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

FOR THE YEAR  
ENDED 31 MARCH 1993

**No. 1**

(REVENUE RECEIPTS)  
GOVERNMENT OF ORISSA

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COMPTROLLER  
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**FOR THE YEAR  
ENDED 31 MARCH 1993**

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ଓଡ଼ିଶା ବିଧାନ ସଭା ସମ୍ମୁଖ  
ସ୍ଥାପନ କରା ଯାଇଥିବା.....  
Laid before the Orissa  
Legislative Assembly  
on.....

**(REVENUE RECEIPTS)  
GOVERNMENT OF ORISSA**

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## PREFATORY REMARKS

This Report for the year ended 31st March 1993 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

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

## OVERVIEW

This Report contains 49 paragraphs including one review relating to non-levy, short levy of tax, penalty, interest etc. involving Rs.7.48 crores. Some of the major findings are mentioned below:

### 1. General

(i) The total revenue raised by the Government of Orissa during the year 1992-93 was Rs.1150.05 crores comprising tax revenue of Rs.761.90 crores and non-tax revenue of Rs.388.15 crores. While the tax revenue consisted mainly of Sales Tax (Rs.452.00 Crores), non-tax revenue was mainly from Mines and Minerals (Rs.115.93 crores) and Forest (Rs.104.00 crores).

(Paragraph 1.1 and 1.2)

(ii) Test check of the records of Sales Tax, Motor Vehicles, State Excise, Forest and other departmental offices conducted during the year 1992-93 revealed under assessment/short levy/loss of revenue amounting to Rs.38.93 crores in 66,982 cases. During the course of the year 1992-93 the concerned departments accepted under assessment etc. of Rs.4.9 crores involved in 4078 cases of which Rs.1.10 crores involved in 139 cases were pointed out in 1992-93 and rest in earlier years.

(Paragraph 1.8)

### 2. Sales Tax

(i) A Review on Registration of dealers revealed the following :-

a) Inadequate survey and absence of a regular system of survey resulted in poor detection of cases of dealers liable for registration under the Act.

(Paragraph 2.2.6)

b) 68 to 82 per cent of applications for registration were disposed off after delay ranging from more than one month to 72 months.

(Paragraph 2.2.7)

c) There exists no machinery to verify bonafides of a dealer and correctness of the particulars given by him in his application before issue of registration certificate.

(Paragraph 2.2.8)

d) The amount of security money realised from dealers was not revised to match the increase in their gross turnover. This resulted in loss of revenue of Rs.1.07 lakhs in case of 16 dealers whose securities had to be forfeited towards their arrears of tax.

(Paragraph 2.2.9)

e) Misutilisation of statutory forms after cancellation of registration certificate resulted in loss of Rs.1.13 lakhs.

(Paragraph 2.2.10)

ii) Irregular exemption to small scale industries on purchase/sales resulted in short levy of tax amounting to Rs.27.11 lakhs in 5 cases.

(Paragraph 2.3)

iii) Irregular allowance of inadmissible deductions, in respect of sale turnover of finished iron goods on the ground that raw-materials had already suffered tax resulted in short levy of tax amounting to Rs.10.59 lakhs in 3 cases.

(Paragraph 2.4)

### 3. Taxes on Motor Vehicles and Passengers

i) Composite tax in respect of 1508 vehicles plying under National Permit Scheme amounting to Rs.7.43 lakhs was not realised or short realised.

(Paragraph 3.2)

ii) Tax and additional tax in respect of 1079 vehicles amounting to Rs.46.78 lakhs was not realised or short realised.

(Paragraph 3.7)

iii) In respect of 64 motor vehicles, which violated off-road declarations, tax amounting to Rs.6.25 lakhs was not realised nor was any penalty though leviable upto Rs.12.50 lakhs imposed.

(Paragraph 3.9)

iv) Penalty of belated payment of tax in respect of 191 motor vehicles amounting to Rs.20.36 lakhs was not levied for 1991-92.

(Paragraph 3.16)

### 4. LAND REVENUE

i) Premium, ground rent, cess and interest amounting to Rs.349.11 lakhs were not recovered from the Orissa State Electricity Board (Rs.43.15 lakhs) and others (Rs.305.96 Lakhs).

(Paragraph 4.3)

ii) Non recovery of premium, ground rent and cess in respect of Government land made over to a private party in the year 1980-81 resulted in blockage of revenue amounting to Rs.20.86 lakhs from March 1988 to July 1990 and Rs.44.09 lakhs thereafter.

(Paragraph 4.7)

## 5. STATE EXCISE

i) Loss of excise revenue amounting to Rs.9.86 lakhs occurred due to irregular deduction from the stock of molasses.  
(Paragraph 5.4)

ii) Excise duty on beer amounting to Rs.9.31 lakhs was short levied due to allowance of inadmissible wastage.  
(Paragraph 5.7)

## 6. FOREST RECEIPTS

i) Government incurred a loss of Rs.89.78 lakhs on sale of sal seeds for the year 1991.  
(Paragraph 6.2)

ii) Royalty amounting to Rs.4.89 lakhs was short realised due to adoption of 'unit value' instead of 'actual volume' for calculation.  
(Paragraph 6.3)

iii) Interest amounting to Rs.11.01 lakhs on belated payment of consideration money/royalty was not levied.  
(Paragraph 6.5)

## CHAPTER I

### GENERAL

#### 1.1 Trend of Revenue Receipts

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

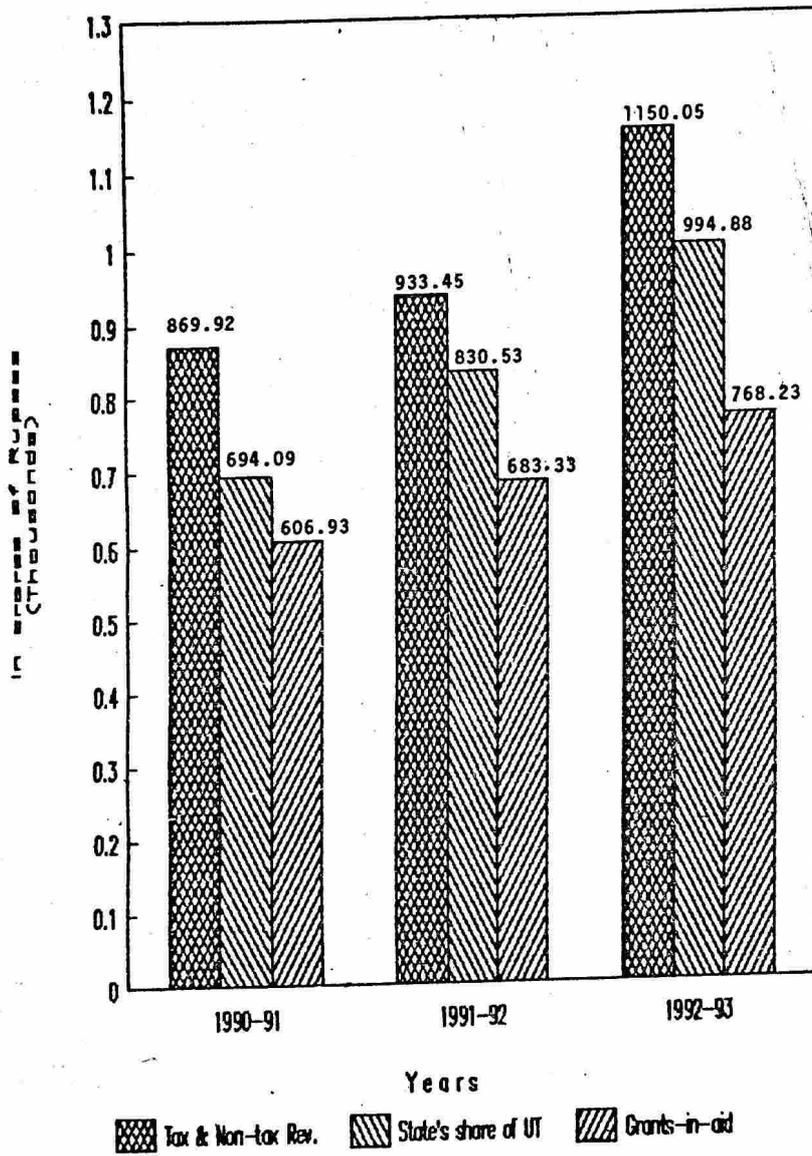
		1990-91	1991-92	1992-93
I.	Revenue raised by State Government	(Rupees in crores)		
(a)	Tax Revenue	668.80	673.65	761.90
(b)	Non-tax Revenue	201.12	259.80	388.15
<b>Total-</b>		<b>869.92</b>	<b>933.45</b>	<b>1150.05</b>
II.	Receipts from Government of India			
(a)	State's share of divisible union taxes	694.09	830.53	994.88
(b)	Grants-in-aid	606.93	683.33	768.23
<b>Total-</b>		<b>1301.02</b>	<b>1513.86</b>	<b>1763.11</b>

III.	Total Receipts of the State Government (I + II)	2170.94	2447.31	2913.16
IV.	Percentage of I to III	40.07	38.14	39.47

(i) The details of the tax revenue raised during the year 1992-93 alongwith the figures for the preceding two years, are given below and also exhibited in chart-II.

Heads of Revenue	1990-91	1991-92	1992-93	Percentage of increase(+) or decrease(-) in 1992-93 over 1991-92
(Rupees in crores)				
1. Sales Tax	354.58	394.16	452.00	(+)14.67
2. Taxes and duties on Electricity	98.76	99.46	97.34	(-) 2.03
3. Land Revenue	81.90	24.77	27.16	(+) 9.65
4. Taxes on vehicles	52.29	59.75	77.13	(+)29.08
5. Taxes on goods and passengers	00.08	00.02.	00.01	-
6. State Excise	45.64	55.07	62.77	(+)13.98

Chart - I  
Trend of Revenue Receipts

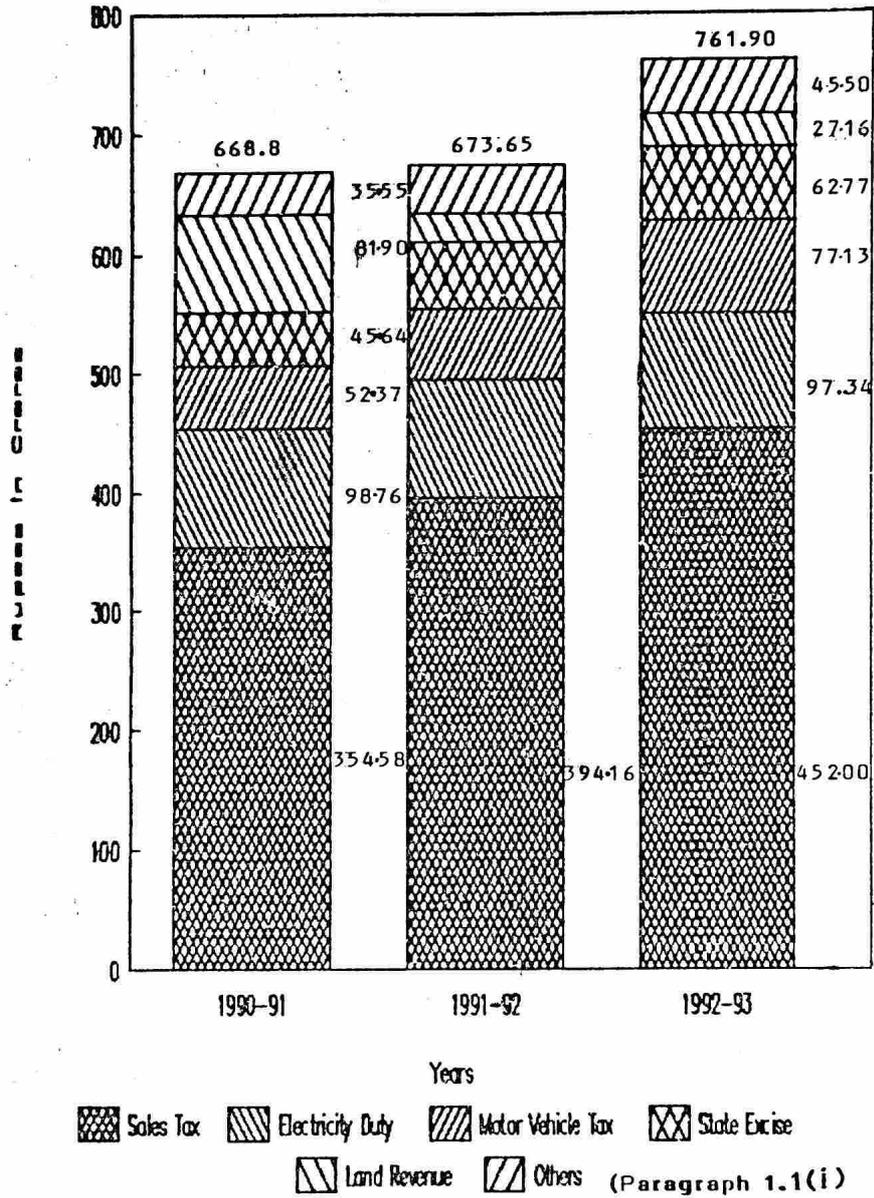


(Paragraph : 1.1)

Chart - II

# Growth of Tax Revenue

During 1990-91 to 1992-93



Years

- Sales Tax
- Electricity Duty
- Motor Vehicle Tax
- State Excise
- Land Revenue
- Others (Paragraph 1.1(i))

Heads of Revenue	1990-91	1991-92	1992-93	Percentage of increase(+) or decrease(-) in 1992-93 over 1991-92
7. Stamp duty and Registration fees	30.94	35.43	40.64	(+)14.70
8. Other taxes and duties on commodities and services	4.61	4.99	4.85	-
<b>Total-</b>	<b>668.80</b>	<b>673.65</b>	<b>761.90</b>	<b>(+)13.10</b>

There were significant variations in receipts under the following heads :

a. Under "Sales Tax" the department attributed the increase (14.67 per cent) to increase in collection of arrears and less refund of tax.

b. Under "Tax on vehicles" the department attributed the increase (29.08 per cent) to introduction of toll tax from April 1992, arrear collection and strict implementation of enforcement activities.

c. Under "Stamp duty and Registration fees" the department attributed the increase (14.70 per cent) in collection to more sale of stamps and stamp papers on public demand.

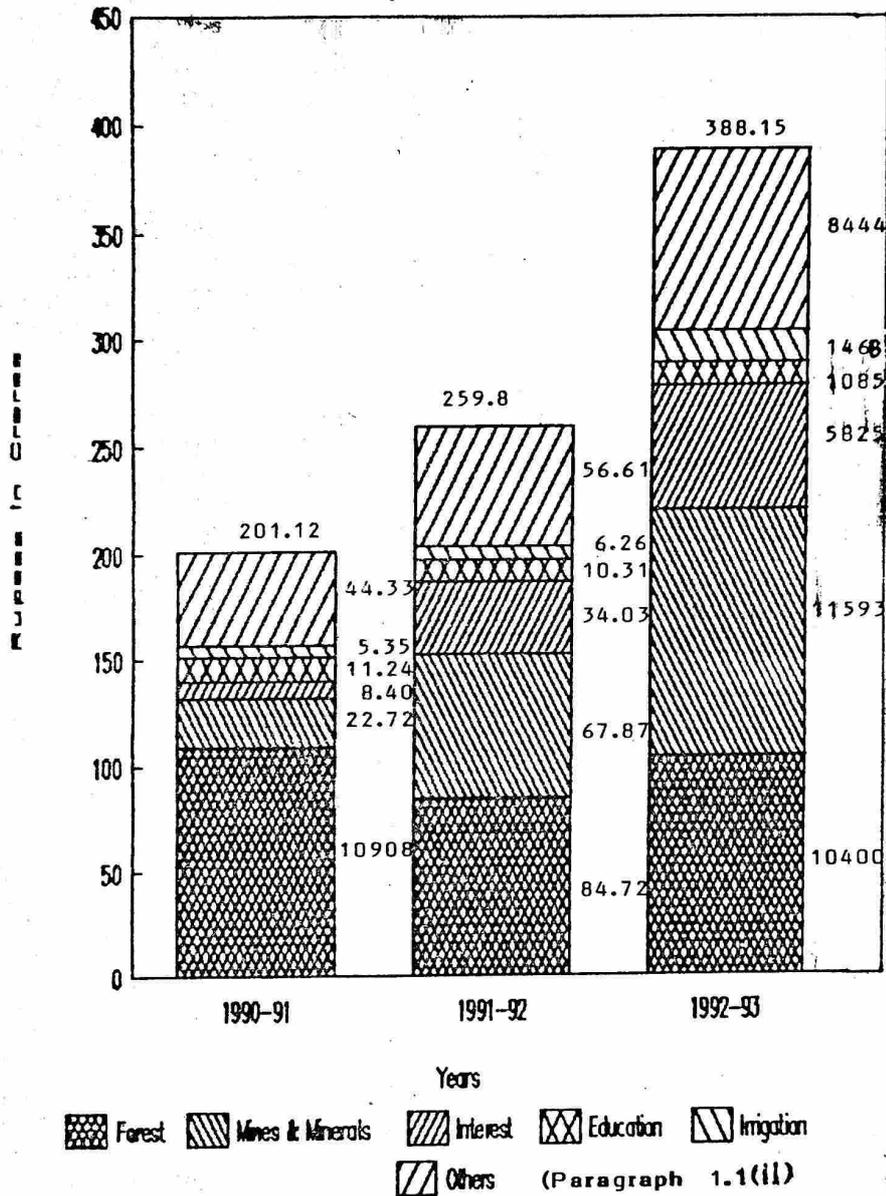
The State Excise department did not give any specific reasons for the increase (13.98 per cent) in the collection.

(ii) The details of non-tax revenue realised during the years 1990-91 to 1992-93 are given below and also exhibited in chart-III.

Head of Revenue	1990-91	1991-92	1992-93.	Percentage of increase(+) or decrease(-) In 1992-93 over 1991-92
(Rupees in Crores)				
1. Forest	109.08	84.72	104.00	(+)22.76
2. Mines and Minerals	22.72	67.87	115.93	(+)70.81
3. Education	11.24	10.31	10.85	(+) 0.52
4. Interest	8.40	34.03	58.25	(+)71.17
5. Public Health Sanitation and Water Supply	5.37	5.76	5.66	(-) 1.74
6. Irrigation Navigation Drainage and Flood Control Project	5.35	6.26	14.68	(+) 134.35
7. Police	4.37	4.85	6.65	(+)37.11
8. Others	34.59	46.00	72.13	(+)56.80
<b>Total</b>	<b>201.12</b>	<b>259.80</b>	<b>388.15</b>	<b>49.40</b>

# Chart - III Growth of Non-Tax Revenue

During 1990-91 to 1992-93



The reasons of variation though called for from the concerned department, their replies have not been received (December 1993).

### 1.2. Variations between Budget Estimates and Actuals

The variations between Budget estimates of revenue for the year 1992-93 and the actual receipts under the Principal heads are given below.

Head of Revenue	Budget Estimates	Actual receipts	Variations Increase(+) Short fall (-)	Percentage of variation
(Rupees in Crores)				
1. Sales Tax	510.00	452.00	(-)58.00	(-) 11.37
2. Forest	110.94	104.00	(-) 6.94	(-) 6.25
3. Taxes and Duties on electricity	103.09	97.34	(-) 5.75	(-) 5.57
4. Land Revenue	17.12	27.16	(+)10.04	(+) 58.64
5. Taxes on vehicles	73.52	77.13	(+) 3.61	(+) 4.91
6. State Excise	73.79	62.77	(-)11.02	(-) 14.93
7. Stamp duty and registration fees	44.48	40.64	(-) 3.84	(-) 8.63
8. Mines and Minerals	115.50	115.93	(+) 0.43	(+) 0.37

Head of Revenue	Budget Estimates	Actual receipts	Variations Increase(+) Short fall (-)	Percentage of variation
(Rupees in Crores)				
9. Education	8.46	10.85	(+) 2.39	(+) 28.25
10. Interest	36.12	58.25	(+) 22.13	(+) 61.26
11. Police	2.70	6.65	(+) 3.95	(+) 146.29

The reasons for variations between the Budget estimates and actuals as reported (October 1993) by the concerned Departments were as under:-

(a) Under the 'Sales Tax' the decrease (11.3 per cent) was attributed to locking of demands in litigation.

(b) Under 'Land Revenue' the increase (58.64 per cent) was due to the effective drive for collection by revenue field staff.

(c) Under 'State Excise' the department attributed the decrease (14.93 per cent) to non-functioning of Country Spirit Shops in Cuttack District and closure of these shops due to liquor tragedy.

(d) Under Interest the increase (61.26 per cent) was mainly due to adjustment of dues of Orissa State Electricity Board.

(e) Under 'Police' the increase (146.29 per cent) was due to collection of arrears not anticipated while framing budget estimates.

### 1.3 Cost of Collection

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

Head of Revenue	Year	Gross Collection	Expenditure on collection	Percentage of expenditure to Gross collection	All India Average percentage for the year 1991-92
(Rupees in crores)					
(1) Sales Tax	1990-91	354.58	6.79	1.9	1.5
	1991-92	394.16	8.29	2.1	
	1992-93	452.00	8.80	1.9	
(2) Taxes on vehicle	1990-91	52.29	0.84	1.6	3.0
	1991-92	59.75	1.36	2.27	
	1992-93	77.13	1.59	2.06	
(3) State Excise	1990-91	45.64	3.20	7	2.5
	1991-92	55.07	3.97	7.2	
	1992-93	62.77	4.86	7.74	
(4) Stamps & Registration fees	1990-91	30.94	3.46	11.2	5.0
	1991-92	35.43	3.95	11.14	
	1992-93	40.64	4.38	10.77	
(5) Taxes and duties on Electricity	1990-91	98.76	1.35	1.4	
	1991-92	99.46	1.35	1.35	
	1992-93	97.34	1.47	1.5	

The percentage of expenditure to gross collection is higher in respect of Stamp duty and Registration fees and State Excise as compared to the All India Average percentage of expenditure to gross collection for the year 1991-92.

#### 1.4 Arrears in assessment of Sales Tax

The details of Sales 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 the number of cases pending finalisation at the end of each year, during 1988-89 to 1992-93, 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
1988-89	1,75,877	1,93,062	3,68,939	1,82,059	1,86,880	51
1989-90	1,86,880	1,88,701	3,75,581	1,84,749	1,90,832	51
1990-91	1,90,832	1,90,981	3,81,813	1,81,936	1,99,877	52
1991-92	1,99,877	1,99,949	3,99,826	1,89,024	2,10,802	53
1992-93	2,10,802	1,87,167	3,97,969	1,81,342	2,16,627	54

The above table shows that the number of outstanding cases went up from 1,86,880 at the end of 1988-89 to 2,16,627 at the end of 1992-93 registering an increase of 15.91 per cent.

#### 1.5 Fraud and evasion of tax

The number of cases of evasion of tax detected by Sales Tax department during 1992-93, assessment finalised are given below:

A.i	Cases pending as on 31st March 1992	Number of cases 18,504
ii.	Cases detected during the year	9,193
<b>Total</b>		<b>27,697</b>

B.	Cases in which investigations/ assessments were completed during the year	9,313
C.	Cases which were pending at the end of the year	18,384

The amount of revenue involved in the above cases was not furnished by the department.

#### 1.6 Analysis of Collection

The break up of the total collections (at the pre-assessment stage and after regular assessment) of Sales Tax during the year 1992-93 and the corresponding figures for the preceding two years as furnished by the departments are given below:

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount of arrear demand collected	Other misc. receipt	Amount refunded	Net collection of tax	Percentage of col. 2 to 7
1	2	3	4	5	6	7	8
(Rupees in Crores)							
1990-91	309.97	16.16	32.80	0.78	5.13	354.58	87
1991-92	366.55	29.82	5.82	-	8.34	393.85*	93
1992-93	410.91	28.90	15.45	-	3.43	451.83**	91

The position of revenue collected by Sales Tax Department as detailed above, shows that the collection of revenue at pre-assessment stage ranged between 87 and 93 per cent during last 3 years ending March 1993. This indicates a high degree of voluntary compliance by tax payers and limited role of tax

\* The difference of Rs.0.31 crores (Rs.394.16 crores (-) 393.85 crores) has been attributed by the department to pending reconciliation of intra-departmental figures.

\*\* The difference of Rs.0.17 crores [Rs.452 crores (-) Rs.451.83 crores] has been attributed by the department to the non-inclusion of miscellaneous receipts.

collecting machinery in achieving the higher targets of collections.

### 1.7 Uncollected revenue

As on 31st March 1993, arrears of revenue under principal heads of revenue, as reported by the departments, were as under:

Head of revenue	Amount of arrears as on 31 March 1993	Arrear more than five years old.	Remarks
( Rupees in crores )			
1.Sales Tax	427.89	56.23	The position of recovery of arrears under various stages is given below:-
(Rupees in crores)			
			(a) Recovery stayed by :
			(i) High Court and other judicial authorities 118.39
			(ii) Government/ departmental authorities 137.75
			(b) Other stages:
			(i) Under third party notices 31.30
			(ii) Under show cause notice 68.05
			(c) Demands covered by certificate proceedings 69.93
			(d) Amounts likely to be written off . 2.47
			<b>Total 427.89</b>

Head of revenue	Amount of arrears as on 31 March 1993	Arrears more than 5 years old	Remarks
(1)	(2)	(3)	(4)
(Rupees in crores)			
2. Interest	206.01	114.38*	Interest payable by the State Electricity Board 184.45  Interest on loans by Industries Department 20.60  Interest on loans from Community Development 00.96  <u>Total: 206.01</u>
3. Taxes and Duties on Electricity	68.66		The year-wise break up and specific action taken to effect the recovery by the department has not been received.
4. Forest	25.49		The year-wise break up and specific action taken to effect the recovery by the department has not been received.
5. Police	7.03	1.94	The specific action taken to effect the recovery by the department has not been received. (December 1993)

\* Relates to Orissa State Electricity Board.

Head of revenue	Amount of arrears as on 31 March 1993	Arrears more than 5 years old	Remarks
(1)	(2)	(3)	(4)
(Rupees in crores)			
6. Mines and Minerals	4.10	00.82	Out. of the above arrears, recovery of Rs.34.10 lakhs was covered by certificate proceeding, Rs.17.20 lakhs was under stay orders of High Court and other judicial authorities, Rs.39.80 lakhs was under proposal for write off, Rs.60.91 lakhs was under dispute and the balance amount of Rs.257.77 lakhs was under process of recovery.
7. State Excise 2,90*			The year-wise break up of the arrears could not be furnished by the department though called for in June 1993.  The recovery of arrears under various stages are given below :

\* The position of the uncollected revenue in respect of Puri district has not been included as information could not be furnished by the department.

Head of revenue	Amount of arrears as on 31 March 1993	Arrears more than 5 years old	Remarks
(1)	(2)	(3)	(4)

(Rupees in crores)

(Rupees in crores)

(i)	Demands covered under certificate cases	00.85
(ii)	Under process of realisation	1.35
(iii)	Amount likely to be written off	00.06
(iv)	Recoveries stayed by High Court or Judicial authorities and Government	00.64
<b>Total :</b>		<b>2.90</b>

8. Stationery	1.39	00.18	Out of these arrears, an amount of Rs. 9,000 (Nine thousand) was covered by certificate proceedings and action taken to recover the remaining amount has not been intimated (December 1993)
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The information from other departments though called for has not been furnished (December 1993)

### 1.8 Results of Audit

Test check of the records of Sales Tax, Motor Vehicles, State Excise, Forest and other departmental offices conducted during the year 1992-93 revealed under assessment/short levy/loss

of revenue amounting to Rs.3893 lakhs in 66,982 cases. During the course of the year 1992-93 the concerned departments accepted under assessment etc. of Rs.489.79 lakhs involved in 4078 cases of which Rs.109.55 lakhs involved in 139 cases were pointed out in 1992-93 and the rest in earlier years.

This report includes 49 paragraphs including one review involving financial effect of Rs.747.77 lakhs of which Rs.617.23 lakhs were accepted by the Government/Department. Recovery made in these cases amounted to Rs.1.25 lakhs upto December 1993. Audit objections with a total revenue effect of Rs.14.27 lakhs have not been accepted by the Department/Government but their contentions being at variance with the facts or legal position have been appropriately commented upon in the relevant paragraphs.

#### 1.9 Outstanding Inspection Reports

(a) Important irregularities and defects in assessments, demand, collection and accounting of State Receipts, noticed during local audit, are intimated through Inspection Reports to the Departmental Officers, Heads of Departments and also to Government, where necessary, with request to furnish replies thereto within a month of their receipt. In addition, statement showing details of audit objections remaining outstanding for more than six months are sent to Government every six months in May and November, so that these may receive special attention.

(b) At the end of June 1993, 2624 Inspection reports containing 8788 audit objections involving Rs. 6838.92 lakhs issued upto December 1992 were awaiting settlement

The year-wise break up of the outstanding as at the end of June 1993 is given below :

		Number of Outstanding		Revenue involved
		Inspection Reports	Audit objections	(Rupees in lakhs)
Upto	1990-91	2166	6123	4471.07
	1991-92	257	1497	1170.30
December	1992	201	1168	1197.55
<b>Total</b>		<b>2624</b>	<b>8788</b>	<b>6838.92</b>

(c) Department-wise break up of the inspection reports and audit objections outstanding as on 30th June 1993 is given below :

Department	Nature of of receipts	Number of Inspection reports	outstanding Audit objections	Amount of receipts involved  (Rupees in lakhs)	Year to which objections relate	Number of inspection reports to which even first replies had not been received
1. Revenue and Excise	Land Revenue	742	1830	2992.25	1974-75 to 1992-93	55
	Stamp Duty & Registration	299	378	75.29	1976-77 to 1992-93	61
	State Excise	128	332	701.64	1973-74 to 1992-93	38
2. Commerce and Transport (Transport)	Taxes on vehicles	180	1782	643.04	1968-69 to 1992-93	3
	Taxes on passengers	70	237	375.26	1973-74 to 1987-88	-

Department	Nature of receipts	Number of Inspection reports	outstanding Audit objections	Amount of receipts involved  (Rupees in lakhs)	Year to which objections relate	Number of inspection reports to which even first replies had not been received
3.Finance	Sales Tax	526	2020	975.35	1972-73 to 1992-93	52
	Entertainment Tax	177	269	9.20	1973-74 to 1992-93	55
4.Forest and Environment	Forest	398	1732	711.75	1965-66 to 1992-93	33
5.Steel and Mines	Mining receipts	104	208	355.14	1974-75 to 1992-93	17
<b>Total:</b>		<b>2624</b>	<b>8788</b>	<b>6838.92</b>		<b>314</b>

The matter was brought to the notice of the Chief Secretary to Government in September and October 1993; intimation regarding steps taken by the Government to clear the outstanding Inspection Reports and Audit Objections has not been received (December 1993).

## CHAPTER-2

### SALES TAX

#### 2.1 Results of Audit

Test check of assessments and refund cases and the connected documents in the Commercial Tax Offices during the period from April 1992 to March 1993 revealed under assessment of tax and loss of revenue amounting to Rs.542.81 lakhs in 948 cases which may broadly be categorised as under:

	No. of cases	Amount (Rupees in lakhs)
1. Short-levy due to incorrect computation of taxable turnover	89	49.56
2. Under assessment due to application of incorrect rate.	117	98.46
3. Irregular grant of exemption.	116	109.33
4. Non-levy of interest.	305	4.49
5. Other cases.	321	280.97
	<u>948</u>	<u>542.81</u>

During the course of the year 1992-93, the concerned Department accepted under assessment etc. of Rs.132.74 lakhs involved in 380 cases of which Rs.79.35 lakhs involving 38 cases was pointed out during 1992-93 and the rest in earlier years.

Some important cases noticed in audit involving financial effect of Rs.58.89 lakhs are mentioned in the following paragraphs.

## 2.2 Registration of dealers

### 2.2.1 Introduction

Under the Orissa Sales Tax Act, 1947 and the rules framed thereunder every dealer is liable to pay tax from a specified date when his gross turnover exceeds the prescribed quantum and to get himself registered to enable him to carry on the business. The dealers are required to get themselves registered under the Central Sales Tax Act also, if they engage in inter-state sale or purchases in goods.

### 2.2.2 Organisational Set up

The Commissioner of Commercial Taxes, Orissa, is the head of the department and is assisted by five Additional Commissioners and four Assistant Commissioners in the Headquarters office. There are nine Territorial Ranges, each headed by an Assistant Commissioner. Under the Territorial Ranges there are twenty eight circles each of which is headed by a Commercial Tax Officer, assisted by Additional Commercial Tax officers and Inspectors. The responsibility for registration rests with the Commercial Tax Officers. In addition there are three Intelligence Ranges and four Vigilance Ranges each headed by an Assistant Commissioner.

### 2.2.3. Scope of audit

A review on the registration of dealers was conducted between January 1993 and May 1993 with a view to examining that registration is done in accordance with the provisions of the Act and Rules. For this purpose relevant records relating to 7 circles Cuttack-I (West), Cuttack-I(East), Cuttack-I(Central), Cuttack-II, Bhubaneswar-I, Puri-I and Berhampur-I for the years 1989-90 to 1991-92, were test checked. Relevant records maintained by the

concerned Assistant Commissioners of Commercial Taxes (Ranges) and office of the Commissioner of Commercial Taxes were also reviewed.

#### 2.2.4 Highlights

(i) Inadequate survey and absence of a regular system of survey resulted in poor detection of cases of dealers liable for registration under the Act.

(ii) 68 to 82 *per cent* of applications for registration were disposed off after delay ranging from more than one month to 72 months.

(iii) There exists no machinery to verify bonafides of a dealer and correctness of the particulars given by him in his application before issue of registration certificate.

(iv) The amount of security money realised from dealers was not revised to match the increase in their gross turnover. This resulted in loss of revenue of Rs.1.07 lakhs in case of 16 dealers whose securities had to be forfeited towards their arrears of tax.

(v) Misutilisation of statutory forms after cancellation of registration certificate resulted in loss of Rs.1.13 lakhs.

#### 2.2.5 Growth of Registered dealers

The table below shows the growth of registered dealers during the three years ending 1991-92 as per information furnished by the Commissioner of Commercial Taxes.

**A- Dealers registered under Orissa Sales Tax Act, 1947.**

Year	No. of dealers at the commencement of the year	Dealers registered during the year	No. of Revis- cancell- ed during the year	No. of dealers at the end of the year	Growth of registered dealers during the year	Percent- age of growth
1989-90	29,393	2420	1,425	30,388	995	3.39
1990-91	30,388	1726	1,426	30,688	300	0.99
1991-92	30,688	1890	2,027	30,551	(-)137	(-)0.45

**B- Dealers registered under Central Sales Tax Act, 1956**

1989-90	3,788	1406	1,368	3,826	38	1.00
1990-91	3,826	1149	1,121	3,854	28	0.73
1991-92	3,854	1326	1,218	3,962	108	2.80

The percentage of growth of registered dealers under the Local Act was decreasing. The number of dealers decreased from 30,688 to 30,551 at the end of 1991-92.

**2.2.6. Inadequate survey**

Registration is the first step towards bringing a dealer within the ambit of sales tax. Detection of new dealers liable for registration is one of the important objectives of the department. The work of survey plays a vital role in the fulfilment of this objective. The work of survey is entrusted to the Inspectors of the circles as well as of the Intelligence and Vigilance Wing. The departmental manual provides that periodical survey should be conducted in all important trade centres to detect dealers who were liable to pay tax but not registered.

A monthly quota of detection of 5 cases and 10 cases has been fixed in respect of officers and inspectors of Intelligence and Vigilance Wing respectively while no such quota has been

prescribed for any officers of the Circles in charge of survey. During the course of test check of one Intelligence and one Vigilance Range, it was seen that there was shortfall in detection of cases during the 3 years to the extent of 233 and 203 in Intelligence and Vigilance Wing respectively.

From the information furnished by the seven Commercial Tax Circles test checked, (during January 1993 to May 1993), it was seen that during the three years ending 1991-92 only 100 cases were detected where new dealers were found carrying on business without registration though they attracted liability to registration under the Act. During the said 3 years 47 cases involving a tax evasion of Rs.6.01 lakhs were registered. No survey was conducted in Cuttack-II and Puri-I Circles during 1989-90 to 1991-92. There was no monitoring system to watch that the survey was conducted as prescribed in the departmental manual.

The department did not undertake any comprehensive or organised survey and relied mainly on voluntary registration by the dealers.

#### 2.2.7 Delay in disposal of applications

A dealer becomes liable to pay tax with effect from the month immediately following a period not exceeding 12 months during which his sales exceeded the prescribed quantum. He should, therefore, apply for registration in the prescribed Form II together with a fee of Rs.5 only, not less than one month before the aforesaid liable date and not later than 15 days from the beginning of the month in which he becomes liable to tax. On receipt of the application, a number is to be allotted to it after its careful scrutiny and enquiry. On completion of the scrutiny of the application and the necessary enquiries deemed fit by the registering authority, the Registration Certificate is issued within a fortnight from the date of payment of security. All

applications for registration are to be dealt with promptly and the decision of granting or rejecting an application for registration, is required to be given within one month of the receipt of the application.

A monthly progress report showing applications received, disposed off showing number of cases registered/rejected etc., is submitted by Commercial Tax Officer to the Commissioner of Commercial Taxes. However no monitoring on the basis of these reports was done by the Commissioner.

A scrutiny of the relevant records in the circles test checked, however, revealed that there was inordinate delay in the disposal of applications for issue of registration certificates. The delay in disposal of applications for registration under the Orissa Sales Tax Act and the Central Sales Tax Act is given in the table below:

Year	No. of applications pending at the beginning of the year	No. of applications received	Total	No. of applications disposed off	Delay in disposal beyond					Total	Percentage of delayed disposal over total disposal
					1 month	2-6 months	7-12 months	1-3 years	4-6 years		
1	2	3	4	5	6	7	8	9	10	11	12
<b><u>O.S.T.</u></b>											
1989-90	475	965	1440	1021	158	474	130	77	7	846	82.86
1990-91	419	714	1133	745	66	272	114	126	5	583	78.26
1991-92	388	720	1108	836	52	350	114	102	17	635	75.96
<b><u>C.S.T.</u></b>											
1989-90	327	633	960	646	87	290	67	52	--	496	76.78
1990-91	314	533	847	529	41	184	49	87	2	363	68.62
1991-92	318	567	885	668	47	258	88	88	23	504	75.45

Out of 2874 applications for disposal under the local Act for the three years period ending March, 1992 only 2602 applications were disposed off of these 538 applications were disposed off within the prescribed period of one month. The remaining cases were disposed off after delay ranging from more than one month to six years. Similarly, in case of applications under the Central Act, out of 2060 applications only 1843 cases could be disposed off out of which only 480 cases were disposed off within the prescribed time limit of one month. The delay in remaining cases ranged from more than one month to six years.

Thus, 68 to 82 percent of the disposals were made only after the lapse of the time limit of one month. Even in cases of rejection which accounted for 20 percent of the total disposal, the delay involved ranged from more than one month to 5 years.

The authorities concerned attributed delay to time taken in enquiry at different levels, grant of extension of time and affording reasonable opportunity of being heard to the dealers.

In this connection, it may be pointed out that in 586 cases there was a delay of more than a year and in 54 cases it was more than 5 years. An analysis of the delayed cases in the circles test checked revealed that 14 cases were initially put up for orders after a lapse of one month to 71 months after the receipt of applications.

#### 2.2.8 Inadequate enquiry

As per provisions of the State Act and rules made thereunder registration certificate is issued to a dealer by the Sales Tax Officer after satisfying himself that the application for registration is correct and complete and the applicant is a bonafide dealer.

With a view to preventing registration of bogus and dummy dealers, the Commissioner had issued instructions in June 1982 and October 1982 directing all the Circles officers to conduct a thorough enquiry into the antecedents of the applicant, source of capital invested in the business, nature of transactions with other dealers of the area, tenancy rights acquired by the dealer in respect of the business premises and especially, the nature and extent of interest the dealer might have in other business before granting the registration certificates. However, no mechanism exists to ensure that such an enquiry is conducted before granting registration.

#### 2.2.9 Non-revision of securities

Under the provisions of the Orissa Sales Tax Rules, the Sales Tax Officer for good and sufficient reasons to be recorded may require a registered dealer to pay within a fortnight from the date of receipt of notice a reasonable security as estimated by him equivalent to one year's tax. The original provision regarding the quantum of security was effective from 1976 which was subsequently revised with effect from 16th May 1988. The Additional Commissioner of Commercial Taxes (General), Orissa in his letter dated 1st September, 1988 instructed all the assessing officers to review the cases of new as well as old dealers and raise demand for additional security wherever necessary. On scrutiny of the relevant records, in the circles test checked, it was noticed that in no case the review was conducted and additional demand raised.

A further scrutiny revealed that as against Rs.1.20 lakhs adjustable towards arrear dues in respect of 16 dealers only Rs.13,213 could be adjusted because of non-revision of security, which led to loss of revenue to the extent of Rs.1.07 lakhs during the period from May 1988 to March 1992.

### 2.2.10 . Non-cancellation of Registration Certificates

(i) Registration certificates of dealers whose gross turnover does not exceed Rs.50,000 per annum for three consecutive years are liable to be cancelled, as required under the provisions of the Act.

A scrutiny of the relevant records of 7 circles subjected to test check, revealed, that the gross turnover of 102 registered dealers did not exceed Rs.50,000 per annum for three consecutive years ending 1991-92, but no action was taken to cancel their registration certificates.

(ii) Under the Act and the Rules made thereunder the Commissioner of Commercial Taxes, Orissa is required to publish the names of registered dealers with the details of their address, description of goods covered by their registration certificates and also the names of the dealers whose registration certificates have been cancelled. This is to be published every month in the Commercial Gazette circle-wise in alphabetical order. The purpose of such publication is to guard against the misutilisation of the facilities conferred on a registered dealer. A scrutiny of the relevant records in the Commissioner's office, however revealed that the Gazettes are not published regularly every month.

(iii) As required under Rule 26(2) (vi) of the Orissa Sales Tax Rules, unused declaration Form in stock with a registered dealer on the date of cancellation of his registration are to be surrendered to the Sales Tax Officer. It was noticed in audit that a dealer under the jurisdiction of Cuttack-II circle registered in February 1983 closed down the business on 7th March 1984. However, before closing down the business the dealer applied for and obtained 50 numbers of statutory forms (Form XXXIV) on 6th March 1984. On the strength these forms he purchased during November 1984 to July 1985 goods worth Rs.14.10 lakhs without

payment of tax estimated at Rs.1.13 lakhs calculated at average rate of 8 per cent on the turnover of Rs.14.10 lakhs. The whereabouts of the dealer were not known and his registration was cancelled on 30th July 1984 with effect from 7th March-1984.

#### 2.2.11 Internal Audit

The Internal Audit Organisation which started functioning from 1975-76 has 7 Inspection parties, each consisting of one Commercial Tax Officer(Inspection), one Junior Assistant, and other supporting staff.

During 1989-90 and 1990-91 3 parties did not function at all, two parties functioned for the full year and two for part of the year. During 1991-92, 5 parties did not function at all, one party functioned for the whole year and one party for part of the year.

The internal audit was confined to assessment, receipts and refunds. The registration of dealers, survey and cancellation were not covered by internal audit.

The above points were brought to the notice of department/Government(May 1993)their replies have not been received(December 1993).

#### 2.3 Irregular grant of exemption

Under the Orissa Sales Tax Act, 1947, purchase or sale of goods which directly go into composition of finished products when sold to or purchased by a registered dealer who is certified by the concerned General Manager, District Industries Centre as village/cottage/small scale industry set up on or after 1st April 1986, and starting commercial production thereafter inside the State is exempt from tax, subject to furnishing a declaration in Form-I-B obtained from the manufacturing registered dealer to the

effect that the goods purchased shall be used as raw-materials for the purpose of manufacture inside the state. However, in case of goods liable to purchase tax, the declaration is to be attached to the return of the dealer.

The sale of finished products are also exempted from tax. Both the exemptions are allowed for a period of five years from the date of commercial production. Certain categories of industries such as oil mill/oil expelling units have been kept outside the purview of exemption scheme.

In 5 cases, inadmissible allowance of exemptions resulted in short levy of Rs.27.11 lakhs as per details given below :-

Sl. No.	Name of circle	Year Assessed	Nature of irregularity	Amount of inadmissible exemption allowed by assessing officer (Rupees in lakhs)	Short levy based on the rate of tax applicable (Rupees in lakhs)	Remarks
1.	Cuttack-I(a) (West)	1989-90 1990-91	Not eligible for exemption assessee being medium scale Industry.	Rs.126.74	Rs.14.80	Demand of Rs.14.80 lakhs was raised by department (September 1992)
	(b)	1988-89	Assessee not being a manufacturer not covered by exemption.	Rs.40.34	Rs. 3.62	Demand of Rs.5.01 lakhs was raised by department (March 1993)
2.	Koraput-I	1990-91	Assessee being an Oil Industry not covered by exemption.	Rs.20.67	Rs.0.83	Reopened for reassessment. Further reply not received (December 1993)

Sl. No.	Name of circle	Year Assessed	Nature of irregularity	Amount of inadmissible exemption allowed by assessing officer (Rupees in lakhs)	Short levy based on the rate of tax applicable (Rupees in lakhs)	Remarks
3.	Cuttack II	1990-91	Ineligible for exemption as it has been judicially held that making of spices does not involve process of manufacture.	Rs.51.84	Rs.6.45	Reopened for Reassessment. Further reply not received. (December 1993).
4.	Rourkela-I	1988-89	Ineligible for exemption from purchase of raw-material as cuttings of iron & Steel structures defective sheets etc. into convenient sizes does not involve manufacture.	Rs.35.37	Rs.1.41	Demand of Rs.1.41 lakhs raised by department. Appeal pending with tribunal.
<b>Total</b>					<b>Rs.27.11</b>	

#### 2.4 Under assessment due to inadmissible deduction

Under the Orissa Sales Tax Act, 1947, in respect of goods where tax is levied at the first point of sales, a dealer who sells such goods at a subsequent point shall not be allowed to claim deduction of the sale price of such goods from his gross turnover unless he furnishes a declaration to that effect in the prescribed form. Under the Act *ibid*, sale of iron and steel goods is taxable @4% and chemical fertiliser @2% at the first point in a series of sales. Further it was held by the Supreme Court\* that manufactured goods like steel rounds, flats, angles or similar

\* State of Tamilnadu Vs. Pyarelal Malhotra(1976)-37-STC-319(S.C.)

goods in any other form and shape, could be taxed again even if the materials such as iron and steel scrap out of which they were made had already been subjected to sales tax in as much as the finished products were separate commercial commodity and therefore, were to be considered as separate taxable item for the purpose of taxation.

(a) In 3 cases sale of iron goods was irregularly exempted from tax on the ground that raw materials had already suffered tax. This resulted in short levy of tax of Rs.10.59 lakhs as per details given below

SL No	Name of Circle/ year assessed	Amount of irregular deduction allowed by the assessing officer (Rupees in lakhs)	Short levy based on the rate of tax applicable	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Dhenkanal/ 1989-90	86.20	3.45	A demand of Rs.3.45 lakhs was raised by the department (November 1993)
2.	Rourkela-I/ 1990-91	145.22	5.81	Final reply not received (December 1993)
3.	Cuttack-II/ 1989-90	33.28	1.33	Final reply not received (December 1993)
<b>Total</b>			<b>10.59</b>	

(b) Commissioner of commercial taxes, Orissa in his circular of August 1989 instructed that where assessment is completed exparte due to non-production of accounts on the basis of the best judgement, the deductions claimed/allowed in respect of first point taxable goods were inadmissible.

152 BE  
27 point

In course of audit of Cuttack II Circle, it was noticed (May 1992) that while finalising the assessment for the year 1990-91 of a dealer in the chemical fertiliser (November 1991) exparte on the ground of non-production of books of accounts, a deduction of Rs.52.52 lakhs was allowed towards sale of first point tax paid goods. As the assessing officer had no occasion to verify in an exparte assessment whether tax was paid at the first point, the deduction allowed was irregular and resulted in short levy of tax amounting to Rs.1.14 lakhs (including surcharge of Rs.8,936).

On this being pointed out in audit (May 1992); the assessing officer reopened the case (June 1992).

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

#### **2.5 Short levy of C.S.T. due to irregular exemption**

As per the provisions of Article 286(i)(b) of the Constitution of India, a sale or purchase of goods which takes place in the course of export is exempted from levy of tax. Under the Central Sales Tax Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of export of the goods only if the sale or purchase as the case may be, occasions such export.

However, under the C.S.T. Act, 1956 as amended in 1976, the last sale or purchase of goods, preceding the sale or purchase occasioning the export of the goods, shall also be deemed to be in course of export, if such last sale or purchase took place after and was for the purpose of complying with the agreement or order for or in relation to such export. Under the C.S.T. (R&T) rules, 1957, the penultimate seller is required to furnish a certificate in Form-H obtained from the exporter, in order to claim exemption from payment of tax.

Inter-State sale of goods other than declared goods not covered by declaration in form 'C' is taxable at the rate of 10 per cent or at the rate applicable to sale of such goods inside the state whichever is higher.

*Export*  
*Demand*

(i) In Cuttack-II Circle, while finalising the assessment (February, 1991) of a registered dealer for the year 1989-90, sale of 'tamarind concentrate' worth Rs.11.62 lakhs to the dealers of other States, was exempted from tax by the assessing authority on the ground that the sales were in course of export, as such sales were supported by certificate 'H'. On scrutiny of the certificate 'H' it was noticed (May 1991) that the certificates did not contain the information regarding the number and date of the agreement with the foreign buyers. The certificates were, therefore, invalid. The exemption allowed was, therefore, irregular and resulted in short levy of central sales tax amounting to Rs.1.16 lakhs.

Government stated (July 1992) that on re-assessment, extra demand of Rs.1.19 lakhs had been raised.

(ii) Under the Central Sales Tax Act, 1956, no tax is leviable on inter-state sale of any goods if those goods are generally exempted from tax under the Sales Tax Law of the state concerned. A sale of goods would not be deemed to be exempted from tax generally if under the state law the sale of such goods is exempted only under certain specified circumstances.

However, government of Orissa in their notification dated 12th November, 1990 have declared that no tax under the said Act shall be payable in respect of sales in course of inter state trade and commerce, of goods manufactured by a registered dealer having his place of business in the State of Orissa, if such sales are made from such place of business during the period when such dealer is entitled to the exemption of sales.

In Bhubaneswar I Circle, a registered dealer, who was engaged in manufacture and sale of super enamelled aluminium winding wires and was entitled to the concession as per Government notification dated 18 February, 1987 effected sale of such goods amounting to Rs.6.48 lakhs during the period 1st April 1990 to 11th November 1990 in the course of inter-state trade and commerce. The sale was exempted from tax on the ground that such sale was exempted under the Orissa Sales Tax Act. As the sale of finished product (Aluminium winding wires) by the assessee dealer (SSI unit) is not generally tax free under the DST Act, 1947 the corresponding exemption under CST is irregular. The irregular exemption led to short levy of Central Sales Tax amounting to Rs.64,770.

*Prior to the date of notification 7-12-1990*

On this being pointed out (November 1992), the assessing officer re-opened the case (November 1992). Further details in this regard have not been reported (December 1993).

The matter was reported to Government (January 1993) followed by a reminder in October, 1993; their reply has not been received (December 1993).

#### 2.6 Under assessment due to misclassification of goods

Under the Orissa Sales Tax Act, 1947, unspecified goods were exigible to tax at a general rate of 8 per cent upto 30th June 1990. Drugs were taxable at the rate of 8 per cent upto 30th June 1990 as unspecified goods and thereafter as specified goods taxable at the rate of 4 per cent .

It has been judicially held\* that, cotton roller bandages manufactured from bandage cloth by first bleaching it and then

\* State of Gujarat-vs-C.K.Gauge, Bandage Manufacturing Co. 84-STC-571

cutting to different sizes and used for the purpose of healing cuts and wounds would fall under the meaning of 'drugs and medicines' and not as 'hand-loom fabrics of all varieties'.

During the course of audit in the Cuttack-I(Central) Circle, it was noticed (February 1993) that while finalising the assessment of a registered dealer (January 1992) for the year 1990-91, sale of gauge and bandage worth Rs.11.63 lakhs was allowed tax free treating the same as handloom cloth. A scrutiny of records, however revealed that the dealer used bleaching powder in the manufacture of bandages and therefore, in view of the judicial pronouncement the bleached bandages should have been classified as drugs and medicines and taxed appropriately. The exemption allowed was thus irregular and resulted in short levy of tax amounting to Rs.66,065 (including additional tax of Rs.3238.00 and surcharge of Rs.3356).

This was pointed out to department in audit (February 1993); their final reply has not been received (December 1993).

The matter was reported to Government (May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### **2.7 Irregular treatment of divisible contract as indivisible**

Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by the dealer for carrying out such contract less the amount of labour charges incurred for execution of works. The taxable turnover is taxable at the rate of four per cent.

It was judicially held\* that supply and stacking of ballast and spreading it by the side of the railway line, where the contractor has to make his own arrangements for securing ballast is a contract for sale of goods and not for work and labour. Accordingly tax has to be levied at appropriate rate as applicable to sale of such goods which is 8 per cent in the instant case, hard stone ballast being an unspecified item.

In course of audit of Sambalpur-III Circle, Jharsuguda, it was noticed (March 1990) that a dealer (works contractor) executed a contract for supply of ballast and spreading it on the railway tracks. During the years 1986-87 and 1987-88, the dealer received Rs.8.35 lakhs towards the above contract, out of which Rs.4.00 lakhs was allowed as deduction towards labour charges and taxable turnover was determined at Rs.4.35 lakhs and taxed at the rate of 4 per cent which amounted to Rs.17,375. But as per the agreement the sale price of the ballast supplied amounted to Rs.8.03 lakhs excluding labour charges of Rs.0.32 lakh which should have been treated as sale of goods and taxed at the rate of 8 per cent which worked out to Rs.64,304. Thus, there was an under-assessment of Rs.46,929.

On this being pointed out (March 1990), the assessing officer stated that the work executed was job work oriented and payment was received mainly towards labour and service charges, royalty, breaking transporting and spreading of ballast.

The reply of the assessing officer was, however, not acceptable to audit in view of the decision cited above.

The matter was reported to Governmnet (July 1990) followed by a reminder in October 1993; their reply has not been received (December 1993).

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\* Anamolu Seshagira & Co. -vs.-State of Andhra Pradesh reported in (1980)-45-STC-388(A.P.)

**2.8 Short levy of tax due to application of incorrect rate of tax**

Under the provisions of the Orissa Sales Tax Act, 1947, different rates of tax are leviable from time to time in respect of different commodities. Application of incorrect rates of tax in four cases resulted in short levy of tax of Rs.3.93 lakhs as per details given below:

Sl. No.	Name of Circle	Year assessed	Name of Commodity/goods	Taxable Turn over (Rs.in lakhs)	Rate of Tax applicable as per OST ACT, 1947	Rate of tax levied by assessing authority	Short levy (Rs.in lakhs)	Remarks
1.	Bhubaneswar-II	1990-91	VCR	44.89	16%	12%	1.97	Demand of Rs.3.11 lakhs raised in August 1992. Dealer has gone for appeal.
2.	Kalahandi	1990-91	Gunny bags	18.74	12%	8%	0.82	Demand of Rs.0.93 lakhs raised. (July 1993).
3.	Ganjam-III	1990-91	Hire charges of Machinery	16.69	12% upto June 1990 16% from July 1990 onwards.	8% upto June 1990 12% from July 1990 onwards.	0.71	Assessing officer replied that general rate was applied as no specific rates were prescribed for hire charges of Machinery. Reply is not tenable in view of specific orders of the commissioner dated 18 July 1988 to the effect that hire charges are to be taxed at the rate applicable to the goods involved.
4.	Cuttack-I (West)	1988-89	Hire charges of machinery	10.83	8%	12%	0.43	Assessing officer replied that rate was applied based on the decision of the 1st appeal of the dealer. Reply is not acceptable in view of the specific orders of the commissioner dated 18 July 1988 to the effect that hire charges are to be taxed at the rate applicable to the goods involved.
<b>Total:</b>							<b>3.93</b>	

## 2.9 Short levy under C.S.T.

Under the Central Sales Tax Act., 1956, on inter state sale of goods (Other than declared goods) by one registered dealer to another tax is leviable at the concessional rate of 4 per cent, if such sales are supported by prescribed declarations in form-C. Otherwise tax is leviable at the rate of 10 per cent or at the rate leviable on sale of such goods within the State under the State Law, whichever is higher. However, in case of declared goods, sales not supported by prescribed declaration in form-C are taxable at twice the rate applicable to the sale or purchase of such goods inside the state.

During the course of audit of Cuttack-II Circle, it was noticed (September 1992) that a registered dealer claimed exemption for having despatched groundnut seeds (declared goods) valued at Rs.6.17 lakhs and groundnut oil (non-declared goods) worth Rs.2.42 lakhs to his commission agents of other states during the year 1990-91. The assessing Officer disallowed the exemption on the ground that the registration certificate of the dealer did not specify any additional place of business and that no written agreement with the commission agents could be produced at the time of assessment. The transactions were, therefore, treated as sales in course of inter state trade and commerce and tax levied at the rate of 4 per cent. As the sales were not supported by prescribed declarations in form-C, the same were to be taxed at the rate of 8 per cent in case of declared goods (i.e. groundnut seeds) and at the rate of 10 per cent in case of non-declared goods (i.e. groundnut oil). The application of lower rate of tax resulted in short levy of tax amounting to Rs.39,270.

On this being pointed out (September 1992) in audit, the assessing officer reopened the case (September 1992). Further developments were not reported (December 1993).

*St Sale  
not covered  
by C.S.T. form  
was wrongly  
taxed @ 4%.*

The matter was reported to Government (January 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

## 2.10 Short determination of taxable turnover

(i) Under the Orissa Sales Tax Act, 1947, sale includes transfer of the right to use any goods for any purpose (whether or not for specified period) for cash, deferred payment or other valuable consideration. The Commissioner of Commercial Taxes, Orissa in his circular dated 18 July 1988 clarified that hire charges should be taxed at the rate applicable to the goods involved. Under the Act *ibid*, 'machinery' is taxable at the rate of 16 per cent with effect from 1 July 1990.

During the course of audit of Sambalpur-I Circle, it was noticed (July 1992) that a dealer (Works contractor) received hire charges of machinery amounting to Rs.3.43 lakhs from his sub-contractors during the period from November 1990 to March 1991. This amount was not taken into account for determining the gross turnover and taxable turnover by the assessing officer at the time of finalising the assessment. This resulted in short levy of tax amounting to Rs.60,449 (including surcharge).

On this being pointed out in audit (July 1992) the assessing officer reopened the case (July 1992) for re-examination. Further developments have not been reported (December 1993).

The matter was reported to Government (October 1992) followed by a reminder in (October 1993); their reply has not been received (December 1993).

(ii) Under the provision of the Orissa Additional Sales Tax Act, 1975, every dealer is liable to pay additional sales tax

*Sumit  
Mishra*

@ 1 per cent on the gross turnover with effect from 1st December 1988.

It was noticed in audit (September 1992) that in Rourkela I Circle, while finalising the assessment of additional Sales Tax for the year 1989-90 of a registered dealer (August 1991) 1 per cent of the taxable turnover of Rs.1.20 crores was computed as Rs.12,823, instead of as Rs.1.20 lakhs which resulted in short-levy of additional sales tax amounting to Rs.1.08 lakhs.

On this being pointed out in audit (September 1992), the assessing officer raised a demand of Rs.1.08 lakhs. Further report on recovery of the amount has not been received (December 1993).

The matter was reported to Government (January 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### 2.11 Undue financial benefit to a dealer

Under the Central Sales Tax (Orissa) Rules, 1957 read with the provisions of the Orissa Sales Tax Act, 1947, if a registered dealer realises any amount by way of tax in excess of the amount payable by him, the maximum penalty equivalent to a sum not exceeding thrice the amount of tax so retained could be levied.

During the course of audit of Cuttack II Circle, it was noticed (May 1992) that a registered dealer collected Central Sales tax amounting to Rs.3.81 lakhs during the period 1990-91. However, the dealer deposited a sum of Rs.2.91 lakhs, only which was his liability up to 12th November 1990 leaving a balance of Rs.0.90 lakh. The assessing officer did not impose any penalty for non-deposit of the tax of Rs.0.90 lakh unauthorisedly collected. The maximum penalty leviable worked out to Rs.2.70 lakhs.

*Remedy  
Searched*

On this being pointed out in audit (May 1992), the assessing officer levied penalty. Further developments have not been reported (December 1993).

The matter was reported to Government (July 1992) followed by a reminder in October 1993; their reply has not been received (December 1993).

**Omission to levy tax on goods not utilised for declared purpose**

*CSA Sale  
out of Form  
XXIV purchase*

2.12

Under the Orissa Sales Tax Act, 1947, when a registered dealer purchases goods specified in his certificate of registration free of tax for resale by him in Orissa in a manner that such resale shall be subject to levy of tax under this Act, by furnishing a declaration to that effect in the prescribed form, but utilises those goods for any other purpose, the price of the goods so purchased shall be included in his taxable turnover and he shall be liable to pay tax thereon.

During the course of audit of Rourkela-II Circle (March 1993), it was noticed that a registered dealer effected inter-state sale of iron and steel worth Rs.30.72 lakhs during 1988-89 from out of the stock purchased by him free of tax on furnishing declaration in the prescribed form that the goods were meant for resale inside the state. As the dealer had utilised the goods otherwise than for resale in Orissa, the purchase value of the goods estimated at Rs.29.18 lakhs was required to be included in his taxable turnover for levy of tax under O.S.T. Act which was not done. This resulted in non-levy of tax amounting to Rs.1.17 lakhs.

On this being pointed out in audit (March 1993), the assessing officer reopened the case (March 1993). Further

developments have not been reported by the circle officer, (December 1993).

The matter was reported to Government (May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**2.13 Incorrect allowance of concessional rate of tax**

Under the Orissa Sales Tax Act, 1947, sale of goods of the class or classes specified in the certificate of registration of the registered dealers purchasing the goods as being intended for use in the manufacture or processing or packing of goods for sale or in mining or generation or distribution of electricity or any other form of power, is taxable at a concessional rate of four per cent subject to production of a true declaration by the purchasing dealer or his authorised agent, in form-IV.

In Cuttack-I (West) Circle three registered dealers sold paper worth Rs.32.18 lakhs during the year 1990-91 to different registered dealers. The sale was taxed at the concessional rate of 4 per cent on the strength of declaration in form-IV. Scrutiny of the registration certificates of the purchasing dealers however revealed that 'paper' which was specified earlier was deleted from their registration certificates with effect from September 1989. As the sales were made subsequent to the deletion of the item 'paper' from the registration certificates, the sales did not qualify for being taxed at the concessional rate. The grant of irregular concession led to short levy of tax amounting to Rs.2.75 lakhs.

On this being pointed out in audit (January 1993 and February 1993), the assessing officers reopened the cases (February 1993).

The matter was reported to Government (March 1993) followed by a reminder (October 1993); their reply has not been received (December 1993).

#### 2.14 Non-levy of interest on belated payment of tax

If a dealer defaults in making payment of any amount of tax by the due date specified in the notice issued to him, he would be liable to pay interest on the amount due at 18 per cent (6 per cent prior to 12 August 1983) per annum for the first three months and at 24 per cent (12 per cent prior to 12 August 1983) thereafter under the Orissa Sales Tax Act, 1947 and at 6 per cent, for the first three months and at 12 per cent thereafter under the Central Sales Tax (Orissa) Rules, 1957. However, no interest shall be charged in respect of any amount which remained unpaid at any time prior to 1 January 1971, under the State Act and prior to 1 July 1971, under the Central Act.

In 17\* Commercial Tax Circles, Sales Tax demands aggregating Rs.39.94 lakhs which were due for collection during 1983-84 to 1991-92 (289 cases) and Central Sales Tax demands aggregating Rs.4.45 lakhs (16 cases) which were due for collection during 1988-89 to 1991-92 were finally settled during the period 1987-88 to 1992-93 with the delay ranging upto 4 years without levy of interest on the belated payments. Interest not levied worked out to Rs.4.49 lakhs.

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\* (1) Sambalpur-II circle, (2)Cuttack-I(West) circle, (3)Cuttack-II circle, (4)Dhenkanal circle, (5)Sambalpur-I Circle, (6)Rourkela-I circle, (7)Rourkela-II circle (8)Keonjhar circle, (9)Koraput-I circle (10)Bolangir-I circle, (11)Mayurbhanj circle, (12)Puri-I circle, (13)Ganjam-II circle, (14)Bhubaneswar-II circle (15)Sambalpur-III circle, (16)Cuttack-I(East) circle and (17)Cuttack-I (Central) circle.

On this being pointed out in audit (between April 1992 and March 1993), the assessing officers agreed (between April 1992 and March 1993) to raise the demands. Reports on action taken have not been received (December 1993).

The cases were reported to Government (between June 1992 and June 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

## CHAPTER 3

### TAXES ON MOTOR VEHICLES AND PASSENGERS

#### 3.1 Results of Audit

Test check of records relating to assessment, collection and refunds of Motor Vehicles Tax in the offices of the State Transport Authority, Orissa and Regional Transport Offices conducted in audit during 1992-93 revealed under assessments and losses of revenue amounting to Rs.254.69 lakhs in 7525 cases, which may broadly be categorised as under :

	No. of cases	Amount (Rupees in lakhs)
	-----	-----
1. Short-realisation/short-levy of Motor Vehicle Tax/Additional Tax	600	27.44
2. Non-levy/non-realisation of Motor Vehicle Tax/Additional Tax	1043	47.05
3. Short/non-realisation of compounding fees	128	2.65
4. Short/non-realisation of Composite Tax	2437	9.82
5. Short/non-realisation of Trade Certificate fees/tax	42	0.87
6. Loss due to other irregularities	3275	166.86
<b>Total</b>	7525	254.69

During the course of the year 1992-93 the concerned Department accepted under-assessments etc. of Rs.48.90 lakhs involving 3524 cases out of which 95 cases involving Rs.10.96

lakhs were pointed out in 1992-93 and the rest in earlier years. A few illustrative cases involving Rs.133.01 lakhs highlighting important audit observations are mentioned in the following paragraphs.

### 3.2 Short realisation/non-realisation of Composite tax under the National Permit Scheme

Under the National Permit Scheme, the operator of a public carrier goods vehicle authorised to ply in Orissa State but registered in another State, is liable to pay composite tax at the rate of Rs.1,500 per annum with effect from 1st April 1986 to the Government of Orissa. The composite tax which is in addition to the motor vehicle tax and other taxes payable in the State of registration of the vehicles is payable in advance, on or before the 15th March every year. The owner of the vehicle, may, however, at his option pay the composite tax in two equal instalments one before 15 March and the other before 15 September. Such composite tax payable is to be deposited with the State Transport Authority of the home State through demand drafts in which the vehicle is registered for onward transmission to the State Transport Authority, Orissa.

(a) In the course of audit of the records of the State Transport Authority, Orissa, it was noticed (May 1992 and July 1992) that composite tax in respect of 800 vehicles had not been realised at the applicable rate of Rs.1,500 per annum for the periods between April 1990 and March 1991 during which the vehicles were authorised to ply in Orissa. This resulted in short-realisation of composite tax amounting to Rs.5.99 lakhs.

This was pointed out to the department in audit (May 1992 and July 1992) followed by a reminder in October 1993; their final reply has not been received (December 1993).

(b) It was also noticed (May 1992) that composite tax in respect of 708 vehicles was realised only for a part of the year instead of for the full year 1991-92 for which the vehicles were authorised to ply in Orissa. This resulted in non-realisation of composite tax amounting to Rs.1.44 lakhs for the year 1991-92.

This was pointed out to the department in audit (May 1992) followed by a reminder in October 1993; their final reply has not been received (December 1993).

The above cases were reported to Government (November 1992) followed by reminders in October 1993; their reply has not been received (December 1993).

### **3.3 Non-realisation of penalty for belated payment of composite tax under National Permit Scheme**

The Orissa Motor Vehicles Taxation Rules, 1976 provides for levy of penalty on goods vehicles of other States plying in Orissa under the National Permit Scheme, in the event of non-payment of composite tax within the due date as prescribed under the scheme. The Scheme provides for penalty @ Rs.100 for each month of default or any part thereof.

During the course of audit of the records of the State Transport Authority, Orissa, it was noticed (May 1992) that 866 vehicles of other States plying in Orissa during April 1991 to March 1992 paid composite tax belatedly and the amount of penalty on this account worked out to Rs. 1.44 lakhs. The amount was neither collected by other states concerned and remitted to the State Transport Authority, Orissa, nor the State Transport Authority, Orissa initiated any action to pursue the matter with other State Transport Authorities.

On this being pointed out in audit (May 1992) the State Transport Authority, Orissa stated that the matter would be

taken up with the concerned State Transport Authority for realisation of the dues. Further report on realisation of the amount has not yet been received (December 1993).

The matter was reported to the Government (November 1992) followed by a reminder in October 1993; their reply has not been received (December 1993).

### 3.4 Non/short realisation of tax under reciprocal agreement

Where in pursuance of any agreement between the Government of Orissa and Government of any other state, a stage carriage plies on a route partly within the State of Orissa and partly in some other state, such stage carriage is liable to pay additional tax calculated on the total distance covered by the vehicle on such route in a day in the State of Orissa, at the rates and in the manner specified under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986. Similarly goods vehicles of other states entering the state of Orissa are also liable to pay composite tax (in lieu of additional tax payable for each entry) at the rate of Rs.1500 per annum. The composite tax is payable in advance in lump sum, on or before 15 April every financial year by crossed bank draft to the State Transport Authority of the State of origin for its onward transmission to the State Transport Authority, Orissa. In case of delay in payment of composite tax, penalty of Rs.100 for each calendar month of default is also payable in addition to the composite tax.

(i) In the course of audit of the records of the State Transport Authority, Orissa, it was noticed (July 1992) that in respect of 8 stage carriages belonging to other States authorised to ply on the inter-state route partly in Orissa and partly in other States, additional tax amounting to Rs.32,089 for the period 1 April 1991 to May 1992 was not realised.

On this being pointed out in audit (July 1992) the taxing officer agreed to realise the amount (July 1992).

(ii) In course of audit of the records of five regions\* it was noticed (between August 1992 and March 1993) that motor vehicle tax and additional tax for the period from January 1989 to October 1992 in respect of 12 stage carriages authorised to ply on inter state routes under reciprocal agreements was not correctly computed and realised. The incorrect computation resulted in short-realisation of tax amounting to Rs.1.51 lakhs.

On this being pointed out in audit (between August 1992 and March 1993) the taxing officers Bolangir, Mayurbhanj, Sundargarh and Ganjam raised demand of Rs.1.12 lakhs (between November 1992 and October 1993) out of which Rs.11,193 was realised between (March 1993 and August 1993) while others agreed (October 1992 to March 1993) to realise the amount.

(iii) During the course of audit of records of State Transport authority, Orissa, it was noticed (April 1992) that 54 goods vehicles of Andhra Pradesh were allowed to ply in Orissa under reciprocal agreement during the year 1991-92 but neither composite tax amounting to Rs.81,000 leviable under the aforesaid act for the period from April 1991 to March 1992 was collected, nor penalty of Rs. 64,800 due in addition to the composite tax realised.

On this being pointed out in audit (May 1992), the State Transport Authority, Orissa stated (July 1992) that the State Transport Authority, Andhra Pradesh has been asked (July 1992) to realise the dues. The report on realisation has, however, not yet been received (December 1993).

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\* Bolangir, Sundargarh, Chandikhol, Mayurbhanj and Ganjam

The above cases were reported to Government (between November 1992 and May 1993) followed by reminders in October 1993; their reply has not been received (December 1993).

### 3.5 Short-realisation of short term tax/fees

Motor Vehicles Tax and additional tax in respect of transport Vehicles of other States not covered by reciprocal agreements permitted to ply temporarily in Orissa is required to be realised under sub-section 3 of section 4 of the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986).

The Central Zone Permit Scheme and Eastern Zone Permit Scheme in which Orissa and Uttar Pradesh were participating with other states was valid from 1st April 1984 to 31st March 1989. However, Government of Orissa withdrew from the above schemes, with effect from 2nd August 1986. After issue of the notification, Orissa did not issue any permit under the Central and Eastern Zone Permit Scheme to other states vehicles. Consequently, the vehicles of Uttar Pradesh not being covered by the reciprocal agreements, were not entitled to the concessional payment of composite tax of Rs.1,000 per annum but required to pay short term tax.

A scrutiny of Uttar Pradesh reciprocal agreement records at the office of the State Transport Authority (STA), Orissa, revealed that S.T.A, Uttar Pradesh had issued Central Zone and Eastern Zone permits to the Uttar Pradesh based vehicles to operate in the State of Orissa from April 1991 to March 1992 on realisation of composite tax of Rs.1,000 per annum and Rs.500 per half year and remitted the same through bank drafts to the S.T.A., Orissa. The S.T.A., Orissa accepted Bank Drafts involving Rs.27,500 in 39 cases instead of realising short term tax/fees amounting to Rs.2,02,125 under Orissa Motor Vehicles Taxation

Act, 1975. The differential short term tax/fees of Rs.1.75 lakhs after adjustment of composite tax is still to be realised.

On this being pointed out in audit (May 92) the taxing authority, S.T.A., Orissa, stated (July 1992) that steps would be taken to realise the dues from Uttar Pradesh. Report of realisation of the dues has not been received (December 1993).

The matter was reported to Government (November 1992) followed by a reminder in October 1993; their reply has not been received (December 1993).

### 3.6 Short realisation of tax in respect of Transport (passenger) vehicles coming from other states

Under the provisions of Motor Vehicles Taxation Act, 1975, as amended, in 1986, temporary tax token may be issued in respect of transport vehicles coming from other states on payment of short term tax subject to a minimum of 25% of the quarterly tax based on the period to which temporary tax token related.

In course of audit of Chandikhol region it was noticed (January 1993) that 27 transport (passenger) vehicles of other States entering Orissa between November 1990 and April 1992 paid short term tax either at border check gates or in the region at a rate lower than that at which it was payable, which resulted in short realisation of short term tax amounting to Rs.1.08 lakhs.

This was pointed out to department in audit (January 1993); their final reply has not been received (December 1993).

The matter was reported to Government (March 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

### 3.7 Non-realisation/short realisation of tax and additional tax

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax payable in respect of a stage carriage is to be determined on the basis of number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit and such tax is allowed to be paid monthly though permits are issued for different periods. Further, if any such vehicle is found plying without permit, the tax payable shall be assessed on the basis of maximum number of passengers which the vehicle would have been permitted to carry, reckoning the distance covered by it, in each day, as exceeding 320 kms for which highest rate of tax is applicable. Motor vehicles tax and additional tax also shall be levied on every motor vehicle used or kept for use within the state at rates specified in the schedule, unless covered by off road declarations.

Non compliance of the above provisions resulted in non-realisation/short realisation of tax amounting to Rs.46.78 lakhs in respect of 1079 vehicles as per details given below:

Sl. No.	Number of regions	Number of vehicles	Period of taxation	Nature of irregularity	Amount of non-levy/short levy involved (Rupees in lakhs)	When pointed out	Remarks
1.	16 <sup>a</sup>	303 (Stage Carriages)	Between July 1989 and December 1992	Not covered by offroad declarations.	16.38	Between May 1992 and March 1993.	All the concerned taxing officers agreed to realise the dues while the taxing officer, Cuttack issued demand notices (December 1993) (between June 1992 and March 1993)

<sup>a</sup> Cuttack, Balasore, Bargarh, Bolangir, Bhubaneswar, Chandikhol, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

Sl. No.	Number of regions	Number of vehicles	Period of taxation	Nature of irregularity	Amount of non-levy/short levy involved (Rupees in lakhs)	When pointed out	Remarks
2.	3 <sup>a</sup>	8 (Stage Carriages)	Between January 1986 and June 1992	Adoption of distances different from those permitted to be covered under permit conditions.	0.93	Between July 1992 and February 1993.	All the concerned taxing officers agreed to realise the dues (between July 1992 and February 1993).
3.	10 <sup>a</sup>	40 (Stage Carriages)	Between June 1992 and March 1993.	Collection of taxes at ordinary service rates instead of express service rates.	2.65	Between June 1992 and March 1993.	All the concerned taxing officers agreed to realise the dues (between July, 1992 and February, 1993).
4.	11 <sup>a</sup>	89 (Stage carriages)	Between February 1991 and March 1992	Non application of maximum distance exceeding 320 kms for levy of tax in respect of vehicles plying without valid permits.	1.98	Between May 1992 and March 1993	All the concerned taxing officers agreed to realise the dues (between July 1992 and March 1993).
5.	16 <sup>a</sup>	639 (Other than stage carriages)	Between April 1987 and March 1992.	Period not covered by offroad declaration.	24.84	Between May 1992 and March 1993	All the concerned taxing officers agreed to realise the dues (between June 1992 and March 1993)
<b>Total :</b>					<b>46.78</b>		

- b Keonjhar, Sambalpur and Cuttack.  
c Bolangir, Chandikhol, Cuttack, Bhubaneswar, Phulbani, Dhenkanal, Rourkela, Keonjhar, Sundargarh and Koraput.  
d Bargarh, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Keonjhar, Koraput, Puri, Sambalpur and Sundargarh.  
e Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Rourkela, Sambalpur and Sundargarh.

The matter was reported to Government (between November 1992 and May 1993) followed by a reminder in October 1993; their final reply has not been received (December 1993).

**3.8 Non-realisation of M.V.Taxes in respect of stage carriages owned by O.S.R.T.C**

Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986) motor vehicles tax and additional tax shall be levied on every motor vehicle used or kept for use in the state. No tax is payable in respect of a vehicle which is not intended to be used for any period, if prior intimation of such non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid. The registration certificate, fitness certificate, permit and the current tax token of the vehicle are required to be surrendered alongwith off-road declaration. However, where the off-road declaration, is not accepted by the taxing authority, the owner of the vehicle is liable to pay tax for the period.

In Ganjam region it was noticed during audit (August 1992) that off-road declarations in respect of three stage carriages owned by the Orissa State Road Transport Corporation were rejected on the ground of non-submission of the valid documents alongwith off-road declaration. Therefore, the owners of the vehicles were liable to pay motor vehicles tax and additional tax for the period covered under off-road declaration i.e. January 1992 to December 1992. The tax was, however, not levied. The amount of tax and additional tax payable upto October 1992 by the owners worked out to Rs.82,770.

On this being pointed out in audit (August 1992) taxing officer issued demand notice (August 1992).

The matter was reported to Government (January 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**3.9 Non-realisation of tax in respect of Vehicles violating off-road declarations**

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986) motor vehicles tax and additional tax is not payable in respect of vehicles which are not intended to be used for any period if prior intimation of such non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid specifying inter-alia the period of non-use and the place where the motor vehicle is to be kept during such period. If at any time during the period covered by such intimation, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period and in such a case the owner of the vehicle is liable to pay tax and penalty as prescribed for the entire period for which it was declared off-road.

In nine regions\* 64 vehicles which had been declared off-road by the owners of the vehicles for various periods (between April 1991 to March 1992) were detected by the enforcement staff as plying on the road or not found at the declared place during the periods covered by such off-road declarations. But, no action was taken by the taxing officers to realise the tax and levy penalty in respect of such vehicles for the periods for violation of the provisions of the Act. Tax leviable on these vehicles amounted to Rs.6.25 lakhs. Besides, penalty not exceeding Rs.12.50 lakhs could also be levied.

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\* Balasore, Bolangir, Bhubaneswar, Ganjam, Kalahandi, Keonjhar, Koraput, Rourkela and Sambalpur

On this being pointed out (between July 1992 and March 1993) in audit, all the taxing officers agreed (between July 1992 and March 1993) to realise the dues. Further reports of realisation have not been received.

The matter was reported to Government (between September 1992 and May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**3.10 Irregular acceptance of off-road declarations without realisation of arrear tax**

Under the Orissa Motor Vehicles Taxation act, 1975, (as amended in 1986) whenever any motor vehicle is intended not to be used for any period, the registered owner or the person having possession or control thereof, shall, on or before the date of expiry of the term for which tax has been paid, deliver to the taxing officer an undertaking duly signed specifying the period during which the vehicle shall remain off-road. The registration certificate, fitness certificate, permit and current tax token of the vehicle are also required to be surrendered alongwith the off-road declaration. The Transport Commissioner, Orissa also issued instructions (September 1984) that before acceptance of off-road declarations, it should be ensured that all taxes due till the date of such off-road declarations are paid.

It was noticed during the course of audit (between July 1992 and March 1993) of the records of Regional Transport Offices in four regions (Cuttack, Kalahandi, Keonjhar and Rourkela) (between July 1992 and March 1993) that, though arrears of taxes amounting to Rs.15.69 lakhs relating to various periods falling between November 1987 and September 1992 were outstanding against 54 vehicles, the off-road declarations in respect of those vehicles were accepted without realisation of arrears of tax.

On this being pointed out in audit between (July 1992 and March 1993) the taxing officers agreed (between July 1992 and March 1993) to realise the dues.

The matter was reported to Government (between September 1992 and May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**3.11 Short realisation of tax in respect of contract carriages**

Under the Orissa Motor Vehicles Taxation Act, 1975 (as amended in 1986) motor vehicles tax in respect of contract carriages is to be realised as per the rates prescribed under the Act.

In three regions (Bhubaneswar, Dhenkanal and Cuttack) in respect of 71 contract carriages, tax for different periods between April 1989 and July 1992 was realised short due to adoption of incorrect rates of tax or mistakes in computation. This led to short realisation of tax amounting to Rs.1.08 lakhs.

On this being pointed out in audit (between May 1992 and November 1992) all the taxing officers concerned agreed to realise the tax (June 1992 and December 1992).

The matter was reported to Government (between November 1992 and February 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**3.12 Short realisation of tax in respect of stage carriages**

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986 and 1989) when a motor vehicle in respect of which tax for any period has been paid as per registration, is proposed

to be used in a manner for which higher rate of tax is payable, the owner of the vehicle is liable to pay the differential tax. In determining such differential tax, any broken period in a month is to be considered as a full month.

During the course of audit (between July 1992 and March 1993) of nine regions\* it was noticed that 91 stage carriages were permitted (between March 1991 and March 1992) to ply temporarily as contract carriages for which higher rate of tax was payable. The differential tax not realised amounted to Rs.3.29 lakhs.

On this being pointed out in audit (between July 1992 and March 1993) the taxing officer, Sundargarh issued demand notice (February 1993) for realisation of the dues while other taxing officers concerned agreed to realise the dues (July 1992 to March 1993). Further reports on realisation of dues have not been received (December 1993).

The matter was reported to Government (between November 1992 and May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

### 3.13 Short realisation of Motor Vehicles tax and additional tax in respect of goods carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986) motor vehicles tax and additional tax in respect of a goods carriage is to be determined on the basis of the registered laden weight of the vehicle and realised at the rate specified in the Schedule appended to the Act.

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\* Bhubaneswar, Cuttack, Balasore, Kalahandi, Dhenkhal, Bolangir, Sambalpur, Sundargarh and Koraput

In six regions\* it was noticed in audit (between June 1992 and March 1993) that motor vehicles tax and additional tax in respect of 17 goods carriages for the period from November 1986 to March 1993 was not realised according to the rates specified in the schedule appended to the Act with reference to the permitted laden weight of the vehicles. This resulted in short realisation of tax and additional tax amounting to Rs.2.73 lakhs.

On this being pointed out in audit (between June 1992 and March 1993) the taxing officers concerned agreed to realise the tax.

The matter was reported to Government (between November 1992 and March 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

### 3.14 Non-realisation of compounding fee at prescribed rate

As per Government notification of 27 June 1984 under the Motor Vehicles Act 1939, the minimum amount for compounding an offence shall not be less than half of the maximum penalty provided therefor when such offence is committed for the first time. When the same offence is committed for a second or subsequent time, the compounding fee shall not be less than the maximum penalty provided therefor. After the introduction of the Motor Vehicles Act, 1988, Government issued another notification in January 1991 stipulating therein that the amount of compounding fees under section 194 of the Act *ibid* shall be 50 per cent of the maximum fine irrespective of the fact whether the offence is the first one or subsequent one.

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\* Keonjhar, Bhubaneswar, Ganjam, Bolangir, Cuttack and Sundargarh

During the course of audit (between September 1992 and March 1993) of six regions\* it was noticed that compounding fee for various offences in respect of 100 vehicles detected between May 1988 and January 1993 was not imposed at the prescribed rate. The compounding fee was realised at a rate lower than the prescribed rate of corresponding fee which resulted in short realisation of compounding fee amounting to Rs.2.24 lakhs.

On this being pointed out in audit (between September 1992 and March 1993) the taxing officers concerned agreed to take action for realisation of the dues.

The matter was reported to Government (between January 1993 and May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

### 3.15 Non-assignment of Orissa Registration Mark

Under the provisions of the Central Motor Vehicles Act, 1988 and the Central Motor vehicles Rules, 1989, when a motor vehicle registered in one state has been kept in another state for a period exceeding 12 months, the owner of the vehicle shall, within a period of 30 days from the expiry of such period, apply to the registering authority under whose jurisdiction the vehicle is kept, for assignment of a new registration mark on payment of prescribed fees under the Central Motor Vehicles Rules, 1989.

In the course of audit of four regions (Bhubaneswar, Ganjam, Koraput and Dhenkanal) it was noticed (between July 1992 and February 1993) that 415 vehicles of other states though plying in Orissa and regularly paying tax upto date for more than one year had not been assigned Orissa registration mark. This resulted in non-realisation of assignment fees amounting to Rs.51,880.

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\* Phulbani, Mayurbhanj, Ganjam, Bolangir, Kalahandi and Sundargarh

On this being pointed out in audit (between July 1992 and February 1993) the taxing officer, Dhenkanal agreed (December 1992) to issue notice to all concerned to get their vehicles assigned with Orissa registration mark, the taxing officers (Ganjam and Koraput) stated (October 1992 and February 1993) that the owners of the vehicles would be instructed to apply for Orissa registration mark while taxing officer, Bhubaneswar agreed to (July 1992) take steps to complete the assignment of the vehicles.

The matter was reported to Government (between September 1992 and April 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

### 3.16 Non-levy of penalty for belated payment of Tax

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, read with Orissa Motor Vehicles Taxation Rules, 1976, penalty is leviable, if a vehicle owner has not paid tax in respect of his motor vehicles within such period as specified in the Act and Rules *ibid*. In such a case, the taxing officer is empowered to impose penalty to the extent varying upto a maximum of 200 per cent of the tax due depending upon the period of delay in payment of taxes.

During the audit of 13\* regions, it was noticed (between July 1992 and March 1993) that in respect of 191 vehicles of different classes, penalty was not levied by the taxing authorities though taxes were paid belatedly. This resulted in non-levy of penalty of Rs.20.36 lakhs for the period between April 1991 and March 1992.

On this being pointed out in audit (between July 1992 and March 1993) all the concerned taxing officers agreed

\* Balasore, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Ganjam, Keonjhar, Koraput, Mayurbhanj, Rourkela, Sambalpur and Sundargarh.

(between July 1992 and March 1993) to realise the dues. Further reports on realisation have not been received (December 1993).

The cases were reported to Government (between September 1992 and May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**3.17 Issue of tax tokens without realisation of arrear tax**

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986) tax tokens are to be issued only when all arrear taxes and penalties are paid alongwith the tax for the current period. When the tax for any period has not been paid, or the period has not been covered by off-road declaration, and continues to remain unpaid for a period of 15 days from the due date of payment, the taxing officer is empowered to impose penalty at the prescribed rate.

In two regions (Keonjhar and Cuttack) tax tokens in respect of 27 vehicles were issued between April 1989 and July 1992 without realisation of arrears of tax for past periods amounting to Rs.75,272. Penalty not exceeding Rs.1.51 lakhs which could be imposed under the Act was not levied.

On this being pointed out in audit (between July 1992 and December 1992) while the taxing officer, (Keonjhar) stated (December 1992) that action would be taken to realise the arrear dues, the taxing officer, (Cuttack) agreed (July 1992) to take action to issue demand notice after examination of the cases.

The cases were reported to Government (between September 1992 and January 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**3.18 Non-realisationn/short-realisation of motor vehicles tax in respect of tractor/trailor combination**

Motor Vehicles tax/additional tax in respect of tractor/trailor combination is required to be assessed and realised at the rates specified under item-5 of the schedule to the Orissa Motor Vehicles Taxation Act, 1975. Government, however, allowed a concession of 66 per cent of tax in the case of tractor/trailor used exclusively for agricultural purposes for the period from 1st April 1981 to 31st March 1991. No further concession was given by the Government in this regard after March 1991. The tax was revised with effect from 1st October 1988.

(i) It was noticed during the course of audit (between February 1993 and March 1993) of two regions (Bargarh and Bolangir) that in respect of 64 tractor/trailor combination used exclusively for agricultural purposes, the appropriate motor vehicles tax and additional tax for the period from April 1989 to March 1992 had not been realised. The period was also not covered by any off-road declarations. This resulted in non-realisation of tax amounting to Rs.1.68 lakhs.

On this being pointed out in audit (between February 1993 and March 1993) the taxing officer, Bolangir realised an amount of Rs.9440 (July 1991 to July 1993) and raised demand for the balance amount of Rs.25,660. The taxing officer Bargarh agreed (March 1993) to realise the tax.

(ii) It was noticed during the course of audit (between June 1992 and March 1993) of four regions (Bargarh, Cuttack, Keonjhar and Puri) that in respect of 65 tractor and trailor combinations, motor vehicle tax/additional tax for the period October 1988 to March 1992 was either levied at pre-revised rate or irregular concession allowed which resulted in short realisation of tax amounting to Rs.91,005.

On this being pointed out in audit (between June 1992 and March 1993) the taxing officers concerned agreed to realise (between June 1992 and March 1993) the differential tax.

The above cases were reported to Government (between November 1992 and May 1993) followed by reminders in October 1993; their reply has not been received (December 1993).

### **3.19 Non-realisation/Short realisation of trade certificate tax/fees**

Under the Orissa Motor Vehicles Rules, 1940, manufacturers of or dealers in motor vehicles are required to obtain a trade certificate annually by paying in advance prescribed fees in respect of such trade certificates from the registering authority within whose area they have their place of business and to pay fees at the annual rate in advance in respect of vehicles in their possession in the course of their business. Under the Motor Vehicles Act, 1939, as amended in 1988, dealer includes a person who is engaged in the manufacture of motor vehicles, or in building bodies for attachment to the chassis.

Test check in audit (July 1992 and March 1993) of records in five regions (Cuttack, Keonjhar, Puri, Sambalpur and Rourkela) revealed that in respect of 43 dealers and body builders in motor vehicles trade certificate fees and tax were not collected or were collected at a lower rate during the period between April 1988 and February 1993. This led to non-realisation/short realisation of trade certificate fees/taxes amounting to Rs.90,150.

On this being pointed out in audit (between July 1992 and March 1993) all the taxing officers (Cuttack, Rourkela, Sambalpur, Keonjhar and Puri) agreed (between July 1992 and February 1993) to issue demand notices for realisation of Tax/fees.

The matter was reported to Government (November 1992 to May 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

## CHAPTER 4

### LAND REVENUE

#### 4.1 Results of audit

Test check of records relating to assessment and collection of Land Revenue conducted from April 1992 to March 1993 revealed non-assessment and non-realisation of revenue amounting to Rs.1017.51 lakhs in 55,890 cases which may be broadly categorised as under .

	Number of cases	Amount (Rupees in lakhs)
1. Non-collection of premium and groundrent etc from lands occupied by local bodies/ Government undertakings and private parties etc.	71	630.75
2. Non-assessment/short-assessment and short collection of water rate	88	126.30
3. Non-assessment/Short assessment/Delay in assessment of land revenue and cess.	2	0.71
4. Non-realisation/Short realisation of royalty on minor-minerals.	346	73.78
5. Non-lease/irregular lease of sairat sources etc.,	2645	13.96
6. Other irregularities	52738	172.01
	55890	1017.51

During the course of the year 1992-93, the concerned Department accepted under assessment etc. of Rs.12.35 lakhs involved in 26 cases.

A few illustrative cases highlighting important audit observations involving financial effect of Rs.410.38 lakhs are mentioned in the following paragraphs.

#### 4.2 Non-realisation of interest on premium and ground rent

According to Government order of February 1966, interest is chargeable at the rate of six *per cent* per annum on the amount due to Government for the period from the date of the occupation of the Government land till the date of the payment of dues where Government land has been leased out to local bodies, public undertakings etc. on payment of premium and annual ground rent.

(i) In Bhadrak Tahsil (Balasore district) Government land measuring 50.15 acres was in possession of the Orissa Fish Seed Development Corporation Limited from 1984-85. The premium and ground rent amounting to Rs.2.13 lakhs due for the period 1984-85 to 1989-90 were paid by the lessee in October 1989. However, no interest was charged for belated payment of the dues. The interest payable worked out to Rs.74,744.

On this being pointed out in audit (April 1992), the Tahasildar agreed (April 1992) to take action for realisation of the interest.

The matter was reported to Government (October 1992) followed by a reminder in October 1993; their reply has not been received (December 1993).

(ii) In Balasore Tahasil, possession of Government land measuring 171.39 Acres was made over to a private company in

September 1987. The ground rent and cess amounting to Rs.7.87 lakhs for the period from 1987-88 to 1991-92 was paid by the Company in March 1992 by a cheque. The interest of Rs.1.42 lakhs for belated payment of ground rent and cess was waived by the Collector, Balasore (March 1992). As the Government order of February 1966 providing for levy of interest does not provide for waiver of interest, the waiver of interest was irregular, which resulted in loss of revenue of Rs.1.42 lakhs.

This was pointed out in audit to Department (June 1992 and March 1993) and reported to Government (December 1992) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### 4.3 Short realisation of premium, ground rent, cess due to valuation of land at lower rate

According to the instructions contained in Revenue Department Orders of October 1961, May 1963 and February 1966, Government land can be leased out to commercial departments, public undertakings and private institutions on payment of premium fixed on the basis of market value plus ground rent at the rate of 1 per cent of the market value. Further in cases where lands are occupied in anticipation of formalities for sanction, the market value should be determined as on the date of recommendation of the Tahasildar or as on the date of occupation whichever is higher. In addition, cess at 50 per cent of the ground rent is also leviable as per Government orders of July 1987. Interest at the rate of 6 per cent per annum is chargeable on belated payment of dues.

(a) A scrutiny in audit of records of seven Tahasils (Rairakhol, Lakhanpur, Baliguda, Suruda, Tigiria, Tangi-Choudwar and Bahalda,) revealed that advance possession of Government land measuring 23.41 acres was made over to the Orissa State Electricity Board and Orissa Power Generation Corporation Limited

during the period between 1960-61 and 1992-93. The fixation of premium at lower rate resulted in short realisation of revenue to the tune of Rs.47.07 lakhs the details of which are furnished below:

Sl. No.	Name of Tahasil/ District	Name of Lessee	Year of Occupation	Extent of land (acres)	Premium	Ground Rent	Cess	Interest
					(In lakhs of Rupees)			
1.	Rairakhol Dist-Sambalpur	Orissa State Electricity Board	1991-92	9.50	2.35	0.07	0.03	0.15
2.	Lakhanpur Dist-Sambalpur	Orissa Power Generation Corporation Ltd. Banharpal	1992-93	4.80	3.84	0.05	0.03	--
3.	5 Tahasils (Baliguda, Suruda, Tigiria, Tangi-Choudwar, Bahalda)	Orissa State Electricity Board	Between 1960-61 & 1984-85	9.11	25.40	5.47	0.84	8.84
<b>Total</b>				<b>23.41</b>	<b>31.59</b>	<b>5.59</b>	<b>0.90</b>	<b>8.99</b>

On this being pointed out in audit, Tahasildar concerned agreed to finalise the lease and realise the dues.

This was pointed out to the department in audit during the periods June 1992, February 1993, and August 1989 to September 1992. Their final reply has not been received (December 1993).

The matter was reported to Government (between October 1989 and April 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

(b) In four Tahasils (Binika, Bhanjanagar, Jharsuguda, and Bonaigarh) Government land measuring 112.659 acres came under occupation of Bodies/Corporations between 1960-61 and 1984-85. The lease has neither been sanctioned nor the lease deed executed.

This resulted in blockage of revenue to the tune of Rs.302.04 lakhs, the details of which are given below:-

Sl. No.	Name of Tahasil/ District	Name of Lessee	Year of Occupation	Extent of land (acres)	Premium	Ground Rent	Cess	Interest
					(In lakhs of Rupees)			
1.	Binika Dist-Bolangir	Notified Area Council, Binika.	1977-78	0.599	2.72	0.41	0.08	2.66
2.	Bhanjanagar Dist-Ganjam	Orissa Fish Seed Dev. Corpn.	1984-85	57.880	142.38	11.39	4.27	72.32
3.	Jharsuguda Dist-Sambalpur	South Eastern Coal Field Limited.	1983-84	49.900	33.41	3.21	1.38	17.34
4.	Bonaigarh Dist-Sundargarh	Regional Coop. Marketing Society Limited.	1960-61	4.280	2.91	0.93	0.09	6.54
<b>Total:</b>				112.659	181.42	15.94	5.82	98.86

The Tahasildars concerned agreed (February 1992, September 1992, July 1990, March 1993 and November 1992) to take action to regularise the cases,

This was pointed out in audit (between July 1990 and March 1993) and reported to Government (June 1992, January 1993, November 1990 and February 1993). Their replies have not been received (December 1993).

#### 4.4 Short levy of court fee

Under the Orissa Public Demand Recovery Act, 1962 and rules made thereunder, when any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer, a written requisition in the prescribed form. Every such requisition, except in such cases as may be prescribed, shall be chargeable by the Certificate Officer with a fee which would be payable under the Court Fees Act of 1870 based on the amount of recovery as mentioned in the requisition to be

due. All scheduled banks have been brought under the perview of the Orissa Public Demand Recovery Act 1962 by Government of Orissa order dated 13th September 1985.

In thirteen\*\* Tahasils, Certificate requisitions were filed before the concerned Certificate Officers (Tahasildars) by certain banks during the periods from 1982 to 1990 for recovery of their dues amounting to Rs.47 lakhs in 1052 cases. Against fees amounting to Rs.4.42 lakhs leviable in respect of these cases, only Rs.0.68 lakh was levied which resulted in short levy of Rs.3.74 lakhs.

On this being pointed out (between September 1989 and September 1992), the Certificate Officers concerned agreed to realise the dues by issue of notices to the banks concerned.

The matter was reported to Government (between December 1989 and January 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### 4.5 Short realisation/non-realisation of royalty and surface rent

Under the provisions of the Manual of Tahasil Account read with the Orissa Minor Minerals Concession Rules, 1990, the Revenue Authority is empowered to grant permits for extraction of minor minerals from Government Land on realisation of royalty and surface rent. The Government order of April 1984 prescribing the rate of royalty and surface rent was revised with effect from 29th August 1990 under the Orissa Minor Minerals Concession Rules, 1990.

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\*\* Basudevpur, Angul, Kujang, Basta, Kishannagar, Kodinga, Simulia, Jaleswar, Marshaghai, Purushottampur, Kantabanji, Bhadrak and Bheden.

In Dhenkanal Tahasil a long term lease of sand bed was granted to a lessee for the years 1989-90 to 1993-94. On scrutiny it was noticed in audit (November 1992) that royalty for the years 1990-91 and 1991-92 was realised at the pre-revised rate while the surface rent was not realised at all. This resulted in short-realisation of royalty of Rs.1.47 lakhs and non-realisation of surface rent amounting to Rs.8,000.

This was pointed out to Department in audit in November 1992; their final reply has not been received (December 1993).

The matter was reported to Government (January 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### 4.6 Non-realisation of premium, ground rent etc. from the Orissa Cashew Development Corporation Limited

According to Government orders issued in January 1980, Government wasteland would be leased out in favour of the Orissa Cashew Development Corporation Limited (a Government Company) for cashew plantation on payment of premium (market value of land) and rent, and the Corporation would also execute a lease deed in a prescribed form. Government fixed (March 1980) the market value at Rs.250.00 per acre (irrespective of location) and annual ground rent at 1 per cent of the market value for the first five years, at 7 per cent for the next five years and at 14 per cent for the next 10 years. In addition, cess at 50 per cent of the ground rent is also leviable as per Government orders of July 1987. Interest at the rate of 6 per cent is chargeable on belated payment of dues.

In Dharmasala Tahasil of Cuttack district, advance possession of Government land measuring 741 acres and 404 acres was made over to the Orissa Cashew Development Corporation

Limited during 1981-82 and 1982-83 respectively subject to payment of premium, ground rent and cess etc. The corporation has neither executed any lease deed so far nor paid any premium, ground rent, cess etc. The total amount that was due for payment by the Corporation for the period from 1981-82 to 1991-92 amounted to Rs.7.16 lakhs including interest.

On this being pointed out in audit (July 1992), the Tahasildar stated (July 1992) that the corporation would be requested to execute the lease deed and the dues would be realised. The final reply regarding further action taken has not been received (December 1993).

The matter was reported to Government (January 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### 4.7 Non recovery of huge Government Revenue from a private party

According to the instructions issued by the Government of Orissa in Revenue and Excise Department in October 1961, May 1963 and February 1966, Government land occupied by public undertakings, commercial departments and private institutions either with permission or in anticipation of getting it, may be settled in their favour on payment of premium equivalent to the market value. The Government order of February 1966 further stipulates that in cases where lands are occupied in anticipation of formalities for sanction the market value should be determined as on the date of recommendation of the Tahasildar or as on the date of occupation whichever rate is higher. Ground rent @1 per cent of the market value, and Cess @50 per cent of the ground rent effective from 1986-87 are also payable.

During the course of audit (August 1992) of Keonjhar Tahasil, it was noticed that advance possession of Government Land measuring 429.79 acres was made over to a private company in the year 1980-81. According to Orissa Government Notification dated 5 August 1980, Premium of the land was fixed at Rs.625 per acre which was revised to Rs.5,000 per acre and again to Rs.10,000 per acre as per Notification dated June 1986 and July 1990 respectively. As the case has not been finalised so far, premium and rent are to be calculated on the basis of market value of Rs.10,000 per acre. The dues for the period from 1980-81 to 1991-92 adopting market value of land at the rate of Rs.10,000 per acre worked out to Rs.46.65 lakhs (Premium Rs.42.98 lakhs, Ground rent Rs.2.88 lakhs and Cess Rs.0.79 lakh ).

Scrutiny further revealed that the company paid Rs.2.56 lakhs in March 1988 which was calculated on the basis of the value of land at the rate of Rs.625/- per acre when the revised rate of Rs.5,000 per acre as per Government of Orissa Notification dated June 1986 was already in force . The dues relating to the period from 1980-81 to 1987-88 at the revised rate of Rs.5,000 worked out to Rs.23.42 lakh against which an amount of Rs.2.56 lakhs only was deposited. Thus there was blockage of revenue amounting to Rs.20.86 Lakhs from March 1988 to July 1990 and Rs.44.09 Lakhs thereafter.

On this being pointed out in audit (August 1992) the Tahasildar stated that the dues would be realised after sanction of the alienation.

The matter was reported to Government (December 1992) and followed by a reminder in October 1993; their reply has not been received (December 1993).

## CHAPTER 5

### STATE EXCISE AND OTHER TAX RECEIPTS

#### 5.1 Results of audit

(a) Test check of the records in the offices of the Excise department and other departmental offices conducted during the period from April 1992 to March 1993, revealed non-realisation / short realisation of excise duty, entertainment tax, stamp duty, registration fees and other irregularities amounting to Rs.212.81 lakhs in 306 cases which may broadly be categorised as under :

		Number of cases	Amount (Rupees in lakhs)
1.	Non-realisation of duty	86	52.85
2.	Short realisation of duty	32	50.28
3.	Loss of revenue due to destruc- tion of beer/ wastage of spirit in excess of the permissible limit.	6	1.64
4.	Other irregulari- ties	132	76.05
<b>Total:</b>		<b>256</b>	<b>180.82</b>

(b) OTHER TAX RECEIPTS		Number of cases	Amount (Rupees in lakhs)
(i)	Entertainment tax	16	31.43
	1. Other cases	16	31.43
	Total		
(ii)	Stamp duty and Registration	12	0.19
	1. Short levy of stamp duty, registration fee due to under valuation.		
	2. Short levy of stamp duty, Registration fees due to misclassification of documents.	14	0.13
	3. Irregular exemption	8	0.24
	Total:	34	0.56

During the course of the year 1992-93, the concerned departments accepted non realisation/short realisation etc. of Rs.41.75 lakhs involved in 46 cases of which Rs.0.42 lakh involved in 3 cases were pointed out in 1992-93 and the rest in the earlier years .

A few illustrative cases involving financial effect of Rs.26.22 lakhs highlighting important audit observations are mentioned in the following paragraphs.

## **5.2 Non-realisation of Excise Duty at revised rates**

Under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, excise duty is leviable on all dutiable goods at the rates specified from time to time in the Schedule appended thereto. Excise duty is recoverable from the licensees who manufacture dutiable medicinal preparations or who store such goods in warehouse under the provisions of the rules 6 and 49 of the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956. The rates of excise duty was revised with effect from 1st March 1989.

During the course of audit (March 1993) of Superintendent of Excise, Phulbani, it was noticed that in respect of one bonded manufacturer of medicinal preparations, excise duty was realised at the pre-revised rates for the years 1990-91 and 1991-92, which resulted in non realisation of revenue amounting to Rs.1.08 lakhs.

On this being pointed out in audit, the Superintendent of Excise, Phulbani stated (March 1993) that the duty at enhanced rates could not be realised due to non-receipt of the above notification and agreed to realise the differential duty.

The matter was reported to Government (April 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

## **5.3 Loss of revenue due to non-confirmation of provisional settlement of country spirit shop**

Under the provisions of Bihar and Orissa Excise Act, 1915 and Rules made thereunder, the State Government is competent to grant exclusive privilege for such period as it may think fit to any person for selling country spirit, as also cancel or suspend the same for violation of any of the conditions of the privilege. In the event of cancellation, the exclusive privilege

is put to reauction for the unexpired period and it is settled at the loss and risk of the outgoing exclusive privilege holder.

During the course of audit (November 1992) it was noticed that one country spirit shop in the district of Sambalpur was provisionally settled (March 1991) by the Collector in favour of the highest bidder for the year 1991-92 and the proposal was sent to Government for confirmation. But the Government did not confirm the same and directed (March 1991) for resettlement by auction-cum-tender basis. As there was no response to the bid during reauction, the proposal was again sent to Government (March 1991) for confirmation of the provisional settlement originally made in favour of the same highest bidder, which Government confirmed in September 1991. But the original bidder refused to accept the provisional settlement made earlier as it was not confirmed in time. As a result the shop could not function for the whole year (1991-92) and Government sustained a loss of revenue of Rs.2.88 lakhs for the year towards monthly consideration money and excise duty on a minimum guaranteed quantity of country spirit.

On this being pointed out in audit (November 1992) the Superintendent of Excise stated (December 1992) that the highest auction purchaser refused to take the license. But the fact remained that, had the provisional settlement made in favour of the bidder been confirmed in time, the loss could have been avoided.

The matter was reported to Government (February 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

**5.4 Loss of revenue due to irregular deduction from the stock of molasses**

Under the provisions of clause 9 of Molasses Control order, 1961, every owner of sugar factory and every Industrial

undertaking receiving or using molasses is required to maintain such books, accounts and records relating to the production and disposal of molasses as may be prescribed by the Molasses Controller from time to time.

During course of audit of the records of the District Excise Office, Sambalpur (December 1991) it was noticed that a quantity of 207.936 MT of molasses was deducted from the stock on the ground that the stock was written off by the Molasses Controller (Excise Commissioner, Orissa). However, the relevant write off order could not be made available to audit. On an enquiry by audit (July 1982) in the office of the Commissioner of Excise, Orissa, it came to light that neither any write off proposal was received nor the stock was written off. The reduction in the stock was therefore, irregular, which led to loss of revenue of Rs.9.86 lakhs based on the total yield of rectified spirit at 82,134.72 LPL expected to be extracted on the quantity of molasses of 207.936 MT at the rate of 395 LPL per MT of molasses as laid down by the Deputy Commissioner of Excise in May 1976.

On this being pointed out in audit (December 1991), the Superintendent of Excise, Sambalpur raised demand of Rs.9.86 lakhs (December 1992).

The matter was reported to Government (March 1992) followed by a reminder in October 1993; their reply has not been received (December 1993).

**5.5 Short realisation of revenue due to non-removal of stock within prescribed time limit**

Under Board's Excise Rules, 1965, stocks of Indian Made Foreign Liquor (IMFL) are required to be removed by the licensees from the "Bond" to "trade off" before expiry of three months from the date of storing.

With effect from 1 April 1992 the rates of excise duty in respect of IMFL costing more than Rs.90.00 per London Proof Litre (LPL) were reduced from Rs.94.00 to Rs.82.00 and from Rs.56/- to Rs.52/- in respect of other IMFL.

During course of audit of nine\* District Excise Offices it was noticed (July 1992 to March 1993) that 9512.27 LPL of IMFL costing more than Rs.90 per LPL and 7707.5 LPL of other IMFL were not removed from bond to trade off by 31 March 1992 despite the stock being more than three months old by that time. The non-removal of stock within the prescribed time limit resulted in loss of revenue amounting to Rs.1.45 lakhs on account of reduction in the rate of duty from 1 April 1992 as per notification dated 28 March 1992.

On this being pointed out in audit (July 1992 to March 1993); Superintendent of Excise, Cuttack stated (August 1992) that the notification containing revision of rates of duty was received late (4 April 1992) and no action could be taken prior to 31 March 1992. The Superintendents of Excise, Koraput, Puri, Baripada stated (December 1992, July 1992 and January 1993) that action would be taken for issue of notices for realisation of differential duty. The Superintendent of Excise, Sambalpur stated that instructions were being issued again to bond officers in-charge of bonds to follow the orders strictly for removal of stocks. Replies were not received from other offices.

The matter was reported to Government (between December 1992 and April 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

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\* Cuttack, Puri, Sambalpur, Koraput, Balasore, Ganjam, Mayurbhanj, Dhenkanal and Sundargarh.

### 5.6 Loss of revenue due to excess wastage of spirit.

Under Board's Excise Rules, 1965, wastage of spirit in the process of storage in a distillery, is allowable to the extent of 1.5 per cent per year. Such wastage upto 2 per cent can be considered by the Excise Commissioner, on an application made by the distiller (Licencee) through appropriate authority. In other words wastage beyond 2 per cent in operation is not allowed and therefore liable for duty.

During the course of audit of District Excise office, Puri (May 1992), it was noticed that a distiller (a bottling unit of I.M.F.L.) had shown during 1991-92 a wastage of 4,496.980 London Proof Litres of rectified spirit (i.e. 3.76 per cent) against the maximum permissible allowance of 2391.1568 LPL (2 per cent of 1,19,557.838 LPL) of rectified spirit. Excise Duty amounting to Rs.1.64 lakhs calculated @ Rs.78.00 per LPL on the excess wastage of 2105.8232 LPL chargeable from the distiller, was not charged. This was pointed out in audit in July 1992; final reply has not been received so far (December 1993).

The matter was reported to Government in December 1992 followed by a reminder in October 1993; their reply has not been received (December 1993).

### 5.7 Short-levy of excise duty on beer due to allowance of inadmissible wastage

Under the Board's Excise Rules, 1965, an allowance of 10 per cent of the monthly total charges shall be made on account of wastage which shall not be subjected to duty. In the process of manufacture of beer, the difference between 'Wort' produced and beer bottled is considered as wastage.

In course of audit of the accounts of the Superintendent of Excise, Cuttack (July 1992) it was noticed (July 1992) in

the case of a distillery-cum-brewery that out of 49,60,000 bulk litres (B.L) of 'wort' produced by the brewery during the year 1991-92, an allowance of 4,96,000 bulk litres was shown towards wastage (10 per cent of 'wort' produced) leaving 44,64,000 bulk litres of 'wort' available for manufacture of beer to be bottled. The brewery had, however, bottled only 41,53,561.75 B.L. of beer during the year. Thus, there was an excess wastage of 3,10,438.25 bulk litres of beer (over and above the permissible limit).

On this being pointed out (July 1992), it was contended by the Superintendent of Excise Cuttack that 'wort' produced on any particular day would ultimately be converted into beer for bottling after 15 to 30 days and that the licensee had storing capacity of 40 lakh bulk litres. On scrutiny by audit, it was noticed that the licensee did not maintain separate account for each brewing indicating the quantity of 'wort' produced, beer bottled and the wastage which occurred during the above period. Even after taking into consideration the period of 20 days required to convert 'wort' into beer the total quantity of only 42,77,806.6 B.L. of beer was bottled during the period of one year i.e. from 21 April 1991 to 20 April 1992 out of 44,64,000 bulk litres of 'wort' available for bottling (after allowing admissible wastage) leaving a difference of 1,86,194 bulk litres on which duty is leviable. The excess wastage resulted in loss of excise duty amounting to Rs.9.31 lakhs (calculated at Rs.5 per bulk litre).

The matter was reported to Government (December 1992) followed by a reminder in October 1993; their reply has not been received (December 1993).

## CHAPTER 6

### FOREST AND OTHER NON TAX RECEIPTS

#### 6.1 Results of audit

a) Test check of the records maintained in the Forest Divisions and other departmental offices conducted during the year 1992-93 revealed non/short-recovery of dues and loss of revenue etc. amounting to Rs.1865.06 lakhs in 2313 cases which broadly fall under following categories:

#### Forest Receipts

	No. of cases	Amount (Rupees in lakhs)
1. Loss of revenue due to non-disposal of forest produce by sale.	80	26.29
2. Non-realisation of compensation/royalty	474	97.05
3. Non-levy/short levy of interest on delayed payment of consideration money/royalty.	776	21.45
4. Other irregularities	795	467.29
	2125	612.08

## b) Mining Receipts

	No. of cases	Amount (Rupees in lakhs)
1. Non levy/short levy of royalty, cess, surface rent and dead rent	4	4.45
2. Non-recovery/short recovery of interest	59	2.71
3. Non-realisation of cost of ores in respect of mines worked without valid lease.	11	0.22
4. Non-realisation/under assessment of dead rent, cess, royalty and interest	6	8.29
5. Other irregularities	70	3.85
	<u>150</u>	<u>19.52</u>

## c) Departmental Receipts

1. Short levy of interest	6	61.95
2. Other cases	32	1171.51
	<u>38</u>	<u>1233.46</u>

During the course of the year 1992-93, the concerned departments accepted under assessment etc., of Rs.235.23 lakhs involved in 99 cases pertaining to previous years and Rs.18.82 lakhs in 3 cases relating to 1992-93.

A few illustrative cases highlighting important irregularities involving financial effect of Rs.117.07 lakhs are mentioned in the following paragraphs.

## 6.2 Loss of revenue on sale of sal seeds at lower rate

Consequent upon nationalisation of sal seeds collection, Government appointed Orissa Forest Development Corporation Limited as the sole agent for purchase and trade of sal seeds for the year 1991. Accordingly the Government appointed an Empowered Committee for disposal of 39,749 MT of sal seeds collected during 1991. The Committee fixed the rate of disposal at Rs.4,453 per M.T. and allotted 36,000 M.T. of sal seeds among six parties after inviting tenders (July 1991) and holding negotiations and the balance of 3,749 M.T. to a local unit (against his projected requirement of 12,000 M.T.) recommended by the Managing Director of Industrial Promotion and Investment Corporation of Orissa Limited (IPICOL) in spite of the unsatisfactory performance of the local unit in the past.

Later (September 1991) the quota of the local unit was enhanced to 8,000 M.T. again on the basis of recommendation of Managing Director of IPICOL by reducing the quantities of other six parties to 31,749 M.T. In case of failure of any party to lift the allotted stock it was to be reallocated to other parties on pro rata basis and a condition to this effect was to be inserted in their agreements.

As the local unit failed to deposit the security money and execute the agreement, his earnest money deposit amounting to Rs.1.20 lakhs was forfeited. But the stock was not reallocated among the other six parties and was retendered in December 1991. As a result of retender and negotiations, 8139.889 M.T. of sal seeds were disposed of among four parties at the rate of Rs.3350/- per M.T. as against Rs.4,453/-. Out of the four parties, three parties to whom 6110 M.T. of sal seeds were sold at Rs.3350/- per M.T. were from among the original six to whom sal seeds were sold

earlier at Rs.4,453/- per M.T. The sale of sal seed at lower rate resulted in loss of revenue to the extent of Rs.89.78 lakhs. This could have been avoided if (i) initially no allotment was made to the local unit whose past performance was unsatisfactory or (ii) if the quantity not lifted by the local unit was distributed among the original six parties at the earlier rates, three of whom were allowed to purchase 6110 M.T. of sal seeds at lower rate of Rs.3350/- per M.T. on retender and gain a financial advantage of Rs.67.39 lakhs.

On this being pointed out in audit (July 1992), Principal Chief Conservator of Forest, Orissa stated (July 1992) that in view of constitution of Empowered Committee by the Government necessary comments should be offered by Government only.

The matter was reported to Government (September 1992, October 1993 and November 1993); their reply is awaited (December 1993).

### 6.3 Short realisation of royalty

As per the guidelines prescribed in Chief Conservator of Forest, Orissa Circular /Order dated 7.6.82 for computation of units in forest coupes in respect of irregular lots i.e. felled and stacked timber, actual volume and not the unit is to be taken into consideration while computing the timber content and fixing royalty.

In course of audit of Divisional Forest Office, Nowrangpur in the district of Koraput, it was noticed (September 1990) that a lot comprising 431 fallen trees comprising 833 units with a volume of 11346 cft. of timber, was sold to M/S Orissa Forest Corporation Limited for a royalty of Rs.4.79 lakhs. The royalty was fixed and collected on the basis of unit value

instead of actual volume excluding departmental charges in salvaging the trees. This resulted in short realisation of revenue amounting to Rs.4.89 lakhs.

Government stated (October 1992) that a revised demand of Rs.10.33 lakhs had been raised (March 1991).

#### **6.4 Loss of revenue due to irregular fixation of royalty**

According to the procedure laid down by the Principal Chief Conservator of Forests, Orissa, in June 1982 royalty in respect of forest coupes settled with the Orissa Forest Development Corporation Limited is to be determined with reference to the unit of timber available in the coupe. The unit is computed with reference to the ratio adopted on the basis of classification of the species and girth class of trees marked for felling. The price is calculated by multiplying the number of units in each coupe with the unit cost fixed in the prescribed manner.

During the audit of Divisional Forest Office, Parlakhemundi, it was noticed (July 1992) that royalty in respect of a coupe with 1807 number of trees comprising 1361 trees of different girth class with timber content of 468 units and 446 number of poles, was provisionally fixed at Rs.92,583 on actual outturn basis. However, the royalty, when calculated on the basis of the unit price of timber, works out to Rs.2.10 lakhs. Thus the fixation of royalty on the basis of actual outturn resulted in underassessment of royalty amounting to Rs.1.18 lakhs.

The matter was reported to the Government (September 1992). The Government intimated (October 1993) that revised demand of Rs.2.15 lakhs had been raised out of which an amount of Rs.1.05 lakhs has since been recovered (March 1993)

### 6.5 Non-levy of interest on belated payment of consideration money/royalty

Under the Orissa Forest Contract Rules, 1966, if a Contractor fails to pay any instalments of consideration money for sale of forest coupes to him by the due date, he is liable to pay interest at the rate of 6 1/4 per cent per annum on the instalments in default. These provisions were also applicable to lease of forest coupes given to the Orissa Forest Development Corporation Limited as clarified by Government.

During the course of audit (between May 1992 and January 1993) of 8 Forest Divisions, it was noticed that the lessees had defaulted in payment of consideration money/royalty. The delay in payment ranged from 1 month to 30 months. But no interest was levied on such belated payment. This resulted in non-levy of interest to the tune of Rs.11.01 lakhs as shown in the table below:

Sl. No.	Name of the Forest Division	Nature of objection	Year	Period of delay	Amount of interest (Rupees in lakhs)	Remarks
1.(a)	Jeypore	Delay in payment of royalty	1988-89	29 months	0.44	Payable by a private company.
(b)	Jeypore	-do-	1990-91	12 to 13 months	0.44	Payable by Orissa Forest Development Corporation Ltd.
2.	Puri	-do-	1989-90 and 1990-91	8 1/2 months to 11 1/2 months	0.37	-do-
3.	Nowrangpur	-do-	1989-90 to 1991-92	1 to 23 months	4.12	-do-
4.	Karanjia	-do-	1990-91	7 to 19 months	0.48	-do-

Sl. No.	Name of the Forest Division	Nature of objection	Year	Period of delay	Amount of interest (Rupees in lakhs)	Remarks
5.	Sambalpur	Delay in payment of royalty	1989-90 and 1991-92	1/2 month to 30 months	0.32	Payable by Orissa Forest Development Corporation Ltd.
6.	Dhenkanal	-do-	1990-91 to 1991-92	3 to 9 months	0.19	-do-
7.	Keonjhar	-do-	1990-91	8 months	4.07	-do-
8.	Athmalik	-do-	1990-91	2 to 21 months	0.58	-do-
<b>Total</b>					<b>11.01</b>	

On this being pointed out (between September 1992 and February 1993) the Divisional Forest Officers concerned agreed to realise the interest.

The matter was reported to the Government (between June 1992 and April 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### 6.6 Short realisation of royalty on minor minerals

Under the Orissa Minor Mineral Concession (OMMC) Rules, 1990, effective from 14th August 1990 the Divisional Forest Officers of Forest Department have been declared competent authority to grant lease for extraction of minor minerals from forest areas. According to rule 13(ii) of the Rules ibid royalty on minor minerals extracted from the leased area shall be recoverable at the rates specified in Schedule I.

During audit of Forest Divisions, Balliguda and Phulbani it was noticed (February 1993 and March 1993) that a total quantity of 2,05,860 cft. of different minor minerals was removed

during the period from September 1990 to March 1992 on payment of royalty at rates effective before the issue of OMMC Rules 1990, which resulted in short realisation of royalty amounting to Rs.89,895.

On this being pointed out in audit (February 1993 and March 1993), the Divisional Forest Officer, Balliguda stated (March 1993) that OMMC Rules were not applicable to Forest Department and that clarification were sought for from higher authority, while the Divisional Forest Officer, Phulbani stated that the Principal Chief Conservator of Forests, Orissa, was being requested to issue clarification on implementation of OMMC Rules, 1990. However the reply of the department is not tenable as under Schedule IV of Rules ibid the Divisional Forest Officers have been declared competent authority for grant of permits/lease for extraction of minor minerals from forest areas and to recover royalty due thereon.

The matter was reported to Government (April 1993) followed by a reminder in October 1993; their reply has not been received (December 1993).

#### 6.7 Non-realisation of Compensation

Under the Orissa Forest Contract Rules 1966, a forest contractor is liable to pay compensation as may be fixed by the Forest Officer for damage caused by the contractor to Government forest. In the event of his failure to pay compensation, his contract is liable to be terminated and the dues are to be recovered from his security deposit and the balance if any as arrears of land revenue.

During the course of audit in 4 Forest Divisions (Athagarh, Balliguda, Rairakhol and Bonai) it was noticed that compensation amounting to Rs.9.31 lakhs had not been recovered

from a private party (Rs.0.43 lakh) and Orissa Forest Development Corporation Ltd. (Rs.8.88 lakhs) for the period April 1973 to March 1978 and April 1987 to March 1991 respectively.

The matter was reported to Government/ Department (between March 1992 to June 1992), followed by a reminder in October 1993; their replies have not been received (December 1993).

BHUBANESWAR  
The 22 FEB 1994

  
( S.K.ROY )  
Accountant General (Audit) II

Countersigned

NEW DELHI  
The 09 MAR 1994

  
( C.G.SOMIAH )  
Comptroller and Auditor General  
of India

**ERRATA  
TO  
REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA  
FOR THE YEAR ENDED 31 MARCH 1993**

**( REVENUE RECEIPTS )-No.1  
GOVERNMENT OF ORISSA**

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**COMPTROLLER AND AUDITOR GENERAL OF INDIA**

1994

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