority (LDA) and in other places to the *nagar nigams/nagar palika parishads*. Rule 67 of *Nazul Manual*, read with Rule 22, prohibits granting of lease in perpetuity of *nazul land*. In such cases, where lease was granted in perpetuity or period of lease was not mentioned, a maximum period of 90 years can be considered for lease. If any sale deed is executed, cost of land is to be recovered on the basis of market rate² and stamp duty as a conveyance is chargeable.

Test check of revenue records of offices of LDA and five³ *nagar nigams* with reference to *nazul land* in possession of educational institutions revealed between August 2005 and February 2006 that in 17 cases, leases had expired but action to reverse the title of land was not taken by Government. As a result, the land remained in the possession of lessees unauthorisedly after expiry of leases. The cost of land on current market value worked out to Rs. 342.26 crore. Besides this, stamp duty and registration fee of Rs. 34.30 crore is also leviable.

The matter was reported to the department and Government (October 2005 to March 2006); their replies have not been received (July 2006).

Entertainment Tax

5.6 Non realisation of unutilised maintenance charges

Under the provisions of U.P. Entertainment and Betting Tax Act, 1979, a cinema owner (not in receipt of grants in aid) is authorised to realise Rs. 1.50 in addition to rate of admission from each person, seeking admission for a seat in a cinema hall. This amount is to be spent for the maintenance of the cinema premises.

The Hon'ble High Court, Allahabad in judicial pronouncement has held that unspent amount of maintenance charges should be deposited in Government account as entertainment tax. The details of receipt and item wise expenditure, on maintenance duly certified by a chartered accountant (CA) is required to be submitted in the office on or before 31 July of the succeeding financial year.

¹ *Nazul land*: It is the land confiscated from the *Jamindars, Nawabs, Rajas* etc. It was neither acquired nor the cost thereof was paid.

² On the basis of circles rate list issued by the district magistrate.

³ Agra, Allahabad, Bareilly, Jhansi and Moradabad

5.6.1 Test check of records of seven offices¹ of the Entertainment Tax Department, revealed between August 2005 and March 2006 that during the years from 2000-01 to 2004-05 in 146 cases a sum of Rs. 4 crore was realised as maintenance charges by cinema owners. Out of which, in 76 cases certificates of expenditure duly certified by CA involving an amount of Rs. 1.70 crore were not submitted whereas in remaining 70 cases involving an amount of Rs. 2.30 crore, though the certificates of CA were submitted but item wise details of expenditure as required were not indicated. Thus the entire amount of Rs. 4 crore was recoverable as entertainment tax.

5.6.2 Commissioner of Entertainment UP specified certain items such as maintenance of building, urinals, boundary wall, sound system, door, seating system etc. on which expenditure from maintenance charges is to be incurred.

Test check of records of 14 offices² between August 2005 and March 2006 revealed that during 2000-01 to 2004-05 in 200 cases expenditure amounting to Rs. 1 crore was incurred by cinema owners on cabin expenses, electricity bills, uniforms and inverters, etc. which were not specified in above orders; as such the expenditure was inadmissible. Hence, Rs. 1 crore was recoverable from the cinema owners.

5.6.3 During test check of records of seven offices³ between August 2005 and March 2006, it was noticed that in 144 cases the cinema owners spent Rs. 3.92 crore on maintenance of cinema halls as per the certificates of CA against collection of Rs. 4.43 crore during the period from April 2000 to March 2005. As such, balance amount of Rs. 51 lakh was required to be deposited as entertainment tax.

The above matters were reported to the department/Government in May 2006; their replies have not been received (July 2006).

5.7 Non levy of interest on belated payment

Under UP Entertainment and Betting Tax Act 1979, entertainment tax is to be deposited within three days from the close of week by cinema owners and within one week after close of month by cable TV operators. In case of default interest at the rate of one and a half *per cent* for first three months and at the rate of two *per cent* thereafter is recoverable from cinema owner and at the rate of two *per cent* from cable operator.

During scrutiny of records of four offices⁴, it was seen that, entertainment tax amounting to Rs. 16.25 lakh, due from April 1998 to April 2004 from one cinema owner and 11 cable operators was deposited between May 2000 and August 2005. The delay ranged from 60 to 2,640 days. Belated payment earned interest amounting to Rs. 6.93 lakh which was not recovered by the department.

The matter was reported to Government/department in May 2006; their replies have not been received (July 2006).

¹ Agra, Aligarh, Kanpur City, Lucknow, Meerut, Saharanpur and Varanasi

² Agra, Allahabad, Aligarh, Bareilly, Gautam Budh Nagar, Ghaziabad, Jhansi, Kanpur City, Kanpur Dehat, Lucknow, Meerut, Moradabad, Saharanpur and Varanasi

³ Agra, Bareilly, Gautam Budh Nagar, Jhansi, Meerut, Saharanpur and Varanasi

⁴ Aligarh, Gautam Budh Nagar, Kanpur City and Varanasi

CHAPTER-VI OTHER DEPARTMENTAL RECEIPTS

6.1 Results of audit

Test check of records of concerned departmental offices conducted in audit during the year 2005-06 disclosed non/short realisation/loss of revenue of Rs. 126.88 crore in 80 cases, which fall under the following broad categories:

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
PUBLIC WORKS DEPARTMENT			
1.	Misutilisation of departmental receipts	1	0.02
2.	Non realisation of centage charges	11	0.006
3.	Other irregularities	5	0.09
	Total	17	0.12
FINANCE DEPARTMENT			
1.	Non deposit of collection charges	33	10.38
2.	Other irregularities	29	28.35
	Total	62	38.73
FOREST DEPARTMENT			
1.	Blockade of revenue	01	88.03
	Total	01	88.03
	Grand Total	80	126.88

During the year 2005-06 the concerned department accepted short recovery of Rs. 13 lakh in one case.

A few illustrative cases involving financial effect of Rs. 12.13 crore are mentioned in following paragraphs:

PUBLIC WORKS DEPARTMENT

6.2 Non realisation of royalty on collection of stone boulders and earth

Government vide letter dated 22 September 1988 read with instructions issued on 2 February 2001, directed all the drawing and disbursing officers to ensure before making payment to contractors/suppliers on account of supplies of stone ballast, morrum, earth and sand, that they had paid royalty of the supplies to the Mines and Mineral Department and produce receipt in form MM-11 issued by the Mines and Minerals Department. In case of default, royalty is to be deducted from the bills of contractors. Rate of royalty on earth is Rs. 4 per cubic meter and stone grit Rs. 23 per cubic meter with effect from 1 April 2001.

In four public works divisions¹, it was noticed between September 2003 and September 2005 that different contractors/suppliers supplied 24,949.72 cubic meter stone ballast/grit and 1,69,556.43 cubic meter earth for construction and embankment work. But the Public Works Department before making payment neither obtained receipts in form MM-11 from contractors nor deducted any royalty from their bills. This resulted in loss of royalty of Rs. 12.52 lakh.

¹ Executive Engineer (EE) Provincial division (PWD) Deoria, EE Provincial division (PWD) Ferozabad, EE Provincial division (PWD) Gazipur and EE Construction division-II (PWD) Raibareilly.

After this was pointed out in November/December 2005, concerned district mines officers stated in August 2006 that neither form MM-11 was issued to contractors nor any royalty was deposited.

The matter was reported to department and Government between November and December 2005, their replies have not been received (July 2006).

FINANCE DEPARTMENT

6.3 Short levy of guarantee fees

Finance Department vide orders dated 15 September 2000 directed that guarantee fees at the rate of one *per cent* per annum is to be recovered from the public sector undertakings on the amount of loan including amount of interest outstanding on that date for which State Government has given guarantee. The guarantee fee is to be recovered at the time of giving guarantee of loan and at the beginning of financial year for the outstanding amount of loan. In the event of default in payment, guarantee fee will be leviable at double the normal rate.

Scrutiny of records of the office of the Chief Manager (Finance and Accounts), Uttar Pradesh Rajya Vidyut Utpadan Ltd., Lucknow (*nigam*) revealed in May 2006 that between 2003-04 and 2005-06 for the expansion of Parichha Thermal Power Station at Jhansi, Government gave guarantee to raise a loan of Rs. 1,404 crore from Power Finance Corporation (PFC), New Delhi. Out of total sum of the guarantee, the *nigam* received a loan of Rs. 1,200 crore upto 31 March 2000, on which, as per terms and conditions, guarantee fee amounting to Rs. 24 crore was payable but the *nigam* paid only Rs. 12 crore. This resulted in short payment of guarantee fee of Rs. 12 crore as shown under:

(Rupees in crore)					
Year	Period of guarantee	Amount of loan	Guarantee fee payable	Guarantee fee paid	Guarantee fee recovered short
2003-04	27.03.2004 to 31.03.2006	250	7.50	2.50	5
2004-05	16.07.2004 to 31.03.2006	700	14.00	7.00	7
2005-06	20.12.2005 to 31.03.2006	250	2.50	2.50	Nil
Total		1,200	24.00	12.00	12

The matter was reported to department and Government in June 2006; their replies have not been received (July 2006).

FOREST DEPARTMENT

6.4 Blockade of revenue due to non felling of matured/over matured Sal trees

With a view to ensure environmental stability and maintenance of ecological balance, the National Forest Policy, 1988 envisaged that no forest should be permitted to be worked without Government having approved the management plan (working plan). Hon'ble Supreme Court held that felling of trees in all forests is to remain suspended except in accordance with working plans of the State Governments, as approved by the Central Government.

Government of India (GOI) approved the working plan (WP) of South Kheri division, Lakhimpur Kheri for the period 2000-2010 in July 2001. The WP *inter alia* mentioned that there was an adverse effect on regeneration of sal trees due to non availability of adequate light on earth surrounding the matured and over matured sal trees which were not felled during the previous working plan periods.

Audit ascertained (February 2005) from the records of divisional forest officer (DFO) South Kheri Division, Lakhimpur that *Sal Sudhar Karya Vritta* of the approved WP by GOI envisaged felling of sal trees in an area of 4,291.60 hectares during the period 2000-05 having 42,935 matured/over matured sal trees with a timber volume of 1,35,476.217 cubic meters. These were, however, not allotted by the division to Uttar Pradesh Forest Corporation (UPFC) for felling. Thus, failure of the division to allot the aforesaid area for felling sal trees resulted in blockade of royalty amounting to Rs. 88.03 crore. Besides, the regeneration of sal trees was also affected.

After this was pointed out in March 2005, Government stated (November 2005) that WP permitted the felling of only dry, diseased or dry standing trees, which had been done. The reply of Government was not tenable as in the approved WP, the division had also formed coupes (para 8.32), which had earmarked areas required to be felled in different areas in the Forest Division, Lakhimpur Kheri.



Lucknow

(BIRENDRA KUMAR)

The 13 DECEMBER 2006

Accountant General (C&RA)
Uttar Pradesh

Countersigned



New Delhi

(VIJAYENDRA N. KAUL)

The 18 DECEMBER 2006

Comptroller and Auditor General of India

19 DECEMBER 2003

19 DECEMBER 2003

Appendices

APPENDIX - A
NON LEVY OF PENALTY
(Para no. 2.8.1)

(Rupees in lakh)

Sl. No.	Name of Unit	No. of Dealer	Year Month of assessment	Purchase amount	Name of Commodity not covered by Central Registration	Rate of tax in per cent	Rate of penalty in per cent	Penalty leviable	Penalty levied by the deptt. at the instance of Audit
1.	DC (A), TT, Faizabad	1	<u>2001-02</u> Feb.-04	14.20	'Core pipe, paper tape, wire cloth and firebricks'	10	15	2.13	2.02
2.	DC (A)-II, TT, Sitapur	1	<u>2001-02</u> March-04	1.81 3.37	'L.D.O.' 'Gitti'	32.5 10	48.75 15	0.88 0.50	0.88 0.40
3.	AC, TT, Ambedkar Nagar	1	<u>2000-01</u> December-02	6.92	'Strainer'	10	15	1.04	1.04
4.	DC (A)-I, TT, Muzaffar Nagar	1	<u>2001-02</u> March-04	5.47	'Chesis of tanker'	10	15	0.82	0.82
5.	AC, Sec. I, TT, Jhansi	1	<u>2000-01</u> December-02	23.72 2.81	'Wax' 'T.S.P.'	20 10	30 15	7.12 0.42	7.12 0.42
6.	AC, Sec. V, TT, Ghaziabad	1	<u>1998-99 to</u> <u>2000-01</u> December-02	162.38	'Ink, chemical, film and packing materials'	10	15	24.36	24.35
7.	DC (A)-IV, TT, Kanpur	1	<u>2002-03</u> October-04	163.63	'Plastic granules'	10	15	24.54	Nil
8.	DC (A)-II, TT, Varanasi	1	<u>2002-03</u> June-05	67.44	'Inverter'	10	15	10.12	Nil
9.	DC (A), TT, Shamli (Muzaffar Nagar)	1	<u>2001-02</u> March-04	22.72	'Molasses'	20	30	6.82	Nil
10.	DC (A)-III, TT, Bareilly	1	<u>2001-02</u> March-04	91.48	'White paper and Battery'	10	15	13.72	Nil
11.	DC (A)-XI, TT, Kanpur	1	<u>2000-01</u> May-02	14.78	'Generator and paper'	10	15	2.22	2.22
12.	DC (A)-VII, TT, Noida	1	<u>2001-02</u> February-04	5.86	'Silver wire, Brass Gutka, Tin anode, Tubler shaft etc.'	10	15	0.88	0.88
13.	AC, Sec.I, TT, Hardoi	1	<u>2000-01 &</u> <u>2001-02</u> February-04	4.89	'Ferrous sulphate'	10	15	0.73	0.73
14.	AC, Sec.II, TT, Varanasi	1	<u>2001-02</u> October-03	4.37	'Helmets'	10	15	0.66	0.66
15.	DC (A), TT, Faizabad	1	<u>2000-01</u> February-03	3.87	'Bearing, Thermometer & thermometer drum'	10	15	0.58	0.58
16.	DC (A)-I, TT, Kanpur	1	<u>2002-03</u> February 05	15.39	'Diesel'	26	39	6.00	Nil
17.	DC (A), TT, Sonbhadra	1	<u>1991-92 &</u> <u>1992-93</u> January-04	8.91	'Pipe, fiber glass & F.R.P. Tower'	10	15	1.34	1.34
18.	AC, Sec.XII, TT, Lucknow	1	<u>2002-03</u> March-05	5.58	'Wooden fixtures, table, chair & plywood'	10	15	0.84	Nil
19.	AC, Sec.I, TT, Mathura	2	<u>2001-02</u> June-05	0.74	'Deep freezer, water cooler'	16	24	0.18	Nil
				8.07	'Furniture'	10	15	1.21	Nil
				6.20	'Diesel parts'	10	15	0.93	Nil
20.	DC (A), TT, Sardhana, Meerut	1	<u>2002-03</u> June-04	35.52	'Packing materials, spares & lab equipment'	10	15	5.33	Nil
Total		21		680.13				113.37	43.46

APPENDIX - B
NON LEVY OF PENALTY
(Para no. 2.8.4)

(Rupees in lakh)							
Sl. No.	Name of Office	No. of Dealer	Year Month of assessment	Concealed Turnover	Concealed Tax	Penalty leviable Minimum	Demand raised by department at the instance of Audit
1.	AC, Sec. I, TT, Varanasi	1	1998-99 to 1999-2000 August-01	162.67	6.51	3.25	19.52
2.	DC (A)-I, TT, Shahjahanpur	1	2000-01 April 02	25.65	1.03	0.52	1.00
3.	DC (A)-IX, TT, Lucknow	1	2000-01 October 02	18.85	1.59	0.79	0.79
4.	DC (A)-II, TT, Muzaffar Nagar	1	1995-96 March 02	31.32	3.92	1.96	1.96
5.	DC (A)-I, TT, Muzaffar Nagar	1	2001-02 February 03	37.50	2.10	1.05	4.20
6.	DC (A), TT, Sikandarabad	1	1996-97 March 1999	41.70	1.67	0.84	0.84
7.	AC, Sec. II, TT, Kanpur	1	1999-2000 October 02	86.88	4.35	2.19	8.70
8.	AC, Sec. IV, TT, Agra	1	2000-01 September 03	300.00	12.00	6.00	Nil
9.	DC (A)-VI, TT, Agra	2	2002-03 October 04	120.00	4.40	2.20	Nil
			2002-03 December 03	45.00	1.60	0.80	Nil
10.	DC (A)-XIX, TT, Kanpur	1	2003-04 March-05	34.50	6.85	3.43	Nil
11.	DC (A)-IV, TT, Muzaffar Nagar	2	1997-98 March-2000	37.75	3.78	1.89	1.89
			2001-02 December 03	52.00	2.08	1.04	1.04
12.	DC (A), TT, Badaun	1	1998-99 December 03	10.00	1.50	0.75	0.75
13.	AC, Sec. II, TT, Bahraich	1	2001-02 October 04	38.00	1.12	0.56	0.56
14.	DC (A)-VI, TT, Meerut	1	2002-03 March 05	100.32	4.01	2.01	5.00
15.	DC (A)-XII, TT, Lucknow	1	2000-01 February 03	27.00	1.80	0.90	3.60
16.	DC (A)-III, TT, Moradabad	1	1995-96 November 1998	117.69	3.70	1.85	Nil
17.	DC (A)-III, TT, Agra	1	2000-01 December 04	120.00	12.00	6.00	Nil
18.	DC(A)-XII, TT, Ghaziabad	1	2000-01 October 02	251.10	31.14	15.57	Nil
19.	AC Sec. I, TT, Ghaziabad	1	2000-01 March 02	7.56	0.30	0.15	0.15
20.	DC(A)-XI, TT, Ghaziabad	1	2001-02 May 03	35.00	0.66	0.33	0.20
21.	DC(A)-VIII, TT, Noida	2	2003-04 February 05	5.50	0.55	0.28	Nil
			2004-05 May 05	260.00	15.80	7.90	Nil
22.	DC(A)-II, TT, Kanpur	1	2001-02 July 04	75.00	2.55	1.28	1.28
23.	DC(A)-XVI, TT, Kanpur	1	2003-04 November 04	NA	0.20	0.10	Nil
24.	AC Sec. IV, TT, Lucknow	2	2002-03 February 04	10.00	0.50	0.25	0.24
			2001-02 January 03	25.00	1.00	0.50	0.50
25.	DC(A)-IV, TT, Lucknow	1	2004-05 August 05	2.00	0.08	0.04	0.04
26.	DC(A)-VI, TT, Lucknow	1	2002-03 September 03	404.00	16.34	8.17	Nil
Total		30		2481.99	145.13	72.60	52.26

APPENDIX - C
LOSS OF EXCISE DUTY DUE TO SHORT LIFTING OF MGQ OF COUNTRY LIQUOR
[Para no. 3.2.9]

(Rupees in lakh)

Sl. No.	Name of Unit	Year	No. of Shops	MGQ (In BL)	MGQ lifted (In BL)	MGQ short lifted (In BL)	Rate of duty (per BL) (in Rupees)	Loss of revenue
1	DEO, Gorakhpur	2003-04	8	59,800	48,617.120	11,182.880	79	8.83
		2004-05	26	5,09,813	4,92,365.620	17,447.380	79	13.78
2	DEO, Saharanpur	2002-03	5	1,74,000	1,66,217.895	7,782.105	¹ 82	6.38
3	DEO, Kushi Nagar (Padrauna)	2004-05	9	1,13,513	1,04,412.600	9100.400	79	7.19
4	DEO Jhansi	2003-04	54	4,80,469	4,57,290.500	23,178.500	79	18.32
			102	13,37,595	12,68,903.735	68,691.265		54.50

¹ Rate of excise duty Rs. 82.00 per B.L. for the strength of 42.8 % v/v

APPENDIX - D
DELAY IN RENEWAL OF PD-2 LICENCE
[Para no. 3.2.13]

Sl. No.	Name of unit	2000-01 <u>Date of renewal</u> Delay Y-M-D	2001-02 <u>Date of renewal</u> Delay Y-M-D	2002-03 <u>Date of renewal</u> Delay Y-M-D	2003-04 <u>Date of renewal</u> Delay Y-M-D	2004-05 <u>Date of renewal</u> Delay Y-M-D
1.	M/S Jagatjeet Industries and Distillery, Sikandarabad (Bulandshahar)	<u>5-7-2000</u> 0-3-07	<u>30-7-2001</u> 0-4-0	<u>9-1-2003</u> 0-9-09	<u>24-4-2003</u>	<u>27-3-2004</u>
2.	Mohan Meakins Distillery, Mohan Nagar Ghaziabad	<u>26-3-2003</u> 2-11-26	<u>26-3-2003</u> 1-11-26	<u>26-3-2003</u>	<u>21-4-2003</u>	<u>1-4-2004</u>
3.	Simbhauli Distillery, Ghaziabad	<u>4-12-2000</u> 0-9-04	<u>2-9-2002</u> 1-5-02	<u>2-9-2002</u> 0-5-02	<u>27-4-2003</u>	<u>27-4-2004</u>
4.	Modi Distillery, Modinagar, Ghaziabad	<u>8-5-2003</u> 3-1-08	<u>8-5-2003</u> 2-1-08	<u>8-5-2003</u> 1-1-08	<u>7-4-2004</u> 1-0-07	<u>7-4-2004</u>
5.	Narang Distillery Ltd. Nawabganj, Gonda	<u>12-7-2000</u> 0-3-12	<u>7-3-2002</u>	<u>4-12-2002</u> 0-8-04	Renewed but date not mentioned	<u>18-5-2004</u>
6.	Bajaj Hindustan Ltd. Distillery Gola, Lakhimpur Kheri	<u>11-8-2000</u> 0-4-11	<u>12-11-2001</u> 0-7-12	<u>4-12-2002</u> 0-8-04	<u>8-4-2003</u>	<u>27-3-2004</u>
7.	Mohan Meakins Distillery, Lucknow	<u>16-8-2000</u> 0-4-16	<u>27-12-2001</u> 0-8-27	Renewed but date not mentioned		<u>22-3-2005</u> 0-11-22
8.	Central Distillery and Brewery Ltd. Meerut	<u>5-8-2000</u> 0-4-05	N.A	<u>31-3-2003</u>	<u>1-5-2003</u>	<u>31-3-2004</u>
9.	Cooperative Distillery Co. Ltd. Tapari, Saharanpur	N.A.	<u>29-3-2003</u> 1-11-29	<u>29-3-2003</u>	<u>19-6-2003</u>	Not yet renewed
10.	Pilkhani Distillery, Pilkhani, Saharanpur	<u>18-2-2000</u>	<u>15-1-2002</u> 0-9-15	<u>26-4-2002</u>	<u>27-2-2003</u>	<u>26-2-2004</u>
11.	U.P. Cooperative Distillery, Nanauta, Saharanpur	N.A.	<u>26-3-2003</u> 1-11-26	<u>26-3-2003</u> 0-11-26	<u>4-12-2005</u> 2-8-04	<u>16-8-2005</u> 0-4-16
12.	Karam Chand Thapar Distillery, Unnao	<u>8-1-2003</u> 2-9-08	<u>8-1-2003</u> 1-9-08	<u>8-1-2003</u> 0-9-08	<u>23-04-2003</u>	<u>31-3-2004</u>

