

PREFATORY REMARKS

This Report for the year ended 31 March 2002 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, land revenue, taxes on vehicles, stamp duty and registration fees and other tax and 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 2001-2002 as well as those noticed in earlier years but could not be covered in previous years' Reports.

OVERVIEW

This Report contains 45 paragraphs including 3 reviews relating to non-levy/short levy of taxes, duties, interests and penalty involving Rs.676.23 crore. Some of major findings are mentioned below:-

1. General

(i) The total revenue receipts of the Government of Gujarat in 2001-2002 were Rs. 15,986.06 crore as against Rs.15,738.59 crore during 2000-2001. The revenue raised by the State from taxes during 2001-2002 was Rs.10,134.18 crore and from non-tax receipts was Rs.3,760.94 crore. State's share of divisible Union taxes and grants-in-aid from Government of India were Rs. 600.68 crore and Rs. 1,490.26 crore respectively. The main source of tax revenue during 2001-2002 was Sales Tax (Rs. 5,857.40 crore) and taxes and duties on Electricity (Rs.1,656.52 crore). The main receipts under non-tax revenue were from Interest (Rs.1,594.30 crore) and Non-ferrous Mining and Metallurgical Industries (Rs. 734.58 crore).

The aggregate of the amount received by the State Government on account of the State's share of Union Taxes, Duties and Grants-in-aid decreased by 37 percent from Rs. 3,342.62 crore in 2000-2001 to Rs. 2,090.94 crore in 2001-2002. The amounts received from the Government of India to the revenue receipts of the State decreased from 21 percent in 2000-2001 to 13 percent in 2001-2002. Tax receipts of the State increased marginally (12 percent) to Rs. 10,134.18 crore in 2001-2002 compared to Rs. 9,046.83 crore in 2000-2001.

(Para 1.1 and 1.2)

(ii) As on 31 March 2002, 13,17,590 cases were pending assessment under Sales Tax Act. Out of these, 90,778 cases had turnover of above Rs.1 crore in each case.

(Para 1.6)

(iii) A test check of the records in the offices of Sales Tax, Land Revenue, Motor Vehicles Tax and other departmental offices conducted during 2001-2002 revealed under assessment and loss of revenue of Rs. 1,027.01 crore in 1,939 cases. During the year, the concerned departments accepted under assessments etc. of Rs.75.40 crore in 1,054 cases and recovered Rs. 23.89 crore in 985 cases pointed out during 2001-2002 and earlier years.

(Para 1.9)

2. Sales Tax

(i) A review on Impact of incentives on industrial growth and recovery of deferred sales tax revealed the following:

(a) Departmental action to recover the tax in instalments instead of entire amount of deferred tax form 27 closed units resulted in undue financial accommodation of Rs.4.11 crore.

(Para 2.2.7(a))

(b) Failure to enforce security obtained in the form of surety bond from 26 closed units resulted in non-recovery of deferred tax of Rs.9.67 crore.

(Para 2.2.10)

(ii) A review on Recovery of Sales Tax dues as arrears of land revenue revealed the following:

(a) Delay in assessment for more than 3 years to determine the tax dues from 542 dealers in 628 assessments resulted in non-realisation of Government revenue of Rs.395.28 crore.

(Para 2.3.6)

(b) Non-initiation of recovery proceedings under the provisions of land revenue code in 164 cases resulted in non recovery of dues of Rs.53.11 crore.

(Para 2.3.7)

(c) Though property was attached in 64 cases where tax dues amounted to Rs.110.34 crore, no auction of the attached property was conducted to realise the Government revenue.

(Para 2.3.8)

(iii) Under Sales Tax Incentive Scheme, incorrect benefit of exemption of Rs.1.76 crore on account of sale of goods not mentioned in the eligibility certificate was allowed to 3 dealers.

(Para 2.4(A))

(iv) Purchase tax of Rs.1.04 crore was not levied in the cases of 13 dealers for transfers of manufactured goods to their branches or consigned outside the state.

(Para 2.5(A))

(v) Misclassification of goods resulted in non/short levy of tax of Rs.3.84 crore in the case of 14 dealers.

(Para 2.8)

(vi) There was non/short levy of turnover tax of Rs.3.49 crore in the case of 49 dealers.

(Para 2.9)

3. Land Revenue

(i) Non/short recovery of occupancy price and interest amounted to Rs. 5.43 crore.

(Para 3.2)

(ii) Incorrect issue of land acquisition awards resulted in loss of stamp duty of Rs.10.27 crore.

(Para 3.3)

4. Taxes on Vehicles

Composite tax of Rs.5.48 crore was not recovered from the operators of 435 omnibuses in 16 Regional Transport Offices.

(Para 4.3(ii))

5. Stamp Duty and Registration Fees

(i) Government money of Rs.17.82 lakh was not remitted into treasury due to misappropriation.

(Para 5.2)

(ii) Stamp duty and registration fees of Rs.255.44 crore were short levied due to incorrect application of concessional rate.

(Para 5.3(i) & (ii))

(iii) Stamp duty and registration fees of Rs.20.33 crore were short levied due to misclassification of documents.

(Para 5.4)

6. Other Tax Receipts

(A) Entertainments Tax

(i) Incorrect grant of exemption to Gujarati Films resulted in loss of revenue of Rs. 28.58 crore.

(Para 6.2)

(ii) Non remittance of tax collected by cinema owners resulted in non-recovery of entertainment tax of Rs. 2.75 crore.

(Para 6.3)

(B) Luxury Tax

(iii) Luxury tax was short levied to the extent of Rs.54.61 lakh due to non payment of tax on the tariff rates declared.

(Para 6.7)

7. Non-Tax Receipts

A. Police Receipts.

(i) A review on Receipts of Police Department in Gujarat State revealed the following:

(a) Non-raising of demand to recover the dues from other State Governments resulted in blocking of revenue of Rs.16.35 crore.

(Para 7.2.7)

(b) The claim of leave salary and pension contribution of Rs.9.07 crore was not preferred.

(Para 7.2.9)

(c) Non-raising of demand in accordance with Government instructions resulted in loss of revenue of Rs.7.84 crore.

(Para 7.2.11)

(d) Revenue of Rs.2.16 crore was irregularly appropriated by the Commissioners of Police, Ahmedabad, Vadodara and Surat for meeting departmental expenditure.

(Para 7.2.12)

B. Mining Receipts

(ii) Royalty/dead rent were not levied / short levied to the extent of Rs.6.71 crore.

(Para 7.4 (i) & (ii))

CHAPTER-I**General****1.1 Trend of revenue receipts**

The tax and non-tax revenue raised by Government of Gujarat and the State's share of divisible Union taxes and grants-in-aid received from Government of India during 2001-2002 and the preceding two years are given below:

(Rupees in crore)

		1999-2000	2000-2001	2001-2002
I	Revenue raised by State Government			
	(a) Tax revenue	8,161.73	9,046.83	10,134.18
	(b) Non-tax revenue	2,990.37	3,349.14	3,760.94
	Total	11,152.10	12,395.97	13,895.12
II	Receipts from Government of India			
	(a) State's share of divisible Union taxes	1,665.04	1,573.75	600.68
	(b) Grants-in-aid	1,154.30	1,768.87	1,490.26
	Total	2,819.34	3,342.62	2,090.94
III	Total receipts of the State Government (Revenue Account)	13,971.44	15,738.59	15,986.06*
	Percentage of I to III	80	79	87

* For details, please see statement No.11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Gujarat for the year 2001-2002. Figure under the heads "0020 share of net proceeds assigned to State and 0021 - Taxes on Income other than Corporation Tax - share of net proceeds assigned to States" booked in the Finance Accounts under A - Tax Revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.2 Revenue raised by the State Government

(i) Tax revenue

The details of tax revenue raised from major taxes during the last three years upto 2001-2002 are given below:

(Rupees in crore)

Sl. no.	Heads of revenue	1999-2000	2000-2001	2001-2002	Percentage of increase (+) or decrease (-) in 2001-2002 over 2000-2001
1	Sales Tax	5,134.47	5,942.74	5,857.40	(-) 1
2	Taxes and Duties on Electricity	1,401.63	1,521.00	1,656.52	(+) 9
3	Stamp Duty and Registration Fees	522.38	537.42	539.41	--
4	Taxes on Vehicles	601.71	627.28	676.63	(+) 8
5	Taxes on Goods and Passengers	88.87	26.03	99.11	(+) 281
6	Land Revenue	116.64	81.53	86.95	(+) 7
7	State Excise	32.02	40.37	47.31	(+) 17
8	Other Taxes	264.01	270.46	1,170.85	(+) 333
	Total	8,161.73	9,046.83	10,134.18	(+) 12

The reasons attributed by the departments for the variation in receipts during 2001-02 over the receipts during 2000-01 are as under:-

Taxes on Goods and Passengers: The increase was mainly due to more tax collection under goods and tax receipts.

State Excise: The increase was mainly due to more receipts on sale of country spirit and medicinal and toilet preparations containing alcohol, opium and other drugs, etc.

Other Taxes : The abnormal increase was mainly due to receipt under share of net proceeds of taxes on commodities and services assigned to state during the year.

(ii) Non-tax revenue

Details of revenue raised from some of the major non-tax receipts during the last three years upto 2001-2002 are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	1999-2000	2000-2001	2001-2002	Percentage of increase (+) or decrease (-) in 2001-2002 over 2000-2001
1	Non-ferrous Mining & Metallurgical Industries	530.78	616.65	734.58	(+) 19
2	Interest Receipts	1,764.54	1,929.82	1,594.30	(-) 17
3	Major & Medium Irrigation	110.68	136.58	132.09	(-) 3
4	Medical & Public Health	41.33	49.14	47.26	(-) 4
5	Others	543.04	616.95	1,252.71	(+) 103
	Total	2,990.37	3,349.14	3,760.94	(+) 12

The reasons attributed by the departments for the variation in receipts during 2001-02 over the receipts during 2000-01 are as under:-

Non-ferrous Mining & Metallurgical Industries: The increase was mainly due to more receipts in mineral concessions-fees, rents and royalties.

Interest Receipts: The decrease was mainly due to less recovery of interest from departmental commercial undertakings, cultivators and interest realised on investments of cash balances.

Others : The increase was mainly due to more receipts under unclaimed deposits and other receipts.

1.3 Variations between Budget estimates and actuals

The variations between Budget estimates and actuals of some major revenue receipts for the year 2001- 2002 are as given below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actuals	Variation increase(+) decrease(-)	Percentage of variation
	Tax revenue				
1	Sales Tax	6,850	5,857.40	(-)992.60	(-)14
2	Taxes & Duties on Electricity	1,711	1,656.52	(-)54.48	(-)03
3	Stamp Duty & Registration Fees	660	539.41	(-)120.59	(-)18
4	Taxes on Vehicles	1,000	676.63	(-)323.37	(-)32
5	Taxes on Goods & Passengers	220	99.11	(-)120.89	(-)55

6	Land Revenue	225	86.95	(-)138.05	(-)61
7	State Excise	40.53	47.31	(+)6.78	(+)17
8	Other Taxes on Income & Expenditure	140	93.31	(-)46.69	(-)33
	Non-tax revenue				
9	Non-ferrous Mining & Metallurgical Industries	700	734.58	(+)34.58	(+)05
10	Interest Receipts	1,837.45	1,594.30	(-)243.15	(-)13
11	Major & Medium Irrigation	255.00	132.09	(-)122.91	(-)48
12	Medical & Public Health	51.82	47.26	(-)4.56	(-)09
13	Forestry & Wild Life	24.79	28.34	(+)3.55	(+)14
14	Education, Sports, Arts & Culture	39.25	39.35	(+)0.10	--
15	Police	58.80	38.91	(-)19.89	(-)34
16	Public Works	24.59	13.49	(-)11.10	(-)45
17	Miscellaneous General Services	110	666.90	(+)556.90	(+)506

The reasons attributed by the departments for the variation in receipts during 2001-02 over the receipts during 2000-01 are as under:-

State Excise: The increase was mainly due to more receipts on sale of country spirit and medicinal and toilet preparations containing alcohol, opium and other drugs, etc.

Non-Ferrous Mining and Metallurgical Industries : The increase was mainly due to more receipts in mineral concessions-fees, rents and royalties.

Interest Receipts: The decrease was mainly due to less recovery of interest from departmental commercial undertakings, cultivators and interest realised on investments of cash balances.

Miscellaneous General Services : The reasons for abnormal variations were due to more receipts under unclaimed deposits and other receipts.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1999-2000, 2000-2001 and 2001-2002 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 2000-2001 are given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to collection	All India average (percentage for the year 2000-2001)
1	Sales Tax	1999-2000	5,134.47	58.62	1.14	1.31
		2000-2001	5,942.74	69.74	1.17	
		2001-2002	5,857.40	58.84	1.00	
2	Stamp Duty and Registration Fees	1999-2000	522.38	19.22	3.67	4.39
		2000-2001	537.42	19.19	3.57	
		2001-2002	539.41	16.65	3.09	
3	Taxes on Vehicles and Goods and Passenger	1999-2000	690.58	59.93	8.67	3.48
		2000-2001	653.31	41.19	6.30	
		2001-2002	775.74	20.76	2.64	
4	State Excise	1999-2000	32.02	4.31	13.46	3.10
		2000-2001	40.37	4.26	10.55	
		2001-2002	47.31	18.34	38.77	

Percentage of expenditure on collection of “State Excise” is more mainly due to expenses on police personnel engaged in implementing prohibition and also propaganda expenses for enforcing prohibition in the State.

1.5 Arrears of revenue

As on 31 March 2002 arrears of revenue under principal heads of revenue, as reported by the departments were as given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	Arrears pending collection	Arrears more than five years old	Remarks
1	2	3	4	5
1	Sales Tax	6,972.45	419.58	Out of arrears of Rs.6,972.45 crore, Rs.66.08 crore was due to demand covered by recovery certificates, Rs.3,461.25 crore was due to stay granted by judicial authorities, Rs.141.13 crore was due to dealers being insolvent, Rs.209.14 crore was to be written off and Rs.3,094.85 crore was due to other reasons.
2	Motor Vehicles Tax	25.51	6.58	No specific reasons were given by the department.
3	Profession Tax	11.85	5.98	Demand of Rs.11.85 crore was covered by recovery certificate.
4	Goods and Passenger Tax	2.07	1.62	No specific reasons were given by the department.
5	Entertainments Tax	8.15	2.10	No specific reasons were given by the department.

6	Luxury Tax	1.57	--	No specific reasons were given by the department.
7	Electricity Duty	13.92	13.92	The arrears of Rs.13.92 crore to be recovered from Baroda Municipal Corporation.
8	Interest Receipts	300.46	99.92	No specific reasons were given by the department.
9	Irrigation	361.47	220.78	No specific reasons were given by the department.
10	Stamp Duty and Registration Fee.	11.00	0.17	Due to appeals pending in Courts and High Courts.

1.6 Arrears in Sales Tax assessments

The number of cases due for assessment, number of assessments completed during the year and the number of assessments pending at the end of the year under report with corresponding figures of the year 2000-2001 are as under:

	2000-2001	2001-2002
(a) Number of assessments due for completion during the year		
Arrear cases	18,11,875	17,11,569
Current cases	6,92,877	5,61,293
Remand cases	20	107
Total	25,04,772	22,72,969
(b) Number of assessments completed during the year		
Arrear cases	6,86,436	6,18,953
Current cases	1,06,757	3,36,368
Remand cases	10	58
Total	7,93,203	9,55,379
(c) Number of assessments pending finalisation as at the end of the year		
Arrear cases	11,25,439	10,92,616
Current cases	5,86,120	2,24,925
Remand cases	10	49
Total	17,11,569	13,17,590
(d) Yearwise break-up of pending cases is as under		
Up to 1997-1998	9,72,201	6,81,957
1998-1999	2,53,422	1,65,572
1999-2000	3,20,655	1,89,244
2000-2001	1,65,291	1,67,810
2001-2002	-----	1,13,007
Total	17,11,569	13,17,590

The above table shows that during the year, out of 22,72,969 assessment cases only 9,55,379 cases could be assessed which is only 42 *percent* of the total cases due for assessment. As on 31 March 2002, 13,17,590 cases were pending for assessment, out of which 1,52,546 cases involved turnover of over Rs.50 lakh but not exceeding one crore and 90,778 cases involved turnover of over Rs.1 crore and above in each case.

The assessment is in arrears mainly due to shortage of staff. As against the requirement of staff of 524, in the cadres of Assistant Commissioner and Sales Tax Officer class I and II, for the assessment of sales tax cases, 364 posts only have been filled in leaving 31 *percent* posts in the above cadres vacant. Since Sales Tax is the major revenue of the State, Government may consider filling up the vacancies if necessary, by redeploying staff from other departments.

1.7 Internal Audit

The Internal Audit in Sales Tax Department was constituted in May 1960. During 2001-2002, assessments of 377 cases were revised at the instance of internal audit and additional demands of Rs.32.87 lakh were raised.

Internal Audit was constituted in Entertainment Tax Department in February 1989 and in Motor Vehicles Tax Department in April 1992. During 2001-2002, 143 objections were pointed out by internal audit wing of Entertainment Tax Department and additional demands of Rs.24.84 lakh were raised. No additional demands were raised as a result of internal audit by Motor Vehicles Tax Department.

1.8 Frauds and evasion of taxes

The details of cases of fraud and evasion of taxes pending at the beginning of the year, number of cases detected during the year and assessments/ investigations completed during the year and the number of cases pending finalisation at the end of March 2002 as supplied by the respective departments are given below:

Sl. No.	Heads of revenue	Cases pending as on 31 March 2001	Cases detected during 2001-2002	Number of cases in which assessments/ investigations completed and demand raised		Number of cases pending as on 31 March 2002
				No. of cases	Amount of demand (Rs. in crore)	
1	Sales Tax	734	267	286	118.89	715
2	Stamp Duty and Registration Fees	4,01,665	18,123	1,12,809	97.13	3,06,979
3	Luxury Tax	14	33	41	0.04	6

1.9 Results of audit

Test check of records of Sales Tax, Land Revenue, Motor Vehicles Tax and other departmental offices conducted during the year 2001-2002 revealed under-assessments/short levy/loss of revenue aggregating Rs.1,027.01 crore in 1,939 cases. During the year the concerned departments accepted under-assessments etc. of Rs.75.40 crore (1,054 cases) and recovered Rs.23.89 crore (985 cases), of which Rs.0.37 crore (46 cases) was pointed out during 2001-2002 and the rest in earlier years.

This Report contains 45 paragraphs including 3 reviews involving Rs.676.23 crore which illustrate some of the major points noticed in audit. Of these, the departments accepted audit observations amounting to Rs.29.51 crore and recovered Rs.0.52 crore. The departments did not accept audit observations involving an amount of Rs.1.18 crore but their contentions were found to be at variance with the facts or legal position. These have been commented upon in the relevant paragraphs.

1.10 Outstanding inspection reports and audit observations

(i) Audit observations on assessments, collection and accounting of receipts and defects noticed during local audit are communicated to the heads of offices and the departmental authorities through audit inspection reports. More important irregularities are also reported to the heads of departments and to the Government.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2001, which were pending settlement by the departments as on 30 June 2002 alongwith corresponding figures for the preceding two years are given below:

	As at the end of June		
	2000	2001	2002
Number of outstanding Inspection Reports	3,303	3,667	3,934
Number of outstanding audit observations	8,600	9,191	9,849
Amount of receipts involved (Rs. in crore)	872.69	1,182.57	1,721.18

The departments (Revenue, Information, Broadcasting and Tourism, Finance, Home, Industries and Mines and Forest department) have not furnished even first replies in respect of 256 Inspection Reports issued during 2001 involving revenue of Rs.265.19 crore.

(ii) Yearwise break-up of the outstanding Inspection Reports and audit observations as on 30 June 2002 is as given below:

Year in which Inspection Reports were issued	Number of outstanding		Amount of receipts involved (Rupees in crore)
	Inspection Reports	Audit observations	
Upto 1998-99	2,709	6,750	695.79
1999-2000	505	1,043	157.06
2000-2001	401	1,007	366.34
2001-2002	319	1,049	501.99
Total	3,934	9,849	1,721.18

The above position was brought to notice of Secretaries to Government in the concerned departments from time to time.

CHAPTER II

SALES TAX

2.1 Results of Audit

Test check of assessment records in various Sales Tax Offices conducted in audit during the year 2001-2002 revealed under assessment of Rs.274.65 crore in 745 cases, which broadly fall under the following categories:

Sr. No.	Category	(Rupees in crore)	
		No. of cases	Amount
1	Incorrect rate of tax and mistakes in computation	110	9.14
2	Incorrect grant of set off	73	1.61
3	Incorrect concession/exemption	33	11.41
4	Short levy of interest and penalty	280	10.96
5	Other irregularities	247	33.87
6	Review on "Impact of Incentives on Industrial Growth and recovery of deferred Sales tax".	1	16.39
7	Review on "Recovery of Sales Tax dues as arrears of land revenue".	1	191.27
	Total	745	274.65

During the year 2001-02, the department accepted under assessment of Rs.81.26 lakh in 217 cases and recovered Rs.74.70 lakh in 170 cases, of which 41 cases involving Rs.13.43 lakh were pointed out during the year 2001-02 and the rest in earlier years. A few illustrative cases involving important audit observations and results of reviews on (i) "Impact of incentives on industrial growth and recovery of deferred Sales Tax" (ii) "Recovery of Sales Tax dues as arrears of land revenue" involving Rs.253.13 crore are given in the following paragraphs.

2.2 Impact of incentives on industrial growth and recovery of deferred Sales Tax.

2.2.1 Introductory

The Government in their industrial policy for the periods 1980-1985, 1986-1991, 1990-1995 and 1995-2000 had announced sales tax incentive schemes for new industries, premier and prestigious units, electronics

industries and wind power generation (WPG) units. The schemes framed by the Industries Department aimed at securing balanced development of industries by promoting growth of industries away from cities by giving more thrust on development of backward areas. The eligible units were granted capital investment subsidies and /or allowed exemption from payment of sales tax or to defer the payment of sales tax up to a prescribed monetary limit for a prescribed period.

Under various schemes, Government granted incentives in the form of cash subsidy, sales tax exemption and sales tax deferment of Rs.7,489.33 crore of which Rs.1,042.79 crore pertain to sales tax deferment sanctioned to 3,538 units.

2.2.2 Organisational set-up

Under the incentive schemes, the sanctions/eligibility certificates are issued by the Department of Industries, Government of Gujarat on the approval of the District Level Committees/ State Level Committee. The implementation of sales tax incentive schemes is monitored by the Finance Department through the Commissioner of Sales Tax who is assisted by eight Deputy Commissioners of Sales Tax and 38 Assistant Commissioners of Sales Tax who supervise the work of 138 units(Ghataks). Based on the eligibility certificates issued by the Department of Industries, the Assistant Commissioner of Sales Tax issues Sales Tax exemption/deferment certificates.

2.2.3 Scope of Audit

With a view to examining that adequate machinery was created to monitor recovery of deferred sales tax under the four [€]schemes, records of 21 [#] out of 138 assessing units (Ghataks) falling under the jurisdiction of 10 ^{\$\$} out of 38 Assistant Commissioners of Sales Tax were test checked between September 2001 and February 2002. To have a comprehensive study of the target versus achievement of industrial growth as a result of incentives granted, files relating to formulation of policies from 1980 to 1995 were scrutinised in audit in Industries Department and in the Office of the Industries Commissioner in May 2002. The results of the review are given in subsequent paragraphs.

€ 1980-1985, 1986-1991, 1990-1995 and WPG

Ankleshwar Ghatak 1 & 2, Bhavnagar Ghatak 1,2 & 3 Bharuch Ghatak 1 & 2, Gandhinagar, Godhra Ghatak 1 & 2, Kadi, Kalol, Mehsana, Surendranagar Ghatak 1 & 2, Vadodara Ghatak 10 & 11, Vapi Ghatak 1,2 & 3 and Vijapur.

\$\$ Ankleshwar, Bhavnagar, Bharuch, Gandhinagar, Godhra, Mehsana, Surendranagar, Vadodara 20 and Vapi 29 & 30

2.2.4 Highlights

- (1) Departmental action to recover the tax in instalments instead of entire amount of deferred tax from 27 closed units resulted in undue financial accommodation of Rs.4.11 crore.
(Para 2.2.7(a))
- (2) As a result of failure to obtain adequate security, tax deferment of Rs.101.47 crore availed by 609 units remained insecure.
(Para 2.2.9)
- (3) Failure to enforce security obtained in the form of surety bond from 26 closed units resulted in non-recovery of deferred tax of Rs. 9.67 crore.
(Para 2.2.10)
- (4) Interest of Rs. 0.70 crore was not levied on 10 units for default in payment of deferred tax.
(Para 2.2.11)
- (5) While formulating the industrial policies the department neither assessed the estimated amount of revenue to be forgone nor the impact of earlier schemes.
(Para 2.2.14)
- (6) The objectives of the balanced growth was not achieved as out of 184 talukas, 50 to 55 talukas cornered most of the investments.
(Para 2.2.14(iii))

2.2.5 Arrears in assessments

The instructions of Commissioner of Sales Tax (October 1984), to complete assessments of assesseees on priority basis, who enjoyed Sales Tax Incentives seemed to be ineffective.

4,362 assessments involving tax deferment of Rs.318.32 crore were pending final assessment as on 31 March 2001 of which 2,268 assessments involving Rs.119.50 crore pertained to the assessment period up to 1995-1996. Yearwise break-up of pending assessment cases is as follows:-

(Rupees in crore)

Assessment Period	Tax deferment schemes								Total	
	1980-1985		1986-1991		1990-1995		Wind Power Generation			
	No. of Assessments	Amount	No. of Assessments	Amount	No. of Assessments	Amount	No. of Assessments	Amount	No. of Assessments	Amount
up to 1995-1996	392	29.93	1520	65.26	344	19.12	12	5.19	2268	119.50
1996-1997	18	3.76	298	10.76	234	19.89	17	19.64	567	54.05
1997-1998	21	6.50	246	5.13	290	32.23	25	12.48	582	56.34
1998-1999	22	0.44	161	4.15	310	36.37	23	8.94	516	49.90
1999-2000	18	0.22	56	4.22	337	30.83	18	3.26	429	38.53
Total	471	40.85	2281	89.52	1515	138.44	95	49.51	4362	318.32

Delay in assessment to determine the correctness of benefits availed by the units on self assessment, may lead to delay in raising demands on excess/incorrect availing of incentive of deferment by the dealers.

2.2.6 Recovery of tax deferment under various schemes

The tax deferment availed, recovery of deferred tax due, recovery made and amount outstanding as on 31 March 2001 in respect of various schemes covered in the review is as under :

(Rupees in crore)

Scheme	No. of units	Amount availed	Recovery due	Amount recovered	Amount outstanding	Percentage of recovery outstanding to recovery due. Col. 6 to 4.
1	2	3	4	5	6	7
1980-1985	1276	77.15	56.12	40.77	15.35	27
1986-1991	1302	220.37	89.44	75.59	13.85	15
1990-1995	594	229.18	58.94	43.76	15.18	26
Wind Power Generation Scheme	59	74.51	39.38	33.84	5.54	14
Total	3231	601.21	243.88	193.96	49.92	20

Out of outstanding amount of Rs.49.92 crore, Rs. 40.74 crore pertain to 360 units under different schemes which have closed down their production.

2.2.7 Non recovery of deferred tax from the units due to closure/discontinuance of business

As per the provisions of Finance Department resolutions dated 18 March 1982 and 16 June 1987, if the commercial production of goods is discontinued by a unit availing tax deferment benefit at any time for a period exceeding twelve months within the duration of sales tax deferment or has discontinued the business at any time within such duration, the benefit of the sales tax deferment scheme shall cease to operate forthwith and the entire amount of tax deferred till then shall be paid to Government by such unit within a period of sixty days from the expiry of 12 months or discontinuance of business. Further, as per provisions in Finance Department resolution dated 8 April 1992, the eligible units availing tax deferment under 1990-1995 scheme have to remain in production continuously during the eligibility period prescribed in eligibility certificate plus repayment duration. Failure to do so would result in the stoppage of the benefit of tax deferment forthwith and entire amount of tax deferred till then shall be paid by such unit to Government.

(a) Undue benefit to the defaulters

Test check of records in 5^S Ghataks revealed that 27[#] units (10/1980-1985, 14/1986-1991 and 3/1990-1995) which had closed down the business during tax deferment period, were issued notices to repay the deferred tax of Rs. 4.11 crore in instalments instead of entire amount forthwith. This resulted in undue financial benefit to the defaulters.

(b) Delay in issue of demand notices

Test check of the records of 6^α Ghataks revealed that 11 units (5/1980-1985 & 6/1986-1991) which had availed the benefit of tax deferment under the schemes had closed down their units during the period of tax deferment. The department failed to raise demand against the defaulters immediately after their closing down the business to deposit the entire amount forthwith. The delay ranged between 20 to 214 months. Recovery of Rs. 0.41 crore was outstanding as on 31 March 2001 from these units.

(c) Non maintenance of records.

The information supplied by 5^{##} Ghataks revealed that 34⁹ units (27/1980-1985 and 7/1986-1991) were closed after availing of tax deferment benefit of Rs. 5.10 crore of which in 18 cases the date of closure of business was not

^S Ankleshwar 2, Bharuch 2, Vadodara 10, and Vapi 1&3.

[#] 10 units under 1980-85 scheme, 14 units under 1986-91 scheme and 3 units under 1990-95.

^α Ankleshwar 1, Gandhinagar, Godhra 2, Kalol and Vapi 1 & 3.

^{##} Ankleshwar 1 & 2 , Bharuch 2, Godhra 1 and Vapi 1

⁹ 27 units under 1980-85 scheme and 7units under 1986-91 scheme

available and in balance cases the department did not have any records to show that whether any action was taken to effect the recovery of the dues or not.

2.2.8 Excess availing of tax deferment

Four units (1/1986-1991, 2/1990-1995 and 1/WPG) were allowed to avail benefit of tax deferment of Rs.2.39 crore between February 1992 and March 2003 against which the units had availed benefit of Rs.3.31 crore between June 1997 and June 1999. This resulted in excess availing of deferment tax of Rs.0.92 crore. Though the units had crossed the monetary ceilings the department failed to recover excess amount availed in time. One unit was closed (June 1997), other was registered as sick unit with BIFR^s (February 1999) and an official liquidator was appointed (November 2000) for the third one where the claim was preferred in March 2001 by the department.

2.2.9 Non- obtaining of securities to ensure effective recovery of deferred sales tax

As per the Finance Department Resolution June 1991, all the units covered under previous and existing sales tax deferment schemes shall be required to furnish securities to the competent sales tax authority within 120 days from the date of issue of G.R.

During test check of records, it was noticed that security/surety was not obtained from 609 industrial units (294/1980-1985, 275/1986-1991, 38/1990-1995 and 2/WPG) which were sanctioned tax deferment benefit of Rs.933.38 crore of which Rs.101.47 crore was availed of by them by 31 March 2001 and Rs.78.01 crore was due for recovery as on that date as detailed below:

(i) No security/surety was obtained from 193 units (132/1980-1985, 58/1986-1991 and 3/1990-1995) which were functioning upto June 1991 but closed down their business thereafter. Deferred tax recoverable from such units amounting to Rs.20.66 crore not only remained insecure but, could also have been adjusted against their tax liability had security/surety been obtained.

(ii) No security/surety was obtained from 416 units which are still in operation (162 / 1980-1985, 217/1986-1991, 35/1990-1995 and 2/WPG). Deferred tax of Rs.57.35 crore recoverable from such units remains insecure, of which Rs.4.18 crore was due for recovery as on 31 March 2001.

^s Board for Industrial and Financial Reconstruction

2.2.10 Non enforcing of security to recover deferred tax from closed units

During test check of 8[#] Ghataks it was noticed that the department obtained the surety bond from 26 units (2 /1980-1985, 15 /1986-1991, 7 /1990-1995 and 2/WPG). But the department failed to recover the deferred tax of Rs. 9.67 crore availed by these units by not enforcing the surety bond as these units were either closed or had discontinued their commercial production.

2.2.11 Non levy of interest on delayed payment of instalments of deferred tax

Under the schemes, the amount of deferred tax is recoverable as per the time schedule prescribed. In case of default, the amount shall be recoverable in accordance with the provision of law alongwith interest for delayed payment.

The Commissioner of Sales Tax clarified (November 1999), that the amount of tax deferment availed by the units under the WPG scheme is recoverable in six equal annual instalments. The first instalment shall begin on 1st April following the financial year in which the unit had exhausted its eligible amount or after the expiry of relevant period of six years during which deferment was available, whichever is earlier.

Scrutiny of records in the Ghataks at Kadi, Kalol, Gandhinagar, Godhra, Bharuch, Vadodara and Vapi revealed that 10 units (WPG Scheme) which had exhausted their eligible amounts earlier than the period of deferment had not repaid the instalments of deferred tax as per the schedule commencing on 1st April of next year. For delayed payment of instalments of deferred tax, interest of Rs.0.70 crore though leviable, was not levied.

On this being pointed out the Sales Tax Officer, Vapi accepted the objection while those at Kadi and Gandhinagar stated that Finance Department resolution did not mention the repayment schedule but the units had made advance payments following the instructions of Commissioner of Sales Tax. Reply is not tenable as in view of the clarification (November 1999) of Commissioner of Sales Tax, the recovery of deferred tax was to be made by the department as per the schedule mentioned therein.

[#] Ankleshwar 2, Bharuch 2, Bhavnagar 3, Gandhinagar, Godhra 1 & 2, Kadi, and Vadodara 10.

2.2.12 Interest free sales tax loan in lieu of sales tax deferment to industrial units by Gujarat Industrial Investment Corporation (GIIC)/Gujarat State Financial Corporation (GSFC)

To obviate adverse effect of Section 43-B of the Income Tax Act, 1961, a scheme for interest free loan in lieu of sales tax deferment availed by the eligible units was introduced by the Government of Gujarat vide Industries, Mines and Energy Department resolution dated 21 March 1988. According to the conditions of this resolution, where certificates of deeming loan^s from GIIC (for Large and Medium Scale Industries) and GSFC (for Small Scale Industries) have been issued, recovery of deferred tax was to be made by concerned financial institutions and credited to Government account.

Test check of records of Kalol, Ankleshwar and Surendranagar revealed that seven units were issued certificates of deeming loans for Rs. 1.16 crore under deferment schemes 1980-1985 and 1986-1991 by GSFC and GIIC. All the units were closed down between April 1996 and April 1999 but no records were maintained to ascertain whether any recovery was effected from the units by these institutions and credited to the Government account.

No system or procedure has been prescribed to monitor the recovery of the dues made through the financial institutions. The Commissioner of Sales Tax has also not furnished any clarification on the matter though called for.

2.2.13 Improper maintenance of register

The Ghataks are required to maintain a Register No.56 showing the deferment of tax availed by units as per returns furnished and as per assessments made by the department, amount due for recovery and dates on which due.

(i) During test check it was noticed that in 10 % Ghataks the registers were not maintained in prescribed form. In 6 %% Ghataks, benefit of tax deferment availed of as per returns and that as per assessments was not recorded in the register. Due dates of instalments and dates on which payments made were not recorded in 7 ^^ Ghataks. In the absence of these details, monitoring of benefits availed and correctness of recovery of deferred tax was not effective.

(ii) At Ankleshwar, 130 units were sanctioned tax deferment benefit under 1980-1985 scheme. However the register produced to audit contained the

^s Amount equivalent to tax deferment availed by units considered as loan from GIIC/GSFC.

[%] Ankleshwar 1 & 2, Bhavnagar 2 & 3, Gandhinagar, Kadi, Mehsana, Vadodara 10 & 11 and Vijapur.

^{%%} Ankleshwar 1 & 2, Bhavnagar 2 & 3, Godhra 2 and Vadodara 11.

^{^^} Bhavnagar 2 & 3, Gandhinagar, Mehsana, Vadodara 10 & 11 and Vijapur.

names of only 53 units with incomplete data on sanction, amount of tax deferred and recovery thereof.

2.2.14 Impact of incentives on industrial growth

A prudent financial management and planning would require that, before granting benefits in financial terms, the quantum of revenue involved should first be estimated. However, study of files in Industries Department (May 2002) revealed that no estimation was made while formulating the industrial policies for 1980-1985, 1986-1991, 1990-1995 and 1995-2000. The proposals did not contain any set goals like number of units to whom the benefit would accrue, total capital inflow that was expected by virtue of grant of such incentives and quantum of incentives that would have to be sanctioned to the proposed units. Before formulating the policies, no comprehensive study of the earlier schemes was made.

Based on recommendations of State Finance Commission (1994), the Industries Commissioner entrusted the study of the impact of incentive schemes on industrialisation in Gujarat to Industrial Extension Bureau (iNDEXTb), a Government of Gujarat undertaking. Report on study carried out by Entrepreneurship Development Institute of India through iNDEXTb, was submitted to Government (1999). Findings of the study are:

- (i) The incentives given were not a very powerful instrument to divert the flow of industrial investment to industrially backward areas.
- (ii) The definition of backward areas was diluted over a period of time. Under one or the other pretext, almost entire State was made eligible for incentives with the result that high concentration of investments took place only in a few pockets of the State which enjoyed proximity with some major industrial centers or located in "Golden Corridor" extending from Ahmedabad to Vapi. None of the 'prestigious' units have gone to any backward taluka which is outside the 'Golden Corridor' or has no natural resource base.
- (iii) Impact of the incentives seemed to be rather limited with reference to the backward area development. As many as 111 talukas during 1986-1991 scheme and 88 out of 184 talukas during 1990-1995 scheme did not receive any major investment. Most of the investment was cornered by 50-55 talukas.
- (iv) The Government did not have exact information on the number of units in operation, their output, employment value addition, etc.

2.2.15 Conclusion

It is evident that a proper analysis of the implications of the scheme to ascertain details like the revenue likely to be forgone, number of units to whom the benefits would accrue, the total capital inflow to the areas covered etc. was not done by the industries department. The role of the field offices in effecting recoveries from the defaulting units was poor. As the department did not obtain securities from the beneficiaries, it was not able to recover the dues from any of the defaulters. Getting easily enforceable securities from the beneficiaries may be made mandatory to overcome the problem. As the department's ability to monitor effectively the implementation of the schemes is being jeopardised due to the absence of reliable and complete data, developing adequate data base through computerization of relevant records may be considered.

The matter was reported to the department and Government in June 2002; their replies have not been received (July 2002).

2.3 Recovery of Sales Tax dues as arrears of land revenue

2.3.1 Introductory

The Gujarat Sales Tax Act, 1969 provides for levy of sales tax, purchase tax, turnover tax, tax on specified sales and composition money in lieu of tax in respect of dealers whose annual turnover of sales or purchases exceed the prescribed limits. All registered dealers are required to submit monthly/quarterly/annual returns to the assessing authorities alongwith proof of tax paid on self-assessment. The cases are then assessed and a demand notice issued directing the dealers to deposit the balance amount of tax, if any, alongwith interest and penalty within a period of 30 days from the date of service of demand notice. In the event of failure to deposit the tax as specified in the notice, it shall be recoverable as arrears of land revenue.

2.3.2 Organisational set-up

The Sales Tax department functions under the control of the Commissioner of Sales Tax assisted by Additional Commissioners, Deputy Commissioners, Assistant Commissioners and Sales Tax Officers. The Deputy Commissioners, Assistant Commissioners and Sales Tax Officers shall have and exercise all the powers and perform the duties of District Collectors, Deputy Collectors and Mamlatdars respectively under Bombay Land Revenue Code, 1879, (LRC) to recover the sales tax dues as arrears of land revenue.

2.3.3 Scope of audit

There are 8** Deputy Commissioners in Gujarat to supervise the levy and collection of tax enforced by 138 assessing units (Ghataks). Records of 42* Ghataks falling under all the Deputy Commissioners with special emphasis on cases where the arrears involved was Rupees one lakh and more in individual cases, were scrutinised between July and November 2001. The results of the review are given in subsequent paragraphs.

2.3.4 Highlights

1. Over the last five years, action was initiated to recover sales tax under the provisions of Land Revenue Code in 18,883 cases involving arrears of Rs.1,247.37 crore but an amount of Rs. 44.16 crore only was recovered in 212 cases which ranged between 1 percent and 6 percent of the dues.

[Para 2.3.5]

2. Delay of more than three years in determining the tax dues from 542 dealers in 628 assessments resulted in non-realisation of Government revenue of Rs.395.28 crore.

[Para 2.3.6]

3. Non-initiation of recovery proceedings under the provisions of Land Revenue Code in 164 cases resulted in non-recovery of dues of Rs.53.11crore.

[Para 2.3.7]

4. Though property was attached in 64 cases where tax dues amounted to Rs.110.34 crore, auction of the attached property was not conducted to realise the Government revenue.

[Para 2.3.8]

5. In 108 cases involving tax dues of Rs. 27.45 crore, the offices in charge of recovery did not have the details of date of demand and date of service of demands.

[Para 2.3.9]

** 2 each of Ahmedabad and Surat and 1 each of Bhavnagar, Gandhinagar, Rajkot and Vadodara.

* 11 each of Ahmedabad and Surat, 7 of Rajkot, 6 of Vadodara, 4 of Gandhinagar and 3 of Bhavnagar

6. Incorrect adoption of due date of payment on the dues after appeal/rectification orders resulted in loss of interest of Rs. 0.37 crore in 10 cases.

[Para 2.3.10]

2.3.5 Position of arrears

Total sales tax arrears pending collection as on 31st March of the year during the last five years was as under: -

(Rupees in crore)

Year	No. of Dealers	Sales Tax Collected	No. of defaulters	Amount of Tax pending collection at the end of the year	Percentage of arrears to revenue collected <u>Col. 5 to 3</u>
1	2	3	4	5	6
1996-1997	4,19,283	4,025.69	1,76,611	871.51	22
1997-1998	4,16,357	4,402.39	1,36,000	1,065.34	24
1998-1999	4,03,663	4,795.84	1,51,711	1,101.48	23
1999-2000	4,01,624	5,134.47	1,42,575	3,403.06	66
2000-2001	3,88,362	5,942.74	1,53,441	4,887.20	82

Arrears of Sales Tax revenue to total collection showed an upward trend from 22 percent in 1996-1997 to 82 percent in 2000-2001. Though the position of arrears is reviewed by higher authorities through monthly returns, the overall arrears increased steadily from Rs. 871.51 crore in 1996-1997 to Rs. 4,887.20 crore at the end of 2000-2001 registering an increase of 560.77 percent. Further, the number of defaulters decreased from 1,76,611 to 1,53,441 during the period.

Action initiated under the provisions of the Land Revenue Code (LRC) to recover the arrears of sales tax are as shown below:-

Year	No. of defaulters	Amount of tax pending collection at the end of the year	No. of cases where action under LRC was taken.	Amount involved in LRC cases	Percent-age (Col 5 to 3)	Amount recovered		Percent-age (Col 8 to 5)
						No. of cases	Amount	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1996-1997	1,76,611	871.51	3,769	134.18	15	37	2.14	2
1997-1998	1,36,000	1,065.34	3,895	154.24	14	43	2.04	1
1998-1999	1,51,711	1,101.48	3,953	165.34	15	45	2.05	1
1999-2000	1,42,575	3,403.06	4,910	179.75	5	53	2.10	1
2000-2001	1,53,441	4,887.20	2,356	613.86	13	34	35.83	6
Total			18,883	1,247.37		212	44.16	4

The department had initiated action under the provisions of LRC in 18,883 cases involving tax dues of Rs. 1,247.37 crore only over the last five years which ranged between 5 percent to 15 percent of the total arrears. Whereas an amount of Rs.44.16 crore could be realised in 212 cases by invoking the provisions of LRC which varied between 1 percent and 6 percent. The dismal performance in implementing the special provisions for recovery under the LRC was due to lack of timely action in determining and raising demand of dues.

2.3.6 Arrears due to delay in assessment

Under the Gujarat Sales Tax Act, 1969, there was no time limit for completion of assessments relating to cases prior to April 1998. However, no order of assessment for a year commencing on the first day of April 1998 and thereafter shall be made at any time after the expiry of three years from the end of the year in which the last monthly, quarterly or annual return as the case may be, is filed.

Scrutiny of the records of 42 Ghataks revealed that in 628 cases the assessments were not completed in time. As a result, the amount of Rs.395.28 crore on account of sales tax had gone into arrears as detailed below:-

(Rupees in crore)				
Sl. No.	Delay in assessment	No.of dealers	Arrears	
			No.of assess-ments made	Amount
1.	More than 3 years but less than 5 years	318	351	224.28
2.	5 years and above but less than 10 years	198	239	156.64
3.	10 years and above	26	38	14.36
	Total	542	628	395.28

2.3.7 Non-initiation of action under the provisions of Land Revenue Code

According to the provisions of the Gujarat Sales Tax Act, 1969, any tax, penalty or interest which remains unpaid after the dates specified in the notices for payment shall be recoverable as an arrears of land revenue. A notice under LRC is required to be issued directing the dealers to make the payment within 10 days of the date of receipt of notice.

Test check of records of 42 Ghataks revealed that 164 dealers had neither paid the dues of Rs. 53.11 crore by the date as specified in the notice for payment, nor any action was initiated by the department to recover the dues by invoking the provisions of the LRC. This resulted in non-recovery of dues of Rs. 53.11 crore.

2.3.8 Non-recovery of dues due to non-disposal of attached property

Under the provision of LRC, in cases where the dealer fails to pay the dues within 10 days specified in the notice issued, action to attach movable property and/or immovable property could be initiated. To ascertain the details of property proposed to be attached by spot visit, a notice is to be issued with a minimum time limit of 7 days. The Commissioner of Sales Tax is competent to fix the upset price of the property attached, auction the same and adjust the sale proceeds against the tax dues.

Test check of records of 42 Ghataks revealed that attachment orders were issued in 73 cases involving arrears of Rs.114.48 crore out of which in 64 cases involving Rs.110.34 crore, no action for disposal of property was initiated. In the balance 9 cases involving arrears of Rs.4.14 crore, though

auctions were conducted, the properties could not be sold as the offers were far below the upset price. This resulted in non-realisation of Rs.114.48 crore.

2.3.9 Cases not pursued for want of assessment particulars with Recovery Officers

Upto March 1998 the assessment of cases, where documents were seized by the enforcement wing, were done by the Sales Tax Officers of that wing and recoveries if any, watched by them. However, from April 1998, the work of assessment was entrusted to the respective Assistant Commissioner of Sales Tax (ACST). Consequent to this procedural changes, the recovery created and pending with enforcement wing was transferred to Ghataks.

Test check of records of 7 Deputy Commissioners of Sales Tax revealed that in 108 cases involving tax of Rs.27.45 crore, the date of issue/service of demand notices were not recorded in the register of recoveries. The files relating to recoveries also did not indicate these details. In the absence of complete details, computation of the amount of dues against dealers as on date was not ascertainable. Though notices were issued under various clauses, such notices were deficient as the department was not able to mention the necessary details in the notices and the dues had remained unrealised.

2.3.10 Loss of interest due to depiction of incorrect date for payment of tax in respect of outstanding dues as per appeal/rectification orders

Under the Gujarat Sales Tax Act, 1969, a dealer is required to make the payment of dues within 30 days from the date of service of demand notice. For non-payment of tax including penalty and interest as per the demand notice in time, provisions for payment of interest is attracted. The Gujarat State Tax Tribunal while deciding appeal on stay on recovery of dues also specify that stay on recovery would be subject to levy of interest during the period of stay at the rate prevailing at the material time under the provisions of GST Act on the amount of tax ultimately determined as due from the dealer.

Contrary to the above provision and clarification as above, it was noticed in 16 assessments of 10* dealers that on receipt of appeal / rectification orders, the old entries in the recovery register made as per the original assessment order were deleted and fresh demand notices issued indicating the due date of payment computed with reference to the date of fresh notice. This has resulted in short levy of interest of Rs. 0.37 crore for the period from the date of original demand notice and fresh demand notice.

* 3 of Surat, 2 of Vapi and 1 each of Ahmedabad, Ankleshwar, Bharuch, Rajkot and Vadodara.

2.3.11 Conclusion

It is observed that despite the increase in Sales Tax arrears especially during 1999-2000 and 2000-2001, the department did not take adequate action to recover the dues by invoking the provisions of the LRC, which may have adverse effect on State's financial position.

The above facts were brought to notice of department (April 2002) and of Government (April 2002). Reply has not been received (July 2002).

2.4 Incorrect grant of benefits under sales tax incentive schemes.

(A) The benefit is admissible to the eligible industrial unit to whom Sales Tax incentives by way of exemption or deferment is sanctioned, in respect of goods manufactured for sale as specified in the eligibility certificate issued by the Industries Department.

During test check of records of Assistant Commissioner, Ahmedabad and 2[#] Sales Tax Offices, it was noticed (between June and November 2001) in the assessment of 3 dealers for the periods between 1993-1994 and 1997-1998 (finalised between June 2000 and January 2001) that tax of Rs.66.72 lakh on sale of goods was adjusted incorrectly against the ceiling limit of exemption though these goods were not specified in their eligibility certificates. The amount of tax so adjusted was required to be recovered alongwith interest and penalty. Total amount recoverable in these cases work out to Rs.1.76 crore including interest and penalty.

The above facts were brought to the notice of the department between August and December 2001; their reply has not been received.

(B) According to sales tax incentive schemes, a manufacturer is allowed exemption from payment of tax or to defer the payment of tax in respect of goods manufactured by him subject to conditions laid down in the respective schemes. The tax so exempted/deferred is adjusted against the ceiling limit fixed by the competent authority at prescribed percentage of the fixed capital investment (FCI).

During test check of records of 3^{*} Sales Tax Officers, it was noticed (between February and May 2001) that a sum of Rs.9.99 lakh was either carried forward to next year in excess of exemption available or the benefit was allowed in excess of ceiling limit.

The above facts were brought to the notice of the department between March and July 2001. The department accepted the audit observation involving Rs.8.60 lakh in 3 cases and passed rectification orders. Reply in the remaining cases have not been received.

[#] Bhavnagar and Kadi.

^{*} Kalol, Palanpur and Surat.

(C) According to sales tax incentive schemes, the eligible units holding exemption certificate are allowed to purchase raw materials, processing/packing materials and consumable stores against declarations on payment of tax at the rate of 0.25 *percent* of the tax payable. The balance of purchase tax on such goods is adjusted against the ceiling limit.

During test check of 3** Sales Tax Offices, it was noticed (between February 1998 and February 2001) in the assessment of 3 dealers for the periods between 1990-1991 and 1998-1999 (finalised between December 1996 and January 2000) that the balance of the tax of Rs.11.49 lakh on purchases made against declarations was either not adjusted or adjusted short against the ceiling limit due to application of incorrect rate of tax.

The above facts were brought to notice of the department (between March and December 2001). The department accepted the audit observations for Rs.10.98 lakh in 2 cases and passed rectification orders. Reply in respect of the 3rd case has not been received.

(D) According to the condition of incentive scheme on exemption, if the sales of eligible units are wholly exempt from payment of tax, the units will not be eligible to claim deduction from turnover if the goods are sold against the declarations under Section 12, Section 13 or Section 49(2) of the Act.

During test check of records of 2 Sales Tax Offices of Surat and Kalol it was noticed (between February and May 2001) that in the assessment of 2 dealers for the periods between 1989-1990 and 1994-1995 (finalised between August 1999 and September 2000) that tax on sales made against declarations made under the above mentioned sections was adjusted against exemption limit at the reduced rate instead of the rates prescribed. This resulted in short adjustment of tax of Rs.6.37 lakh against the ceiling limit.

The above facts were brought to notice of the department (between February and September 2001) and of Government (March 2002). The details of recovery and reply is awaited (July 2002).

(E) During test check of records of 2* Assistant Commissioners and 4# Sales Tax Officers, it was noticed (between August 1998 and November 2001) in the assessments of 5 dealers for the periods between 1993-1994 and 1998-1999 (finalised between May 1997 and March 2001) that excess exemption of tax Rs.8.37 lakh was allowed as detailed below:

** Mehsana, Surat and Bhavnagar.

* Ahmedabad and Palanpur.

Ahmedabad, Khambhat, Petlad, and Surat.

Sr. No.	Place	Excess exemption allowed (Rs. in lakh)	Nature of irregularity.
1.	Palanpur Surat.	5.79	Tax on sale was computed and adjusted at incorrect rate in one case and computation error was found in the 2 nd case.
2	Khambhat	0.89	Tax at the rate of four <i>percent</i> of the value of goods transferred outside the State of Gujarat, which was required to be adjusted against the ceiling as per the conditions of scheme, was not adjusted.
3.	Petlad	1.34	Short levy of tax due to excess availing of exemption.
4.	Ahmedabad	0.35	Issue of certificate in Form 26 by an exemption certificate holder before the effective date.
	Total	8.37	

The above facts were brought to the notice of the department (between March and December 2001). The department accepted the audit observations for Rs.7.48 lakh in 4 cases. The position of recoveries and reply in the remaining case has not been received.

(F) According to incentive schemes, the eligible unit has to remain in production continuously during the period of eligibility mentioned in the eligibility certificate. If the eligible unit transfers any of its assets within a period of five years from the date of commencement of production the exemption ceases to operate and the entire amount of tax exemption benefit availed is to be paid within a period of sixty days alongwith interest.

During the test check of records of Sales Tax Office, Gandhinagar, it was noticed (November 2000) that a dealer had availed tax exemption benefit of Rs.1.08 crore between 1 December 1993 and 30 June 1997. The dealer's unit was merged with the other unit on 30 September 1998 i.e within a period of five years of commencement of production. The entire amount of tax exemption availed by the dealer was required to be recovered alongwith interest. The dealer had neither paid the amount of Rs.1.08 crore nor the department had initiated any action to recover the same.

The above fact was brought to the notice of the department (November 2000) and of Government (April 2002). The department stated that a notice for levy of tax for breach of recitals has been issued (3 August 2002). The details of recovery is awaited (August 2002).

(G) According to incentive schemes, industries carrying out the activity of repacking of edible products was included in the ineligible list and are not entitled to the benefit of the scheme. The activity of blending of tea is not considered a manufacturing process.

During the course of test check of records of Sales Tax Office, Surendranagar, it was noticed (November 2001) in the assessment of a dealer for the period 1997-1998 and 1998-1999 (finalised in June 2000) that the tax deferment benefit was incorrectly allowed to an industry engaged in the activity of blending and repacking of tea. This resulted in incorrect deferment of tax of Rs.15.99 lakh including interest and penalty.

The above fact was brought to the notice of the department (November 2001); their reply has not been received.

2.5 Non/short levy of purchase tax

(A) Under the Gujarat Sales Tax Act, 1969, (Act) where a dealer purchases any taxable goods (other than declared goods) and uses them as raw materials in the manufacture of taxable goods, purchase tax at the prescribed rate is leviable. The purchase tax so levied is allowed as refund provided the manufactured goods are sold within the State and tax is paid on its sale.

During test check of records of 4* Assistant Commissioners and 5** Sales Tax Offices, it was noticed (between February and October 2001) in the assessment of 13 dealers for the periods between 1992-1993 and 1998-1999 (finalised between April 1997 and May 2000) that the dealers had transferred the manufactured goods either to their branches or consigned outside the State, or used the raw material in job work. This resulted in non/short levy of tax of Rs.1.04 crore including interest and penalty.

The above facts were brought to the notice of the department (between March and December 2001) and of Government (March 2002). The department accepted (July 2001) the audit observations involving an amount of Rs.1.19 lakh in one case. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

(B) Under Section 49(2) of the Act, a registered dealer can purchase granules/resins of PVC, HDPE, LDPE and LLDPE at the concessional rate of tax of 3 percent against Form 34 for the manufacture of taxable plastic goods for sale within the State of Gujarat. The word plastic was deleted with effect from 16 May 1994.

During test check of records of Sales Tax Offices, Ahmedabad and Surendranagar, it was noticed (between February and November 2001) in the assessment of 2 dealers for the periods between 1993-1994 and 1995-1996

* Ankleshwar, Godhra, Palanpur and Valsad.

** One each of Ankleshwar, Bhavnagar, Godhra, Khambhat and Vapi.

(finalised in February and March 2000) that granules valued at Rs.90.47 lakh purchased against Form 34 were either used in the manufacture of goods other than plastic goods or the goods were sold tax free against Form-1. For breach of recitals of declarations, purchase tax of Rs.14.33 lakh though leviable, was not levied.

The above facts were brought to the notice of the department (March and December 2001) and of Government (March 2002). The department accepted (October 2001) the audit observations involving an amount of Rs.0.51 lakh in one case and recovered the amount. Reply in other case has not been received (July 2002).

(C) Under Section 13 of the Act, a recognised dealer, on production of certificate in Form 19, can purchase goods (other than prohibited goods) without payment of sales tax for use in the manufacture of taxable goods for sale within the State. However, the Act, provide for levy of purchase tax at the rate of 2.4 *percent* on purchases made against such certificate at the time of filing the return. In the event of breach of condition of declarations, the dealer would be liable to pay purchase tax at the prescribed rates.

During test check of records of Assistant Commissioners, Godhra and Himatnagar, Flying Squad, Ahmedabad and 3* Sales Tax Offices, it was noticed (between June 2000 and September 2001) that as per the assessment of 6 dealers for the periods between 1988-1989 and 1999-2000 (finalised between October 1999 and December 2000) the dealers had purchased raw materials against Form 19 without payment of tax and used the material in the manufacture of goods. Purchase tax was levied at incorrect rate on the purchases (valued at Rs.4.48 crore) in 4 cases or the manufactured goods (valued at Rs.13.74 lakh) were consigned outside the State in 2 cases. This resulted in non / short levy of purchase tax of Rs.9.03 lakh including interest and penalty.

The above facts were brought to the notice of the department (July 2000 and September 2001) and of Government (March 2002). The department accepted audit observations involving an amount of Rs.1.13 lakh in 2 cases and recovered the amount. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

2.6 Application of incorrect rate of tax

Under the Act, sales tax is leviable at the rates as indicated in the Schedules to the Act. The goods not covered under any of the Schedules are taxed at the general rate.

* 1 each of Godhra, Jamnagar and Vadodara.

During test check of records of Assistant Commissioner, Ankleshwar and 15* Sales Tax Offices, it was noticed (between June 1999 and December 2001) in the assessment of 18 dealers for the periods between 1989-1990 and 1999-2000 (finalised between April 1997 and March 2001) that sales turnover of Rs.12.96 crore of shamiana, electric panel board, paper waste, 'Babulin' gripe water, machinery, surgical goods, lubricating oil, reprocessed granules, ice cream, deep freezers, HDPE damaged drums, water purifier, pan chatani, floor and wall tiles, forest produce, cinema arc carbons, reprocessed plastic granules, master batch of colour granules were taxed at incorrect rates. This resulted in short levy of tax of Rs.87.95 lakh including interest and penalty.

The above facts were brought to the notice of the department (March 2001 and January 2002) and of Government (March 2002). The department accepted (October 2001 and January 2002) audit observations involving an amount of Rs. 11.52 lakh in 4 cases and recovered Rs. 2.52 lakh in 3 cases. Details of recovery, if any, and reply in the remaining cases have not been received (July 2002).

2.7 Incorrect allowance of deduction

Under the Gujarat Sales Tax Act, 1969, the sales made on certain declarations are allowed without payment of tax subject to fulfilment of prescribed conditions. Such sales and purchases are deducted from the gross turnover to compute taxable turnover. Sales of prohibited[§] goods against declaration in Form 19 are not permissible.

During test check of records of Assistant Commissioner Ankleshwar, Godhra and 4** Sales Tax Offices, it was noticed between April and October 2001 in the assessment of 5 dealers for the periods between 1994-1995 and 1998-1999 (finalised during January 1999 and January 2001) that sales of prohibited goods viz. plastic master batch, machinery, machinery parts, craft paper, switch gears and SDMDC^{##} bactericides valued at Rs.1.86 crore made against declaration in Form 19 were incorrectly allowed as deductions from the sales turnover. This resulted in non-levy of tax of Rs.17.02 lakh.

The above facts were brought to the notice of the department (September 1999 and November 2001) and of Government (February 2002); their replies have not been received (July 2002).

* 6 of Ahmedabad, Bharuch , 2 of Godhra, 1 each of Kalol, Surendranagar, Valsad and 3 of Vadodara

§ Goods which are notified as prohibited for certain purposes

** Ahmedabad, Surat and 2 of Vadodara

Sodium dimethyle – dithio carbonate

2.8 Non/short levy of tax due to mis-classification of goods

Under the Act, tax is leviable at the rates as indicated in the Schedules to the Act, depending upon the classification of goods. However, where goods are not covered under any of the Schedules, general rate of tax applicable from time to time is leviable.

During the test check of records of 3[#] Assistant Commissioners and 7[@] Sales Tax Offices, it was noticed (between January and November 2001) in the assessment of 14 dealers for the periods between 1988-1989 and 1999-2000 (finalised between April 1996 and March 2001) that in spite of specific decisions/orders available for classification, sales of various goods valued at Rs.61.70 crore and purchases valued at Rs.0.85 lakh were misclassified. This resulted in non/short levy of tax of Rs.3.84 crore as detailed below:

(Rupees in crore)					
Sr. No.	No. of Dealers (Location)	Name of Commodity	Rate of tax leviable (percentage)	Rate of tax levied (percentage)	Tax Short levied.
1	3 dealers (Ahmedabad, Godhra and Surendranagar)	Metals, Rubbles Dust, Semigrit, Kapcha and Rubbles	12	4 and 6	0.08
2	2 dealers (Ahmedabad and Vadodara)	Poly coated paper, poly coated craft paper and Poly coated printed poster paper	14 and 12 plus additional tax	10.8 and 5	0.43
3	2 dealers (Ahmedabad and Surendranagar)	Glazed mixture and ceramic glazed mixture	14 and 12	6	1.95
4	1 dealer (Surendranagar)	Briquettes	14 and 12	Tax free	0.24
5	1 dealer (Ahmedabad)	Burnt lignite	14	4	0.003
6	1 dealer (Vadodara)	Floor covering	14 and 12	10	1.10
7	1 dealer (Godhra)	Wire mesh	14	4	0.02
8	2 dealers (Ahmedabad and Vadodara)	Waste and Scrap of rubber conveyer belt, HDPE used bags and plastic tins	12	5.2 and 8	0.02
Total	14				3.84

The above cases were brought to the notice of the department (between March and December 2001) and of Government (March 2002). The department accepted (May 2001) the audit observations involving an amount of Rs.2.32 lakh in one case. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

[#] Amreli, Anand and Vadodara

[@] 2 of Ahmedabad, Godhra, 2 each of Surendranagar and Vadodara

2.9 Non/short levy of turnover tax

Under Section 10A of the Act, where the sales turnover of a dealer, liable to pay tax, first exceeds Rs.50 lakh, the dealer is liable to pay turnover tax at prescribed rate on the turnover of sales of goods other than declared goods after allowing permissible deduction under the Act. From April 1993, sales made against various declarations and sales exempted from tax under Section 49, were excluded from the permissible deductions making such sales liable to turnover tax. While working out the liability and applicability of rate of turnover tax, the taxable sales turnover in aggregate of all the branches of the dealer within the state is to be considered.

During test check of records of 6* Assistant Commissioners and 17# Sales Tax Offices, it was noticed (between September 1998 and September 2001) in the assessment of 49 dealers for the periods between 1990-1991 and 1996-1997 (finalised between November 1997 and March 2001) that turnover tax was either not levied or levied at incorrect rates. This resulted in short/non-levy of turnover tax of Rs.3.49 crore as given below:

(Rupees in crore)

Sr. No.	No. of dealers (location)	Period of assessment	Date of assessment	Taxable turnover	Tax not/short levied	Nature of irregularity
1	5 dealers of Ahmedabad, Ankleshwar, Jamkhabhalia and Vadodara	1992-93 to 1996-97	November 97 to March 2001	91.53	3.05	Turnover of sales of Cotton yarn, artificial silk yarn and plant and machinery was not included for levy of turnover tax.
2	5 dealers of Ahmedabad, Godhra and Kalol	1991-92 to 1996-97	October 99 to December 2000	18.78	0.08	Turnover tax was incorrectly calculated.
3	39 dealers of Ahmedabad, Ankleshwar, Anand, Kalol, Mehsana, Rajkot, Surat and Vadodara	1990-91 to 1996-97	January 98 to March 2001	58.07	0.36	Sales made against declarations, goods exempted from tax, job work were not included for levy of turnover tax in four cases. In other cases, tax was either not levied or levied at incorrect rates.
Total	49				3.49	

* 2 each of Ahmedabad, Ankleshwar and Surat

5 of Ahmedabad, Ankleshwar, Anand, 2 of Godhra, Jamkhabhalia, Kalol, Mehsana, Rajkot, 2 each of Vadodara and Surat

The above facts were brought to the notice of the department (between August 2000 and December 2001) and of Government (March 2002). The department accepted (between February 2001 and January 2002) audit observations involving an amount of Rs.10.80 lakh in 12 cases and recovered Rs.9.98 lakh in 11 cases (February 2002). Further details of recovery and reply in the remaining cases have not been received (July 2002).

2.10 Non-levy of tax

Under the Act, goods of incorporeal or intangible character like patents, trade marks, import licence etc. and sales by transfer of right to use the goods are chargeable to tax at the rates prescribed in the Schedule-II & III respectively.

During the test check of records of 2* offices of Assistant Commissioner and 9[&] Sales Tax Offices, it was noticed (between October 1997 and October 2001) that no tax was levied in the assessment of 12 dealers for the periods between 1995-1996 and 1999-2000 (finalised between January 1997 and February 2001) on premium/royalty of Rs.12.70 crore on sale of advance licence, import licence, DEPB licence etc. and royalty received by the dealers. This resulted in non-levy of tax of Rs.89.62 lakh including interest and penalty.

The above facts were brought to the notice of the department (between March and November 2001) and of Government (March 2002). The department accepted (April 2001 and January 2002) the audit observations involving an amount of Rs.43.42 lakh in 5 cases and recovered Rs.0.82 lakh in 2 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

2.11 Turnover escaping assessment

According to the Act, “sale price” includes the amount of valuable consideration paid or payable to a dealer for any sale. Charges for freight or delivery or installation or any other services which are attributable to the stage upto the completion of the sale would be component of the valuable consideration of the goods.

During test check of records of 6[#] Sales Tax Offices, it was noticed (between September 1997 and January 2001) in the assessment of 9 dealers for the periods between 1990-1991 and 1997-1998 (finalised between February 1993 and January 2000) that due to non-inclusion of valuable consideration forming part of the sale price collected by the dealers, the turnover of the dealers was

* Himatnagar and Surendranagar
& 4 of Ahmedabad, Gondal, Rajkot, 2 of Surat and Vadodara
Ahmedabad, 2 of Bhavnagar, Godhra, Vadodara and Surat.

determined less to the extent of Rs.2.92 crore. This resulted in short levy of tax of Rs.33.67 lakh including interest and penalty as per details given below:

(Rupees in lakh)

Sr. No.	Name of office	Period of assessment	Turnover escaped assessment	Tax short levied	Nature of irregularity
1	Vadodara	1997-1998	3.83	0.48	Instead of reducing the sales of scrap from R.D. sales, it was reduced from taxable turnover.
2	Bhavnagar	1992-1993	96.20	6.39	Income disclosed by the dealer during search operations was not accounted for during assessment.
3	Ahmedabad	1993-1994	4.02	0.33	Cross verification of selling dealer revealed that sales were accounted for less.
4	Surat	1994-1995 1995-1996 1996-1997	11.75	1.56	Sales of machines not considered for computation of turnover.
5	Godhra (4 dealers)	1990-1991 1991-1992 1992-1993	139.59	17.27	Sales of raw material was not accounted for and the sales were under-valued.
6	Bhavnagar	1992-1993	36.32	7.64	Taxable goods were treated as tax free goods.
	Total		291.71	33.67	

The above facts were brought to the notice of the department (October 2000 and July 2001) and of Government (March 2002). The department accepted (November 2000 and June 2001) the audit observations and raised additional demand of Rs.25.82 lakh in 6 cases and recovered an amount of Rs.0.33 lakh. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

2.12 Incorrect/excess grant of set off

(A) Under rule 42 of the Gujarat Sales Tax Rules, 1970, a dealer, who has paid tax on the raw materials used in the manufacture of taxable goods is allowed set-off at the rate applicable to the respective goods from the tax on the sale of manufactured goods provided tax is paid on its sale. Further, no set-off is admissible for tax paid on the purchases of "prohibited goods". As per the conditions prescribed under the Rules, 4 percent of the sale price of the manufactured goods consigned/branch transferred outside the state is to be deducted from the set-off arrived at.

During test check of records of 2* Assistant Commissioners and 12# Sales Tax Officers, it was noticed (between July 1998 and November 2001) in 16 assessments of 15 dealers for the periods between 1990-1991 and 2000-2001 (finalised between June 1997 and March 2001) that excess set off of Rs.11.96 lakh including interest and penalty was allowed as detailed below:

(Rupees in lakh)

Sr. No.	No. of dealers	Location	Excess set off allowed	Nature of irregularity
1	7	Ahmedabad Godhra Kalol Surendranagar Vadodara	5.36	Set off was allowed on the purchase of prohibited goods.
2	3	Anand Mehsana Surat	2.19	2 percent of purchase price (as per condition of the rule) was not reduced from the amount of tax admissible as set off and calculation error.
3	1	Surat	0.83	Proportionate tax was not reduced in respect of raw material used in the manufacture of tax free goods.
4	1	Jamkhabhalia	1.43	4 Percent of the sale price of goods transferred outside the State not reduced from set off.
5	3	Ahmedabad Himatnagar Surendranagar	2.15	Set off of tax paid on raw material was allowed at incorrect rate.
Total	15		11.96	

* Anand and Himatnagar

4 of Ahmedabad, 2 of Surendranagar, and one each of Godhra, Jamkhabhalia, Kalol, Mehsana, Surat, and Vadodara

The above facts were brought to the notice of the department (between March 2000 and December 2001) and of Government (March 2002). The department accepted (May 2001 and February 2002) the audit observations involving an amount of Rs.3.71 lakh in 7 assessments and recovered. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

(B) Under Rule 42E, set off of purchase tax levied on raw or processing material or consumable used in the manufacture of goods is admissible when the goods so manufactured are sold in the State. If goods so manufactured are transferred to the branches/consigned outside the State, used in jobwork etc., proportionate set off to the extent of the goods not sold is required to be disallowed. Further, the set off is not admissible if goods purchased are resold in the course of inter-State trade or commerce after six months from purchase.

During test check of records of 3* Assistant Commissioners and 4# Sales Tax Offices, it was noticed (between September 1999 and November 2001) that in the case of 7 dealers for the periods between 1993-1994 and 1999-2000 (finalised between February 1999 and January 2002) the set off was allowed incorrectly as the dealers had either transferred the goods to their branches outside the state or set off was allowed at incorrect rates or goods were resold in the course of inter-State sales after six months. This resulted in excess grant of set off of Rs.25.87 lakh.

The above facts were brought to the notice of the department (November 1999 and November 2001) and Government (March 2002). The department accepted (September 2001) the audit observations involving an amount of Rs.1.61 lakh in 2 cases and recovered Rs.1.13 lakh. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

* Mehsana, Valsad, Vadodara
2 of Ahmedabad, Anand, Gondal

2.13 Short levy of Central Sales Tax

Under the Central Sales Tax Act, 1956, on inter-state sale of declared goods not supported by prescribed declaration (Form 'C'), tax is levied at twice the rate applicable to sale in respect of declared goods and the rate of 10 *percent* or at the rate applicable for such goods inside the state whichever is higher in the case of other goods.

During test check of records of Assistant Commissioner Ankleshwar, Amreli and 4[@] Sales Tax Offices, it was noticed in the assessment of 7 dealers for the periods between 1993-1994 and 1997-1998 (finalised between October 1993 and March 2000) that on inter-State sales valued at Rs.3.89 crore, tax was levied at concessional rate of 4 *percent* as the sales were not supported either by 'C' forms or on the basis of Xerox copy of 'C' form/affidavit etc. This resulted in short levy of tax amounting to Rs.18.74 lakh.

The above facts were brought to the notice of the department (March and November 2001) and of Government (February 2002). The department raised (November 2001 and January 2002) the demand of Rs.12.09 lakh in 4 cases and recovered an amount of 0.39 lakh in one case. Recovery details and reply in remaining cases have not been received (July 2002).

2.14 Non-levy of penalty

Under Section 45(6) of the Act, where the amount of tax assessed or reassessed exceeds the amount of tax paid with the returns by a dealer by more than 25 *percent*, there shall be levied on such dealer a penalty not exceeding one and one half times of the difference. Further, as per the Commissioner of Sales Tax's Circular issued in November 1996, penalty, in cases where additional tax liability arises due to seizure of books of accounts by enforcement branch or where evasion of tax is detected, is to be levied after adding 50 *percent* of penalty so calculated.

During test check of records of 7* offices of Assistant Commissioner and 27** Sales Tax Offices, it was noticed (July 1999 and December 2001) in the assessment of 51[#] dealers for the assessment periods between 1989-1990 and 1999-2000 (finalised between August 1995 and March 2001) that the penalty was not levied for difference of tax exceeded by twenty five *percent*, for breach of recital of condition Form 'C' or penalty at enhanced rate was not levied on the concealed sales tax turnover detected during the raids. This resulted in non-levy of penalty of Rs.28.04 crore.

@ Ahmedabad, Khambhat, Petlad and Vapi

* Ahmedabad, Ankleshwar, Baroda, Bharuch, Jamnagar, Palanpur and Surat

** 10 of Ahmedabad, Anand, 6 of Baroda, Bhavnagar, 2 of Godhra, 1 each of Kalol, Mehsana, Modasa, Rajkot and 3 of Surat

Major cases (1). M/s. Digvijay Cement Co. Ltd, (2). M/s. Mayur Trading Co.

The above cases were brought to the notice of the department (between October 1999 and December 2001) and of Government (February 2002). The department accepted (August 2001 and October 2001) the audit observations involving an amount of Rs.1.51 crore in 9 cases and recovered Rs.4.49 lakh in 3 cases. Reply in respect of remaining cases has not been received (July 2002).

2.15 Non/short levy of interest

Under the Act, if a dealer does not pay the amount of tax within the prescribed period, simple interest at the rate of 24 *percent* per annum is leviable on the amount of tax remaining unpaid for the period of default.

During test check of records of 7[@] Assistant Commissioners and 16^{##} Sales Tax Offices, it was noticed (between September 1999 and December 2001) in the assessments of 30 dealers for the periods between 1987-1988 and 1998-1999 (finalised between May 1997 and March 2001) that interest amounting to Rs.1.19 crore was either not charged or charged short on the amount of unpaid tax .

The above facts were brought to the notice of the department (between September 1999 and January 2002) and of Government (February 2002). The department accepted (January 2002) the audit observations involving an amount of Rs.1.61 lakh in 3 cases and recovered Rs.0.35 lakh in one case. Reply in respect of remaining cases has not been received (July 2002).

2.16 Undue financial accommodation

As per the provision of Finance Department resolution dated 16 June 1987 on sales tax deferment, in the event of transfer of business, the benefits underlying the tax deferment ceases to operate forthwith and the entire amount of tax deferred till then is to be paid within a period of 60 days from the date of transfer of business in whole.

During test check of records of Sales Tax Officer, Vapi it was noticed (February 2002) that a unit (dealer) was sanctioned tax deferment benefit of Rs. 0.16 crore to be availed between 25 January 1990 and 24 January 1995 which was fully availed of by the unit by 31 March 1991. Thereafter, the unit was sold (March 1993) to another dealer, and entire benefit of deferment of Rs. 0.16 crore availed of by the unit was required to be recovered forthwith. This amount was still outstanding (February 2002). This resulted in grant of undue financial accommodation amounting to Rs. 0.16 crore.

The matter was reported to department in February 2002 and Government in April 2002; their reply has not been received (August 2002).

[@] 3 of Ahmedabad, Ankleshwar, Baroda, Godhra and Surendranagar

^{##} 7 of Ahmedabad, Amreli, Ankleshwar, Baroda, Godhra, Idar, Kalol, Kadi, Mehsana and Surendranagar

2.17 Other Irregularities

The Act and the Rules made thereunder contain detailed provisions for grant of refund, interest on refunds, adjustment of set-off, resale of tax paid purchases and classification of job work vis-à-vis works contract. To enforce uniformity in interpreting certain provisions, Commissioner of Sales Tax issues circulars to be followed as guidelines for assessing officers.

During test check of records of Assistant Commissioner, Bharuch, Vapi and 6¹ Sales Tax Offices, it was noticed (between August 2000 and July 2001) in the assessment of 9 dealers for the periods between 1989-1990 and 1999-2000 (finalised between April 1999 and March 2001) that incorrect grant of interest, incorrect adjustment of set-off, incorrect grant of refund to dealers not holding licence and non levy of tax etc., resulted in non/short levy of tax of Rs.1.26 crore including interest and penalty as detailed below :

(Rupees in lakh)

Sr.No.	Location	Period of assessment	Date of assessment	Tax not/short levied	Nature of irregularity
1	Godhra	Between 1993-94 and 1999-2000	March 2001	87.53	As per Commissioner's Circular (December 1985), if the value of goods, used in the contract is more than 15 percent, such transaction is treated as works contract and tax is leviable. Though the material used by the dealer in the process of electroplating was in excess of 15 percent, no tax was levied.
2	Bharuch and Vapi	Between 1995-96 and 1997-98	Between October 1999 and July 2000	3.30	Interest paid on refund arising as a result of appeal was not admissible under the Act.
3	Vadodara	1999-2000	June 2000	34.36	Incorrect refund was granted to dealers who were not holding licence.
4	Ahmedabad	1995-96	May 1999	0.57	Incorrect deduction was allowed on credit notes of previous year.
5	Ahmedabad	1989-90	August 2000	0.44	Tax and interest payable as per returns were not demanded in the assessment.
	Total			126.20	

¹ 3 of Ahmedabad, 1 each of Godhra, Surendranagar, Vadodara

The above facts were brought to the notice of the department (between September 2000 and September 2001) and of Government (April 2002). The department accepted (April and October 2001) the audit observations involving an amount of Rs.5.88 lakh in 4 cases and recovered Rs.3.27 lakh in 2 cases. Particulars of recovery, if any, and reply in remaining cases have not been received (July 2002).

CHAPTER III

LAND REVENUE

3.1 Results of Audit

Test check of assessment records in the offices of the District Development Officers, Taluka Development Officers, District Inspectors of Land Records and City Survey Superintendents conducted in audit during the year 2001-02, disclosed non/short recovery and loss of revenue amounting to Rs.24.79 crore in 221 cases. These cases broadly fall under the following categories:

(Rupees in crore)			
Sr. No.	Category	No. of cases	Amount
1	Non/short recovery of land revenue	88	10.29
2	Non/short recovery of occupancy price	13	4.50
3	Non-raising of demand for non-agricultural assessment	34	1.56
4	Non recovery of conversion tax	19	1.69
5	Other irregularities	67	6.75
	Total	221	24.79

During the year 2001-02, the department accepted under assessment of Rs.1.98 crore in 140 cases and recovered Rs.1.98 crore in 137 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations involving Rs.17.71 crore are given in the following paragraphs.

3.2 Non/short recovery of occupancy price and interest

Under the Bombay Land Revenue Code, 1879 (Code) and the Rules made thereunder, Government can dispose off available land to needy persons for any purpose on payment of occupancy price in advance on such terms and conditions as may be specified by the Government. The occupancy price in respect of non-agricultural land is to be determined by the Collector with reference to the value of land fixed by the Town Planner. Interest at the prescribed rate is also leviable in case of delay in payment of occupancy price.

During test check of records of Collector, Gandhinagar, Bhavnagar and 8* Taluka Development Offices, it was noticed (between January and May 2001) that land measuring 3.07 lakh sq. mtrs. was allotted (between 1992 and 2000) by the respective Collectors to different boards/corporations/religious organisations/individuals/Government departments subject to recovery of occupancy price before the allotment of land, which was either not recovered or recovered at incorrect rates. This resulted in non/short recovery of occupancy price of Rs.5.43 crore as detailed below:

(Rupees in lakh)						
Sr. No.	Name of the Taluka	Year of allotment	Area of land (sq. mtrs. in lakh)	Amount not/ short recovered	Nature of irregularity	Remarks
1	Bhavnagar	2000	2.20	330.00	Occupancy price was not recovered for land allotted to Gujarat Housing Board	The department accepted the objection and agreed to effect recovery (July 2002).
2	Gandhinagar	1998	0.02	65.41	Allotment of land to two different corporations in the same sector at different prices.	Reasons for adopting different rates though called for have not been received (July 2002).
3	Gandhinagar	1997	0.02	64.80	Rates prescribed for allotment of land for religious purposes was not recovered.	Reasons for adopting different rates though called for have not been received (July 2002).
4	Gandhinagar	1997	0.14	41.33	Due to non recovery of occupancy price at revised rates.	The department accepted (March 2001) the objection. Recovery particulars were awaited (July 2002).

* Bhavnagar, Botad, Dhrol, Gondal, Kotda Sangani, Lodhika, Morbi and Wankaner

5	Botad, Dhrol, Gondal, Kotda- Sangani, Lodhika, Morbi and Wankaner.	2000	0.30	23.66	Occupancy price was not recovered for land allotted to Telecom Department.	Progress of recovery is awaited (July 2002).
6	Gandhinagar	1998	0.03	06.90	Though land was allotted to Indian Oil Corporation subject to payment of occupancy price in six instalments, the interest was not levied on delayed payments.	Recovery particulars are awaited (July 2002).
7	Bhavnagar	1992	0.20	05.30	Occupancy price was recovered at lower rate compared to the same recovered from other allottee of land in the nearby block and survey No. for the same purpose.	Recovery particulars are awaited (July 2002).
8	Wankaner	1999	0.16	05.43	Occupancy price was recovered at incorrect rates.	Recovery particulars are awaited (July 2002).
	Total		3.07	542.83		

The above facts were brought to the notice of the department (between March and June 2001) and of Government (February 2002). The department accepted the audit observations involving an amount of Rs.3.78 crore in 5 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

3.3 Incorrect issue of land acquisition awards/loss of stamp duty.

Under the Land Acquisition Act, all awards and agreements are exempt from payment of stamp duty. However the acquisition of land for the use of companies is governed by the land acquisition (Companies) Rules, 1963

framed under the Land Acquisition Act, 1894. The Rule prescribes that, before initiating acquisition proceedings, Govt. should ensure that the company had made all reasonable efforts to get such land by negotiating with the persons concerned on payment of reasonable price and that such efforts have failed.

During test check of the records of 4* Land Acquisition Officers, it was noticed (between April and June 2001), that awards in 86 cases were issued on behalf of such companies during the period from 1993 to 2001 though these companies had already negotiated with the land owners and had taken over possession of the land on payment of 80 *percent* of the price. The acquisition of land by the respective companies would have attracted levy of stamp duty and registration fees on conveyance deeds. Acquisition of land by the Government in contravention to the above codal provision had resulted in loss of stamp duty and registration fees of Rs.10.27 crore.

On this being pointed out, the department replied that all awards and agreements are exempt from payment of stamp duty under section 51 of the Act.

The reply of the department is not tenable as the Land Acquisition Officers have issued the awards in contravention of the provisions of Act and Rules despite the facts that the concerned companies had already taken over the possession of land on making payment of 80 *percent* of the price of land to the land owners.

3.4 Non/short recovery of premium

The Government decided (July 1983) to permit the land holders, holding the land under new and restricted tenure under the Bombay Tenancy and Agricultural Land Act, 1948, (as applicable to Gujarat) to convert their land into old tenure and to sell/transfer the same subject to payment of premium computed on the difference between the actual sale price of the land and the occupancy price recovered at the time of allotment of the land. The premium recoverable is 70 *percent* of the difference when the land held for more than 20 years is permitted to be sold for non-agricultural purposes.

During test check of records of Collector, Bhavnagar and Gandhinagar, Mamlatdar, Sanand, and 4# Taluka Development Offices, it was noticed (between January and November 2001) that land measuring 0.86 lakh sq. mtrs. held under new and restricted tenure was allowed to be sold/transferred/regularised, but premium was either not recovered or recovered at incorrect rate. This resulted in non/short recovery of premium of Rs.86.47 lakh as detailed below:

* Bharuch, Jamnagar, Surat and Vadodara.

Bardoli, Gondal, Kamrej and Paddhari

(Rupees in lakh)				
Sr. No.	Name of the place	Area of land (sq. mtrs. in lakh)	Amount not/ short recovered	Nature of irregularity
1	Gandhinagar	0.30	61.85	Premium was not recovered on the land held under new and restricted tenure while granting permission for conversion into old tenure on the ground that land was not sold but transferred by way of irrevocable power of attorney.
2	Bardoli	0.03	12.75	Premium was recovered at the rate of Rs.650 per sq. mtr. in January 2001 instead of at the correct rate of Rs.950 per sq. mtr. applicable in April 1999.
3	Bhavnagar	0.16	7.22	Premium was recovered at the rate of Rs.55/- per sq. mt. prevailing in February 1996 though it was required to be recovered at the market rate of Rs.100/- per sq. mt. prevailing at the time of granting revised permission (May 1999).
4	Gondal	0.09	3.24	Premium was not recovered on new and restricted tenure land while granting permission for use as non-agricultural purpose.
5	Kamrej and Paddhari	0.28	1.41	Premium was not recovered on subsequent sale of land at prevailing rates.
	Total	0.86	86.47	

The above facts were brought to the notice of the department (May and December 2001) and of Government (February 2002); their replies have not been received (July 2002).

3.5 Non/short recovery of conversion tax

Under the Code, conversion tax is leviable on change in mode of use of the land from agricultural to non-agricultural purposes or from one non-agricultural purpose to another in respect of land situated in a city or town including its peripheral areas falling within one to five kilometres thereof. Different rates of conversion tax are prescribed for residential, industrial, commercial/other uses depending upon the population of the city/town. In case

of Corporations, Boards, etc. no permission is required and conversion tax is leviable in the year in which land is acquired.

During test check of records of 11* District/Taluka Development and Mamlatdar Offices, it was noticed (between January and November 2001) that in 24 cases, conversion tax for change in mode of use, though leviable, was either not levied or levied at incorrect rate on 20.44 lakh sq. mtrs. of land converted. This resulted in non/short recovery of conversion tax amounting to Rs.60.38 lakh as detailed below:

(Rupees in lakh)					
Sr. No.	Name of the place	Area of land (sq. mtrs.in lakh)	No.of cases	Amount not/ short recovered	Nature of irregularity
1	TDO, Vadodara	3.73	4	20.27	Conversion tax was not recovered on land allotted to GHB [@] , GEB [#] and SSNNL ^φ for different purposes.
2	TDO, Lodhika	2.63	4	13.17	Though the villages fall within the periphery of Rajkot city, conversion tax was not recovered.
3	TDO, Bhavnagar	2.20	1	8.25	(i) Conversion tax was not recovered on land allotted to GHB for residential purpose.
		0.28	2	2.40	(ii) Though the villages fall within the periphery of Bhavnagar city, conversion tax was not recovered.
4	Mamlatdar (City), Vadodara	7.83	1	7.83	Conversion tax was not recovered on land allotted to GHB for residential use.
5	TDO, Viramgam	1.06	1	2.66	Land was allotted to Indian Oil Corporation without recovering conversion tax.
6	DDO, Junagadh	0.52	5	1.79	Conversion tax, though leviable, was not levied.
7	TDO, Harij	0.86	1	1.59	Conversion tax was not recovered from GWSSB ^ψ .
8	Mamlatdar,	0.52	2	0.95	Though unauthorised

* DDO Junagadh, Mamlatdar (City) Vadodara, Dhrangadhra and Mehsana, TDO Bhavnagar, Harij, Lodhika, Mahuva, Shehra, Vadodara and Viramgam

@ Gujarat Housing Board

Gujarat Electricity Board

φ Sardar Sarovar Narmada Nigam Limited

ψ Gujarat Water Supply and Sewerage Board

	Dhrangadhra				occupation was regularised, conversion tax was not levied in one case and incorrectly levied in other case.
9	TDO, Mahuva	0.16	1	0.60	Conversion tax was not recovered for land allotted to an industry.
10	TDO, Shehra	0.41	1	0.51	Conversion tax was not recovered on land allotted to GIDC ^Ω for industrial purpose.
11	Mamlatdar, Mehsana	0.24	1	0.36	Conversion tax was not recovered on land allotted to APMC ^ε for commercial purpose.
	Total	20.44	24	60.38	

The above facts were brought to the notice of the department (April and December 2001) and of Government (February 2002). The department accepted the audit observations involving an amount of Rs.34.61 lakh in 12 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

3.6 Non/short levy of non-agricultural assessment

Under the Code and Rules made thereunder, land revenue is payable at the prescribed rates on all lands unless specifically exempted from payment. For determining the rates of non-agricultural assessment (NAA), cities, towns and villages have been divided into five classes 'A' to 'E' according to their population. Different rates depending on use of land are prescribed for each class of city/town/village.

During test check of records of 3 Mamlatdars and 12 Taluka Development Offices of 8* districts, it was noticed (between December 2000 and November 2001) that in 61 cases, on land measuring 78.34 lakh sq. meters used for non-agricultural purposes during the period between 1990 and 2000 by Gujarat Electricity Board (GEB), Sardar Sarovar Narmada Nigam Ltd (SSNNL), Gujarat State Civil Supplies Corporation (GSCSC), Gujarat Industrial Development Corporation (GIDC), other Government/Semi-Government bodies, companies and individuals, NAA was either not levied or was levied at incorrect rates. This resulted in non/short levy of non-agricultural assessment of Rs.38.21 lakh as detailed below:

^Ω Gujarat Industrial Development Corporation

^ε Agriculture Produce Marketing Committee

* 2 each of Ahmedabad & Bhavnagar, 3 of Mehsana, 1 each of Dahod, Panchmahal, Rajkot, Surendranagar & 4 of Vadodara

(Rupees in lakh)					
Sr. No.	Name of the Taluka	No. of cases	Area of land (sq.mtrs in lakh)	Amount not/ short levied	Nature of irregularity
1	Bhavnagar, Dahod, Mahuva, Mehsana, Shehra & Vadodara	11	24.24	22.14	NAA was not levied/short levied on land allotted to different Corporations/ Government bodies for non-agricultural purposes.
2	Sami & Vijapur	3	38.20	10.40	The notifications for upgradation of villages as per census of 1991 were issued in 1995 and 1999 instead of in 1991. The inordinate delay caused revenue loss of Rs.10.40 lakh.
3	Dhrangadhra, Morbi, Sanand, Vadodara & Viramgam	47	15.90	5.67	Though NAA was leviable at higher rates due to revision of rates, upgradation of villages, change of use etc., NAA was levied at pre-revised rates.
Total		61	78.34	38.21	

The above facts were brought to the notice of the department (December 1999 and December 2001) and of Government (February 2002). The department accepted the audit observations involving an amount of Rs.5.89 lakh in 10 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

3.7 Non/short recovery of penalty

Under the Code and Rules made thereunder, agricultural land cannot be used for non-agricultural purpose without prior permission of the Collector. Further, Government may grant land free of revenue for charitable purposes subject to some terms and conditions. For breach of conditions, penalty at prescribed rates is leviable.

During test check of records of 5 Taluka Development Offices, it was noticed (between March 2000 and March 2001) that no penalty was levied for breach of conditions of allotment of land. This resulted in non/short recovery of penalty of Rs.15.66 lakh as detailed below:

(Rupees in lakh)

Sr. No.	Name of Taluka	No. of cases	Area of land (sq.mtrs. in lakh)	Amount not/short recovered	Nature of irregularity
1	Botad, Gondal, Paddhari & Valia.	15	2.73	14.55	The construction was not completed within a period of 6 to 36 months from the allotment of land.
2	Bayad	1	0.20	1.11	Land allotted revenue free in 1980 for Gaushala was not used for the purpose for which it was granted .
Total		16	2.93	15.66	

The above facts were brought to the notice of the department (between April 2000 and May 2001) and of Government (February 2002). The above matters were followed up with reminders to the Principal Secretary in April/May 2002 and Chief Secretary in July 2002. However, inspite of such efforts, no reply was received from the Government (July 2002).

CHAPTER IV

TAXES ON VEHICLES

4.1 Results of Audit

Test check of records in the offices of the Commissioner of Transport, Regional Transport and Assistant Regional Transport offices in the State, conducted in audit during the year 2001-02, disclosed under assessments, etc. amounting to Rs.22.14 crore in 492 cases. These cases broadly fall under the following categories:

(Rupees in crore)			
Sr. No	Category	No. of cases	Amount
1	Non/short levy of Composite Tax	36	6.30
2	Non/short levy of Motor Vehicle Tax	415	2.28
3	Other irregularities	41	13.56
	Total	492	22.14

During the year 2001-02, the department accepted under assessment of Rs.96.65 lakh in 451 cases and recovered Rs.93.87 lakh in 449 cases of which 2 cases involving an amount of Rs.1.88 lakh were pointed out during the year 2001-02 and the rest in the earlier years. A few illustrative cases highlighting important audit observations involving Rs.23.40 crore are given in the following paragraphs.

4.2 Non-levy of interest on belated payment of passenger tax/ incorrect/non-adjustment of subsidy

Under Section 3 of the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958, and Rules made thereunder, fleet owners are required to make payment of passenger tax before the end of the month immediately succeeding the month to which it relates. Failure to pay the tax in time attracts simple interest at the rate of 12 *percent* per annum for the period of default.

(i) During test check of records of office of the Commissioner of Transport, it was noticed (May 2001) that GSRTC[#] had paid only an amount of Rs.37.77 lakh as against the dues of Rs.170.02 crore for the period 2000-01. This

[#] Gujarat State Road Transport Corporation

resulted in non levy of interest of Rs.12.81 crore for the period from April 2000 to March 2001, besides penalty.

The above facts were brought to the notice of the department (August 2001) and of Government (March 2002). The department accepted the audit observation and issued demand notice for the entire amount (May 2001). Further details of recovery are awaited (July 2002).

(ii) As per provision of the General Financial Rules and Government Resolution dated 16th October 1976, if any amount of principal alongwith interest is due to Government, credit should first be given towards the interest due and the balance, if any, to be adjusted against the principal amount.

Government gives every year subsidy equivalent to the loss incurred by the Transport Corporation in running the buses on different uneconomical routes and also for charging fare at concessional rates from the students.

During test check of records of the Commissioner of Transport, it was noticed (June 2001) from the monthly returns submitted by GSRTC in respect of passenger tax for the year 2000-2001 that the subsidy of Rs.20.62 crore sanctioned by the Government was adjusted against the tax arrears of Rs.601.53 crore due from the Corporation instead of adjusting the same first towards interest in terms of instructions contained in GFR. This resulted in loss of interest of Rs.1.25 crore.

The above facts were brought to the notice of the department (August 2001) and of Government (March 2002). The department replied (May 2002) that the matter has been referred to GSRTC. Further progress is awaited (July 2002).

4.3 Non-levy of Motor Vehicles tax

Under the Act, tax is levied and collected in advance on all the motor vehicles used or kept for use in the State. An additional tax known as composite tax is leviable in lieu of passenger tax on all 'omni buses'/luxury buses exclusively used or kept for use as contract carriage in the State.

(i) During test check of records of 14^{**} taxation authorities, it was noticed (between February and October 2001) that in 695 cases, motor vehicles tax was not levied for the year 1999-00 and 2000-01. This resulted in non-levy of motor vehicles tax of Rs.58.57 lakh.

The above facts were brought to the notice of the department (between March and November 2001) and of Government (February 2002). The department accepted the audit observations involving an amount of Rs.17.01 lakh in 304 cases and recovered an amount of Rs.8.72 lakh in 82 cases. Particulars of

^{**} Ahmedabad, Amreli, Bhavnagar, Godhra, Himatnagar, Jamnagar, Junagadh, Mehsana, Navsari, Nadiad, Palanpur, Rajkot, Surat and Vadodara.

recovery, if any, and reply in the remaining cases have not been received (July 2002).

(ii) During test check of records of 16[#] taxation authorities, it was noticed (between November 2000 and October 2001) that operators of 435 omnibuses who exclusively kept these vehicles for use as contract carriages had not paid tax for various periods between November 1996 and March 2001. The tax recoverable in these cases worked out to Rs.5.48 crore.

The above facts were brought to the notice of the department (between November 2000 and November 2001) and of Government (February 2002). The department accepted the audit observations involving an amount of Rs.2.65 crore in 220 cases and recovered Rs.7.71 lakh in 21 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

4.4 Short levy of tax due to incorrect issue of permit as taxi

Under the Motor Vehicles Act, 1988, a "maxi-cab" constructed and adapted to carry more than 6 passengers, excluding the driver, for hire or reward, is defined as transport vehicle and the owners of these vehicles are liable to pay composite tax as applicable to "omnibuses".

During test check of records of 5* taxation authorities, it was noticed (between October 1999 and August 2001) that 415 maxicabs viz. Bajaj Tempo, Bajaj Matador, Mahindra and Mahindra (Commander), Autorickshaws (Vikram, Kushboo etc.) having carrying capacity of more than 6 passengers, excluding the driver, have been incorrectly issued permit to run as motor cabs (taxies). This resulted in short levy of tax of Rs.2.04 crore.

The above facts were brought to the notice of the department (between December 1999 and November 2001) and of Government (February 2002); their replies have not been received (July 2002).

4.5 Non/short levy of lump sum tax

Under the Act, the State Government prescribed rates of one time (lump sum) motor vehicles tax, with effect from April 1987, leviable on all non-transport vehicles used or kept for use in the State whose unladen weight does not exceed 2,250 Kgs. From April 1999, the lump sum tax was also levied on three/four wheelers plying for hire and used for carriage of not more than six passengers.

[#] Ahmedabad, Amreli, Bharuch, Bhavnagar, Dahod, Himatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Navsari, Palanpur, Rajkot, Surat, Vadodara and Valsad.

* Baroda, Bharuch, Mehsana, Navsari and Palanpur.

During test check of records of 9* taxation authorities, it was noticed (between March and September 2001) that lump sum tax in respect of 17 non-transport vehicles was levied short due to incorrect application of rate or incorrect calculation of cost of the vehicles etc. Further, tax in respect of 911 three/four wheelers registered prior to April 1999 plying for hire was not recovered. This resulted in non/short levy of lump sum motor vehicles tax of Rs.45.94 lakh.

The above facts were brought to the notice of the department (between March and October 2001) and of Government (February 2002). The department accepted the audit observations involving an amount of Rs.5.82 lakh in 185 cases and recovered an amount of Rs.4.54 lakh in 174 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

4.6 Incorrect grant of concession in composition amount

Under Section 200 of the Motor Vehicles Act, 1988, any offence committed, which is punishable under different Sections of the Act, can be compounded for such amount as the State Government may specify by notification in the official Gazette. The Government vide notification of 1994 as amended in 1996 has fixed the rate of composition amount for different types of offences punishable under different Sections of the Act.

During test check of records of Regional Transport Office Ahmedabad and Nadiad, it was noticed (February and March 2001) in respect of 9,292 offence cases finalised during 1999-2000, the composition amount was levied at 50 percent on the basis of instructions issued by the Commissioner of Transport in March 1999 though he is not empowered to reduce the amount of composition fee fixed by the Government. This resulted in short recovery of composition amount of Rs.45.64 lakh.

The above facts were brought to the notice of the department (between March and June 2001) and of Government (February 2002). The department stated (July 2002) that under Section 86(5) the Regional Transport Officer is competent to levy compounding fee without any restriction and it is not incumbent upon the authority to follow the notification issued under section 200 by the State Government. The reply is not acceptable as the rate notified by the Government under section 200 of the Act can only be amended by the Government and not by Regional Transport Authorities.

* Ahmedabad, Bhavnagar, Godhra, Junagadh, Nadiad, Navsari, Rajkot, Surat and Surendranagar.

4.7 Incorrect grant of exemption

Under the Act, tax shall be levied and collected on all the motor vehicles used or kept for use in the State unless specifically exempted from payment. Tractor-cum-trailers belonging to agriculturists and used solely for agricultural purposes are exempted from payment of tax.

During test check of records of 5* taxation authorities, it was noticed (between March and July 2001) that in 209 cases, exemption from payment of tax was granted for various periods between 1999-2000 and 2000-2001 to tractor-cum-trailers without obtaining proof of owners being agriculturists or without requisite application for exemption of tax in Form 'MT'. This resulted in non-levy of motor vehicles tax of Rs.31.75 lakh.

The above facts were brought to the notice of the department (between June and September 2001) and of Government (February 2002). The department accepted audit observations involving an amount of Rs.9.82 lakh in 80 cases and recovered Rs.0.03 lakh in one case. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

The above matters were followed up with reminders to the Principal Secretary in April/May 2002 and Chief Secretary in July 2002. However, inspite of such efforts, no reply was received from the Government (July 2002).

* Bhavnagar, Dahod, Himatnagar, Patan & Vadodara.

CHAPTER V

STAMP DUTY AND REGISTRATION FEES

5.1 Results of Audit

Test check of assessment records in the registration offices and offices of the Collectors of Stamp duty (valuation of properties) in the State, conducted in audit during the year 2001-02, disclosed short realisation of stamp duty and registration fees amounting to Rs.590.12 crore in 291 cases, which broadly fall under the following categories:

(Rupees in crore)

Sr. No	Category	No. of cases	Amount
1	Misclassification of documents	101	208.45
2	Under valuation of properties	17	4.35
3	Incorrect grant of exemption	28	1.63
4	Under assessment of stamp duty on instruments of mortgage deeds	18	11.23
5	Non-reconciliation /manipulation of Treasury remittance	02	0.18
6	Other irregularities	125	364.28
	Total	291	590.12

During the year 2001-02, the department accepted under assessment of Rs.9.39 lakh in 31 cases and recovered Rs.8.73 lakh in 25 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations involving Rs.289.52 crore are given in the following paragraphs.

5.2 Misappropriation of Government money

Rule 98 of the Bombay Treasury Rules, 1960 and the departmental instructions issued by the Superintendent of Stamps in August 1992 provide that the head of the office is to reconcile the remittances into treasury with that of cash book and other records to ensure that the money shown in the cash book as having been paid into the treasury has actually been credited to Government account.

During test check in audit of records of the Dy. Collector (Valuation of Properties) Surendranagar along with the treasury records, it was noticed (August 2001) that in respect of 167 items, the figures of remittances shown in the cash book in the months from July 1998 to December 2000 did not agree with figures shown in the treasury records due to manipulation made in the related records such as challans and reconciliation statements. This resulted in misappropriation of Government money to the extent of Rs.17.82 lakh. The misappropriation was facilitated due to the failure on the part of the departmental officials at various levels to exercise the checks prescribed under the Rules and in departmental instructions.

The above misappropriation was brought to the notice of the department (December 2001) and of Government (March 2002). The department accepted the audit observation and stated that the concerned official has been suspended and charge sheet also has been issued. Particulars of recovery, if any, have not been received (July 2002).

5.3 Short levy of stamp duty and registration fees due to incorrect application of concessional rate.

By a notification issued in April 1992 under the Bombay Stamp Act, 1958, (Act) as applicable to Gujarat, Government reduced the rate of stamp duty to one per cent for loans upto Rs.15 lakh and two per cent for loans exceeding Rs.15 lakh, on mortgage deeds executed by the industrial undertakings in favour of any financial institutions for borrowing loans from such institutions. From November 1994, the maximum duty was restricted to Rs.two lakh per deed. This reduced rate is applicable only to those industrial undertakings which are engaged in any of the activities specified in the Act like manufacture, preservation or of processing of goods, mining or development of mines, hotel industry, setting up/development of industrial estates etc.

(i) During test check of records of the Additional Superintendent of Stamps Gandhinagar and Sub-Registrar, Narol, it was noticed (between May and July 2001) in 3 documents registered during 2000 that two industrial undertakings engaged in sale of company's vehicles on deferred basis including lease and hire purchase, and deriving channels, private wires, leased lines, etc., had obtained loans aggregating Rs.350 crore by mortgaging their properties in favour of financial institutions by paying stamp duty at reduced rates. As these activities were not covered by activities listed in the above notification, the benefit of reduced rate of stamp duty was not admissible. This resulted in short levy of stamp duty and registration fees of Rs.19.49 crore.

(ii) By a notification issued in July 2000, the above concession was extended to mortgage deed executed by any industrial undertaking in favour of a financial institution or financial institution acting as a trustee also.

During test check of records of Additional Superintendent of Stamps, Gandhinagar and 3[@] Sub-Registrar Offices, it was noticed (between July and August 2001) in 38 documents registered from January to June 2000 that 38 industrial undertakings obtained loans of Rs.6,189.17 crore by executing Bond/Debenture Trust cum mortgage deeds between industrial undertakings and financial institutions acting as trustees. Since the benefit of reduced rate of stamp duty was extended to documents executed by financial institutions acting as trustees from 27 July 2000 onward, the benefit of reduced rate of stamp duty was not admissible in respect of documents executed prior to this date. This resulted in short levy of stamp duty and registration fees of Rs.235.95 crore.

The above facts were brought to the notice of the department (between June and September 2001) and of Government(March 2002); their replies have not been received (July 2002).

(iii) Under the Act, concessional rate of stamp duty at the rate of 6 percent was leviable on deeds of conveyance executed for transfer of premises by a registered Co-Operative Housing Society, a Corporation formed and registered under the Bombay Non-Trading Corporation Act, 1959, or a Board constituted under Gujarat Housing Board Act, 1961/The Gujarat Rural Housing Board Act, 1972, in favour of its member or by such member in favour of another member. According to the bye-laws of Co-operative Housing Societies, only individual can be admitted as its member. Further, a lease deed executed by the Gujarat Industrial Development Corporation allotting industrial plots and sheds to industrialists are eligible for the benefit of concessional rate of duty.

During test check of 8* Sub-Registrar Offices, it was noticed (between March and November 2001) that in the case of 90 documents of conveyance/lease deeds registered during 1999 and 2000 the stamp duty was incorrectly levied at concessional rate. This resulted in short levy of stamp duty of Rs.21.35 lakh, as detailed below:

(Rupees in lakh)				
Sr. No.	Location	No. of documents	Amount short levied	Nature of irregularity
1	Ahmedabad	11	0.64	Benefit of concessional rate was given on subsequent sale of the properties of GHB [#] though only initial sale of the properties was eligible for concession.
2	Ahmedabad	8	10.19	Though as per the bye-laws of the Co-operative housing societies, only individuals can be enrolled as a member of the Society, concessional duty was levied on the documents of conveyance deeds of properties

@ 1 each of Ahmedabad, Mehsana and Vadodara
 * 2 of Ahmedabad, 1 of Sabarkantha and 5 of Rajkot
 # Gujarat Housing Board

				belonging to co-operative housing societies and sold to non-trading corporation etc.
3	Himatnagar	1	2.22	Concessional rate of stamp duty was allowed to a trust without proof of registration under the Public Trust Act.
4	Rajkot	24	4.75	Concessional rate of stamp duty was levied on the documents of conveyance deed of properties for commercial purpose viz. shops etc.
5	Rajkot	46	3.55	Though concessional duty was leviable only on the documents of conveyance executed by members of flats constructed with minimum 11 members for residential purpose under Gujarat Ownership Flats Act, 1973, concessional rate of stamp duty was charged on the documents of conveyance of multistoreyed buildings constructed for commercial use and in respect of flats having less than 11 members.
	Total	90	21.35	

The above facts were brought to the notice of the department (between August 2000 and January 2002) and of Government (March 2002). Particulars of recovery, if any, and replies in remaining cases have not been received (July 2002).

5.4 Short levy of stamp duty and registration fees due to misclassification of documents

Under Section 3 of the Act, every instrument mentioned in Schedule-I shall be chargeable with duty at rates as indicated in the Schedule. For the purpose of levy of stamp duty an instrument is required to be classified on the basis of recitals given in the document and not on the basis of its title.

During test check of records of 93 * Sub-Registrar Offices, it was noticed (between August 1999 and December 2001) that 856 documents registered between 1998 and 2000 were classified on the basis of recital of their titles and stamp duty was levied accordingly. Scrutiny of the recitals of these documents, however, revealed that these documents were misclassified. This resulted in short levy of stamp duty and registration fees of Rs.20.33 crore as detailed below:

* 23 of Ahmedabad, 10 each of Mehsana and Vadodara, 8 of Surat, 6 of Kheda, 5 of Sabarkantha, 4 each of Anand, Gandhinagar, Patan, Rajkot, 3 of Jamnagar, 2 each of Bharuch, Navsari, Surendranagar, Valsad, 1 each of Bhavnagar, Banaskantha, Godhra and Narmada.

(Rupees in crore)				
Sr. No.	No. of offices	No. of documents	Amount short levied	Nature of irregularity
1	28	263	8.30	The documents were misclassified as deposit of title deeds though as per the recitals right or interest in the property was created in favour of the mortgagees by executing separate loan agreements, handing over demand promissory notes etc. These documents were, therefore, classifiable as mortgage deeds.
2	32	316	5.90	These documents were misclassified as deposit of title deeds. However, recitals of these documents revealed that guarantors deposited the title deeds of their properties in the bank on behalf of the borrowers. These documents were, therefore, classifiable as bonds.
3	21	162	4.98	These documents were misclassified as "agreement" though as per the recitals of the documents possession of the property was handed over/full rights to develop and to market the properties, right and interest were transferred to the purchasers. These documents were, therefore, required to be classified as conveyance deeds.
4	7	99	0.82	In these documents, the share of co-owner was released to another co-owner without consideration hence they were classifiable as conveyance instead of release deed.
5	5	16	0.33	Transfer of lease by way of assignment were misclassified as correction deed, agreement, confirmation deed etc.
Total	93	856	20.33	

The above facts were brought to the notice of the department (between October 1999 and January 2002) and of Government (March 2002). The department accepted the audit observations involving an amount of Rs.1.14 lakh in 5 cases. Particulars of recovery, if any, and reply in the remaining cases have not been received (July 2002).

5.5 Short levy of stamp duty and registration fees on instruments comprising several distinct matters.

Under Section 5 of the Act, any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties for which such separate instrument would be chargeable under the Act.

During test check of records of Dy.Collector (Valuation) Nadiad and 8 Sub Registrar offices of 5* districts, it was noticed (between July 2000 and December 2001) that 28 documents comprising or relating to several distinct matters of immovable properties valued at Rs.70.60 crore were charged to stamp duty and registration fees for only one matter/transaction. This resulted in short levy of stamp duty and registration fees of Rs.10.99 crore as detailed below:

(Rupees in crore)

Sr. No	Location	No.of documents	Value of property	Amount short levied	Nature of irregularity
1.	Surat	3	62.70	9.82	As per recitals, two transactions of sale were involved, but duty was levied only on one transaction.
2	Nadiad, Padra and Waghodia	8	1.19	0.25	Though instruments contained matters of sale and power of attorney with consideration, duty was levied only on sale.
3.	Ahmedabad and Nadiad	12	0.69	0.07	Though instruments contained elements of agreement to sale and gift, duty was levied only on agreement to sell.
4.	Palanpur	1	0.09	0.003	Though instrument contained recitals of mortgage and lease, duty was levied only on lease.

*3 of Ahmedabad, 1 each of Banaskantha, Kheda, Surat and 2 of Vadodara.

5.	Ahmedabad	4	5.93	0.85	Though the recitals of the documents contained two transactions of sales, stamp duty was levied on only one transaction of conveyance/ agreement to sell.
	Total	28	70.60	10.99	

The above facts were brought to the notice of the department (between July 2001 and January 2002) and of Government (April 2002). The department accepted the audit observations involving an amount of Rs.3.45 lakh in 2 cases. Particulars of recovery, if any, and replies in remaining cases have not been received (July 2002).

5.6 Short levy of stamp duty due to undervaluation of properties

Under the Act, if the officer registering the instrument has reasons to believe that the consideration set forth in the document presented for registration does not approximate to the market value of the property, he may, either before or after registering the document, refer the same to the Collector for determining the true market value of the property. The market value of the property is to be determined in accordance with the principles laid down under the provisions of the Bombay Stamp (Determination of Market Value of the Property) Rules, 1984, and instructions issued by the Government from time to time.

During test check of records of Deputy Collectors (Valuation) Bharuch and Nadiad and 5** Sub-Registrar Offices, it was noticed (between July 2000 and November 2001) that in 79 documents the market value of the property was determined less than the actual market value. This resulted in short levy of stamp duty of Rs.99.50 lakh as detailed below:

** 2 each of Ahmedabad and Vadodara, and one of Mehsana

(Rupees in lakh)

Sr. No	Location	No. of documents	Amount short levied	Nature of irregularity
1.	Ahmedabad & Bharuch	5	46.01	Cost of construction was not taken into account for valuation of non-agricultural land.
2.	Nadiad	61	20.13	The rates of jantri were revised from November 1999 but documents registered upto 31 October 1999 were finalised by the Dy. Collector on the basis of new jantri, the rates of which was lower than the old jantri.
3.	Kalol and Waghodia	3	17.67	Cost of plant & machinery was not taken into consideration for determining the value of the property auctioned by GSFC*
4.	Kalol	5	13.38	Premium chargeable on new & restricted tenure land converted into old tenure, was not considered for the purpose of valuation of the land.
5.	Padra	4	1.32	Agricultural land was sold to an industry for non agricultural purposes, but duty was levied at the rate as applicable to agricultural land.
6.	Ahmedabad	1	0.99	In addition to sale price, additional amount paid to the seller towards undivided share, right of title & interest in the land proportionate to super built up area of construction were not considered for the purpose of valuation for levy of duty.
	Total	79	99.50	

The above facts were brought to the notice of the department (between September 2000 and January 2002) and of Government (April 2002); their replies have not been received (July 2002).

* Gujarat State Finance Corporation.

5.7 Short levy of additional duty

Under Section 3(B) of the Act, additional duty at the rate of 50 *percent* of the basic duty is leviable on instruments of conveyance, exchange, gift, lease etc. of vacant land situated in urban areas (other than vacant land of less than 100 sq. metres intended for residential purpose). For this purpose, land with buildings constructed upto lintel level is also treated as vacant land.

During test check in audit of records of 5 Sub-Registrar offices of Ahmedabad, it was noticed (between March and August 2001) in case of 18 deeds of conveyance of vacant land situated in urban areas registered during 1999 and 2000, that additional duty leviable at the rate of 50 per cent was not levied. This resulted in short levy of stamp duty of Rs.92.03 lakh.

The above facts were brought to the notice of the department (between April and October 2001) and of Government (March 2002); their replies have not been received (July 2002).

5.8 Short levy of stamp duty due to non-adoption of market value

Under the Act, the rate of stamp duty leviable on a deed of transfer of lease by way of assignment is the same as applicable to a conveyance deed for the amount of consideration for the transfer or the market value of the property whichever is greater.

During test check of records of Sub-Registrar VI, Naroda and Sub-Registrar III, Surat, it was noticed (between June and August 2001) while registering 18 documents of assignment of lease registered during 1999 and 2000 that while assigning the lease rights, market value of the immovable property transferred on lease was not taken into account for stamp duty. This resulted in short levy of stamp duty of Rs.45.02 lakh.

The above facts were brought to the notice of the department (between July and October 2001) and of Government (March 2002). The department stated that necessary action would be taken in the above cases.

The above matters were followed up with reminders to the Principal Secretary in May 2002 and Chief Secretary in July 2002. However, inspite of such efforts, no reply was received from the Government (July 2002).

CHAPTER VI

OTHER TAX RECEIPTS

6.1 Results of Audit

Test check of records in various departmental offices relating to the following receipts conducted in audit during the year 2001-02 revealed under assessment etc. of Rs.48.03 crore in 123 cases as detailed below:

(Rupees in crore)			
Sr. No.	Category	No. of cases	Amount
1	Entertainments tax	85	43.80
2	Luxury tax	29	3.69
3	Electricity duty	09	0.54
	Total	123	48.03

During the year 2001-02, the department accepted under assessment amounting to Rs.71.30 crore in 185 cases and recovered Rs.19.87 crore in 185 cases of which 3 cases involving Rs.22.15 lakh were pointed out during the year 2001-02 and the rest in earlier years. A few illustrative cases highlighting important audit observations involving Rs.34.57 crore are given in the following paragraphs.

A. ENTERTAINMENTS TAX

6.2 Incorrect grant of exemption

Under the Gujarat Entertainments Tax Act, 1977 (Act), the Government may by notification in the Official Gazette, exempt either wholly or partly any entertainments or class of entertainments from payment of tax subject to such conditions as may be specified therein. Every such notification is required to be laid before the State Legislature as soon as possible after its issue.

Test check of records of Commissioner of Entertainments Tax, Gandhinagar, revealed that the Government by a notification issued in June 1981, exempted from payment of tax the films in Gujarati language produced with the equipment of recognised studios located in Gujarat subject to fulfilment of certain conditions. Various conditions included in the notification were subsequently relaxed through different Government Resolutions issued from time to time. Since the changes made in the original notification were neither notified in the official gazette nor were placed before the State Legislature, the exemptions granted were incorrect. This resulted in loss of revenue of Rs.28.58 crore in respect of exemptions granted to various films between 1998-99 and 2000-01.

The above facts were brought to the notice of the department (May and November 2001) and of Government (April 2002); their replies have not been received (July 2002).

6.3 Non remittance of tax collected by cinema owners

Section 3 of the Gujarat Entertainments Tax Act, 1977, provides that out of total payment made for admission to an entertainment, a prescribed percentage is chargeable as tax. Further, under section 6 of the Act, Government may allow the proprietor of any entertainment to compound the tax payable under section 3 for a fixed sum. Non payment of entertainment tax attracts interest at the rate of 24 *per cent* per annum.

During test check of records of Mamlatdar (ET), Gandhinagar, it was noticed (between March and November 2001) that the payment for admission to the entertainments inclusive of tax collected for the period between 1999-2000 and 2000-2001 by the proprietors of two cinema houses from the viewers, were not remitted to Government. This resulted in non-recovery of entertainment tax of Rs. 2.75 crore.

The above facts were brought to the notice of the department (May and December 2001) and of Government (April 2002); their replies have not been received (July 2002).

6.4 Non-realisation of Entertainments tax

Under the provisions of Gujarat Entertainments Tax Act, 1977 and the Rules made thereunder, entertainments tax shall be paid by the proprietor of a cinema house weekly within 14 days of the end of the week and by the proprietor of a video parlour in advance every month by 15th day of the month preceding the month to which the tax relates.

Test check of records of 4 * Collector's (ET) and 2 ** Mamlatdar's offices, revealed (between March 2001 and March 2002) that 38 operators of cinema houses and video parlours did not pay the tax of Rs.1.12 crore during the years 1999-2000 and 2000-01. This resulted in non-realisation of tax of Rs.1.48 crore including interest.

The above facts were brought to the notice of the department (between February 2001 and March 2002) and of Government (April 2002). The department accepted audit observations involving an amount of Rs.12.69 lakh in 19 cases. Particulars of recovery, if any, and replies in the remaining cases have not been received (July 2002).

6.5 Non recovery of Entertainments tax from cable operators

Under the Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. Every proprietor has to pay tax in advance in quarterly instalments at the rate of Rs.600/- per month for first 100 connections plus Rs.300/- for every additional 50 connections or part thereof in urban areas and at half of such rates for other areas.

During test check of records of 3 ♦ Collectors and 8 • Mamlatdar's offices, it was noticed (between March 2001 and January 2002) that 129 cable operators did not pay the entertainment tax between the periods 1999-2000 and 2000-01. The tax recoverable amounted to Rs.61.61 lakh.

The above facts were brought to the notice of the department (between April 2001 and February 2002) and of Government (April 2002). The department accepted audit observations involving an amount of Rs.59.12 lakh in 99 cases and recovered Rs.0.19 lakh in 2 cases. Particulars of recovery, if any, and replies in the remaining cases have not been received (July 2002).

6.6 Non recovery of compound tax.

Under Section 6 of the Gujarat Entertainments Tax Act,1977, a proprietor of a cinema hall in a designated or specified area shall have an option to pay compound tax at prescribed rates as specified in Schedule I of the Act. However, if a proprietor of a cinema exhibits any tax exempted Gujarati film, he shall have to pay tax as per section 3 of the Act subject to such exemption as may have been given by the Government to such films as is exhibited.

During test check of records of Collector (ET), Gandhinagar and Mamlatdar (ET) Palanpur, it was noticed (between July 2000 and November 2001) that

* Ahmedabad, Gandhinagar, Rajkot and Surat.

** Gandhinagar and Deesa.

♦ Ahmedabad, Mehsana and Surat.

• Dhandhuka, Dhrangadhra, Dhoraji, Gandhinagar, Mehmedabad, Patan, Vadodara and Visnagar.

two cinema houses situated in specified area, while exhibiting tax free Gujarati films in the regular shows also exhibited non-exempted Hindi/English films in the morning shows during the period June to December 1999 and March 2000 to February 2001 without payment of tax. This resulted in non-recovery of compound tax of Rs.28.61 lakh.

The above facts were brought to the notice of the department (August 2000 and December 2001) and of Government (April 2002). The Department accepted the audit observations in both the cases and recovered an amount of Rs.0.32 lakh in one case. Particulars of recovery, if any, in the remaining cases has not been received (July 2002).

B. LUXURY TAX

6.7 Short-payment of luxury tax under tariff rates declared in form II return/printed tariff.

Under Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (Act) and Rules made thereunder, tax is leviable on the full tariff of a room as declared by the proprietors of hotels irrespective of whether the room was let out free or at concessional rates. Where any proprietor fails to furnish a true and correct return or to pay amount of tax due according to such return, he shall be liable to pay simple interest at the rate of 2 per cent per month over and above penalty that may be imposed.

During the course of audit of 3* Collectors (LT), it was noticed (between August and December 2001) that the luxury tax of Rs.54.61 lakh was not paid or paid short by the hotel owners during the period 2000-01 as per details given below:

(Rupees in lakh)

Sr. No.	No.of hotels	Tax short levied	Nature of irregularity
1	11	37.61	The hotels had fixed two tariffs for the same luxury provided in double room, one when occupied by two persons and another when occupied by single person. Since the luxury provided in both cases was the same, fixation of two tariffs for same luxury was irregular.
2	03	9.38	One hotel at Vadodara and two at Rajkot, did not pay tax on the rooms allotted on complimentary basis, on the plea that no room rent was collected.

* Jamnagar, Rajkot and Vadodara.

3	02	7.62	Proprietors of two hotels had collected charges for extra bed but did not pay luxury tax on the charges so collected. Since extra bed is the part of the luxury provided, charges collected should have been included for the purpose of levy of luxury tax.
Total	16	54.61	

The above facts were brought to the notice of the department (between September 2001 and January 2002) and of Government (April 2002) ; their replies have not been received (July 2002).

6.8 Retention of tax collected by hotel owners

In accordance with the notification of September 1998, a hotel owner availing tax exemption benefits is not eligible to collect any tax from the customers to whom the luxury is provided. The tax, if any, collected in violation of the above instructions should immediately be credited to Government account failing which interest and penalty at the prescribed rates are leviable.

During test check of records of Collector (LT) Vadodara, it was noticed that Hotel Express, Vadodara was granted exemption from payment of luxury tax for the period from December 1998 to February 2003. But the owner had collected tax of Rs.12.02 lakh from the customers during the year 2000-2001 and retained the same instead of crediting the tax to Government account. The incorrect retention of tax so collected including interest and penalty amounted to Rs.31.61 lakh.

The above facts were brought to the notice of the department (November 2001) and of Government (April 2002). The above matters were followed up with reminders to the Secretary in June 2002 and Chief Secretary in July 2002. However, inspite of such efforts, no reply was received from the Government (July 2002).

CHAPTER VII

NON TAX RECEIPTS

7.1 Results of Audit

Test check of records in various departmental offices relating to the following receipts conducted during 2001-02 revealed non/short recovery of receipts amounting to Rs.67.28 crore in 67 cases as detailed below:

(Rupees in crore)

Sr.No.	Category	No. of cases	Amount
1	Geology & Mining	47	14.81
2	Forest Receipts	19	2.11
3	Review on “Receipts of Police Department”	01	50.36
	Total	67	67.28

During the year 2001-02, the department accepted audit observations amounting to Rs.24.53 lakh in 30 cases and recovered Rs.26.15 lakh in 19 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations and the result of a review on “Receipts of Police Department” involving Rs.57.91 crore are given in the following paragraphs.

A POLICE RECEIPTS

7.2 Receipts of Police Department.

7.2.1 Introduction

Receipts of the Police department mainly comprise, recovery of cost of police personnel provided to the Central Government, public undertakings, banks or other bodies within the State of Gujarat towards guarding treasure/chest/

remittances or performing "Watch and Ward" duties either permanently or as temporary measures. Incidence of recovery from other State Governments also arises for discharging agency functions when so undertaken, for maintenance of law and order in unusual circumstances and at the time of elections etc. In addition to this, the fee and fines are also recovered on account of annual police licence fee/certificate fee from owners of hotels, restaurants, recoveries under the Indian Arms Act, 1959, as well as sale of unserviceable vehicles, unclaimed confiscated goods and wrecker charges for towing away the disabled and broken down vehicles on the road creating traffic obstructions.

The system of assessment, collection and accounting of receipts are governed by the Bombay Police Act, 1951, the Gujarat Police Manual, 1975 and Rules made thereunder.

7.2.2 Organisational set up

Subject to overall control and superintendence of the Home (Police) Department, Government of Gujarat, the Director General of Police, Gujarat is the overall incharge of the Gujarat Police while the Commissioners of Police are the heads of the Ahmedabad, Vadodara, Surat and Rajkot Police. The Director General of Police is assisted by the Additional Directors General, Inspectors General, Deputy Inspectors General in-charge of ranges, Superintendents of Police and Deputy Superintendents at district level. The responsibility for assessment and collection of police cost lies with the Director General of Police for deployment of police personnel for railways and outside the State, the Commissioners of Police of 4[&] major cities for deployment in the respective cities and the Superintendent of Police of each district for Gujarat Police.

7.2.3 Scope of audit

With a view to evaluating the efficiency and effectiveness of the system and procedure relating to assessment and collection of receipts under the Police Department, the records for the year 1996-1997 to 2000-2001 (and for the period prior to this wherever considered necessary) of 7* out of 25 districts in the State, the Superintendent of Police, Western Railway, Vadodara, 4** offices of the Commissioners of Police and of the Director General of Police, Gujarat, were test checked between July and September 2001. The results of review are given in subsequent paragraphs:-

& Ahmedabad, Rajkot, Surat & Vadodara.

* Gandhinagar, Godhra, Jamnagar, Junagadh, Kheda, Mehsana and Surendranagar.

** Ahmedabad, Rajkot, Surat and Vadodara.

7.2.4 Trend of Revenue

The budget estimates and the amount actually collected during the last five years ended March 2001 are as under:

Year	Budget estimates	Actuals	Variation (+) increase (-) decrease	Percentage of variation
	(Rupees in crore)			
1996-1997	16.00	23.55	(+)7.55	(+)47
1997-1998	20.82	28.02	(+)7.20	(+)35
1998-1999	37.09	30.25	(-)6.84	(-)18
1999-2000	40.00	29.33	(-)10.67	(-)27
2000-2001	40.00	43.17	(+)3.17	(+)08

The department stated that the excess receipts during the year 1996-97 and 1997-98, were due to realisation of receipts under Arms Act, and from other State Governments. The short fall during 1998-99 and 1999-2000 was due to less receipt under Arms Act and from other organisations and other States.

7.2.5 Highlights

1. **Outstanding police cost amounting to Rs.31.96 crore remained unrecovered from 37 organisations dating back to the period 1984-85.**

[Para 7.2.6]

2. **Delay due to non-raising of demand and non-specifying the time limit for payment of dues in respect of other State Governments resulted in blocking of revenue of Rs. 16.35 crore.**

[Para 7.2.7]

3. **Police cost of Rs. 1.01 crore for deployment of police in other States was not claimed for reimbursement.**

[Para 7.2.8]

4. **The claim of leave salary and pension contribution of Rs. 9.07 crore was not preferred.**

[Para 7.2.9]

5. Police cost/escort charges were recovered short to the extent of Rs.91.25 lakh due to non-application of revised pay scales.

[Para 7.2.10]

6. Non- observation of the instructions of the Government of Gujarat resulted in loss of revenue of Rs. 7.84 crore.

[Para 7.2.11]

7. Revenue of Rs.2.16 crore was irregularly appropriated by the Commissioners of Police, Ahmedabad, Vadodara & Surat for meeting departmental expenditure.

[Para 7.2.12]

8. Condemned vehicles awaiting disposal resulted in blocking of revenue of Rs. 38.50 lakh.

[Para 7.2.13]

9. Cost of police force of Rs.19.77 lakh deployed for cricket matches was not claimed.

[Para 7.2.14]

7.2.6 Non-recovery of outstanding police cost

Test check of records of the offices of Director General of Police, Gujarat, Commissioners of Police, Ahmedabad, Vadodara, Rajkot and Surat, Superintendents of Police of 7* Districts and Superintendent of Police, Western Railway, Vadodara revealed that the arrears of police cost were recoverable to the extent of Rs.31.96 crore from 37 organisations as on March 2001 as detailed in table below :

			(Rupees in crore)
Organisations	No. of organisations	Period involved	Amount
1 Central Government Offices/Department			
(i) Railways	1	1996-1997 to 2000-2001	19.78
(ii) Airport Authority	5	1996-1997 to 1999-2000	6.82
(iii) All India Radio	3	1996-1997 to 2000-2001	1.62

* Gandhinagar, Godhra, Jamnagar, Junagadh, Kheda, Mehsana and Surendranagar.

(iv) Other Central Govt. Offices	6	1997-1998 to 2000-2001	0.22
2. State Government Offices/Departments	8	1984-1985 to 2000-2001	1.07
3. Banks	9	1985-1986 to 2000-2001	1.70
4. Other Local Authorities / Private Parties	5	1995-1996 to 2000-2001	0.75
Total	37		31.96

7.2.7 Non raising of demand against other State Government

Under the provisions of the Gujarat Police Manual, 1975 (Part III) and Government Resolution dated 1st October 1999, the demand for the cost of police personnel deployed on permanent basis and those of escort charges deployed as temporary measures are recoverable in advance. The Rules do not provide for levy of interest for delayed payment.

A test check of records of the Director General of Police, Gujarat revealed that the department failed to recover the cost of police personnel deployed in other States in advance for the period between 1996-97 and 2000-01. On the other hand the delay in serving demand for the period ranged between 6 and 300 months. This resulted in blocking of revenue of Rs. 16.35 crore, which was still recoverable.

On this being pointed out, the department stated (July 2001) that the Government has been requested to take up the matter with the concerned State Governments for payment of outstanding amounts.

7.2.8 Non-raising of demand against other States.

The cost of police force is to be reimbursed by the borrowing States on quarterly basis to be adjusted against actual basis of audited figures.

Five Groups of State Armed Police were deployed in Rajasthan during February 1998 for election duty but the Director General of Police (DGP), Gujarat had not preferred any claim for reimbursement of police cost of Rs.1.01 crore from Rajasthan Government. However, the scrutiny of records of the DGP revealed that the bills in question were returned to the respective Groups for necessary corrections in October 2000 but the same were not received back so far. Hence, despite the delay of 2 years the department failed to raise demand against Rajasthan Government.

7.2.9 Short recovery of dues

In accordance with Rule 528 of Gujarat Police Manual, 1975 (Vol. III), leave salary and pension contribution for the period of deployment of Police Force are to be recovered from the borrowing Governments, departments and autonomous bodies etc. at prescribed rates. It was, however, noticed that the leave salary and pension contribution of Rs.9.07 crore was not taken into account while preferring the claims for the police cost from the Railways Authority, Vadodara and Airport Authority, Rajkot for the period from 1996-97 to 2000-01. This resulted in short recovery of dues of Rs.9.07 crore.

On this being pointed out, the department replied (August and November 2001) that demand would be raised by preferring supplementary bills.

7.2.10 Short realisation of police cost and escort charges

Government vide notification dated 20 January 1998 revised the pay scales of all their employees with effect from 1st January 1996. Though arrears of pay and allowances were paid to the police officials, no action was taken to prefer the additional claims due to revision of scales from the borrowing organisations. This resulted in short-realisation of revenue to the extent of Rs.91.25 lakh for the period from January 1996 to March 2001 as detailed below:

(Rupees in lakh)

Sr. No.	Name of organisation	Place	Period	Amount
1	Railway Authority	Vadodara	January 1996 to March 2001	12.58
2	Airport Authority	Vadodara	January 1996 to December 1996	3.02
3	Banks	Kheda	January 1996 to December 1997	32.09
		Mehsana	January 1996 to December 1997	12.80
		Vadodara	January 1996 to December 1996	10.92
4	Doordarshan Kendra	Kheda	March 1996 to December 1997	5.72

5	All India Radio	Vadodara	January 1996 to March 1997	2.63
		Kheda	March 1996 to February 1997	2.95
6	Heavy Water Plant	Vadodara	January 1996 to December 1996	2.14
7	Modhera Surya Mandir	Mehsana	January 1996 to December 1997	6.40
	Total			91.25

7.2.11 Non-raising the demand at double rates

As per Rule 528 of Gujarat Police Manual 1975 Volume III, as amended by the Government of Gujarat, Home Department Resolution dated 1st October 1999, the escort charges at double the pay and allowances are required to be recovered in advance from the banks, All India Radio and private parties for the escort and guards provided to them.

Test check of records of 6* field offices revealed that the escort charges at double the rate of pay and allowances were not claimed from concerned banks/organisations/private companies. This resulted in short recovery of police cost amounting to Rs.7.84 crore.

On this being pointed out, the 4^s offices had raised the demand of Rs.5.09 crore (between April and July 2002) to concerned banks/organisations/private companies.

The Commissioner of Police, Rajkot replied that they had proposed to effect recovery at single rate till date (February 2002) as the banks and other organisations refused to pay the amount in advance at double the rate. The reply is not tenable as in view of the amended provisions, escort charges at double the rate are required to be charged in advance.

7.2.12 Irregular appropriation of Government Revenue

As per the instructions issued by the Department, a charge for towing of motor vehicles that broke down or were lying at rest on public road, is realisable at a prescribed rate. This towing charge constitutes Government revenue and as per the Home Department, Government of Gujarat Resolution dated 1st July 2000, the receipts on account of fines (including towing charges) is required to be accounted for under receipt sub-head 103 "Fees, Fines and Forfeitures" of

* Commissioner of Police Ahmedabad, Rajkot and Vadodara, Superintendent of Police, Gandhinagar (Rural), Jamnagar and Kheda.

^s Commissioner of Police, Ahmedabad, Superintendent of Police, Gandhinagar (Rural), Kheda and Jamnagar

Major Head 0055 “Police Receipts”. Departmental expenditure out of such revenue is not permissible under the provisions of the BTRs.

During the course of scrutiny of records of 3** Commissioners of Police, it was noticed that during the period from 1996-97 to 2000-01 a sum of Rs.5.84 crore was collected as towing charges. Instead of depositing the entire revenue to Government account, an amount of Rs.2.16 crore was paid to the contractors as hire charges of wreckers and labour charges. This resulted in irregular appropriation of departmental receipts towards expenditure of Rs.2.16 crore.

7.2.13 Non-disposal of condemned vehicles

Sale proceeds of condemned and unserviceable vehicles of the Police department form part of police receipts.

Scrutiny of records of 2# Commissioners of Police and 3## Superintendents of Police, revealed that 69 vehicles were condemned and declared unfit for service by the Condemnation Committee between 1993-94 and 1999-2000 and the reserve price was put at Rs.38.50 lakh. The concerned authority, however, had not initiated any action for disposal of these vehicles so far. Delay in disposal would result in further deterioration in the value of these vehicles.

7.2.14 Non-raising of demand for cricket matches

Section 48(2) of the Bombay Police Act, 1951 as applicable to Gujarat, lays down that cost of additional police force deployed for any amusement or at any place of entertainment should be borne by the concerned party/organisation.

Scrutiny of records of the Superintendent of Police, Gandhinagar (Rural) revealed that the Gujarat Cricket Association had organised 4 one-day cricket matches and 2 test matches at Sardar Patel Gujarat Stadium, Motera (District Gandhinagar) during 1996-97 to 2000-01. Though the other agencies of the Government like Gujarat Electricity Board, Doordarshan, All India Radio, Municipal Corporation etc. were collecting appropriate charges from the Association for the services rendered by them, the Superintendent of Police, Gandhinagar had not preferred any claim from the Gujarat Cricket Association towards the cost of police force deployed at cricket stadium. This resulted in non-raising of demand to the extent of Rs.19.77 lakh.

On this being pointed out, the Superintendent of Police, Gandhinagar Rural raised the demand of Rs.19.77 lakh to the President of Gujarat Cricket Association.

** Ahmedabad, Vadodara and Surat

Ahmedabad and Vadodara

Kheda, Gandhinagar (Rural) and Western Railway, Vadodara

7.2.15 Procedural Irregularities

Sub rule (2) of Rule 98 of the BTRs 1960, Vol.I as applicable to Gujarat, provides that all departmental Officers who are required to receive and handle the cash should enter all monetary transactions in cash book as soon as they occur and such entries should be attested by the head of the office in token of the check. The cash book should be closed and checked regularly and at the end of each month the head of office should verify the cash balance in the cash book and record a signed and dated certificate to that effect mentioning therein the balance both in words and figures.

On scrutiny of records pertaining to the traffic receipts, it was noticed that the Traffic Branch of Commissioner of Police, Ahmedabad had collected Rs.2.11 crore as towing charges during the period 1996-97 to 2000-01, but no entry to this effect was recorded in the cash book. The receipts were being noted in subsidiary registers which were not authorised records as per prescribed procedure. Maintenance of appropriate records as per the provisions of departmental rules are required to be followed to safeguard against misappropriation of the Government funds.

7.2.16 Conclusion

Due to lack of effective steps by the department, the recovery of police cost from other States, other departments and organisations was still pending over the years. The demands on account of revision of pay scales, leave salary and pension contributions and in accordance with the Government instructions were not raised.

The above facts were demi-officially forwarded to the Additional Chief Secretary to the Government on 29 April 2002 for reply within six weeks. The matter was also followed up with demi-official reminder to the Director General of Police, Gujarat, Gandhinagar on 9 August 2002. However, inspite of such efforts, no reply was received either from the Government or from the Department (August 2002).

B MINING RECEIPTS

7.3 Non-levy of increased royalty on delayed payment

According to the provisions of the Petroleum and Natural Gas Rules, 1959 and notifications issued thereunder, royalty on crude oil and natural gas is to be paid within 45 days of the month to which it relates. Further, royalty and other dues, if not paid within the time specified for such payments, is to be

increased by 10 *percent* for each month or part thereof during which the amount remains unpaid.

(i) During test check of records of Geologist, Vadodara, it was noticed (August 2001) that though the rate of royalty on crude oil was increased by Government of India from January 2000, the differential amount of royalty, for the period January and February 2000, was paid by the Oil and Natural Gas Corporation Ltd.(ONGC) after the prescribed period. As the delay ranged between 31 and 60 days, the royalty was required to be recovered after increase by 10 *percent*. Failure to do so, resulted in short levy of royalty amounting to Rs.70.68 lakh.

(ii) During test check of records of Geologist, Vadodara, it was noticed (August 2001) that M/s.Hindustan Oil Exploration Co., continued to pay royalty at the pre-revised rate of Rs.578 per MT. Since the rate of royalty on crude oil was revised to Rs.750 per MT (w.e.f. June 1999) and to Rs.800 per MT (w.e.f January 2000) the payment of royalty at pre-revised rate resulted in short levy of Rs.13.55 lakh.

The above facts were brought to the notice of the department (September 2001) and of Government (April 2002); their replies have not been received (July 2002).

7.4 Non-realisation of royalty and dead rent

(i) Under the Mines and Minerals (Regulation and Development) Act, 1957 and the Gujarat Minor Mineral Rules, 1966 a lessee is liable to pay in respect of each lease for major/minor mineral, dead rent or royalty whichever is higher. The rent is payable at the rate of 50 *percent* of the dead rent if land granted on lease is less than a hectare. If payment of royalty or dead rent is not made within the date prescribed, interest at the rate of twenty four *percent* per annum is to be charged for the period of delay.

Test check of records of 9[#] Geologist/Assistant Geologist offices revealed (between March and December 2001) that in 310 cases, the lease holders had not paid the royalty/dead rent for the major/minor mineral during the period between 1999-2000 and 2000-2001. The department also failed to raise the demand against the defaulters. This resulted in non-realisation of royalty and dead rent of Rs.6.63 crore including interest.

On this being pointed out (between May 2000 and January 2002), the department accepted the audit observations involving Rs.5.30 crore in 18 cases and recovered Rs.0.85 lakh in 3 cases. Recovery particulars and replies in the remaining cases have not been received (July 2002).

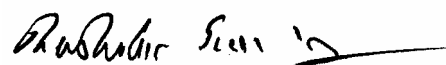
[#] Gandhinagar, Himatnagar, Junagadh, Mehsana, Nadiad, Rajkot, Surat, Surendranagar and Vadodara.

The matter was brought to the notice of Government (April 2002); their reply has not been received (July 2002).

(ii) Government by issue of Notification in January 1999, fixed lumpsum rate for payment of royalty by bricks/roofing tiles manufacturers, on the basis of quantity of bricks manufactured and with reference to number of dye revolving press used, for making roofing tiles, respectively.

During test check of records of Asstt. Geologists, Bharuch and Rajkot, it was noticed (February and December 2001) that 47 roofing tiles and 3 bricks manufacturers either did not pay the royalty or paid less royalty for the periods between 1999-2000 and 2000-2001. This resulted in non/short levy of royalty of Rs.7.86 lakh including interest.

The above facts were brought to the notice of the department (April 2001 and January 2002) and of Government (April 2002). The above matters were followed up with reminders to the Principal Secretary in June 2002 and Chief Secretary in July 2002. However, inspite of such efforts, no reply was received from the Government (July 2002).




Ahmedabad

(Raghbir Singh)

The:

Principal Accountant General (Audit) Gujarat

Countersigned



New Delhi

(Vijayendra N. Kaul)

The :

Comptroller and Auditor General of India