



REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR
ENDED 31 MARCH 1996
NO. 1
(REVENUE RECEIPTS)

GOVERNMENT OF HIMACHAL PRADESH



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PREFATORY REMARKS

This Report for the year ended 31 March 1996 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The Audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of Audit of receipts comprising sales tax, state excise, motor vehicles tax, passengers and goods tax, forest receipts, 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 1995-96 as well as those noticed in earlier years but could not be included in previous years' Reports.



OVERVIEW

This report contains 34 paragraphs and 2 reviews involving a tax impact of Rs. 12.06 crores. Some of the major findings are mentioned below:

(Paragraph 1.9.)

1. General

(i) The total receipts of the Government for the year 1995-96 were Rs. 1754.02 crores. Revenue receipts of Government during the year were Rs. 458.86 crores, of which Rs. 341.52 crores represented tax revenue and Rs. 117.34 crores non-tax revenue. Government also received Rs. 400.28 crores as State's share of divisible Union Taxes and Rs. 894.88 crores as grants-in-aid from the Government of India. Receipts under State Excise (Rs. 105.50 crores), Sales tax (Rs. 122.83 crores) and Taxes on Goods and Passengers (Rs. 45.80 crores) accounted for a major portion of receipts of tax revenue and under non-tax revenue, main receipts were from Forestry and Wild Life (Rs. 44.94 crores).

(Paragraph 1.1.)

(ii) The arrears of revenue under principal heads of revenue as on 31st March 1996 amounted to Rs. 136.70 crores, of which Rs. 75.39 crores pertained to Forestry and Wild Life.

(Paragraph 1.5.)

(iii) 50,882 Sales tax and Passengers and Goods tax assessment cases were pending finalisation at the end of the year 1995-96.

(Paragraph 1.6.)

(iv) Test check of records of the Excise and Taxation, Transport, Forest and other departmental offices conducted during 1995-96, revealed under-assessments/short levy of revenue amounting to Rs. 14.71 crores in 819 cases. The concerned departments accepted under-assessments etc., of Rs. 5.37 crores.

(Paragraph 1.9.)

(vii)

(v) 2,335 audit and inspection reports containing 6,688 objections with money value of Rs. 123.68 crores issued upto 31st December 1995 were not settled upto 30th June 1996.

(Paragraph 1.10.)

2. Sales Tax

(a) A review on "Working of Multipurpose Check Posts" brought out the following points:-

(i) Test check of 12 barriers during the period 1991-92 to 1994-95 showed that 2,12,885 goods vehicles carrying bricks worth Rs. 6,386.55 lakhs involving tax effect of Rs. 510.92 lakhs crossed the barriers without filing the declaration forms and department failed to register these dealers under the Sales Tax Act.

(Paragraph 2.2.6.)

(ii) Nineteen dealers who exported 'katha' valuing Rs. 62.35 lakhs during 1991-92 to 1994-95 with tax effect of Rs. 6.23 lakhs were not registered.

[(Paragraph 2.2.7(a)(i) and (ii)]

(iii) In three district offices, 401 declaration forms relating to goods worth Rs. 77.53 lakhs imported between 1991-92 and 1994-95 by un-registered dealers with tax effect of Rs. 6.82 lakhs were pending verification.

[Paragraph 2.2.7(b)]

(iv) In six district offices, the assessments of 99 dealers for the years 1991-92 to 1993-94 were finalised by the assessing authorities without verifying 1,769 declaration forms valued at Rs. 158.43 lakhs. Evasion of tax in such cases could not be ruled out.

(Paragraph 2.2.9.)

(v) 4,99,350 declaration forms costing Rs. 4.99 lakhs issued by the Excise and Taxation Commissioner during 1991-92, 1992-93 and 1994-95 were short accounted by seven district offices and two barriers. There is no proper system of despatch and

acknowledgment of forms. Department has also not prescribed any report or return to facilitate reconciliation in the Commissionerate.

[Paragraph 2.2.13(iii)]

(vi) 572 declaration forms valuing Rs. 336.97 lakhs for the period 1991-92 to 1993-94 collected from the dealers in three barriers had been wrongly sent by the incharge of the barriers to their respective district offices instead of the district offices in which these dealers were registered or registerable resulting in non-verification of these forms.

[Paragraph 2.2.13(vi)]

(vii) In seven district offices, purchases worth Rs.451.34 lakhs disclosed by 104 dealers in their trading accounts during 1991-92 to 1993-94 were not supported by the declaration forms in the absence of which correctness of purchases could not be vouchsafed.

[Paragraph 2.2.13(ix)]

(b) Purchase tax including surcharge and interest amounting to Rs. 10.17 lakhs was not levied in 6 cases.

(Paragraph 2.3.)

3. State Excise

(i) Failure of the department to enforce the prescribed norms of production of spirit from malt in a distillery during 1994-95 deprived the Government of excise duty amounting to Rs. 52.44 lakhs.

(Paragraph 3.2.)

(ii) In a brewery and a bottling plant, excise duty of Rs. 6.28 lakhs leviable on spirit lost in the process of re-distillation during the year 1994-95 was not levied.

(Paragraph 3.3.)

5. Forest Receipts

(i) A review on "Tapping of resin blazes by Himachal Pradesh State Forest Corporation" revealed the following:-

(a) 1,06,691 blazes involving royalty amounting to Rs.27.33 lakhs were not enumerated and handed over by the department to the Corporation during 1992 to 1994 tapping seasons.

(Paragraph 5.2.6.)

(b) In 22 Divisional Forest Offices test checked, out of 74,27,854 blazes tapped by the Corporation during 1992 to 1994 tapping seasons 9,61,776 blazes were outshaped and 57,215 blazes were illicitly tapped by the Corporation. In seven forest divisions, the percentage of outshaped blazes ranged between 23 and 96 per cent. Neither any records of inspection of tapping operations were maintained in the divisions nor any periodical reports for monitoring defective/outshaped blazes has been prescribed by the Government/Department.

[Paragraphs 5.2.7(a)&5.2.10.]

(c) Rebate of Rs. 140.25 lakhs was allowed by the department on the resin and its derivatives supplied by the Corporation to forest based industries for the period 1988 to 1993 without verifying the correctness of the rebate. Further, no return was prescribed for obtaining detailed accounts of the concession given to the industries by the Corporation in the policy framed by the Government.

(Paragraph 5.2.8.)

(ii) In five forest divisions, royalty of Rs. 88.81 lakhs was charged short due to application of lower rate of royalty. Besides, sales tax payable by the Corporation on this royalty amounted to Rs. 26.63 lakhs.

(Paragraph 5.3.)

(iii) Incorrect determination of intensity of trees resulted in short recovery of royalty amounting to Rs. 22.04 lakhs in four divisions.

(Paragraph 5.4.)

(iv) In four forest divisions, royalty amounting to Rs. 21.25 lakhs (including sales tax) on trees handed over to the Corporation in original/supplementary markings had not been demanded.

(Paragraph 5.5.)

(v) In two forest divisions, application of incorrect rates resulted in short recovery of royalty amounting to Rs. 11.49 lakhs (including sales tax).

(Paragraph 5.6.)

(vi) In five forest divisions, although the Corporation continued to work the forest lots after the expiry of lease periods, yet extension fee amounting to Rs. 35.06 lakhs was not demanded by the department.

(Paragraph 5.10.)

(vii) Failure to detect illicit felling resulted in loss of revenue of Rs. 17.00 lakhs.

(Paragraph 5.11.)

CHAPTER - 1 : GENERAL

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Himachal Pradesh during the year 1995-96, the share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below and also exhibited in Chart 1.

		1993-94	1994-95	1995-96
		(In crores of rupees)		
I.	Revenue raised by the State Government			
	(a) Tax revenue	255.74	299.45	341.52
	(b) Non-tax revenue	120.61	132.74	117.34
	Total	376.35	432.19	458.86
II.	Receipts from the Government of India			
	(a) State's share of divisible Union taxes	289.52	368.83	400.28 ^{**}
	(b) Grants-in-aid	799.26	505.34	894.88
	Total	1088.78	874.17	1295.16
III.	Total receipts of the State Government (I and II)	1465.13	1306.36	1754.02
IV.	Percentage of I to III	26	33	26

^{**}

For details, please see "Statement No.10-Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Himachal Pradesh for the year 1995-96. Figures under the head "0021-Taxes on Income other than Corporation Tax-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.

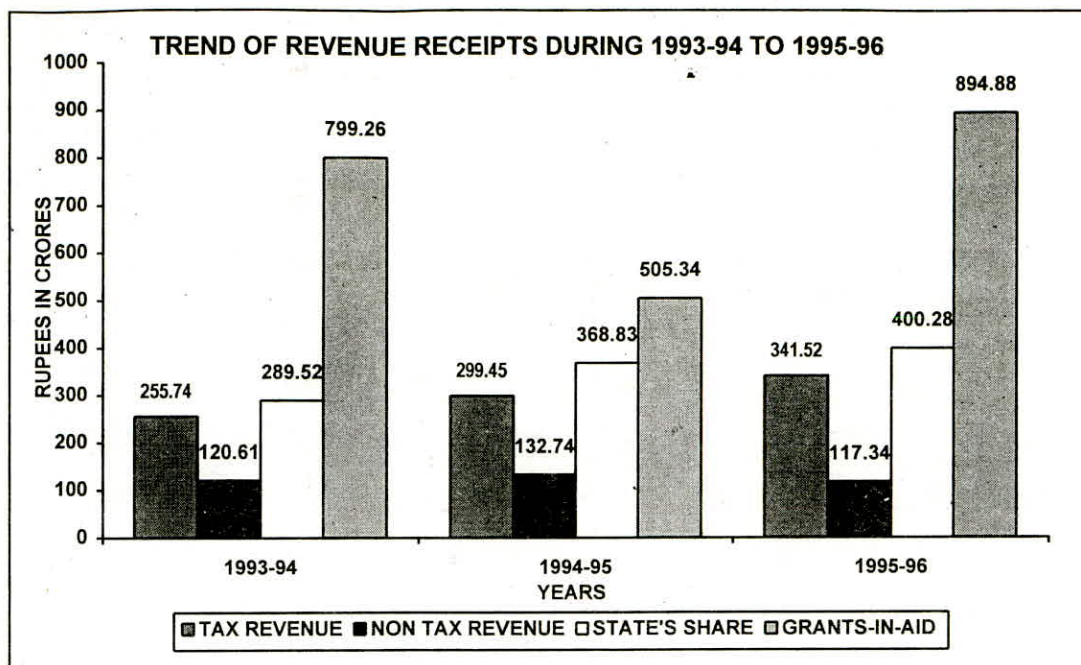


Chart 1

- (i) The details of the tax revenue raised during the year 1995-96, alongwith the figures for the preceding two years, are given below and also exhibited in Chart 2.

		1993-94	1994-95	1995-96	Percentage of increase(+) or decrease (-) in 1995-96 over 1994-95
		(In crores of rupees)			
1.	State Excise	83.53	94.55	105.50	(+) 12
2.	Sales Tax	93.88	107.18	122.83	(+) 15
3.	Taxes on Goods and Passengers	35.22	39.77	45.80	(+) 15
4.	Taxes on Vehicles	11.56	11.17	12.32	(+) 10
5.	Stamps and Registration	10.19	12.00	13.78	(+) 15
6.	Taxes and Duties on Electricity	2.11	9.88	17.92	(+) 81
7.	Land Revenue	1.01	1.15	0.87	(-) 24
8.	Others	18.24	23.75	22.50	(-) 5
	Total	255.74	299.45	341.52	(-) 14

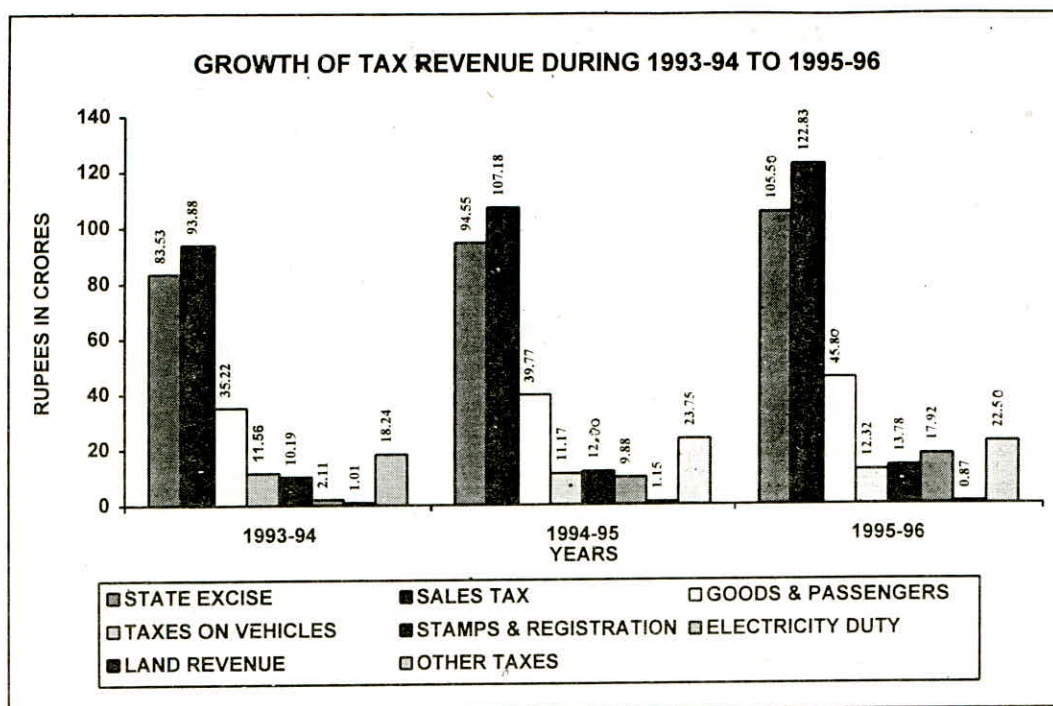


Chart 2

(ii) The details of non-tax revenue realised during the years 1993-94 to 1995-96 are given below and also exhibited in Chart 3.

		1993-94	1994-95	1995-96	Percentage of increase (+) or decrease (-) in 1995-96 over 1994-95
		(In crores of rupees)			
1.	Forestry and Wild Life	65.36	47.11	44.94	(-) 5
2.	Interest Receipts	3.22	9.23	25.37	(+) 175
3.	Non-ferrous, Mining and Metallurgical Industries	5.55	6.71	8.73	(+) 30
4.	Education, Sports, Art and Culture	2.19	2.66	2.41	(-) 9
5.	Crop Husbandry (including Horticulture)	2.01	1.81	2.64	(+) 46
6.	Others	42.28	65.22	33.25	(-) 49
	Total	120.61	132.74	117.34	(-) 12

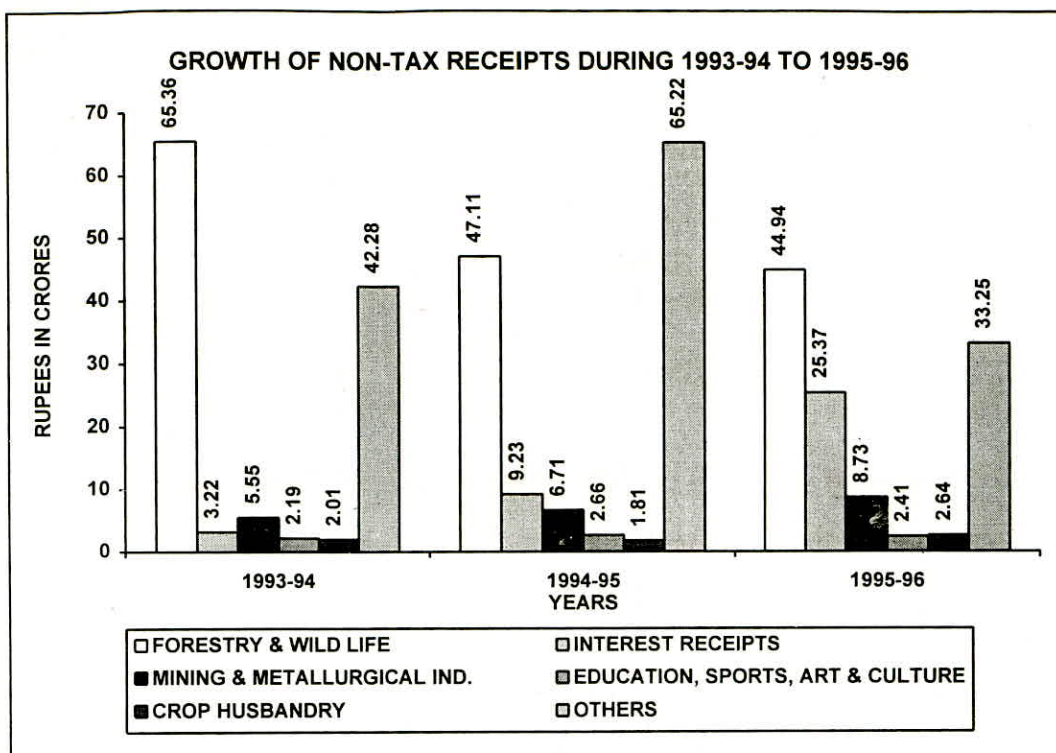


Chart 3

There was a significant variation in receipts under the following heads and the reasons therefor as given by the concerned departments were as under.

- (a) "State Excise" - The increase in receipts during 1995-96 over the receipts of 1994-95 was mainly due to higher amount of auction money realised during the year, opening of new Country liquor' and 'Indian-made foreign liquor' vends, increase in consumption of liquor, increase in import fee on liquor from Rs. 3.50 to Rs. 5.00 per proof litre and increase in licence fee of L-3, L-4 and L-5.
- (b) "Sales Tax" - The increase in receipts during 1995-96 as compared to the receipts of 1994-95 was due to recovery of more arrears than anticipated, finalisations of more assessment cases during the year and consequently realisation of more receipts. General increase in prices and increased business activity also contributed to increase in revenue.
- (c) "Taxes on Goods and Passengers" - The increase in receipts during 1995-96 over the receipts of 1994-95 was mainly due to increase in the rate of tax with effect from October 1994 which consequently increased the receipts during the subsequent year.
- (d) "Taxes on Vehicles" - The increase in receipts during 1995-96 over the receipts of 1994-95 was due to registration of more vehicles during the year than anticipated.
- (e) "Taxes and Duties on Electricity" - The increase in receipts during 1995-96 over the receipts of 1994-95 was due to deposit of arrears of

electricity duty pertaining to the year 1994-95 by the Himachal Pradesh State Electricity Board.

- (f) "Non-ferrous, Mining and Metallurgical Industries" - The increase in receipts during 1995-96 over the receipts of 1994-95 was mainly due to availability of minerals in abundance during rainy season and also more demand thereof in the concerned areas and auction of more *khuds*.

1.2. Variations between Budget estimates and actuals

The variations between Budget estimates of revenue for the year 1995-96 and actual receipts under the principal heads are given below.

	Head of revenue	Budget estimates (In	Actual receipts crores of	Variations increase(+) shortfall(-) rupees)	Percentage of variation
1.	State Excise	100.00	105.50	(+) 5.50	6
2.	Sales Tax	125.00	122.83	(-) 2.17	2
3.	Taxes on Goods and Passengers	48.00	45.80	(-) 2.20	5
4.	Taxes on Vehicles	13.22	12.32	(-) 0.90	7
5.	Stamps and Registration Fees	11.55	13.78	(+) 2.23	19
6.	Taxes and Duties on Electricity	10.61	17.92	(+) 7.31	69
7.	Land Revenue	0.95	0.87	(-) 0.08	8
8.	Other Taxes and Duties on Commodities and Services	25.00	22.50	(-) 2.50	10
9.	Forestry and Wild Life	26.00	44.94	(+) 18.94	73
10.	Industries	0.75	1.37	(+) 0.62	83
11.	Interest Receipts	5.00	25.37	(+) 20.37	407
12.	Non-ferrous, Mining and Metallurgical Industries	5.95	8.73	(+) 2.78	47
13.	Education, Sports, Art and Culture	2.80	2.41	(-) 0.39	14
14.	Crop Husbandry (including Horticulture)	1.95	2.64	(+) 0.69	35

The reasons for variations between the Budget estimates and the actuals as reported by the concerned departments were as under.

- (a) Under "Stamps and Registration Fees", the increase (19 per cent) was mainly due to registration of more documents than estimated.
- (b) Under "Forestry and Wild Life", the increase (73 per cent) was mainly due to higher realisation of receipts from the Himachal Pradesh State Forest Corporation than estimated.
- (c) Under "Industries", the increase (83 per cent) was mainly due to reimbursement of central freight subsidy by the Central Government.
- (d) Under "Non-ferrous, Mining and Metallurgical Industries", the increase (47 per cent) was mainly due to increase in the royalty rates and more realisation of royalty.
- (e) Under "Education, Sports, Art and Culture", the decrease (14 per cent) was mainly due to remission of fees of girl students with effect from April 1995 in the education sector.

1.3. Analysis of collections

The break-up of the total collections (at pre-assessment stage and after regular assessment) of State Excise, Sales Tax, Passengers and Goods Tax and Other Taxes and Duties on Commodities and Services during the year 1995-96 and the corresponding figures for the preceding two years, as furnished by the Excise and Taxation Department, are given below.

Name of tax head	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment		Interest	Other Penalties	Amount refunded	Net collection of taxes/ duties	Percentage of columns 3 to 9
			Additional demand	Penalties for delay in payment of taxes & duties					
1	2	3	4	5	6	7	8	9	10
			(In	lakhs		of	rupees)	
State Excise	1993-94	8290.13	--	4.77	52.33	7.69	2.12	8352.80	--
	1994-95	9406.99	--	2.47	56.10	7.02	17.82	9454.76	--
	1995-96	10568.39	--	2.97	33.99	1.49	56.71	10550.13	100
Sales Tax	1993-94	9,000.41	260.02	75.39	50.41	16.61	14.82	9388.02	96
	1994-95	9638.10	698.76	96.28	268.64	20.66	4.57	10717.87	90
	1995-96	11305.56	836.61	56.41	82.63	36.31	34.27	12283.24	92
Passengers and Goods Tax	1993-94	3,292.33	207.45	11.30	--	10.84	--	3,521.92	93
	1994-95	3812.71	141.24	12.37	--	10.47	--	3976.79	96
	1995-96	4351.60	170.80	47.49	--	10.55	--	4580.44	95
Other Taxes and Duties on Commodities and Services	1993-94	1797.28	17.61	9.88	--	0.15	0.15	1824.77	98
	1994-95	2373.15	1.45	0.69	--	0.01	0.09	2375.21	100
	1995-96	2230.89	8.43	1.76	9.41	0.41	1.36	2249.54	99

The position of revenue collected by Excise and Taxation department as detailed above shows that the collection of revenue at pre-assessment stage ranged between 92 and 100 *per cent* and the percentage of additional demand raised after regular assessments was 0 to 8 *per cent* only during the year ending March 1996.

1.4. Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1993-94, 1994-95 and 1995-96 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1994-95 are given below.

	Head of revenue	Year	Gross collection (In lakhs)	Expenditure on collection (of rupees)	Percentage of expenditure to gross collection	All India average percentage for the year 1994-95
1.	State Excise	1993-94	8352.80	144.74	2	3.12
		1994-95	9454.76	176.80	2	
		1995-96	10550.13	221.51	2	
2.	Sales Tax	1993-94	9388.02	162.68	2	1.25
		1994-95	10717.87	200.28	2	
		1995-96	12283.24	257.89	2	
3.	Taxes on Vehicles, Goods and Passengers	1993-94	4678.00	91.78	5	2.50
		1994-95	5093.78	105.17	5	
		1995-96	5811.96	132.54	5	
4.	Stamp Duty and Registration Fees	1993-94	1018.82	54.35	5	3.65
		1994-95	1200.38	28.25	5	
		1995-96	1377.86	27.16	2	

1.5. Arrears of revenue

As on 31st March 1996 arrears of revenue under principal heads of revenue, as reported by the departments, were as under.

	Head of revenue	Arrears pending collection (In lakhs)	Arrears more than five years old of rupees)	Remarks
1.	Forestry and Wild Life	7538.88	Not received	Period to which this arrear pertains and specific action to effect the recovery by the department has not been intimated (August 1996).
2.	Sales Tax	3388.94	1070.43	Out of Rs. 3388.94 lakhs, demands for Rs. 542.58 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 59.53 lakhs and Rs. 124.75 lakhs had been stayed by the Courts and Government respectively. Demands for Rs. 476.29 lakhs were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 2185.79 lakhs called for (May 1996) has not been intimated (August 1996) by the department.
3.	Taxes on Goods and Passengers	287.74	11.12	Out of the arrears of Rs. 287.74 lakhs, demands for Rs. 2.35 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 20.07 lakhs and Rs. 68.36 lakhs had been stayed by the Courts and Government respectively. Recoveries amounting to Rs. 11.50 lakhs were held up due to rectification/ review of applications. Recovery amounting to Rs. 0.27 lakh was held up due to insolvency of the dealers. Demands of Rs. 0.62 lakh were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 184.57 lakhs called for (May 1996) has not been intimated (August 1996) by the department.
4.	Taxes and Duties on Electricity	1042.83	--	The amount is recoverable from the Himachal Pradesh State Electricity Board in respect of electricity duty for the year 1995-96.

	Head of revenue	Arrears pending collection (In lakhs	Arrears more than five years old of rupees)	Remarks
5.	State Excise	61.32	36.29	Out of Rs. 61.32 lakhs, demands amounting to Rs. 10.98 lakhs had been certified for recovery as arrears of land revenue. Recoveries of Rs. 14.59 lakhs and Rs. 6.69 lakhs had been stayed by the Courts and Government respectively. Demands of Rs. 9.05 lakhs were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 20.01 lakhs called for (May 1996) has not been intimated (August 1996) by the department.
6.	Other Taxes and Duties on Commodities and Services	28.29	0.75	Out of the total arrears of Rs. 28.29 lakhs, demands for Rs. 0.58 lakh had been certified for recovery as arrears of land revenue. Specific action taken in respect of the remaining arrears of Rs. 27.71 lakhs called for (May 1996) has not been intimated (August 1996) by the department.
7.	Water Supply and Sanitation, Minor Irrigation	691.15	Not received	Period to which this arrear pertains and specific action to effect the recovery by the department has not been intimated (August 1996).
8.	Industries (including village and small scale industries)	130.33	32.95	The specific action taken by the department to recover this arrear called for (May 1996) has not been intimated (August 1996).
9.	Police	341.03	20.43	Out of total arrear of Rs. 341.03 lakhs, bulk of the outstanding amount relates to National Hydro-electric Power Corporation (Rs. 131.98 lakhs), Civil Aviation Authority (Rs. 70.51 lakhs), Bhakra & Beas Management Board (Rs. 60.24 lakhs) and Railway Authority (Rs. 51.90 lakhs). The balance (Rs. 26.40 lakhs) related to other departments. The matter relating to recovery of arrears was reportedly being pursued with the concerned authorities.
10.	Land Revenue	72.31	Not received	Period to which this arrear pertains and specific action to effect the recovery by the department has not been intimated (August 1996).

	Head of revenue	Arrears pending collection (In lakhs)	Arrears more than five years old of rupees)	Remarks
11.	Stationery and Printing	42.87	18.25	The outstanding amount of Rs. 42.87 lakhs was stated as recoverable, from Education (Rs. 22.47 lakhs), Rural Development and Integration (Rs. 6.35 lakhs), Panchayati Raj (Rs. 6.79 lakhs), Public Works (Rs. 2.85 lakhs) and (Rs. 4.41 lakhs) from other Departments. The department intimated (July 1996) that State Government had decided (March 1996) to recover the arrears from concerned departments/ Boards/Corporations. Further report has not been received.
12.	Non-ferrous, Mining and Metallurgical Industries	27.26	12.86	The amount of Rs. 6.48 lakhs, Rs. 5.13 lakhs and Rs. 2.08 lakhs were covered under recovery certificate process, recovery stayed by courts/other authorities and amount likely to be written off respectively. Specific action taken in respect of the remaining arrears of Rs. 13.57 lakhs though called for (May 1996) has not been intimated by the department (August 1996).
13.	Public Works	17.05	Not received	Period to which this arrear pertains and specific action to effect the recovery by the department has not been intimated (August 1996).
	Total	13670.00		

1.6. Arrears in assessment

The details of sales tax and passengers and goods tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1991-92 to 1995-96, as furnished by the department, 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
1991-92	29,628	29,872	59,500	25,857	33,643 *	43
1992-93	33,940 *	31,616	65,556	21,347	44,209	33
1993-94	44,209	32,798	77,007	28,097	48,910	36
1994-95	48,910	34,610	83,520	32,396	51,124	39
1995-96	51,124	35,667	86,791	35,909	50,882	41

The above table shows that the number of cases pending at the beginning of 1991-92 was 29,628 which went up to 50,882 at the end of 1995-96, registering an increase of 72 per cent while the percentage of finalisation of assessment cases declined from 43 during 1991-92 to 41 in 1995-96.

1.7. Arrears in appeals

According to the information furnished (August 1996) by the Excise and Taxation Department, the number of appeals filed under Sales Tax, Passengers and Goods Taxation Act, etc., number of appeals disposed of and number of cases pending

* This does not include 297 cases relating to Passengers and Goods Tax. These cases were, however, included in the opening balance for the year 1992-93.

with the appellate authorities, at the end of each year during last five years ending March 1996 were as under.

Year	Opening balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to total number of cases
1	2	3	4	5	6	7
1991-92	603	270	873	266	607	30
1992-93	607	207	814	358	456	44
1993-94	456	212	668	316	352	47
1994-95	352	275	627	404	223	64
1995-96	223	324	547	290	257	53

Out of 257 cases outstanding at the end of March 1996, the oldest case relates to May 1986. There is a need to take effective steps for disposal of cases.

1.8. Frauds and evasion of tax/duty

The details of cases of frauds and evasion of taxes and duties pending at the beginning of the year, number of cases detected by the departmental authorities, number of cases in which assessments/investigations were completed and additional demand (including penalties etc.) of taxes/duties raised against the dealers during the year and the number of cases pending finalisation at the end of March 1996, as supplied (August 1996) by the Excise and Taxation Department are given as under.

Sr. No.	Name of tax/ duty	Cases pending as on 31st March 1995	Cases detected during 1995-96	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31st March 1996
				Number of cases	Amount of demand (In lakhs of rupees)	
1.	Sales Tax	1230	1520	1528	13.12	1222
2.	State Excise	--	37	37	0.20	--
3.	Passengers and Goods Tax	3448	2890	4086	21.57	2252
4.	Other Taxes and Duties on Commodities and Services	7	52	53	0.40	6
	Total.	4685	4499	5704	35.29	3480

1.9. Results of audit

Test check of the records of sales tax, state excise, taxes on vehicles, goods and passengers, forest receipts, other tax and non-tax receipts conducted during the year 1995-96 revealed under-assessments/short levy/loss of revenue amounting to Rs. 1,470.83 lakhs in 819 cases. During the course of the year 1995-96, the concerned departments accepted under-assessments etc., of Rs. 537.14 lakhs involved in 558 cases of which 11 cases involving Rs. 1.60 lakhs had been pointed out in audit during 1995-96 and the rest in earlier years.

This Report contains 36 paragraphs (including two reviews) relating to non-levy, short levy of tax, duty, interest, penalty etc., involving Rs. 12.06 crores. The department/ Government have accepted audit observations involving Rs. 3.16 crores of which Rs. 2.20 lakhs had been recovered up to July 1996. Audit observations with a total revenue effect of Rs. 3.29 lakhs have not been accepted by the Government but their contentions have been found at variance with the facts or legal provisions and they have been appropriately commented upon in the relevant Paragraphs/Reviews. No reply has been received in other cases.

1.10. Outstanding inspection reports and audit observations

(i) Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the Head of Offices and other departmental authorities through Inspection Reports. Serious financial irregularities are reported to the Head of Departments concerned and the Government. The Head of Offices are required

to furnish replies to the inspection reports through the respective Head of Departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued during the last three years ending up to 31st December 1995 which were pending settlement by the departments as on 30th June 1994, 30th June 1995 and 30th June 1996 is given below.

	At the end of June		
	1994	1995	1996
Number of inspection reports pending settlement	2,157	2,253	2,335
Number of outstanding audit observations	6,064	6,388	6,688
Amount of revenue involved (In crores of rupees)	90.98	109.23	123.68

(iii) Year-wise break-up of the outstanding inspection reports and audit observations (as on 30th June 1996) is given below.

Year (in which inspection reports were issued)	Number of outstanding		Amount of receipts involved(In crores of rupees)
	inspection reports	audit objections	
Upto 1991-92	1,294	3,049	52.65
1992-93	184	613	8.30
1993-94	293	841	21.25
1994-95	295	1,097	27.94
1995-96	269	1,088	13.54
Total	2,335	6,688	123.68

(iv) Department-wise break-up of the inspection reports and audit observations outstanding as on 30th June 1996 is given below.

	Department	Number of outstanding		Amount of receipts involved (In crores of rupees)	Year to which observations relate	Number of inspection reports to which even first replies had not been received
		inspection reports	Audit observations			
1.	Revenue	539	1,099	5.67	1972-73 to 1995-96	72
2.	Forest Farming and Conservation	424	1,480	79.62	1970-71 to 1995-96	17
3.	Excise and Taxation	561	2,038	21.87	1971-72 to 1995-96	57
4.	Transport	345	1,113	3.53	1971-72 to 1995-96	31
5.	Other Departments (Public Works, Irrigation and Public Health, Agriculture, and Soil Conservation, Horticulture, Co-operation, Food and Supplies and Industries)	466	958	12.99	1976-77 to 1995-96	97
	Total:	2,335	6,688	123.68		274

The matter was last brought to the notice of Chief Secretary to Government in July 1996; intimation regarding steps taken by the Government to clear the outstanding inspection reports and audit observations has not been received.

CHAPTER - 2 : SALES TAX

CHAPTER 2

SALES TAX

2.1. Results of Audit

Test check of sales tax assessments and other records conducted in Audit during the year 1995-96, revealed under-assessments of tax amounting to Rs. 138.11 lakhs in 192 cases, which broadly fall under the following categories:

		Number of cases	Amount (In lakhs of rupees)
1.	Evasion of tax as a result of suppression of purchases/sales	69	17.48
2.	Incorrect finalisation of assessments	20	24.71
3.	Non-registration of dealers	5	10.98
4.	Non-levy/short levy of interest/penalty	19	10.52
5.	Application of incorrect rates of tax	8	2.65
6.	Other irregularities	71	71.77
	Total	192	138.11

During the course of the year 1995-96, the concerned department accepted the under-assessment etc., of Rs 88.74 lakhs involved in 223 cases, which had been pointed out in Audit in earlier years, the earliest year being 1977-78. The results of review on "Working of Multipurpose Check Posts" conducted by Audit and a few illustrative cases highlighting important observations involving financial effect of Rs. 592.06 lakhs are given in the following paragraphs.

2.2. Working of Multipurpose Check Posts

2.2.1. Introduction

With a view to checking evasion of sales tax by dealers in the course of inter- State trade, the State Government has established check posts/barriers at such places in the State as considered necessary under the powers available to it in terms of section 22(i) of the Himachal Pradesh General Sales Tax Act, 1968. At the close of 1994-95, forty seven such barriers/check posts were functioning.

The owner or person incharge of the goods carriage entering or leaving the limits of the State is required to give in triplicate a declaration in form ST-XXVI-A of the goods carried, to the officer incharge of the check post which is taken into account while finalising the assessments of dealers. With effect from January, 1991, these forms are serially numbered and are being printed by the Excise and Taxation Commissioner. A consolidated account of these forms showing receipts from the press and issue thereof to district offices/ barriers is maintained in the office of the Excise and Taxation Commissioner.

2.2.2. Organisational set up

Subject to the overall control of the Excise and Taxation Commissioner, the administration of each check post is entrusted to a check post officer of the rank of the Excise and Taxation Officer. He is assisted by Inspectors and other staff. The check post officers work under the direction and control of the Assistant Excise and Taxation Commissioner/ Deputy Excise and Taxation Commissioner (North Zone)/ Additional Excise and Taxation Commissioner (South Zone) stationed at Palampur and Shimla respectively.

Random checking of goods transported in trucks through barriers or through escape routes is also conducted by flying squads headed by the Additional Excise

and Taxation Commissioners North and South Zones with headquarters at Dharamsala and Shimla respectively.

2.2.3. Scope of Audit

With a view to ascertaining the effectiveness and efficacy of check posts in achieving the objective of checking evasion of Sales Tax, records of 10 district offices out of 11 and 16 barriers out of 47 for the period 1992-93 to 1994-95 were test checked in Audit (June 1995 to March 1996). Although revenue collected at the check posts/ barriers is in the shape of penalty only, yet for all inter-State movement of goods, declaration forms are filed at the check posts which help in the identification of registrable dealers and also forms the basis for assessment of registered dealers.

2.2.4. Highlights

(i) Test check of 12 barriers during the period 1991-92 to 1994-95 showed that 2,12,885 goods vehicles carrying bricks worth Rs.6,386.55 lakhs involving tax effect of Rs. 510.92 lakhs crossed the barriers without filing the declaration forms and the department failed to register these dealers under the Sales Tax Act.

(Paragraph 2.2.6.)

(ii) Nineteen dealers who exported 'katha' valuing Rs. 62.35 lakhs during 1991-92 to 1994-95 with tax effect of Rs. 6.23 lakhs were not registered.

[Paragraph 2.2.7.(a)(i) and (ii).]

(iii) In three district offices, 401 declaration forms relating to goods worth Rs. 77.53 lakhs imported between 1991-92 and 1994-95 by unregistered dealers with tax effect of Rs. 6.82 lakhs were pending verification.

[Paragraph 2.2.7 (b).]

(iv) In six district offices, the assessments of 99 dealers for the years 1991-92 to 1993-94 were finalised by the assessing authorities without verifying 1,769 declaration forms valued at Rs. 158.43 lakhs.

(Paragraph 2.2.9.)

(v) 4,99,350 declaration forms costing Rs. 4.99 lakhs issued by the Excise and Taxation Commissioner during 1991-92, 1992-93 and 1994-95 were short accounted by seven district offices and two barriers. There is no proper system of despatch and acknowledgement of forms. Department has also not prescribed any report or return to facilitate reconciliation in the Commissionerate.

[Paragraph 2.2.13.(iii).]

(vi) 572 declaration forms valuing Rs. 336.97 lakhs for the period 1991-92 to 1993-94 collected from the dealers in three barriers had been wrongly sent by the incharge of the barriers to their respective district offices instead of the district offices in which these dealers were registered or registrable resulting in non-verification of these forms.

[Paragraph 2.2.13(vi).]

(vii) In seven district offices, purchases worth Rs. 451.34 lakhs disclosed in 104 cases by the dealers in their trading accounts during 1991-92 to 1993-94 were not supported by the declaration forms in the absence of which correctness of purchases could not be vouchsafed.

[Paragraph 2.2.13(ix).]

2.2.5. Trend of revenue

Total sales tax revenue collected under the Act, vis-a-vis amount collected at the barriers during four years ending March 1995 is shown below:-

Year	Number of check posts	Total revenue collected under sales tax (In crores)	Revenue collected at the barrier under sales tax (of rupees)	Percentage of column 4 to 3
1	2	3	4	5
1991-92	33	66.90	0.24	0.36
1992-93	40	75.20	0.33	0.44
1993-94	40	93.88	0.37	0.39
1994-95	47	107.18	0.45	0.42

2.2.6. Non-filing of declaration form (ST-XXVI-A) in respect of import of bricks

Under the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1991, tax is to be paid on certain goods carried by road. Besides, under the Himachal Pradesh General Sales Tax Act, tax is also leviable on taxable goods imported from outside the State. For this purpose, the owner or a person incharge of a goods carriage entering the limits of the State is required to give in triplicate a declaration form (ST-XXVI-A) at the barrier. Review of records of twelve barriers for the years 1991 to 1995 showed that 2,12,885 goods vehicles carrying bricks worth Rs.6,386.55 lakhs paid tax under the "On Certain Goods Carried by Road Act". However, the vehicle owners crossed the barriers without filing declarations form (ST-XXVI-A) and these dealers being importers were liable for registration under the Sales Tax Act. But due to non obtaining of form ST-XXVI-A, which forms the basis for registration of a dealer, the department failed to register these dealers despite the fact that both the Acts, viz 'Sales Tax Act', and 'On Certain Goods Carried by Road Act' are administered by the same department. Tax effect on the import of these bricks at the rate of 8 *per cent* was Rs. 510.92 lakhs. This was pointed out in Audit to the department between June 1995 and March 1996; their replies have not been received (July 1996).

2.2.7. Non-registration of dealers

Any person intending to establish a business for the purpose of manufacturing goods of a value exceeding ten thousand rupees a year can be granted provisional certificate of registration. If he fails to establish the business within the period specified in the provisional certificate of registration, he shall be liable to pay a penalty equivalent to one half of the amount of tax which would have been payable by him in respect of all the purchases of goods made by him within the period specified in the certificate as if he had not been registered.

(a) (i) Cross check of records of forms ST-XXVI-A maintained at Gagret, Kandwal, Mehatpur and Sansarpur Terrace barriers with the records of concerned district offices Kangra (at Dharamsala) and Una showed that 18 dealers (Dharamsala:13, Una: 5) had exported 'Katha' valuing Rs.59.45 lakhs between 1991 and 1995 by filing declaration forms. Even though the turnover of all these dealers being manufacturers had exceeded the prescribed limit of taxable quantum of Rs.40,000 no action had been taken by the district officers to bring these dealers in the tax net by registering them under the sales tax law. Tax effect on this account at the rate of 10 *per cent* worked out to Rs.5.94 lakhs.

On this being pointed out (between June 1995 and March 1996) in Audit, the Assistant Excise and Taxation Commissioner, Kangra (at Dharamsala) stated (March 1996) that the matter was under action. Report from other offices had not been received (July 1996).

(ii) One dealer of Sirmour district had exported 30 quintals of 'katha' valuing Rs.2.90 lakhs outside the State of Himachal Pradesh during 1994-95. No ST-XXVI-A form of the dealer was available with the department. As the turnover of the dealer had exceeded the taxable quantum, the dealer was liable to be registered. Tax effect on this account was Rs.29,000.

On this being pointed out in Audit (July 1995) , the department stated (January 1996) that notice had been issued to the dealer. Further report has not been received (July 1996).

(b) During review it was noticed (between June and September 1995)) that in three district offices (Chamba, Kullu and Una) 401 declaration forms relating to the goods imported by the unregistered dealers from outside the State valuing Rs. 77.53 lakhs between 1991 and 1995 were pending for verification. No action had been taken by the department to verify these forms and to bring the registrable dealers under the tax net. The sale value of these purchases worked out to Rs. 85.28 lakhs (after adding 10 *per cent* towards profit and incidentals etc.) on which tax of Rs. 6.82 lakhs was leviable.

On this being pointed out in Audit, the Assistant Excise and Taxation Commissioner, Chamba intimated (March 1996) that the matter was under action, whereas in the case of Kullu district the declaration forms had reportedly been sent to the respective Excise and Taxation Inspectors for verification and report. Further progress and reply from district officer incharge, Una has not been received (July 1996).

(c) Review of records of Solan, Sirmour and Una district offices alongwith the records of 4 barriers (Parwanoo, Barotiwala, Baddi and Mehatpur) showed that goods worth Rs.17.17 lakhs were imported by 53 unregistered dealers between 1991-92 and 1994-95. A penalty of Rs.2.55 lakhs was levied and recovered from them. These dealers, being importers were liable for registration irrespective of their turnover. No action to register them was initiated. Tax effect on the purchases worked out to Rs.1.37 lakhs.

(d) A dealer of Hamirpur district was granted provisional certificate of registration on 20 February 1990 which was valid upto 30 September 1990. He imported machinery and raw material worth Rs. 3.61 lakhs during 1990-91 and Rs. 5.61 lakhs during 1991-92 against 28 forms ST-XXVI-A. The dealer failed to establish his business during the validity period of his registration certificate and left the place. No action had been taken by the department to levy the tax on the total purchase of Rs. 9.22 lakhs.

On this being pointed out (December 1995) in Audit, the assessing authority raised (March 1996) demand of Rs. 2.30 lakhs. Report of recovery has not been received (July 1996).

2.2.8. Incomplete Transit Slip Records

The owner or a person incharge of goods carriage is required to furnish in duplicate a declaration in form (ST-XXVII) to the officer incharge of the barrier of his entry into the State. One copy of such declaration is required to be delivered within seventy two hours at the exit barrier failing which a penalty not exceeding two thousand rupees or twenty *per centum* of the value of the goods, whichever is greater, is to be imposed by the officer incharge of the barrier at the entry point.

Review of the records of Barotiwala barrier showed (June 1995) that in 1994-95, 63 goods carriages carrying goods worth Rs. 446.67 lakhs which were bound for outside the State of Himachal Pradesh entered the barrier. Of these, 56 goods carriages were to leave the State at Dherewal barrier and 7 goods carriages were to leave at Dhabota barrier. Similarly, during 1994-95, 1437 vehicles carrying goods worth Rs. 1105.66 lakhs entered Toki barrier in Kangra district. These vehicles were to leave the State through Chakki barrier. It was noticed that against 1437 vehicles, only 83 owners of vehicles handed over declaration forms (ST-XXVII) at the exit point. In 588 cases even value of the goods transported had not been mentioned in the forms. In these cases (Barotiwala: 63; Toki: 1354), penalty of atleast Rs. 28.34 lakhs was leviable but was not levied. Besides, possibility of sale of goods within the State and consequent loss of revenue also could not be ruled out.

It was further noticed that in respect of Barotiwala and Chakki barriers information with regard to the date and time at which these vehicles left the exit barriers was not available with the entry barriers nor any effort to ascertain the same was made. There was no procedure laid down by the department by which exit barriers send to the entry barriers details of the vehicles passing through exit barriers to enable cross checking

at the entry points. No records were being maintained at the exit barriers to ascertain whether the goods actually crossed the exit barriers within the prescribed time of seventy two hours or were disposed of within the State.

2.2.9. Assessment framed without verification of declaration form

According to the departmental instructions (January 1990), every assessing authority while finalising the assessment is required to verify all declaration forms received from the barriers from the books of the dealer with a view to ensuring their proper accounting and payment of tax.

Review of records of 6 districts offices (Bilaspur, Chamba, Mandi, Solan, Sirmour and Shimla) showed that assessments of 99 dealers (Bilaspur: 20, Chamba:3, Mandi: 13, Solan:35, Sirmour:20 and Shimla:8) for the years 1991-92 to 1993-94 were finalised by the assessing authorities during 1991-92 to 1993-94 without verifying 1,769 declaration forms (ST-XXVI-A) valued at Rs. 158.43 lakhs from the books of the dealers. The forms were sent to the district offices subsequent to the dates of finalising of assessments. Evasion of tax in such cases could not be ruled out.

On this being pointed out (between June 1995 and March 1996) in Audit, the Assistant Excise and Taxation Commissioners, Bilaspur, Chamba and Sirmour intimated (February- March 1996) that the matter was under action. Replies from remaining districts have not been received (July 1996).

2.2.10. Fictitious transactions

According to the departmental instructions issued in January 1990, the District Incharge is required to supply a list of registered dealers to the barriers with a view to verifying the bonafides of the dealer importing goods through the barrier. Further as per declaration form, complete name and address of the consigner and consignee alongwith the registration number is required to be recorded in the appropriate columns.

(i) In Bilaspur district, it was noticed in Audit that 4 dealers had imported goods worth Rs. 8.03 lakhs by using registration certificate number of other dealers in the declaration forms. No action to trace transactions of these dealers through the agency of transport companies had been taken by the department and the declaration forms were pending (July 1995) in the district office. Tax effect on these purchases worked out to Rs. 77,555.

On this being pointed out (July 1995) by Audit, the Assistant Excise and Taxation Commissioner, Bilaspur stated (March 1996) that the matter was under examination. Further report has not been received (July 1996).

(ii) In one case, a dealer of Kinnaur district imported goods worth Rs. 3.83 lakhs by quoting the name and registration certificate number of another dealer. This fact came to the notice of the assessing authority in February 1995 at the time of finalisation of assessment of the dealer in whose case the import was shown and who denied the said purchase. Neither the dealer who had actually purchased the goods had been traced nor factual position ascertained from the consigner (April 1996). Tax effect involved on the purchase value worked out to Rs. 30,640.

(iii) One dealer of Shimla district had imported goods valued at Rs. 5.77 lakhs during 1987-88. At the time of finalisation of assessment during March 1995, the dealer disowned purchases of Rs. 4.66 lakhs, the sale value of which was Rs. 5.12 lakhs (after adding ten percent towards profit and incidentals etc.) on which tax of Rs. 56,361 was leviable.

No steps had been taken by the department to verify correctness of the declaration forms either from the consigner or from the records of the transport company.

2.2.11. Non-linking of detection reports

(i) During review of records of 3 district offices (Solan, Sirmour and Una) and 2 barriers (Kala Amb and Parwanoo) it was noticed that the department had detected

under billing worth Rs. 5.35 lakhs between 1991 and 1995 in respect of goods imported from outside the State through goods carriages. Though a penalty of Rs. 0.61 lakh was levied and recovered from the dealers on the spot, the detection reports were not sent by the barriers incharge and the district officers to the appropriate assessing authorities for placing them in part 'E' of the file, as a result of which the sale of goods which were undervalued could not be taxed. The tax effect on this account worked out Rs. 42,784.

On this being pointed out (between June 1995 and March 1996) in Audit, the Assistant Excise and Taxation Commissioner, Sirmour stated (February 1996) that concerned assessing authorities had been directed to report compliance. Replies from remaining two district offices and from barriers had not been received (July 1996).

(ii) Thirty five detection reports (Baddi: 8, Barotiwala: 3 and Parwanoo: 24) pertaining to the period 1991-92 to 1994-95 which contained the reports of the Inspectors and statements of dealers detected at the barriers had not been sent to the district offices by the incharge of the barriers for registration of the dealers.

2.2.12. Purchases not covered by proper documents

The owner or person incharge of a goods carriage is required to carry with him goods carriage record, trip sheet and bill of sale meant for the purpose of trade and produce the same before an officer incharge of a barrier or any other officer checking the goods carriage at any place. If the officer incharge of the check post or any other officer has reasons to suspect that the goods under transport are meant for trade and are not covered by proper and genuine documents or the person transporting the goods and is attempting to evade payment of tax, he may order the unloading and detention of the goods.

The officer detaining the goods shall record the statement given by the owner of the goods, or his representative or the driver or other person incharge of the goods vehicle and shall require him to produce proper and genuine documents. If such officer finds that there had been attempt to evade the tax, he shall impose on the owner of the goods a penalty not exceeding 25 *per cent* of the value of the goods which shall not be less than 15 *per cent* of the value of goods.

Review of the records of Solan and Una district offices as also the records of Parwanoo, Baddi and Mehatpur barriers showed that between 1992-93 and 1994-95 in 14 cases of goods carriages inspected at barriers and during field inspection the vehicles were carrying goods valued at Rs. 5.67 lakhs from outside the State. Penalty of Rs. 93,687 was imposed on the drivers/ consigners of the goods without verifying the identity of consignees, from the drivers/ consigners. Even the names and addresses of the owners of the goods were not ascertained as a result of which the account of such purchases could not be ensured alongwith the returns of the dealers. Tax effect on these purchases amounted to Rs. 45,336.

2.2.13. Non-accounting of transactions

The main objective of establishing the barriers is to detect evasion of tax through cross verification of declarations obtained from the owners of goods carriages at the barriers with the account books of the dealers.

Under the Himachal Pradesh General Sales Tax Act, 1968, the owner or person -incharge of a goods carriage entering or leaving limits of the State is required to give in triplicate a declaration (form ST-XXVI-A) containing prescribed particulars of the goods carried in a vehicle before the officer incharge of the barrier. The transactions conducted through the declarations are to be accounted for by the dealer in his books. He is further required to produce a copy of such declaration duly verified and returned to him by the officer incharge of the barrier before any other officer of the department at the time of checking.

According to the provisions contained in the Himachal Pradesh General Sales Tax Rules, 1970 and instructions issued by the Excise and Taxation Commissioner from time to time separate white and pink registers in forms ST-XXVI-D and ST-XXVI-E in respect of registered and unregistered dealers respectively are required to be maintained at the barriers separately for each district in which particulars of each consignment passing through the barrier relating to the registered and unregistered dealers are recorded. A copy of the white and pink register alongwith declaration forms mentioned therein is required to be prepared and despatched to the officer incharge of the district concerned twice a week (Wednesday and Saturday) for cross verification from the books of the dealers.

With a view to ensuring cent percent accountability, the district officer is required to enter the declaration forms received from the barriers in dealer-wise ledgers (ST-XXVI-F). Before finalising the assessment of the dealer, the assessing authority is required to obtain the declaration forms of the concerned dealer from the chit branch and verify them with the account books of the dealer.

(i) A correlation of records of Swarghat, Kandwal and Tunnuhatti barriers with the records maintained in the district offices at Bilaspur, Kangra and Chamba showed that in the case of 13 dealers where assessments had already been finalised, 28 declaration forms ST-XXVI-A for the years 1991-92 to 1993-94 valuing Rs. 19.41 lakhs were not accounted for by the dealers resulting in evasion of tax of Rs. 1.56 lakhs. Besides, interest of Rs. 61,356 and penalty of Rs. 39,215 was also leviable.

On this being pointed out (between June 1995 and March 1996) in Audit, the Assistant Excise and Taxation Commissioner, Chamba stated (March 1996) that notices had been issued to the concerned dealers. The Assistant Excise and Taxation Commissioners, Bilaspur and Kangra stated (March 1996) that the matter was under action. Further report has not been received (July 1996).

(ii) Correlation of records of Tunnuhatti barrier with the records of the dealers maintained in the district office at Chamba revealed that 4 dealers had not accounted for 16 forms ST-XXVI-A relating to the export of medicinal herbs valuing Rs.19.78 lakhs which resulted in evasion of tax worth Rs.1.98 lakhs. Besides, interest of Rs.1.08 lakhs and penalty of Rs.49,459 was also leviable.

On this being pointed out (June 1995) in Audit, the Assistant Excise and Taxation Commissioner, Chamba intimated (March 1996) that in one case additional demand for Rs.5,545 had been created and in the remaining cases action was being taken. Further progress and report of recovery has not been received (July 1996).

(iii) During review it was noticed that as against 23,83,100 forms sent by the Excise and Taxation Commissioner during the period 1991-92 to 1992-93 and 1994-95, 7 district offices and 2 barriers accounted for only 18,83,750 forms. Short accountal of 4,99,350 forms valued at Rs. 4.99 lakhs had not been reconciled or investigated.

It was further observed that neither any report or return has been prescribed for district offices to enable proper reconciliation nor a set system is in place for despatch and acknowledgement of these forms. Possibility of loss and eventual misuse of these forms could not be ruled out.

(iv) Cross check of the declaration forms sent by 11 barriers to 7 district offices between June 1993 and February 1994 showed that against 3,95,266 declaration forms sent by the barriers, 3,28,320 forms were actually received in the district offices which resulted in the difference of 66,946 forms.

(v) According to the records of 14 barriers 26,31,835 forms were filed by the dealers during the years 1991-92 to 1994-95. The time schedule for submission of these forms to the district offices, which is twice a week, was not adhered to as their submission was delayed ranging between 1 week to 31 weeks. This could result in belated finalisation of assessments or finalisation of assessment without verification.

(vi) 572 declaration forms collected from dealers at three barriers (Mehatpur, Swarghat and Tunnuhatti) pertaining to the period 1991-92 to 1993-94 and valued at Rs. 336.97 lakhs were wrongly sent by incharge of the barriers to their respective district offices instead of the district offices where these dealers were registered. These declaration forms thus remained unverified.

On this being pointed out (July 1995) in Audit, the Assistant Excise and Taxation Commissioner, Bilaspur intimated (March 1996) that the declaration forms received from Swarghat barrier were being sent to the concerned district offices, whereas the Assistant Excise and Taxation Commissioner, Chamba intimated (March 1996)) that the declaration forms valuing Rs. 1.46 lakhs (out of Rs. 305.55 lakhs) had been sent (October 1995) to the district office Shimla. In remaining cases the matter was stated to be under action. Further report and reply from district office, Una has not been received (July 1996).

(vii) Cross check of 213 goods vehicles belonging to 26 dealers which had crossed the Sansarpur Terrace forest check post under Dehra Forest Division in Kangra district between June 1993 and February 1994 revealed that 18 trucks belonging to 10 dealers loaded with katha, fuelwood, bamboo, tejpatrar and simbal logs had crossed the Sansarpur Terrace barrier without filing the declaration forms. In the absence of detailed valuation of goods transported exact loss of revenue to the department could not be quantified.

The barrier incharge of the check post stated (March 1996) that necessary enquiries were being made from the concerned owners of the vehicles. Further report has not been received (July 1996).

(viii) In Kangra district, 22 declaration forms valued at Rs. 4.86 lakhs relating to unregistered dealers for the period 1991-92 to 1993-94 could not be verified as the addresses noted by the dealers on the declaration forms were found incomplete or

incorrect. Tax involved on these unverified declaration forms worked out to Rs. 33,561.00. No system had been devised by the department to plug such loopholes.

On this being pointed out (July 1995) in Audit, the Assistant Excise and Taxation Commissioner, Kangra stated (March 1996) that the declaration forms have now been sent to the concerned barriers for verification and report. Further report has not been received (July 1996).

(ix) In 104 cases (Bilaspur: 6, Chamba: 6, Kangra:5, Kullu:5, Mandi: 13, Solan:50, and Una:19) the dealers had disclosed purchases of Rs. 756.61 lakhs during the period 1991-92 to 1993-94 in the trading accounts filed at the time of finalisation of assessments whereas the declaration forms in support of the purchases were found only for Rs. 305.27 lakhs. Remaining purchases worth Rs. 451.34 lakhs were not supported by the declaration forms. In the absence of declaration forms, it could not be ensured whether all the purchases made by the dealers had been correctly accounted. No efforts were made by the department to find out reasons for the difference.

2.2.14. Non-maintenance of records

According to the instructions, on every Saturday bills of lading are required to be sorted out under the supervision of assessing authority. After sorting, the bills of lading are required to be entered in the dealer-wise register (Form STXXVI-F) maintained for this purpose. These bills of lading in respect of registered dealers are to be handed over to the concerned assessing authorities, at the end of each month under proper receipt.

At the barriers white and pink registers in forms ST-XXVI-D and ST-XXVI-E are required to be maintained separately for each district for registered and unregistered dealers respectively where particulars of forms ST-XXVI-A are entered. The bills of lading are required to be kept in the personal file of the dealers by the

assessing authorities by maintaining part 'E' of assessment file which *inter-alia* contains declaration form in respect of each registered dealer. This file is required to be kept by the assessing authority in his personal custody.

With a view to ensuring cent *per cent* accounting of declaration forms issued at the barriers, an issue register of such forms showing full particulars of the dealer is required to be maintained. Register in respect of forms ST-XXVI-A pertaining to un-registered dealers showing the action taken and results thereof is required to be maintained by the assessing authorities and monthly progress report is also required to be sent to the district officer incharge in respect of these bills of lading.

Test check of records of 7 district offices and 16 barriers showed that the above instructions were not being observed and the related records were not being maintained at the barriers/ districts as shown below:-

Sl. No.	Name of the record	Year	Name of the district/barrier where the record were not maintained
1.	ST-XXVIA forms	1994-95 1993-94 and 1994-95	Bilaspur, Chamba, Shimla districts Solan district
2.	White and Pink registers Forms ST-XXVI-D and ST-XXVI-E	1991-92 to 1994-95	Barriers at Kandwal, Tunuhatti, Chakki, Tokki , Kandrori, Sansarpur, Terrace, Gagaret, Swarghat, Parwanoo, Mehatpur, Pandoga, Kala, Amb, Baddi and Barotiwala
3.	Dealer-wise register (Forms ST-XXVI-F)	1991-92 to 1994-95	Kangra, Chamba, Solan, Sirmaur and Una districts
4.	Part E of assessment file	1991-92 to 1994-95	Chamba, Bilaspur, Kangra, Solan, Sirmaur and Una districts
5.	Issue register (Form ST-XXVI-A)	1991-92 to 1994-95	Barriers at Kandwal, Tunnuhatti, Chakki, Tokki, Kandrori, Sansarpur, Terrace, Gagret, Swarghat, Parwanoo, Barotiwala, Baddi Mehatpur, Pandoga, Behral, Govindghat and Kala Amb
6.	District wise White and Pink registers	1991-92 to 1994-95	Barriers at Baddi, Barotiwala, Kala Amb, Mehatpur, Pandoga and Parwanoo
7.	Register of forms ST-XXVI-A in respect of un-registered dealers.	1991-92 to 1994-95	Bilaspur, Chamba, Kangra, Sirmaur, Solan and Una districts

2.2.15. Physical verification of goods passing through barriers

The owner or person incharge of a goods vehicle is required to stop the vehicle at each barrier to allow the officer incharge of the barrier to examine contents of the vehicle and inspect all records relating to the goods being carried.

No record in respect of the vehicles inspected, if any, was available at the barriers. The department has also not fixed any norms for physical verification of atleast a minimum number of goods vehicles.

The above points were reported to the department and Government in May 1996; their replies have not been received (July 1996).

2.3. Non-levy of purchase tax

According to notifications (May 1987 and March 1988) issued under the Himachal Pradesh General Sales Tax Act, 1968, if a dealer, liable to pay tax under the Act, purchases any taxable goods from any source on purchase of which no tax has been paid and despatches such goods or the goods manufactured therefrom for consumption or sale to his branch or commission agent outside Himachal Pradesh, he is liable to pay tax at the rate of 4 *per cent* on the purchase value of such goods. Besides, if a dealer fails to pay tax due by the prescribed date, he shall pay interest at the rate of one *per cent* per month for a period of one month and at the rate of one and a half *per cent* thereafter, as long as the default continues.

(i) During Audit of the records of the Assistant Excise and Taxation Commissioners, Solan and Mandi districts it was noticed (between December 1994 and December 1995) that assessments of 5 dealers for the years between 1989-90 and 1991-92 were finalised (between May 1993 and August 1995) after allowing branch transfer of goods worth Rs.60.52 lakhs. A scrutiny in Audit of the assessment records showed that the dealers had purchased these goods from the local dealers without payment of any tax. Purchase value of the goods despatched by them to their branches/consignment sales outside the State during these years, worked out to Rs.55.02 lakhs (after deducting 10 *per cent* towards profit, freight etc). This resulted in non-levy

of purchase tax of Rs.3.98 lakhs (including interest of Rs.1.77 lakhs upto date of Audit) as detailed below:-

Sl. No.	Name of district	Number of dealers	Year of assessment	Branch transfer/ consignment sales of goods (purchased locally without payment of tax) allowed by the assessing authorities (In lakhs of rupees)	Purchase value of goods transferred worked out after deducting 10 per cent towards profit, freight etc.	Amount of tax and interest leviable (upto date of Audit)
1.	Solan	2	1989-90 & 1990-91	7.62	6.93	0.49
		1	1989-90 & 1990-91	22.35	20.32	1.44
		1	1989-90	16.75	15.22	1.23
2.	Mandi	1	1991-92	13.80	12.55	0.82
	Total	5		60.52	55.02	3.98

On this being pointed out (between December 1994 and December 1995) the department stated that additional demand of Rs.2.53 lakhs in case of three dealers of Solan (2) and Mandi(1) had been raised. Against the demand, a sum of Rs. 45,000 had been deposited. Report of recovery and replies relating to remaining two cases have not been received (July 1996).

The above cases were reported to the Government between February 1995 and February 1996; their reply has not been received (July 1996).

(ii) During Audit of the Assistant Excise and Taxation Commissioner, Solan it was noticed (January 1996) that assessment of a dealer engaged in the manufacture and sale of tractor parts for the year 1989-90 was finalised (March 1995) after allowing branch transfer of goods worth Rs.203.16 lakhs. A scrutiny of assessment records in Audit, revealed that the dealer had procured the raw material from local dealers with part payment of purchase tax of Rs. 4.32 lakhs. The purchase value of the goods despatched by him during 1989-90 outside the State worked out to Rs.184.69 lakhs (after deducting

10 *per cent* towards profit, freight, etc.,) on which purchase tax of Rs.7.39 lakhs was leviable. The assessing authority's failure to assess the tax correctly resulted in non-levy of purchase tax of Rs.3.07 lakhs on which interest of Rs.3.12 lakhs (calculated upto date of Audit) was also leviable.

This was pointed out in Audit to the department (January 1996) and reported to Government (February 1996); their replies have not been received (July 1996).

2.4. Non-registration of dealers

Under the Himachal Pradesh General Sales Tax Act, 1968, a dealer liable to pay tax, can carry on business only after he has been registered and possesses a valid registration certificate. Every dealer is liable to pay sales tax on the expiry of 30 days after the date on which his gross turnover, during any year, first exceeds the taxable quantum. Sales under the Act, *ibid* means any transfer of property in goods for cash or for deferred payment or for any other valuable consideration and includes the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract.

(i) According to the information collected from the Public Works Department, it was noticed that 3 contractors executed works worth Rs.70.02 lakhs (excluding the element of labour), during the years 1989-90 to 1993-94. Cross verification of the information with the records of Assistant Excise and Taxation Commissioner, Kangra revealed (March 1995) that their annual turnover had exceeded the 'taxable quantum' in each case but they did not apply for registration as dealers. The

department also failed to detect these cases and get them registered. This resulted in non-levy of tax of Rs.2.90 lakhs (including surcharge) as detailed below:-

Sr. No.	Name of district/ name of division	Number of dealers	Year	Value of material supplied/consumed in execution of works contract (In lakhs	Total amount of sales tax and surcharge leviable of rupees)
1.	Kangra	1	1989-90 and 1990-91	24.49	1.08
	Dehra Gopipur		1991-92 and 1992-93	13.98	0.56
2.	Kangra	1	1990-91 to 1992-93	11.04	0.44
3.	Kangra	1	1991-92 to 1993-94	20.51	0.82
	Palampur				
	Total	3		70.02	2.90

On this being pointed out (March 1995) in Audit, the department stated (July 1995) that in respect of Sr. No. 2 notices had been issued to the Contractor and the concerned district incharge was being directed to dispose off the case on priority basis. Further report in this case and reply in respect of other two cases have not been received (July 1996).

These cases were reported to the Government (April 1995); their reply has not been received (July 1996).

(ii) During Audit of the Assistant Excise and Taxation Commissioner, Chamba, it was noticed (December 1995) that a contractor engaged in the execution of construction work imported building material from outside the State worth Rs.3.28 lakhs during the year 1992-93 the sale value of which worked out to Rs.3.60 lakhs (after adding 10 per cent towards profit, freight, etc.). A scrutiny in Audit of the records revealed that neither did the dealer apply for registration nor had the department taken any action to register him under the Sales Tax Act. The tax leviable on the sales amounted to Rs. 28,839.

This was pointed out in Audit to the department (December 1995) and reported to Government (January 1996); their replies have not been received (July 1996).

2.5. Short-levy of tax due to incorrect determination of turnover

Under the Himachal Pradesh General Sales Tax Act, 1968, 'turnover' includes the aggregate of the amounts of sales and purchases actually made by the dealer during the given period. Sales under the Act, mean any transfer of property in goods for cash or for deferred payment or for any other valuable consideration and includes the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract. Besides, the assessing authority at the time of finalising assessment is required to check the accounts of the dealer to satisfy himself that all the purchases and sales made by him have been properly accounted for. If a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest on the tax due at the rate of one *per cent* per month for a period of one month and at the rate of one and a half *per cent* thereafter for the period of default.

(i) During Audit of the Assistant Excise and Taxation Commissioner, Chamba, it was noticed (December 1995) that assessments of a dealer engaged in the contract work, for the years 1989-90 to 1992-93 were finalised (December 1994 and March 1995) after allowing deduction on account of material worth Rs. 10 lakhs; Rs. 15.74 lakhs; Rs. 25.06 lakhs and Rs. 12.13 lakhs respectively supplied by the National Hydro-electric Power Corporation. A scrutiny of the assessment records revealed that during these years the actual material supplied was to the tune of Rs. 8.44 lakhs, Rs. 8.08 lakhs Rs. 19.58 lakhs and Rs. 9.23 lakhs. The assessing authority's failure to scrutinise records properly resulted in excess deductions worth Rs. 17.61 lakhs and consequential short levy of tax of Rs. 2.39 lakhs (including surcharge and interest upto date of Audit).

This was pointed out in Audit to the department (December 1995) and reported to Government (January 1996); their replies have not been received (July 1996).

(ii) During Audit of the Assistant Excise and Taxation Commissioner, Solan, it was noticed (January 1996) that assessments of a dealer engaged in the manufacture and sale of foam sheets and mattresses, for the years 1988-89 and 1989-90 were finalised in January 1995 and March 1995, respectively. A scrutiny of the assessment records revealed that during these years the dealer had also disclosed miscellaneous sales worth Rs. 3.07 lakhs which were not taken into account for finalising assessments. The assessing authority's failure to scrutinise records resulted in exclusion of miscellaneous sales for the purpose of taxation and consequential short levy of tax of Rs. 49,451 (including interest).

This was pointed out in Audit to the department (January 1996) and reported to Government (February 1996); their replies have not been received (July 1996).

2.6. Non-levy of tax due to suppression of purchases

Under the Himachal Pradesh General Sales Tax Act, 1968, at the time of finalising the assessment, the assessing authority is required to check the accounts of the dealer to satisfy himself that all purchases and sales made by him have been properly accounted. If a dealer has maintained false or incorrect accounts with a view to suppressing his sales or purchases, he is liable to pay by way of penalty, (in addition to the tax to which he is assessed), an amount which shall not be less than 25 *per cent*, but which shall not be more than one and a half times the amount of tax to which he is assessed or is liable to be assessed. Besides, if a dealer fails to pay tax due by the prescribed date, he becomes liable to pay interest on the tax due at the rate of one *per cent* per month for a period of one month and at one and a half *per cent* per month thereafter, so long as the default continues.

During Audit of records of the Assistant Excise and Taxation Commissioners, Chamba, Shimla and Una it was noticed (between October 1994 and March 1996) that assessments of 4 dealers for the years between 1991-92 and 1993-94 were finalised (between January 1993 and August 1995) on the basis of purchases worth Rs.13.25 lakhs, as disclosed by them in the trading accounts. A scrutiny in Audit of barrier chits (ST-XXVI-A) placed on records, however, revealed that during these years the dealers had actually purchased goods worth Rs.26.84 lakhs. Thus, the dealers had suppressed their purchases amounting to Rs.14.95 lakhs (after adding 10 *per cent* towards profit, freight, etc.). The department's failure to verify barrier chits, which were available on records, resulted in non-levy of tax of Rs.2.25 lakhs (including minimum penalty:Rs.0.32 lakh and interest: Rs.0.59 lakh) as detailed below:-

Name of the district	Number of dealers	Year of assessment	Purchases disclosed by the dealer in trading account (In lakhs	Purchases as per cross linking of barrier chits (STXXVI-A) lakhs	Purchases suppressed worked out after adding 10 <i>per cent</i> towards profit, freights etc. of	Amount of tax, surcharge, minimum penalty and interest leviable (rupees)
Chamba	1	1992-93	1.93	5.52	3.95	0.48
	1	1991-92	3.78	6.79	3.31	0.69
Shimla	1	1992-93	0.28	0.42	0.16	0.02
		1993-94	0.00	2.35	2.58	0.43
Una	1	1991-92	5.78	6.83	1.16	0.09
			0.93	1.38	0.50	0.08
		1992-93	0.55	3.55	3.29	0.46
Total	4		13.25	26.84	14.95	2.25

The above cases were pointed out in Audit to the department in October 1994 and March 1996 and reported to Government in November 1994 and April 1996; their replies have not been received (July 1996).

2.7. Short levy of tax due to non-withdrawal of concession

Through a notification of July, 1978 issued under the Himachal Pradesh General Sales Tax Act, 1968, the small scale industrial units manufacturing goods taxable at the rate of 7 *per cent* were allowed to pay tax at the rate of 2 *per cent* for the first five years and 4 *per cent* for the next five years subject to certain conditions which, inter-alia, stipulated that the unit must continue to function for a further period equal to the period for which the concession had already been availed of, failing which tax was payable equal to the amount which would have been paid during the said period but for such concession. The concessional rate of tax was enhanced to 2.5 *per cent* for the first five years and 4.5 *per cent* for the next five years with effect from 1st April 1991.

During Audit of the Assistant Excise and Taxation Commissioner, Chamba, it was noticed (December 1995) that a small scale industrial unit which went into production during 1986, made sales of roofing slates amounting to Rs. 31.57 lakhs between the period 1986-87 to 1991-92 and was taxed at concessional rate of 2 *per cent* (Rs. 31.12 lakhs) and 4.5 *per cent* (Rs. 0.45 lakh). A scrutiny in Audit of the assessment records revealed that the dealer had submitted an application on 31st August 1992 before the assessing authority regarding closure of his unit in March 1992. Thus, the unit did not function for the required period for which the concession was availed. The assessing authority's failure to withdraw the concession already allowed during the years 1986-87 to 1990-91 although the assessments for the year 1990-91 and 1992-93 were finalised in August 1992 and July 1993 respectively, resulted in short levy of tax of Rs. 1.73 lakhs.

This was pointed out in Audit to the department (December 1995) and reported to Government (January 1996); their replies have not been received (July 1996).

2.8. Short levy of tax due to application of incorrect rates

(i) Under the Himachal Pradesh General Sales Tax Act, 1968, the rate of tax on furniture was enhanced from 10 *per cent* to 11 *per cent* with effect from 1st April 1991. Besides, if a dealer fails to pay tax by the prescribed date, he shall pay interest on the tax due at the rate of one *per cent* per month for a period of one month and at the rate of one and a half *per cent* thereafter as long as the default continues.

During Audit of the Assistant Excise and Taxation Commissioner, Solan it was noticed (January 1996) that a dealer engaged in the manufacture and sale of wooden and steel furniture made sales within the State amounting to Rs. 4.20 lakhs, Rs. 6.79 lakhs and Rs. 8.41 lakhs during the years 1991-92 to 1993-94 respectively, on which tax was erroneously levied at 8 *per cent* by the assessing authority instead of 11 *per cent*. This resulted in tax being levied short by Rs. 58,204. Interest amounting to Rs. 25,377 (upto December 1995) for short payment of tax was also leviable.

This was pointed out in Audit to the department (January 1996) and reported to Government in February 1996; their replies have not been received (July 1996).

(ii) According to a notification issued (July 1978) under the Central Sales Tax Act, 1956, on inter-State sales made by a small scale industrial unit, tax is leviable at the rate of one *per cent* for the first five years and at the rate of 2 *per cent* during the second span of five years subject to the declarations being furnished in the prescribed form. Besides, if a dealer fails to pay tax by the prescribed date, he shall pay interest on the tax due at the rate of one *per cent* per month for a period of one month and at the rate of one and a half *per cent* thereafter as long as the default continues.

During Audit of the Assistant Excise and Taxation Commissioner, Solan it was noticed (January 1996) that a small scale industrial unit engaged in the manufacture and sale of multi-layer co-extended films which commenced production on 30th April 1984 made inter-State sales amounting to Rs. 35.08 lakhs between 30th April 1989 and

June 1989. The assessing authority while finalising the assessment in (March 1995) incorrectly taxed his inter-State sales worth Rs. 35.08 lakhs for the second span at the rate of one *per cent* instead of at the correct rate of 2 *per cent*. This resulted in short levy of tax by Rs. 35,085. Interest amounting to Rs. 39,725 (upto November 1995) for short payment of tax was also leviable.

The matter was pointed out in Audit to the department (January 1996) and reported to Government in February 1996; their replies have not been received (July 1996).

2.9. Non-levy of interest

Under the Himachal Pradesh General Sales Tax Act, 1968, if a dealer fails to pay the amount of additional tax assessed or penalty imposed by the assessing authority, within the period stipulated in the notice of demand or where no period is stipulated therein, within a period of thirty days from the service of such notice, interest is chargeable at the rate of one *per cent* per month for a period of one month from the date immediately following the last date specified in the notice of demand or where no period is specified from the date following the 30th day of the notice and thereafter at the rate of one and a half *per cent* per month so long as the default continues.

During Audit of the Assistant Excise and Taxation Commissioner, Solan, it was noticed (December 1995) that assessments of a dealer for the years 1991-92 and 1992-93 were finalised (July 1994) after raising additional demand on account of tax and penalty amounting to Rs. 2.17 lakhs. The additional demand required to be deposited by August 1994 was, however, deposited between May 1995 and September 1995. Interest amounting to Rs. 29,488 for belated payments of additional demand, was not levied by the department.

On this being pointed out (December 1995) in Audit, the department stated (July 1996) that on re-assessment an additional demand had been raised and efforts were afoot to recover the amount. Report of recovery has not been received.

The matter was reported to Government (February 1996); their reply has not been received (July 1996).

CHAPTER - 3 : STATE EXCISE

CHAPTER 3

STATE EXCISE

3.1. Results of Audit

Test check of the records, relating to State Excise, conducted in Audit during the year 1995-96, revealed non-levy of duty and other irregularities involving revenue amounting to Rs. 110.70 lakhs in 29 cases, which broadly fall under the following categories:

		Number of cases	Amount (In lakhs of rupees)
1.	Low yield of spirit from malt	1	52.44
2.	Non-levy of duty on spirit lost in redistillation	8	38.07
3.	Other irregularities	20	20.19
	Total:	29	110.70

During the course of the year 1995-96, the concerned department accepted under-assessments etc., of Rs. 0.22 lakh in 4 cases of which one case involving Rs. 0.05 lakh had been pointed out in Audit during 1995-96 and the rest in earlier years, the earliest year being 1987-88. A few illustrative cases highlighting important observations involving financial effect of Rs. 59.06 lakhs are given in the following paragraphs.

3.2. Low yield of spirit

According to Government notification (June 1979) issued under the provisions of the Punjab Excise Act, 1914 (as applicable to Himachal Pradesh) and rules framed there under, 19 Kilograms of malt would yield 8.200 proof litres of spirit.

During Audit of the Assistant Excise and Taxation Commissioner, Solan, it was noticed (June 1995) that a distillery at Kasauli during the year 1994-95 produced

11.40 lakh proof litres of spirit against an expected yield of 13.15 lakh proof litres of spirit out of 30.48 lakh kilograms of malt resulting in short production by 1.75 lakh proof litres of spirit. Had the prescribed norms been achieved/ enforced, the Government would have earned additional revenue of Rs. 52.44 lakhs by way of excise duty.

This was pointed out in Audit to the department and reported to Government in June 1995; their replies have not been received (July 1996).

3.3. Re-distillation losses

The Punjab Distillery Rules, 1932, as applicable to Himachal Pradesh and as amended by the Himachal Pradesh Government from time to time, do not provide for any norms for wastage during the process of re-distillation of spirit. The Excise and Taxation Commissioner-cum- Financial Commissioner (Excise) had held (October 1995) that excise duty shall be levied on the spirit lost in the process of re-distillation.

During Audit of the Assistant Excise and Taxation Commissioner, Una, it was noticed (April 1996) that in a brewery and a bottling plant, 52,316 proof litres of country spirit were lost in the process of re-distillation during the year 1994-95 whereas no wastage was permissible in the process under the rules. The percentage of spirit lost to total spirit distilled in the above brewery/ bottling plant varied from 1.73 to 1.96. On the quantity lost, excise duty amounting to Rs. 6.28 lakhs was leviable but was not levied due to the absence of any prescribed procedure for dealing with such losses.

This was pointed out (April 1996) in Audit to the department/Government; their replies have not been received (July 1996).

3.4. Excise duty not levied on excess wastage in transit

Under the Punjab Liquor Permit and Pass Rules, 1932, as applicable to Himachal Pradesh, where spirit under bond is transferred, any loss in excess of the prescribed limit which is not satisfactorily explained, will be liable for levy of duty. Prescribed percentages of wastage differ depending on the container used and the time taken in transit. Wastage allowance at the rate of half per cent has been prescribed in respect of spirit conveyed in metallic vessels for a journey involving not more than 2 days.

During Audit of the records of the Assistant Excise and Taxation Commissioner, Solan, it was noticed (June 1995) that during 1994-95, 1,75,256 proof litres of spirit was transferred from Kasauli distillery to Solan brewery in metallic casks. Out of this 1,73,255 proof litres of spirit was received. Thus, 2,001 proof litres of spirit was lost in transit which exceeded the permissible limit of half per cent (876 proof litres). On the excessive wastage of 1,125 proof litres of spirit, excise duty amounting to Rs. 33,750 was leviable but was not levied.

This was pointed out in Audit to the department and reported to Government (June 1995); their replies have not been received (July 1996).

**CHAPTER - 4 : TAXES ON VEHICLES, GOODS
AND PASSENGERS**

CHAPTER 4

TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1. Results of Audit

Test check of the records of the departmental offices, conducted in Audit during the year 1995-96, revealed non-levy/short levy of tax and other irregularities amounting to Rs. 104.80 lakhs in 204 cases, which broadly fall under the following categories:-

		Number of cases	Amount (In lakhs of rupees)
1.	Non-levy or short levy of-		
	(i) Token Tax	71	12.88
	(ii) Passengers and Goods Tax	44	70.72
2.	Other irregularities-		
	(i) Vehicles Tax	74	10.06
	(ii) Passengers and Goods Tax	15	11.14
	Total :	204	104.80

During the course of the year 1995-96, the concerned departments accepted under-assessment etc., of Rs. 4.21 lakhs involved in 95 cases of which 2 cases involving Rs. 0.82 lakh had been pointed out in Audit during 1995-96 and the rest in earlier years, the earliest year being 1976-77. A few illustrative cases highlighting important observations involving financial effect of Rs. 14.91 lakhs are given in the following paragraphs.

4.2. Incorrect assessment of passengers tax and surcharge

Under the Himachal Pradesh Passengers and Goods Taxation Rules, 1957, as amended from 1st October 1991, the owner of a stage carriage having seating capacity of more than fifteen but not exceeding thirty passengers, plying under a route permit, within a town, semi-urban or rural area and upto 30 kilometres from the central part of any such town, semi-urban or rural area, shall pay to the State Government, tax in lump sum to be determined on the basis of average occupancy at 15 *per cent* of number of seats. However, if the route distance covered is more than 30 kilometres, the lump sum tax shall be determined on the basis of average occupancy at 60 *per cent*.

During Audit of the records of the Assistant Excise and Taxation Commissioners, Sirmaur and Mandi districts, it was noticed (September 1995) that lump sum passengers tax and surcharge for the period between October 1991 and March 1995, payable by the owners of three mini buses having route permit for plying stage-carriage, was erroneously determined and realised by the assessing authorities on the basis of average occupancy at 15 *per cent* instead of 60 *per cent* as the route distance covered was more than 30 kilometres. This resulted in under-assessment and non-realisation of passengers tax and surcharge amounting to Rs. 3.48 lakhs (Sirmaur: Rs. 3.15 lakhs and Mandi: Rs. 0.33 lakh).

On this being pointed out (September 1995) in Audit, the department stated (January 1996) that instructions were being issued to the assessing authority, Mandi to recover the amount immediately. Further report and reply in another case has not been received (July 1996).

These cases were reported to Government in October 1995; their reply has not been received (July 1996).

4.3. Under-assessment of tax in respect of night bus service

Under the Himachal Pradesh Passengers and Goods Taxation Rules, 1957, as amended from 1st October 1990, at the option of the assessee, lump-sum amount of tax and surcharge thereon shall be determined by the assessing authority on the basis of prescribed formula.

Audit of the Assistant Excise and Taxation Commissioner, Bilaspur revealed (January 1996) that the assessing authority while determining the lump-sum passengers tax and surcharge payable for the year 1994-95 by the Himachal Road Transport Corporation in respect of ordinary night bus service of Bilaspur region did not take into consideration 25 *per cent* additional charges leviable on account of night service. This resulted in under-assessment of tax of Rs. 1.11 lakhs.

On this being pointed out (January 1996) in Audit, the department stated (May 1996) that the district incharge was being directed to assess the case without delay. Further report has not been received (July 1996).

This was reported to Government (February 1996); their reply has not been received (July 1996).

4.4. Vehicles not registered with the Excise and Taxation Department

Under the Motor Vehicles Act, 1988, read with the Himachal Pradesh Motor Vehicles Taxation Act, 1972, the owners of all motor vehicles are required to register their vehicles with the concerned Registering and Licensing Authority. Owners of public and private carriers are also required to register their vehicles with the concerned Excise and Taxation Officer as per Himachal Pradesh Passengers and Goods Taxation Act, 1955, and pay goods tax at the prescribed rates on all freights in respect of goods transported by the vehicles. As per departmental instructions (December 1984), the Excise and Taxation Officers are required to ensure registration of all vehicles under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, in close co-ordination with

the Registering and Licensing Authorities in Transport Department. For failure to apply for registration, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of one hundred rupees (with effect from 31st May 1988), is also leviable.

A correlation of the records of the Registering and Licensing Authorities, Amb, Arki, Bilaspur, Ghumarwin, Kandaghat, Nahan, Nalagarh, Paonta Sahib, Rampur, Shimla, Solan, Theog and Una, with those of the concerned Excise and Taxation Offices showed that goods tax for different periods between July 1993 and March 1995 had not been paid by 165 owners of the vehicles to the concerned taxation authority as these vehicles had not been registered with the Excise and Taxation Department. This resulted in non-realisation of goods tax amounting to Rs. 3.32 lakhs (calculated at lump-sum rates). For failure to apply for registration under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, a minimum penalty of Rs. 47,600 was also leviable.

On this being pointed out (between June 1995 and January 1996) in Audit, the department stated (July 1996) that an amount of Rs. 1.19 lakhs has been recovered and efforts were afoot to recover the balance.

This was reported to Government (between July 1995 and February 1996); their reply has not been received (July 1996).

4.5. Under-assessment of passengers tax and surcharge

Under the Himachal Pradesh Passengers and Goods Taxation Rules, 1957, as amended from 1st October 1990, lump-sum amount of tax determined for the whole year or part thereof should be split up into equal monthly instalments and each instalment is payable in cash by the owners of stage carriages and the contract carriages in Government treasury on or before the 7th day of the month following the month to which the payment relates. The owners of stage carriages or contract carriages are also required to pay to the State Government surcharge at the rate of 20 *per cent* of the tax as

determined by the assessing authority. Through a notification dated 21st January 1992, the State Government revised the passengers fare of various categories of bus services.

During Audit of the records of the Assistant Excise and Taxation Commissioner, Una, it was noticed (October 1995) that assessment of the passengers tax and surcharge on lump-sum basis for the year 1991-92 payable by the Himachal Road Transport Corporation, Una was finalised in January 1995. Scrutiny of the assessment records revealed (October 1995) that the assessing authority assessed lump-sum passengers tax on revised rates with effect from 22nd January 1992 instead of 21st January 1992 and days of the month of February 1992 were taken as 28 days instead of 29 days. This resulted in under-assessment and consequent short realisation of passengers tax and surcharge thereon amounting to Rs. 41,307.

This was pointed out in Audit to the department in October 1995 and reported to Government in November 1995; their replies have not been received (July 1996).

4.6. Incorrect exemption from token tax to Educational Institutions

By a notification of April 1992 issued by the State Government under the Himachal Pradesh Motor Vehicles Taxation Act, 1972, token tax at the rate of Rs. 200 per seat per annum subject to a maximum of Rs. 8,000 was levied on the educational institution bus, private service vehicle, omnibus and other buses.

During Audit of the records of the Registering and Licensing Authorities, Dharamsala, Kangra, Kullu, Nahan, Nalagarh and Paonta, it was noticed (between June 1995 and February 1996) that 17 vehicles owned by various educational institutions though registered with the taxation authorities had not paid token tax for the period falling between 1992-93 and 1995-96 amounting to Rs. 2.17 lakhs.

On this being pointed out (between June 1995 and February 1996) in Audit, the department stated (May 1996) that under State Government's notification of February 1975 total exemption from the payment of token tax was admissible to motor vehicles owned by the Manager of a school and kept for the sole use of conveying pupils to and fro from a school. The reply of the Department is not tenable as the token tax was levied on educational institution bus with effect from 29th April 1992 through an amendment made in the Act *ibid* and exemption allowed under notification of February 1975 has since been withdrawn.

This was reported to Government (between June 1995 and February 1996); their reply has not been received (July 1996).

4.7. Non-payment of token tax

Under the Himachal Pradesh Motor Vehicles Taxation Rules, 1974, token tax levied under the Himachal Pradesh Motor Vehicles Taxation Act, 1972, is payable in advance and is collected quarterly or annually in the prescribed manner. The Act provides that when any registered owner of the vehicle defaults in making payment of tax, the taxation authority may direct the owner to deposit the arrears of token tax alongwith penalty, if any, imposed under the Act. Further, the token tax due and not paid and penalty imposed under the Act shall be recovered as arrears of land revenue.

During test check of records of the Registering and Licensing Authorities Dehra, Nurpur and Una, it was noticed (September 1995 and February 1996) that the owners of 62 vehicles did not pay the token tax amounting to Rs. 3.48 lakhs for the different periods ranging between May 1993 and March 1995 in respect of these vehicles. The department also did not take any action to recover the token tax from the operators and to invoke the penal provision provided for in the Himachal Pradesh Motor Vehicles Taxation Act, 1972.

This was pointed out to the department (September 1995 and February 1996) and reported to Government (October 1995 and February 1996); their replies have not been received (July 1996).

4.8. Evasion of tax

Under the Himachal Pradesh Motor Vehicles Taxation Act, 1972, when a registered owner or the person having possession or control of motor vehicle has given previous intimation in writing to the taxation authority that the motor vehicle would not be used in any public place for a particular period, being not less than one month and deposits the certificate of registration of such motor vehicle with the taxation authority, he is entitled to exemption from payment of tax for that period.

Test check in Audit of the records of the Registering and Licensing Authority, Kangra, revealed (January 1996) that owner of a mini bus did not deposit token tax for the period from July 1992 to July 1995 and intimated on 21st July 1995 to the taxation authority that his bus remained off the road since June 1992. Neither registration certificate had been surrendered nor prior intimation regarding non-operation of the vehicle was sent by the owner which is mandatory, even then, the assessing authority allowed exemption from payment of token tax. Reply to an Audit query regarding the basis on which the exemption was allowed had not been received (July 1996). This irregular exemption resulted in non-recovery of tax amounting to Rs. 46,250.

This was pointed out to the department (January 1996) and reported to Government (February 1996); their replies have not been received (July 1996).

CHAPTER - 5 : FOREST RECEIPTS

CHAPTER 5

FOREST RECEIPTS

5.1. Results of Audit

Test check of the records of forest receipts, conducted in Audit during the year 1995-96, revealed non-recoveries and other losses of revenue amounting to Rs. 871.58 lakhs in 162 cases, which broadly fall under the following categories:-

		Number of cases	Amount (In lakhs of rupees)
1.	Non-recovery of royalty	14	124.29
2.	Short recovery of royalty	20	235.57
3.	Non-levy of extension fee	11	62.66
4.	Non-levy of interest	26	57.50
5.	Other irregularities	91	391.56
	Total :	162	871.58

During the course of the year 1995-96, the concerned department accepted under-assessments etc., of Rs. 428.41 lakhs involved in 130 cases which had been pointed out in earlier years, the earliest year being 1981-82. The results of a review on "Tapping of resin blazes by Himachal Pradesh State Forest Corporation" conducted by Audit and a few illustrative cases highlighting important observations involving financial effect of Rs. 536.57 lakhs are given in the following paragraphs.

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

5.2.1. Introduction

Prior to nationalisation of forest exploitation, the resin tapping work of *chil* trees was being done departmentally and through contractors. From the year 1975 the work was nationalised in a phased manner and entrusted to the Himachal Pradesh State Forest Corporation (hereinafter called the Corporation) on lease basis for a period of 10 years. The work was exclusively entrusted to the Corporation on lease basis from the year 1978-79. The lease which expired on 31st December 1984 was renewed for a further period of 10 years from January 1985 vide Government Notification of December 1985.

The main objective of transfer of resin tapping work to the Corporation was to improve resin tapping through scientific and systematic tapping of resin blazes and to stop illicit/defective tapping to avoid damages to *chil* trees during resin tapping operations. The work of resin tapping is to be carried out by the Corporation in accordance with the dimensions/ specifications prescribed in the "Resin Tapping Instructions and Rules" incorporated in the "Technical Order No.13" of the Chief Conservator of Forests, Himachal Pradesh and other departmental instructions issued from time to time (see photographs - 1 and 2).

The rates of royalty are determined for each year by a Pricing Committee (consisting of Secretary Forests to the Government of Himachal Pradesh, Principal Chief Conservator of Forests, and Managing Director, Corporation) and are approved by the Government. The Forest department is required to issue bills to the Corporation relating to the payment of royalty and penalties for blazes illicitly tapped or outshaped.

Operation of resin tapping from chil trees under "Rill Method

Reference: Para 5.2.1.



Marking the position of blaze



Collection of resin in the tin

5.2.2. Organisational set up

The Forest Department is headed by the Principal Chief Conservator of Forests. There are eight circles and 38 territorial forest divisions of which 30 territorial divisions deal with the work of tapping of resin. Deputy Conservator of Forests (also designated as Divisional Forest Officer) is incharge of each division under the supervision of Conservator of Forests of the circle.

5.2.3. Scope of Audit

Out of 30 territorial forest divisions, where resin tapping was carried out by the Corporation during 1992 to 1994 tapping season, records of 22 forest divisions pertaining to the years 1992-93 to 1994-95 were test checked in Audit between June 1995 and February 1996 to see if resin tapping operations had been done according to the prescribed conditions, norms and specifications and whether the defects noticed in tapping had been brought to the notice of the Corporation and the claims for damages, if any, were preferred promptly.

5.2.4. Highlights

(i) 1,06,691 blazes pertaining to 19 ranges involving royalty amounting to Rs. 27.33 lakhs were not enumerated and handed over by the department to the Corporation during 1992 to 1994 tapping seasons.

(Paragraph:5.2.6.)

(ii) In 22 Divisional Forest Offices test checked, out of 74,27,854 blazes tapped by the Corporation during 1992 to 1994 tapping seasons 9,61,776 blazes were outshaped and 57,215 blazes were illicitly tapped by the Corporation. In seven forest divisions, the percentage of outshaped blazes ranged between 23 and 96 per cent. Neither any records of inspection of tapping operations were maintained in the divisions nor any periodical reports for monitoring defective/outshaped blazes has been prescribed by the Government/ department.

{Paragraphs 5.2.7(a)&5.2.10.}

(iii) Rebate of Rs. 140.25 lakhs was allowed by the department on the resin and its derivatives supplied by the Corporation to forest based industries* for the

* Not identified/specified.

period 1988 to 1993 but the system regarding obtaining detailed accounts of the concession given to the industries by the Corporation was not prescribed in the policy framed by the Government. The department also did not obtain details of the amount deducted by the Corporation from royalty on resin blazes.

(Paragraph:5.2.8.)

5.2.5. Trend of revenue

The position of number of resin blazes tapped by the Corporation during 1992 to 1994 and the amount of royalty paid by the Corporation was as under:-

Tapping season	No. of blazes tapped by Corporation	Amount of royalty paid (In lakhs of rupees)	Percentage of increase(+)/decrease(-) in the amount of royalty over the previous year
1992	24,53,382	588.81	(+) 51*
1993	27,59,799	745.15	(+) 27
1994	25,91,845	622.04	(-) 17
1995	24,00,892	624.23**	(+) 0.35

Reasons for increase in the number of blazes during 1993 tapping season and decrease in the number of blazes during 1994 and 1995 tapping season though called for (December 1995) from the department, have not been received (July 1996).

5.2.6. Loss of revenue due to non-handing over of resin blazes

According to the "Resin Tapping Instructions and Rules" regulating the work of handing over resin blazes to the Corporation for tapping in each tapping season, enumeration work is to be taken up by the department in the month of November and lists of blazes are to be supplied to the Corporation by the end of January each year. Setting up of the crop is to be done by the Corporation during the period from 15th February to

* Amount of royalty paid by Corporation for 1991 tapping season was Rs. 391.04 lakhs and number of blazes was 20,58,089.

** Figures are tentative.

15th March and duration of a tapping season is from 15th March to 15th of November each year. Royalty on resin blazes handed over to the Corporation for tapping during each tapping season is to be charged by the department at the rate fixed by the State Government for the respective resin tapping season.

During test check of records of 9* forest divisions, it was seen that 1,06,691 resin blazes pertaining to 19 ranges were not handed over to the Corporation during 1992 to 1994 tapping seasons due to non-enumeration of blazes, deletion of blazes from marking lists or delay in sending the marking lists. This resulted in non-tapping of blazes from eligible trees during the respective seasons depriving the department of potential revenue of Rs. 27.33 lakhs on account of royalty chargeable on these blazes.

5.2.7. Defective/illicit tapping of resin blazes

According to the standard agreement deed, damages caused to resin blazes either through illicit tapping or tapping the blazes not in accordance with dimensions/specifications prescribed in the "Resin Tapping Instructions and Rules" are required to be got verified, acknowledged and accepted from the Corporation. Accordingly, damage bills are to be raised by the department against the Corporation. However, no time limit has been prescribed by the department/Government for getting the damages verified and accepted from the Corporation.

For illicit and outshaped tapping of blazes, the Corporation was liable to pay, in addition to royalty, penalty at the rate of rupees two and rupee one per blaze respectively. These rates were fixed by the Government in May 1989 which were enhanced in May 1994 to rupees four and rupees two respectively.

* Dalhousie, Dharamsala, Nachan, Nurpur, Palampur, Parvati, Rajgarh, Shimla and Solan

(a) In 22* divisional forest offices, where the records were test checked (between June 1995 and February 1996) in Audit, the position of defective /illicit tapping of resin blazes by the Corporation during 1992 to 1994 tapping seasons was as under:-

Tapping season	Number of blazes tapped	Number of blazes outshaped	Percentage of outshaped blazes to total blazes tapped	Number of blazes illicitly tapped
1992	23,44,180	2,74,475	12	19,709
1993	26,12,921	3,43,622	13	16,455
1994	24,70,753	3,43,679	14	21,051

Although the overall percentage of outshaped blazes during the years 1992 to 1994 ranged between 12 to 14 *per cent*, in 7 out of these 22 divisions it was noticed in Audit that percentage of outshaped blazes was very high and ranged between 23 and 96 *per cent* as per details given below:-

Sr. No.	Name of division	Tapping season	Total blazes tapped	Number of blazes outshaped	Percentage of outshaped blazes to total blazes tapped
1.	Bilaspur	1992	1,08,263	25,573	24
2.	Hamirpur	1993 1994	2,19,047 2,20,805	1,76,172 1,48,240	80 67
3.	Kunihar	1992	38,036	36,466	96
4.	Nalagarh	1992 1993	1,29,530 1,34,177	50,151 38,333	39 29
5.	Nurpur	1992	97,085	36,153	37
6.	Renuka	1994	36,014	8,185	23
7.	Una	1992 1993 1994	75,145 65,962 33,299	44,390 20,831 13,001	59 32 39

No periodical report indicating the number of blazes outshaped by the Corporation during tapping operations of each tapping season has been prescribed. Consequently, the need for taking measures to contain the damage to the trees during

* Bilaspur, Dalhousie, Dehra, Dharamsala, Hamirpur, Jogindernagar, Karsog, Kotgarh, Kunihar, Mandi, Nachan, Nahan, Nalagarh, Nurpur, Palampur, Parvati, Rampur, Rajgarh, Renuka, Shimla, Solan and Una

tapping went unrecognised. Increase in the percentage of outshaped blazes may be attributed to the nominal rates of penalty fixed for defective tapping.

On this being pointed out (February 1996), the department stated (July 1996) that these rates have now been increased to Rs. 100 for each illicit tapping and at slab rates from Rs. 10 to Rs. 100 in case of outshaped blazes vide orders issued by the Principal Chief Conservator of Forests on 24th June 1996.

(b) Test check of the records of Dalhousie, Dharamsala, Jogindernagar, Nahan and Rajgarh forest divisions revealed (between June 1995 and February 1996) that in respect of 13,034 resin blazes tapped illicitly and 49,207 blazes outshaped by the Corporation during 1992, 1993 and 1994 tapping seasons, the department either failed to get the damage reports verified or royalty/penalty was charged short due to application of incorrect rates resulting in non-realisation of revenue amounting to Rs. 2.90 lakhs.

(c) During test check of records of Una forest division, it was noticed in Audit (July 1995) that out of 23,404 resin blazes, 1,813 blazes having royalty of Rs. 48,951 were rendered unfit for tapping during 1993 tapping season as the trees containing these blazes had either gone dry or had fallen due to defective resin tapping by the Corporation during the 1990, 1991 and 1992 tapping seasons. The causes for defective tapping, which rendered the trees permanently unfit for further tapping, had not been investigated by the department.

(d) During review of all these 22 forest divisions, it was noticed that in 14 forest divisions an amount of Rs. 17.31 lakhs, on account of damage bills, pertaining to the period from 1984-85 to 1994-95 on account of blazes illicitly/outshaped, was pending for recovery as on 31st March 1995.

5.2.8. Irregular deduction from the royalty on resin blazes

On the recommendations of the Pricing Committee, the State Government decided (March 1993) that the concession at the rate of 4 *per cent* on resin and its

derivatives given by the Corporation on the supply of resin to forest based industries be adjusted against the royalty of a division from where supplies are made by the Corporation. But the system regarding obtaining detailed accounts of the concession given to the industries was not specified by the Corporation and furnishing of any periodical returns indicating particulars of factories, quantity and cost of resin supplied and the amount of concession given by the Corporation to these factories was not prescribed.

During review it was noticed that while making payment of royalty on resin blazes for 1988 to 1993 tapping seasons, the Corporation deducted an amount of Rs. 140.25 lakhs on account of rebate/concession given by the Corporation to private factories on resin, rosin/ turpentine oil supplied during the years 1988 to 1993 as per details given below:-

Tapping season	Amount of rebate deducted by the Corporation from the royalty on resin blazes (In lakhs of rupees)
1988	16.43
1989	22.89
1990	18.82
1991	26.09
1992	45.49
1993	10.53
Total	140.25

It was noticed during Audit that the department did not obtain any details of private factories indicating their names, dates on which supplies were made, quantity and cost of resin supplied during the period August 1988 to July 1993 to verify correctness of the rebate given by the Corporation to these factories. The Principal Chief Conservator of Forests, Himachal Pradesh stated (March 1996) that the requisite details were not available with the department and the Corporation had been asked (February

1996) to supply the details. This showed that the department had not maintained any accounts in this regard. Allowing deduction on account of rebate to the Corporation from the amount of royalty on resin blazes, without maintaining the relevant accounts and verification of their correctness was, thus, irregular.

5.2.9. Short recovery of royalty on resin blazes

The Himachal Pradesh State Forest Corporation, entrusted with the work of tapping resin in the State, is required to pay royalty on resin blazes at the rates recommended by the Pricing Committee and approved by the State Government for each tapping season.

During review of records of Dalhousie, Dehra, Hamirpur, Karsog, Nahan, Palampur, Rajgarh and Una forest divisions, it was noticed in Audit that as against 16,12,033 resin blazes handed over by the department to the Corporation for tapping during 1992, 1993 and 1994 tapping seasons, the Corporation had paid royalty on 16,00,925 blazes only. This resulted in short recovery of royalty amounting to Rs. 2.73 lakhs chargeable on 11,108 resin blazes.

On this being pointed out in Audit, the Divisional Forest Officers, Dalhousie, Hamirpur, Karsog, Nahan and Una, stated (between June 1995 and March 1996) that the question of recovery of balance amount of royalty was under correspondence with the Corporation/higher authorities. Replies from the remaining forest divisions have not been received (July 1996).

5.2.10. Inspection of resin tapping areas

According to the "Resin Tapping Instructions and Rules" incorporated in the Himachal Pradesh Forest Manual, every Range Officer is required to inspect every

tapping area at least once every two months to see that the resin tapping rules are strictly observed by all concerned. He is required to record the results of inspection in the "Inspection Register". These rules further provide that the Divisional Forest Officer will also inspect the tapping areas at least once during the tapping season and will see that all orders regarding resin tapping are being properly carried out and will record the results of his inspection in the "Inspection Book".

During the course of review of the departmental records of 22* forest divisions test checked, it was noticed that the department had not maintained any record of inspections of resin tapping areas carried out by the departmental officers/field staff. In the absence of the prescribed records, it could not be ascertained in Audit whether the resin tapping areas were being inspected as required under the rules.

The above points were reported to the department and Government in April 1996; their replies have not been received (July 1996).

5.3. Short recovery of royalty due to application of lower rates of royalty

According to a decision of the State Government of April 1983 and departmental clarification issued in August 1989, royalty for all green top broken, top-dry green, dying and diseased green trees marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation in salvage lots is payable by the Corporation at full rates fixed for standing green trees.

During the Audit of 5 forest divisions (Dalhousie, Jubbil, Kotgarh, Palampur and Seraj), it was noticed (between March 1994 and August 1995) that in 9 lots

* Bilaspur, Dalhousie, Dehra, Dharamsala, Hamirpur, Jogindernagar, Karsog, Kotgarh, Kunihar, Mandi, Nachan, Nahan, Nalagarh, Nurpur, Palampur, Parvati., Rampur, Rajgarh, Renuka, Shimla, Solan and Una.

pertaining to the periods 1992-96 royalty was not charged at full rates chargeable for standing green trees which resulted in short charging of royalty by Rs. 88.81 lakhs. Further, the sales tax payable by the Corporation on the above royalty amounted to Rs. 26.63 lakhs. Palampur division alone accounted for short charging of royalty and sales tax by Rs. 102.71 lakhs.

While in Palampur division the department had asked the Corporation to reconcile the differential amount and release the amount of royalty dues, in Dalhousie, Seraj, and Kotgarh demands for royalty of Rs. 11.61 lakhs had been raised against the Corporation. In the case of Jubbal division the department stated that top dry trees are not included in the decision of the Government and 50 *per cent* rates of full rates applied were correct. The contention of the department is not tenable in view of the clarification issued (August 1989) by the department. Their further reply has not been received (July 1996).

The cases were reported to the Government between May 1994 and July 1995; their reply has not been received (July 1996).

5.4. Short recovery of royalty due to incorrect determination of intensity of trees

According to a decision (April 1983) of the State Government royalty for fit trees marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation in salvage lots is chargeable at 60 *per cent*, 50 *per cent* and 30 *per cent* of the rate of royalty fixed for standing green trees, if the intensity* of the trees so marked is 15 cubic metres and above, 5 cubic metres to below 15 cubic metres and below 5 cubic metres per hectare of the total area of the forest or compartment thereof respectively. Further, as per State Government's decision of May 1989, the intensity of marking of a lot

* *Total volume of trees marked in a lot divided by total area of a forest lot.*

is to be worked out by taking into account total volume of the trees marked in all markings including original, additional or supplementary markings.

During the Audit of 4 forest divisions (Bharmour, Dehra, Kullu: Wild Life and Palampur) it was noticed (between May 1994 and August 1995) that 6 salvage lots were handed over to the Corporation for exploitation between the period 1988-96. As the intensity of marking of trees worked out between 5 cubic metres and below 15 cubic metres per hectare (4 lots) and above 15 cubic metres per hectare (2 lots), royalty was to be charged at 50 *per cent* and 60 *per cent* respectively whereas the department had charged royalty at lower rates of 30 *per cent* and 50 *per cent* of the full rates fixed for standing green trees respectively.

Incorrect determination of intensity of marking of trees resulted in royalty being charged short by Rs. 22.04 lakhs (including sales tax). Kullu (Wild Life) division alone accounted for short charging of royalty and sales tax by Rs. 13.38 lakhs. Demands amounting to Rs. 4.12 lakhs in respect of 3 lots had been raised in the case of Palampur, Bharmour and Dehra divisions whereas in 2 lots pertaining to Palampur division, the department accepted the Audit point and directed the division to get the payment of Rs. 4.54 lakhs released from the Corporation.

Government to whom the cases were reported between June 1994 and August 1995, stated (July 1996) that in respect of Dehra division royalty of Rs. 56,225 had since been recovered and for recovery of sales tax of Rs. 15,462, matter was reportedly being looked into. Their reply in respect of remaining divisions has not been received (July 1996)

5.5. Non-recovery of royalty

The Himachal Pradesh State Forest Corporation is entrusted with the responsibility of exploitation of forest lots and is required to pay royalty on trees at the

rates fixed by the State Government on the recommendations of the Pricing Committee. As per the departmental instructions issued in June 1985, demand on account of royalty is to be raised by the department immediately after the lots are handed over to the Corporation for exploitation.

During the Audit of 4 forest divisions (Bharmour, Churah, Dehra and Hamirpur) it was noticed (between November 1994 and July 1995) that 5 lots were handed over to the Corporation for exploitation during the years 1992-95. Royalty on trees handed over in original markings (2 lots) and supplementary markings (3 lots) amounting to Rs. 21.25 lakhs (including sales tax) had not been demanded from the Corporation of which Bharmour division alone accounted for royalty of Rs. 14.64 lakhs. The department stated that demands amounting to Rs. 17.84 lakhs had been raised against the Corporation in respect of Bharmour, Dehra and Hamirpur divisions. While in case of Churah division the Government stated that royalty amounting to Rs. 3.39 lakhs had been claimed from the Corporation. As royalty rates fixed for the year 1992-93 were charged in respect of Churah division Government had been asked (April 1996) to consider revision of demand at the rates fixed for the year 1993-94.

The cases in respect of Bharmour, Dehra and Hamirpur divisions were reported to Government between December 1994 and August 1995; their replies and reports of recoveries in all the cases have not been received (July 1996).

5.6. Application of incorrect rates of royalty

The Himachal Pradesh State Forest Corporation is entrusted with the responsibility of exploitation of forest lots and is required to pay royalty on trees at the rates fixed by the State Government on the recommendations of the Pricing Committee.

- (i) During Audit of the records of the Divisional Forest Officer, Nahan, it was noticed (March 1995) that 18 lots containing 1,387 salvage *khair* trees alongwith 7,509 trees of other broad leaved and coniferous species were handed over to the Corporation for exploitation during the year 1993-94. Scrutiny of the divisional records, however, revealed that the department erroneously claimed (December 1994) royalty on 1,387

khair trees at lower rates applicable to coniferous trees instead of full royalty rates fixed for *khair* trees as per their girth . The failure of the department to charge royalty at correct rates resulted in royalty being charged short by Rs. 7.50 lakhs (including sales tax).

Government, to whom the case was reported (April 1995), accepted the Audit point and stated (October 1995) that royalty at metre-girth rate fixed for the division had been claimed (June 1995) from the Corporation. Report of recovery has not been received (July 1996).

(ii) During Audit of the records of the Divisional Forest Officers, Nahan and Paonta Sahib, it was noticed (February 1993) that in 23 salvage lots containing 829 *khair* trees alongwith coniferous trees were handed over to the Corporation for exploitation between the years 1989-90 and 1991-92. Scrutiny of the divisional records showed that the department erroneously claimed royalty on 829 *khair* trees at reduced rates. This resulted in royalty being charged short by Rs. 3.99 lakhs (including sales tax).

Government, to whom the cases were reported (April 1993), stated that in respect of Paonta Sahib division revised bill for differential amount of royalty was sent (September 1993) to the Corporation for payment. Reply pertaining to Nahan division and report of recovery have not been received (July 1996).

5.7. Short recovery of royalty on fit trees

According to the decision of the State Government of April 1983, royalty for fit trees marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation in salvage lots, is chargeable at 60 *per cent*, 50 *per cent* and 30 *per cent* of the rate of royalty fixed for standing green trees, if the intensity of the trees so marked is 15 cubic metres and above, 5 cubic metres to below 15 cubic metres and below 5 cubic metres respectively per hectare of the total area of the forest or compartment thereof.

Further, the Government decided in May 1989 that royalty for unfit trees, marked and handed over to the Corporation in salvage lots and having aforesaid limits of intensity of marking of trees, is chargeable at 18 *per cent*, 15 *per cent* and 9 *per cent* respectively of the rates fixed for standing green trees.

During Audit of the Divisional Forest Officer, Bilaspur, it was noticed (October 1995) that against the actual unfit standing volume of timber of 586.35 cubic metres marked in the marking lists the department erroneously took into account 806.05 cubic metres. Thus, 219.70 cubic metres was erroneously included in unfit volume of lot and royalty at lower rate of 18 *per cent* instead of 60 *per cent* was charged resulting in royalty being charged short by Rs. 1.56 lakhs (including sales tax).

The case was reported to the department (6th October 1995) and Government (November 1995). Government stated (February 1996) that revised demand of royalty including Rs. 1.56 lakhs had been raised against the Corporation in October 1995. Report of recovery has not been received (July 1996).

5.8. Incorrect determination of royalty on broad leaved trees.

According to a decision (April 1983) of the State Government, royalty for fit coniferous trees marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation in salvage lots, is chargeable at 60 *per cent*, 50 *per cent* and 30 *per cent* of the rates of royalty fixed for standing green trees, if the intensity of the trees so marked is 15 cubic metres and above, 5 cubic metres to below 15 cubic metres and below 5 cubic metres respectively per hectare of the total area of the forest or compartment thereof. The lots, other than coniferous trees marked for sawing of timber, are not covered under the aforesaid decision and full rates of royalty were required to be charged on trees included in such lots.

During Audit of the Divisional Forest Officer, Renuka, it was noticed (January 1994) that two salvage lots of 487 ban/brass trees containing 500.26 cubic metres standing volume of timber were handed over to the Corporation for exploitation during the year 1992-93. Scrutiny of divisional records, however, revealed (January 1994) that royalty on these trees was erroneously charged by the department at lower rates of 30 *per cent* by applying intensity factor instead of at full rates chargeable for broad leaved trees. This resulted in royalty being charged short by Rs. 1.30 lakhs (including sales tax). The Principal Chief Conservator of Forests confirmed the Audit point in December 1994. Further progress of the case and report of the recovery has not been received (July 1996).

The case was reported to Government (April 1994); their reply has not been received (July 1996).

5.9. Incorrect determination of royalty on coppice lot

The Himachal Pradesh State Forest Corporation, which has been entrusted with the responsibility of working all forest lots, is required to pay royalty on coppice lot at per hectare rates fixed by the State Government on the recommendations of the Pricing Committee. The State Government, however, fixed (March 1993) separate royalty rates per quintal chargeable from the Corporation for fuelwood to be supplied for domestic use through their depots.

During Audit of records of the Divisional Forest Officer, Bilaspur, it was noticed (December 1994) that a coppice lot containing 26 hectares area of broad leaved (Kokath/ miscellaneous species) forest was handed over (September 1992) for extraction of fuelwood to meet the domestic requirements of the adjoining areas. As per progress report for the month of October 1993 of this lot, the Corporation extracted 6,780.5 cubic metres of fuelwood, out of which 3,924.5 cubic metres of fuelwood was used for conversion into charcoal.

Scrutiny of the divisional records showed that although 3,924.5 cubic metres of fuelwood extracted from 15 hectares area of lot was used for burning into charcoal and 2,856 cubic metres (5,213.95 quintals) fuelwood was sold through various sale depots of the Corporation for domestic requirements of the public, yet the department, on the basis of a certificate furnished by the Corporation to the effect that whole fuelwood extracted from the lot was sold at concessional rate of Rs. 5 per quintal had charged royalty accordingly and raised a bill for Rs. 14,033 only. Whereas royalty on 3,924.5 cubic meters of wood used for charcoal was to be charged at higher rate of Rs. 3,420.90 per hectare, the department failed to scrutinise the progress reports and to charge royalty amounting to Rs. 66,708 (including sales tax) on 15 hectares (3,924.5 cubic meters). It was further noticed in Audit that due to a computation mistake in calculating royalty at the rate of Rs. 5 for 5,213.95 quintals, the department charged Rs. 14,033 against the correct amount of Rs. 33,891 (including sales tax) which resulted in short demand of Rs. 19,858. The mistakes resulted in royalty being charged short to the tune of Rs. 86,566 (including sales tax).

On this being pointed out (January 1995) in Audit, the department revised the demand and raised the bill for Rs. 66,708 but failed to rectify the computation mistake. This has again been pointed out (March 1996) to the department. Government, to whom the case was reported in January 1995, confirmed (July 1995) raising of demand for Rs. 66,708 only.

5.10. Non-levy of extension fee

Clause 3 of the standard agreement deed (also applicable to the Himachal Pradesh State Forest Corporation) provides that if a lessee fails to fell tree, convert and carry the produce outside the leased area within the contract period, he shall be required to seek extension in the working period, failing which he shall have no right on the standing/felled trees and scattered/stacked timber lying in the leased forest. For

extension, if applied for and granted, the lessee is required to pay extension fee at the rate of 2 *per cent* per month on the balance amount of royalty payable to the Government. However, in case the entire royalty has been paid by the lessee, the rate of extension fee chargeable would be 0.3 *per cent* per month on the total sale price of the forest lot.

During Audit of 5 forest divisions (Bharmour, Chopal, Rajgarh, Seraj, and Suket) it was noticed (between December 1993 and December 1994) that in 21 forest lots (for the periods 1990-94) the exploitation work could not be completed within the lease periods. The Corporation sought extension in the working period of 19 lots whereas no extension was sought by it for the remaining two lots. Although the Corporation continued to work all the lots after the expiry of the lease periods, the department had neither granted extension in the working periods nor took any action to forfeit the forest produce and to demand/recover extension fee amounting to Rs. 35.06 lakhs. Chopal division alone accounted for non-levy of extension fee amounting to Rs. 23.99 lakhs.

The department accepted the Audit point in respect of Chopal division and stated that extension fee had been claimed from the Corporation. While in the case of Bharmaur, Seraj and Suket divisions demands amounting to Rs. 10.03 lakhs had been raised whereas demands worth Rs. 1.04 lakhs pertaining to Rajgarh division was being raised against the Corporation.

These cases were reported to Government between April 1994 and January 1995; their replies and reports of recoveries in all the cases have not been received (July 1996).

5.11. Loss of revenue due to administrative failure

Any act of causing damage by negligence or deliberately felling a tree or clearing of land for cultivation or for any other purpose in any protected forest etc., is a

offence under the Indian Forest Act, 1927 and is punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both. As per Government's instructions (April 1951), it is the duty of every nearest Forest Officer to immediately take cognizance of a forest offence, arrest the offender and seize the implements used in committing the offence and the forest produce. A report to this effect is to be entered immediately in the Damage Report Book by the Beat Forest Guard, giving full particulars of the offence committed and the damage got accepted from the offender.

As these cases are required to be either compounded or challaned in the Court of Law within one year under the provisions of Criminal Procedure Code, the department further directed (February 1985) all the Divisional Forest Officers to ensure that no case becomes time-barred for challaning and taking prompt action for their disposal. The delay in taking action results not only in the acquittals in Courts but compounding of offences also becomes difficult and offenders go scot free because of delay. Also, as per Government's guidelines (December 1986), the Divisional Forest Officers are not empowered to compound the forest offence cases involving illicit felling of more than one tree of higher class (Class IIA and above) and more than two trees of lower class (class III and below). Such cases are to be registered with the police.

(i) During Audit of records of the Divisional Forest Officer, Rajgarh, it was noticed (July 1992) that two cases of illicit felling of 145 trees were detected in Shad-Panjoga and Pain-Kufer forests by the Range Officer, Habban and Assistant Conservator of Forests (Territorial) during inspections on 9th October 1991 and 19th February 1992 respectively. They also reported that one damage report for a tree, after seizing 1.336 cubic metres converted timber in the first case and two damage reports for 27 trees, without seizing any timber in the second case were, issued by the Beat Forest Guards.

The Assistant Conservator of Forests also reported that in Pain-Kufer forest, 19 trees were seized by him during inspection. Scrutiny of records, however, revealed that although a system of protection of forests from injury by man or otherwise, to be adopted by the various departmental authorities, has already been prescribed by way of instructions, notifications etc., yet the department failed to issue damage reports in respect of 117 trees, detect, stop and bring such a huge illicit felling of trees to the notice of the higher authorities. The department failed to register FIRs in the case of 36 trees of Shad-Panjoga forest with the police whereas it delayed registration of FIR (2nd April 1992) in case of Pain-Kufer forest with the police even after its detection on 19th February 1992. This resulted in non-initiation of follow up action either to apprehend the culprits by the department or by taking help of the police by registering cases in time so as to trace the offenders and to recover loss of revenue amounting to Rs. 12.94 lakhs.

Government to whom the cases were reported (October 1992) stated (February 1995) that officials at fault had been chargesheeted and that 'first information report' in respect of illicit felling of 109 trees had been registered with the police. Their final outcome, report of police investigation and progress of recovery have not been received (July 1996).

(ii) During Audit of the records of the Divisional Forest Officer, Jubbal, it was noticed (August 1992) that in Tikkar range, illicit felling of 14 trees of *deodar* and *kail* specie were detected and consequently 9 damage reports issued against offenders (one known and 8 unknown) by the field staff between September 1990 and May 1991. Scrutiny of the divisional records, however, revealed that despite lapse of more than a year till Audit (August 1992) the department could neither apprehend the offenders nor all the cases were got registered with the police. The department also failed to put up challans of these cases in the Court of law within limitation period of one year and resultantly these cases became time barred. The failure of the department to ensure

timely action in these cases resulted in loss of revenue of Rs. 2.17 lakhs at market rates (including sales tax).

On this being pointed out (August 1992) followed by reminders (January 1993 and June 1993), the Conservator of Forests, Shimla Circle, stated (November 1994) that the Range Officer had been directed (February 1994) to recover the amount from the official responsible for the lapse. Their further reply and report of recovery has not been received (July 1996) despite reminders (December 1994, March 1996 and June 1996).

The case was reported to Government in November 1992; their reply has not been received (July 1996).

(iii) During Audit of records of the Divisional Forest Officer, Jubbal, it was noticed (August 1992) that two cases of illicit felling of 27 coniferous trees containing 37.33 cubic metres of standing volume of timber were detected during inspections on 19th November 1991 and 7th July 1991 by the Assistant conservator of Forests (Territorial) and the Block Officer, Tikkar, respectively. In these cases the Range Officer, Tikkar, was requested by the Assistant Conservator of Forests and the Block Officer respectively to register the cases with the police as they could neither apprehend any offender nor timber could be seized. In respect of 2nd offence (Sholdu forest), the Range Officer on 15th July 1991 and the Divisional Forest Officer on 20th July 1991 took up the matter with the police to register a case against a saw mill owner.

Scrutiny of the Divisional records in Audit, revealed (August 1992) that neither any damage report, which could be prepared even in the name of unknown offenders, was prepared nor cases for such huge illicit fellings of trees, compounding of which was not within the competency of the Divisional Forest Officer, were got registered with the police. Thus, failure of the department in preparation of damage reports resulted in non-initiation of any follow up action either to apprehend the offenders by getting the cases registered with the police or to trace out the forest produce or to

challan these cases in a Court of Law within the stipulated period of one year was taken in order to save them from becoming time-barred. This resulted in loss of revenue of Rs. 1.89 lakhs.

On this being pointed out (August 1992) in Audit, the department stated (November 1994) that disciplinary proceedings against the official at fault for non-compliance of orders and non-registering the case with the police had been initiated in respect of the first case while the second case was stated to be under investigation with the police authorities as the First Information Report was registered in March 1993. Despite reminders, their further progress and report of recovery have not been received (July 1996).

The cases were reported to Government (November 1992); their final replies have not been received (July 1996).

5.12. Loss of revenue due to unauthorised marking of trees in Timber Distribution

According to the departmental instructions (December 1986), the grant of trees in Timber Distribution to the right holders is made by the Divisional Forest Officer on the basis of recommendations of the Sarpanch of the concerned Panchayat and the forest field staff in regard to the genuineness of the demand. Any deviation in the sanctioned trees at the time of marking by the field staff is irregular/ unauthorised.

During Audit of the Divisional Forest Officers, Kullu and Shimla, it was noticed (November 1992 and August 1992) that as per reports of December 1990 and March 1991 of the Range Officer, Koti, (Shimla) and two Assistant Conservators of Forests, against 19 *Deodar* trees containing 41.40 cubic metres of standing volume of timber sanctioned in Timber Distribution to right holders by the Divisional Forest Officer Shimla, all trees of higher classes containing 92.20 cubic metres of standing volume of

timber were marked by the field staff for felling. In Kullu Range, felling permit of two trees (*Deodar* and *Kail* one each) containing 6 cubic metres of standing volume of timber was issued (March 1991) by the field staff without prior approval of the Divisional Forest Officer, Kullu.

Scrutiny of divisional records, revealed that despite lapse of a period over one year (Kullu division) and 2 years (Shimla division) till the dates of Audit, the department had not initiated action either to seize excess marked timber from the right holders or to effect recovery from the officials responsible for higher class/ unauthorised markings. This resulted in loss of revenue of Rs. 3.44 lakhs (Shimla: Rs. 3.12 lakhs and Kullu: Rs.0.32 lakh).

Government to whom the cases in respect of Shimla and Kullu divisions were reported in February 1993 and October 1992 stated in April 1993 and July 1993 respectively that departmental inquiries were in progress. However, the Divisional Forest Officer, Kullu, further informed (March 1996) that action to effect recovery from the official at fault was under process with the division to which he had since been transferred. Further progress of inquiries/ recoveries had not been received (July 1996).

5.13. Excess allowance of wastage on fuelwood

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

During Audit of the records of the Divisional Forest Officer, Pangi, it was noticed (September 1994) that in Killar depot, 10,084 quintals of fuelwood was available for sale. According to the report (October 1989) of the Range Officer, Killar, 6,980.19 quintals of fuelwood were sold during 1987-88 and 3,091.92 quintals had been allowed as

loss due to wastage as against the permissible quantity of 1,956.80 quintals. The excess wastage was neither investigated by the Divisional Forest Officer or the Range Officer, which resulted in providing excess wastage of 1,135.12 quintals of fuelwood and the potential revenue involved in this case amounted to Rs. 1.42 lakhs.

Government to whom the case was reported (October 1994) stated (May 1995) that reasons for excess wastage were being investigated. Their further reply and report of recovery has not been received (July 1996).

5.14. Non-disposal of trees

Consequent upon nationalisation of forest exploitation work and departmental instructions issued in January 1986, all the trees listed in salvage lots are to be handed over to the Himachal Pradesh State Forest Corporation for exploitation and the Corporation is bound to exploit the trees included in such lots irrespective of their location, size and quantity. Royalty on such lots is chargeable at the rates recommended by the Pricing Committee and approved by the State Government.

(i) During Audit of records of Divisional Forest Officer, Una, it was noticed (February 1995) that 157 trees of various species, containing 262.920 cubic metres of standing volume of timber, were marked (May/June 1993 and January 1994) for handing over to the Corporation for its exploitation during 1993-94. Besides, 13 uprooted trees (11: shisham and 2: *khair*) due to heavy rains containing 11.056 cubic metres (shisham) and 1.18 metre girth (*khair*) standing volume of timber, collected and stored by the department in August 1993 at Range Office, Amb, were also available for handing over to the Corporation during the year 1993-94.

Scrutiny of records, however, revealed (February 1995) that 5 out of 157 trees and 13 trees stored by the department were not handed over to the Corporation for exploitation (February 1995). This resulted in non-disposal of already damaged trees and consequent blocking of revenue amounting to Rs. 68,800 (including sales tax).

On this being pointed out (February 1995) in Audit, the department stated (April 1996) that matter was being investigated. Further report has not been received (July 1996).

The case was reported to Government in March 1995; their reply has not been received (July 1996).

(ii) During Audit of the records of the Divisional Forest Officer, Rajgarh, it was noticed (November 1994) that a salvage lot of 883 trees containing 508.995 cubic metres of standing volume of timber was marked and handed over (October 1993) to the Corporation for exploitation during the year 1993-94. The Corporation worked the lot but at the time of handing over (May 1994) the possession of the forest, unexploited 6 standing trees containing 13.790 cubic metres of standing volume of timber were also handed back to the department.

Scrutiny of the records revealed that the department did not ascertain reasons for non-exploitation thereof either at the time when trees were returned by the Corporation or while reconciling number of trees standing volume of timber, royalty etc. The department also did not inspect the trees either themselves or jointly with the representatives of the Corporation. This resulted in non-realisation of revenue of Rs. 34,473 (including sales tax).

On this being pointed out (November 1994) in Audit, the department stated (June 1995) that reasons for non-exploitation of trees were being enquired into. Further report has not been received (July 1996).

The case was reported to Government (December 1994); their reply has not been received (July 1996).

5.15. Loss of revenue due to shortage of fuelwood

As per the Himachal Pradesh Financial Rules, 1971, physical verification of all stores is required to be conducted once every year and results of such verification should be recorded.

During the Audit of the records of the Divisional Forest Officer, Bharmour (Chamba district), it was noticed (April 1993) that in Bharmour depot 2,880 quintals of fuelwood was available for sale. According to the norms 470 quintals was admissible as wastage. After sale of 1,447 quintals of fuelwood, 963 quintals of fuelwood should have been in stock against which only 194 quintals were handed over by the incharge of the depot to his successor on 23rd April 1992 which resulted in shortage of 769 quintals. The potential revenue involved in the shortage amounted to Rs. 1.01 lakhs (including sales tax and surcharge). The shortage remained undetected till April 1992 as annual physical verification as enjoined in the rules was not conducted.

On this being pointed out (April 1993) in Audit, the department stated (June 1995) that enquiry was being entrusted to the Range Officer Trehta/ Swai. Further reply and report of recovery has not been received (July 1996).

The case was reported to Government (June 1993); their reply has not been received (July 1996).

5.16. Non-levy/ short levy of interest

The Himachal Pradesh State Forest Corporation, entrusted with the responsibility of exploiting forest lots, is required to deposit royalty instalments in respect of different forest lots by due dates as fixed by the State Government on the recommendations of the Pricing Committee. Government decided in September 1987 that interest at the rate of 15 *per cent* per annum would be chargeable, from the year

1986-87 which was raised (September 1991) to 16.5 *per cent* per annum from the year 1991-92, if royalty is not paid within 90 days after due dates.

In case of default beyond 90 days, interest would be chargeable from the original due date. In order to avoid delay in the payment of interest, Government decided (November 1990) to charge interest on interest at the rate of 15 *per cent* per annum since 1982-83, but later decision was made applicable for the period from 1983-84 to 1989-90 by taking into account the total payable interest as on 30th June and 31st December every year.

Further as per clause 18(G) of the standard agreement deed (applicable to State Forest Corporation) and departmental instructions (January 1994) the amount of sales tax due on a lot is required to be recovered within the quarter in which it was handed over to the Corporation. For failure to do so Corporation would have to pay penalty at the rate of 18 *per cent* per annum for belated payment of sales tax.

During Audit of the records of 12^{*} Divisional Forest Officers, it was noticed (between August 1992 and February 1995) that in respect of 322 forest lots, which were handed over to the Corporation for exploitation during the years 1983-84 to 1993-95, either the instalments of royalty were not paid by the Corporation within 90 days after due dates and consequently interest not levied/ short levied or interest on belated payments of royalty levied but remained unrecovered or amounts of sales tax leviable on royalty instalments were not paid by the Corporation within the quarter in which the lots were handed over for exploitation. For delay in payments, interest, interest on interest, and penalty amounting to Rs. 112.65 lakhs (interest on royalty: Rs. 91.47 lakhs; interest on non-payment of interest: Rs. 8.55 lakhs and penalty on belated payment

* Churah, Dalhousie, Dehra, Dharamsala, Nalagarh, Nurpur, Palampur, Parvati, Rajgarh, Suket, Theog, and Una.

of sales tax: Rs. 12.63 lakhs) were either not demanded or demanded short by the department.

On this being pointed out (between August 1992 and February 1995) in Audit, department raised the demand for Rs. 38.59 lakhs and accepted the Audit point for Rs. 57.86 lakhs. Further progress of recovery has not been received (July 1996).

CHAPTER - 6 : OTHER TAX AND NON-TAX RECEIPTS

CHAPTER 6

OTHER TAX AND NON-TAX RECEIPTS

A-STAMP DUTY AND REGISTRATION FEE

6.1. Results of Audit

Test check of the records relating to stamp duty and registration fee, conducted in Audit during the year 1995-96, revealed non-realisation/short realisation of stamp duty and other irregularities amounting to Rs. 25.22 lakhs in 147 cases, which broadly fall under the following categories:-

		Number of cases	Amount (In lakhs of rupees)
1.	Non-recovery/short recovery of stamp duty	53	3.20
2.	Non-levy/short levy of stamp duty	72	17.53
3.	Other irregularities	22	4.49
	Total:	147	25.22

During the course of the year 1995-96, the concerned department accepted under-assessments of Rs. 3.73 lakhs involved in 68 cases of which 6 cases involving Rs. 0.29 lakh had been pointed out in Audit during 1995-96 and the rest in earlier years, the earliest year being 1976-77. A few illustrative cases highlighting important observations involving financial effect of Rs. 2.97 lakhs are given in the following paragraphs.

6.2. Short determination of stamp duty and registration fee

Under the Indian Stamp Act, 1899, as amended (vide the Himachal Pradesh Act No.7 of 1989) in its application to the Himachal Pradesh, with effect from 31st March 1989, the consideration, if any, the market value of the property and all other facts and circumstances, affecting the chargeability of any instrument with duty or the

amount of duty with which it is chargeable shall be fully and truly set forth in the instrument. The 'market value' of the property is defined as the price which such property would have fetched, if sold in the open market on the date of execution of the instrument relating to the transfer of such property. If the registering officer while registering any instrument has reason to believe that the market value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument refer the same to the Collector for determination of the market value or consideration and the proper duty payable thereon.

During Audit of records of five* Sub-Registrars, it was noticed (between July 1995 and January 1996) that in 41 cases registered during 1994, the consideration of the properties set forth in the instruments, was much below the average price certified by the concerned patwaries of the locality. In view of the wide variation between the value of the land obtaining and the consideration set forth in these instruments, the Registering Officers, after registering these instruments, were required under section 47-A of the Act to refer these cases to the Collector for determination of the market value. Calculated on the basis of the prices of land in that vicinity obtaining during 1993 as indicated by the patwari of the *Halka* concerned, stamp duty and registration fee forgone worked out to Rs. 2.77 lakhs.

These cases were pointed out to the department (between July 1995 and January 1996) and reported to Government (between August 1995 and February 1996); their replies have not been received (July 1996).

6.3. Non-levy of stamp duty and registration fee

Under the Indian Registration Act, 1908, as applicable in Himachal Pradesh, the non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in

* Kullu, Nalagarh, Paonta, Shimla (Rural) and Solan.

immovable property are required to be compulsorily registered. By notifications issued in July 1987 and June 1988, Government remitted the stamp duty and registration fees in respect of any instrument executed by the agriculturists in favour of any Himachal "Gramin Bank" for securing loan up to rupees one lakh for specific purposes.

In the course of Audit of accounts of the Sub-Registrar, Hamirpur it was noticed (September 1995) that during the year 1994, 3 documents were executed in the name of individuals for obtaining loans from a "Gramin Bank", for the purchase of mini trucks/ truck. Even though the documents were not exempt from payment of stamp duty and registration fee, as the loans secured through these documents were for the purpose other than prescribed for exemption, the Sub-Registrar while registering the documents did not levy any stamp duty and registration fee. This resulted in non-realisation of stamp duty and registration fee amounting to Rs. 20,076.

On this being pointed out (September 1995) in Audit, the department stated (June 1996) that the Krishi and Gramin Development Bank Limited falls under the definition of co-operative society and the instruments executed by or on behalf of a co-operative society or by any officer or member thereof and relating to the business of the such society were exempted from the payment of stamp duty and registration fee with effect from March 1988 and resultantly these documents registered in favour of the bank were exempted. The reply is not tenable as the documents had been registered in the name of individuals and did not relate to society's business and that the cases also do not fall within the purview of notification of June 1988 by which exemption from levy of stamp duty and registration fee was allowed by the Government in respect of loans secured through the "Gramin Bank" for specific purposes. This was pointed out (June 1996) to the department and their further reply has not been received (July 1996).

This was reported to Government in November 1995; their reply has not been received (July 1996).

B-TAX ON LUXURIES

(In Hotels and Lodging Houses)

6.4. Results of Audit

Test check of records, relating to tax on luxuries (in hotels and lodging houses) conducted in Audit during the year 1995-96, revealed irregularities involving revenue amounting to Rs. 1.14 lakhs in 5 cases, which broadly fall under the following categories:-

		Number of cases	Amount (In lakhs of rupees)
1.	Under -assessment of luxury tax	3	1.05
2.	Other irregularities	2	0.09
	Total:	5	1.14

An illustrative case is given in the paragraph below.

6.5. Under-assessment of luxury tax

Under the Himachal Pradesh Tax on Luxuries (In Hotels and Lodging Houses) Act, 1979, every proprietor liable to pay luxury tax under the Act, shall submit a return in the prescribed form to the assessing authority of the district concerned within eight days after the end of the month to which the return relates. On receipt of a return, the assessing authority of the district concerned shall assess the luxury tax payable in respect of the period to which the return relates and if the amount has not already been paid as aforesaid, the assessing authority shall cause a notice to be served upon the proprietor concerned, requiring him to pay the amount assessed within ten days of the service of the notice. Under the Act *ibid* the rate of luxury tax has been prescribed as ten *per cent* with effect from 1st July 1992.

During Audit of the Assistant Excise and Taxation Commissioner, Kangra, it was noticed (March 1996) that assessments of the returns for the years 1993-94 and 1994-95 filed by the proprietors of 43 hotels/ Guest Houses of Kangra district were finalised by the assessing authority between September 1994 and September 1995. A scrutiny in Audit of the assessment records, however, revealed that owing to application of prerevised rates, luxury tax amounting to Rs. 56,038 was short realised.

The matter was pointed out in Audit to the department (March 1996) and reported to Government in April 1996; their replies have not been received (July 1996).

Shimla
The

20 DEC 1996



(MALASHRI PRASAD)
Accountant General(Audit)
Himachal Pradesh

Countersigned

New Delhi
The

13 DEC 1996



(V.K. SHUNGLU)
Comptroller and Auditor General of India

