Public Accounts Committee

(1996-99)

SEVENTY-FOURTH REPORT

(TENTH ASSEMBLY)

Report of the Public Accounts Committee on the Report of the Comptroller and Auditor General of India for the year 1985-86 (Revenue Receipts) pertaining to the Forest, Transport, Registration and Finance (Taxation) Department to the Government of Assam.

Presented to the House on 15 MAY 1998

Assam Legislative Assembly Secretariat, Dispur
Guwanati —781006.

TABLE OF CONTENTS

PREFATORY REMARKS

I, Shri Holiram Terang, Chairman of the Committee on Public Accounts having been authorised to submit the Report on their behalf, present the 74th Report of the Committee on the Report of the CAG of India (R/R) for the year 1985-86 pertaining to Forest, Transport, Registration and Finance (Sales Tax) Department.

2. The Report of the CAG of India (R/R) for the year 1985-86 was presented before the House on 16th March, 1988. The outgoing Committee examined the Reprot selectively on the Departments relating to Fishery, Inland Water Transport, State Excise and Land Revenue, and incorporated these Chapters in their Report Nos.47th 53rd, 57th and 67th and presented the same before the House on 2nd June, 1989, 9th April, 1990, 5th October 1990 and 24th December, 1992 respectively. The remaining Chapters of the Report of the CAG of India (R/R) for the year 1985-86 pertaining to Forest, Taxes on Vehicles, Registration Fees and Sales Tax were considerd by the Sub-Committee of the outgoing PAC under the Convenorship of Shri Hitendra Nath Goswami, MLA. The Committee could not finalise the Report owing to expiry of their term. Thereafter, the Sub Committee 'B' of present public Accounts Committee under the Convenorship of Shri MohanDas, MLA has taken up the matter and examined afresh the Finance Taxation Department in their meeting held on 7th August 1997 prepared the draft Report on all the pending Chapters in their meeting held on 23rd April 1998. The Committee then resolved to forward the Report as presented by the Sub-Committee 'B' of Public Accounts Committee for adoption by the main Committee.

3. The Committee on Public Accounts adopted the Report in their meeting held on 5th May 1998.

4. The Committee wishes to put on records their sincere thanks to the Convenor (Shri H. Goswami, MLA) and the Members of the outgoing Sub-Committee as at Annexture I and also the Hon'ble Covenor Shri Mohan Das, MLA and other Members of the Sub-Committee 'B' of present PAC as at Annexure II for their strenuous works done by them.

The Committee also offers thank to Shri S. C. Das, IAS, Financial Commissioner, Government of Assam and other Commissioners and Secretaries, Government of Assam, their Heads of Departments and other officers and staff for their full Co-operation. The Committee places on records its sincere thanks and appreciation to the A. G. (Audit) Assam, and other officers of the office of the Accountant General for their unstinted cooperation to the Committee during the course of deleberation. The Committee also offers thanks to Shri D. Talukdar, Secretary, Assam Legislative Assembly with other officers and staff of the Committee.

Dated
5th May, 1998

Shri Holiram Terang,
Chairman,
Public Accounts Committee,
Assam Legislative Assembly.

CHAPTER—I

GENERAL

A—Trand of revenue receipts

1.1. The total receipts of the Government of Assam for the year 1985-86 were Rs. 9,57 10 crores. Revenue raised by the State Government amounted to Rs. 3,44.81 crores of which Rs. 235.00 crores represented tax revenue and Rs. 1,09.81 crores non-tax revenue. An analysis of the receipts for the year 1985-86 along with corresponding figures for the preceding two years, is given below :—

	1983-84	1984-85	1985-86
	(In crores of Rupees)		
I. Revenue raised by the State Government.			
(a) Tax Revenue	135.35	189.31	2,35.00
(b) Non-Tax Revenue	77.89	82.78	1,09.81
Total—I	213.24	272.09	3,44.81
II. Receipts from Government of India.			
(a) State's share of divisible Union Taxes.	137.79	151.60	2,65.55
(b) Grants-in-aid	199.69	273.56	3,46.74
Total—II	337.48	425.16	6,12.29
III Total receipts of the State (I & II)	550.72	697.25	957.10
IV. Percentage of (I & III)	38.72	39.00	36.00

Receipts from Central Government by way of State's share of divisible Union taxes and grants-in-aid during the year 1985-86 constituted 64 percent of the total receipts of the State. The State's own mobilisation amounted to 36 percent.

1.2. Receipt from tax revenue and non-tax revenue constituted 68% and 32% respectively. An analysis of both Tax and non-tax revenue for the year 1985-86 and for the preceding two years is as below :—

(a) Tax-revenue

	1983-84	1984-85	1985-86	Increase (+) Decrease (—) with reference to 1984-85
	(In crores of rupees)			
1. Taxes on Agricultural Income	11.29	36.28	65.19	(+)28.91
2. Other Taxes on Income and Expenditure	1.94	2.58	3.44	(+)0.86
3. Land Revenue	4.27	4.23	4.22	(—)0.01
4. Stamps and Registration Fees	4.76	5.70	5.88	(+)0.18
5. State Excise	5.70	6.06	4.68	(—) 1.38
6. Sales Tax	93.89	117.93	128.42	(+)10.49
7. Taxes on vehicles	5.47	6.53	7.64	(+)1.11
8. Taxes on Goods and Passengers	2.29	2.75	4.71	(+) 1.96
9. Taxes and Duties on Electricity	0.96	0.72	2.76	(+)2.04
10. Other Taxes and Duties on Commodities and Services	4.78	6.53	8.06	(+)1.53
Total	135.8.35	189.31	235.00	(+)45.69

(b) Non-Tax revenue

	(In crores of rupees)			
1. Industries	32.60	33.15	35.22	(+ 2.07
2. Forest	22.32	24.96	21.55	(—) 3.41

3. Miscellaneous General Services	6.48	7.45	33·07	(+)25·62
4. Public Works	1.84	1.44	1.72	(+)0.27
5. Agriculture	0.63	1.29	0.82	(—)0.47
6. Education	0.56	1.05	1.07	(+)0.02
7. Interest	3.11	1·02	5.03	(+)4.01
Total	67.54	70.37	98.48	(+)28.11

OBSERVATION/RECOMMENDATIONS

1. 3. The Committee observes that the State Government should more vigorously persue the machinery for colloection of due taxes in time without delay or causing loss to the exchequer and avoid accumullation of huge losses in collection of taxes. The person found responsible and on whose lapses due taxes are not collected should be taken to task in future. The Committee further feels that while collection the arrear land revenue the proper steps should be taken for effecting exemption to the poor people, if they are effected by natural calamities.

B—ARREARS IN ASSESSMENT AND COLLECTION

1.4. The number of cases of Sales Tax, Taxes on Professions, Trades, Callings and Employments' Passengers and Good Tax, and Agricultural Income Tax due for assessment and actually assessed during the years 1984-85 and 1985-86 and the number of cases pending at the end of each year' as reported by the Taxation department are indicated below :—

Sales Tax, Taxes on Professions, Trades, Callings and Employments and Passengers and Goods Tax.		Agricultural Income Tax.	
1984-85	1985-86	1984-85	1985-86

1. Number of assessments due for completion.	3,85,160	2,68,962	2,563	2,588
2. Number of assessments completed.	2,22,465	2,12,312	895	173
3. Number of assessments pending at the end of the year.	1,62,695	56,650	1,668	2,415

Year-wise details of the pending cases as at the end of 1985-86, are given below :—

Year	Sales Tax, Taxes on Professions, Trades, Callings and Employments and Passengers and Goods Tax.	Agricultural Income Tax.
Upto 1981-82	5,428	534
1982-83	3,842	284
1983-84	6,924	310
1984-85	16,242	542
1985-86	24,214	745
Total	56,650	2,415

Similarly the total revenue collected and arrears of revenue pending collection, as at the end of the years 1983-84 to 1985-86, as reported by the departments are given below :—

Year	Total demand raised	Revenue collected	Arrears pending collection as at the end of March.
	(In crores of rupees)		
1983-84	245.52	213.24	32.28
1984-85	313.50	272.09	41.41
1985-86	384.92	344.81	45.47 (a)

Details of arrears as on 31st March 1985 and 31st March 1986 are given below :—

	As on 31st March 1985	As on 31st March 1986
	(In crores of rupees)	
1. Sales Tax, Agricultural Income Tax, Other Taxes on Income and Expenditure, Taxes on Goods and passngers, Taxes and Duties on Electricity and other Taxes and Duties on Commodities and Services.	22.43	25.67
2. Forest Receipts	2.50	2.48
3. Taxes on Vehicles	4.97	5.36
4. Land Revenue	11.51	11.96 (a)
Total	41.41	45.47 (a)

OBSERVATIONS/RECOMMENDATIONS

1.5 The Committee is constrained to note the reasons for making such a huge arrears in assessment and collection of taxes thereof. The Committee also feels not to appreciate the action of the Government for not taking up the cases of arrear in assessment in time which sustains losses to the State Exchequer. The Committee would, therefore, like to have a detail report as to how the pending arrear cases in assessment and collection have been completed and revenue deposited to the Consolidated Fund. The action taken report should be submitted to the Committee within 3 months from the date of presentation of the report.

C—Outstanding Inspection Reports

1.6· Audit has brought out that observations on incorrect assessments, under assessment non-levy and short levy of taxes, duties, fees other revenue receipts, etc., and defects in initial accounts noticed during local audit and not settled on the spot are communicated to the departmental authorities, Heads of departments and also to Government, where necessary, through inspection reports with the request to furnish replies thereto, within a month of their receipt. In addition statement, showing details of objections remaining outstanding for more than six months are sent to departments and Government every six months in July and January each year for expediting their settlement. The number of inspecton reports and audit objections issued upto March 1986, which were pending settlement by the departments as on 30th September 1986, along with corresponding figures for the earlier two years are given below :

At the end of September	Number of outstanding		Money value (in crores of rupees),
	Inspection reports	Audit objections.	
1984	1,220	3,014	24,84
1985	1,096	2,448	20,30
1986	1,172	2,595	50,94

The receipt-wise and year-wise break-up of outstanding inspection reports, number of audit objections pertaining thereto and the money value involved as at the end of September 1986 is given below :—

Head of Revenue	Number of outstanding			Year in which
	Inspection reports.	Audit objection.	Amount (in lakhs)	the earliest inspection report of Rupees was issued)
1. Sales Tax	121	538	5,49.08	1971-72
2. Passengers and goods Tax	47	73	26.42	1979-80
3. Purchase Tax	22	45	49.62	1979-80

4. Electricity Duty	15	17	12.69	1979–80
5. Amusement and Betting Tax	7	8	1.56	1979–80
6. Professional Tax	26	31	8.41	1979–80
7. Agricultural Income Tax	8	67	1,32.66	1975–76
8. Land Revenue	606	958	7,86.30	1973–74
9. Stamp Duty and Registration Fees	90	175	2,73.12	1974–75
10. Taxes on Vehicles	37	100	3,24.39	1978–79
11. State Excise	58	89	4,03.59	1978–79
12. Forest Receipts	135	494	25,25.84	1973—74
Total	1,172	2,595	50,93.68	

(b) Out of 1,172 inspection reports which were pending settlement as on 30th September 1986, even first replies had not been received in Respect of 547 inspection reports containing 1,046 audit objections.

(c) A review of the outstanding inspection reports of five forest divisions (Digboi, Dhubri, Haltugaon, Kachugaon, and Nagaon) conducted (between July and October 1986) with reference to records maintained in those divisions showed that 32 inspection reports (containing 138 audit objections involving money value of Rs. 10,61,·51 lakhs) issued between 1973—74 and March 1986 were pending settlement for the reasons given below :—

Reasons	Number of audit objections	Amount (In lakhs of rupees)
1. Non-initiation of action by the Divisional Officers	56	6,29.55
2. Records relating to audit objections remaining untraced in the Divisional Officers	10	11.70
3. Action initiated but not finalised for want of proper persuance by the department	72	4,20.26
Total	138	10,61.51

OBSERVATIONS/RECOMMENDATIONS

The Committee recommends that the Department will take special care to settle the audit objections at the initial stage. The Committee would, however, be interested to know the upto date position of the disposal of the outstanding audit objections and inspection reports. The Committee further recommends that appropriate action should be initiated against the Divisional officer of the aboved mentioned Division for not taking any initiative action to settle the outstanding audit objections since a long time from 1986 even after repeated reminders from the office of the Accountant General of Assam. A report on the action taken by the Govt. should be submitted to the Committee within a period of 3 months from the date of pr sentation of the Report.

CHAPTER—II
FOREST RECEIPTS

Loss due to poaching of Rhinoceros :

[Audit para 6.2/CAG 1985-86 (R/R)]

2.1. Audit has pointed out that in the Kaziranga National park, 103 more Rhinoceros were killed by poaching during the subsequent four years from 1982 to 1985. As per purchase offers received by the Forest Department in February 1984, each Rhinoceros was of the value of Rs. 3 lakhs plus sales tax amounting to Rs. 0.18 lakhs. The illegal poaching of 103 Rhinoceros thus resulted in loss of revenue amounting to Rs. 3.28 crors. The National park was apparently not well protected although Government had engaged 107 persons on protection duty and was incurring an expenditure of Rs. 1.37 lakhs on their pay and allowances every year. There was nothing on record to show that any investigation was conducted by the Department with a view to ascertion the precise reasons for such large scale poaching and for taking appropriate steps for its stoppage in future.

2.2. The Department in their written Memorandum has stated that 41 Rhinoceros have been killed by poachers during the period from 1978 to 1981 and 103 Rhinos were killed during the subsequent year from 1982 to 1985 inspite of our best effort. The illegal trade and the prevailing high price of the Rhino horns in the international smugglers market other root cause of the even increasing means of poaching. The park is like an open treasure house with the Rhinos moving freely in and outside it, each carrying a horn worth over a lakh of Rupees on its head. The protection of the Rhinoceros and guarding of the park by handful of illequipped and ill trained forest staff against the onslaught of organised gangs of desperate poachers equipped with sophisticated weapons, is not an easy task. In spite of severe limitations and handicaps the staff of the park have been trying their very best to protect the park and ensure the continued survival of the Rhinoceros in this world by carrying out petrolling rounds by day and night at the risk of their own lives against attack by wild animals and poachers alike in a hostile terrain. There has been no complancency what soever on the

part of the forest staff in discharging their duties. The unfortunate loss of the rhinoceros due to poaching have therefore taken place due to reasons beyond any human control. It would not be proper and ethical to asign money value to a species of animal as gravely endangered as the Rhinoceros which is on the verge of extinction. The loss of even a single individual of the species is a loss to the making more profound than what have been assessed by the audit. It may however be mentioned that after a complete ban on trade of endangered animal or its parts, they have no value and therefore the assessment of audit as to the loss of Rs. 3.28 Crores is a nullity.

OBSERVATIONS/RECOMMENDATIONS

2.3.1 The Committee feels that the protection staff deployed in the National park is inadequate and that too without sophisticated weapons. The punishment provided by law is also not adequate to deter the poachers. The Committee would like to know what action the department has taken to remove such constraints and for committing the same kind of crime in future.

The Committee further recommends that necessary measures should be taken at the highest level to counter the poachers in the Kaziranga National Park and to protect the Rhinoceros from the poachers.

Loss of revenue due to non-observations of prescribed procedure.

[Audit para 6.3/CAG 1985-86 (R/R)]

2·2.1. Audit has pointed out that the Government in May 1982 decided for sale of timber against permit sal trees at Rs. 815/- cubic mitre and the price might be reviewed after every six months depending upon the market price· Similarly for non-sal, trees the price should be the average price obtain in sale by tender· In 79 cases, permits were issued between July 1983 and March 1985 in favour of different mills and private bussiness Farms for sale of 39,262,500 cubic metre of sal logs and 5,310 cubic metre of non-sal logs from the departmental stock of eight forest divisinns viz, Goalpara, West Kamrup, East Kamrup and Haltugaon, Dhubri, Nagaon, Darrang West and Kachugaon on payment of scheduled rate of Royality. Monopoly fees and departmental cost. The rate so fixed (Rs. 618 to 1075.14) in the case of sal logs and (Rs. 386.65 to Rs. 494.31) non-sal logs were far below the competitive Prices of Rs. 1,357,65 to Rs· 1,790 and Rs· 412 to Rs. 629 respectively obtained from sale by tender during the years 1983-84 and 1984-85. The sale of 24,428.342cubic metres of sal logs (out of the total allotment of 39,262,500 cubic meres) and 4,395.431 cubic metres on non-sal logs (out of the total allotment of 5,310 cubic metres) actually lifted between July 1983 and July 1985 by the 79 permit holders, if made at the competitive prices, would have yielded a revenue of atleast Rs. 4,14.42 lakhs instead of Rs· 2,24.93 lakhs actually realised. This resulted in loss of revenue of Rs. 1,89.49 lakhs. The reasons for not adhering to the prescribe procedure for fixing the sale price were not available on record.

2.2.2· The Department in their replies have stated that as per rule 3(3) of the Assam Sale of Forest Produce Coupes and Mahal Rules 1977, in addition to sale of inviting tender and sale by public auction, Forest produce can also be sold by negotiation, direct by Government or on behalf of the Government of Assam in Forest Depertment or in any other manner as decided by Government on its own descretion. The sale of timber mention in the para had been conducted by the Government in excercise of this power. In this connection Government appointed a high

power Enquiry Comuittee and report has been processed and published. However, the present Governmen has scrutinised in excercise of power by the previous Government through an One Man Committee, its report in details and follow-up action on recomendations is under process.

OBSERVATIONS / RECOMMENDATIONS

2.2.3. The Committee was informed in course of oral deposition that the Department had initiated departmental action against these found guilty by the One Man Committee. The Department, however, interalia expressed their inability to recover the monitory loss sustained by Government in view of pending Court case. The Committee cannot appreciate the inability of the Government in taking appropriate action in time. The Committee also feels that had the Court cases been contected promptly Government would have been in a position to initiate action of the persons found responsible. The Committee, therefore, suggest to the Government to take immediate action for settlement of pending Court cases and also action taken on the guilty officers. A detail report on the action taken should be submitted to the Committee within a period of 3 months from the date of presentation of the Report.

Ilicit removal of forest produce.

Audit para 6.4/CAG, 1985-86 (R/R)

2.3.1 The Audit have pointed out that as per record of the forest Division, Kachugaon and Haltugaon, 511 trees of A III and B. II class of timber had been illegally felled and timber extracted therefrom removed from the forest area in four ranges by certain persons during the period from December 1983 to December 1984. According to the reports prepared by the concerned Range Officers after the occurance of there thefts, the timber content of 511 trees illegally felled, based on their left-over stumps, worked out to 1,058·498 cubic metres of this, 71.450 cubic metres of A III class timber were susbsequently recovered by the department from the nearby areas the remaining 987.042 cubic metres of timber valuing about Rs. 16.87 lakhs could not be traced by the department till the date of audit (between May 1985 and July 1985). The department could not also apprehend the offenders. Protection of the forest was apparently inadequate which insulted in loss of revenue amounting to Rs. 16.87 lakhs. On this being pointed out in audit (July 1985), the Divisional Forest Officer, Kachugaon Division stated (July 1985) that in one case involving timber content of 198.320 cubic metres, the concerned Forester and Forest Guard had already been placed under suspension and that disciplinary proceedings against them were being taken. In respect of two other cases involving timber content of 310.280 cubic metres, the department stated that the area being on the borders with West Bengal, was prone to illegal activities and that total protection of the area was not possible even though armed home guards has been posted there. Report on investigation of thefts in the Haltugaon Division is awaited (March 1987).

2.3.2. The Department in their written memorandum have stated that illicit felling of trees and removal of timber thereof is one of the biggest problem threatening the very existances of Forest not only in this State but also in the country as a whole. The Forest is like an open treasure house with valuable standing trees and other Forest produce having only a few illequipped forest staff to guard this property. Kachugaon used to be one of our most well protected forest Division even though there had

been occasional cases of illegal removal of timber along the inter state boundary of Assam and West Bengal, taking advantage of easy extraction by rafting along the Sonkosh River. However of late organised gangs of Smugglers equipped with weapons have been active in that area. The forest staff have been doing their best to protect the forest from such smugglers with mixed degree of success. In one case in that area involving confrom tation with smugglers one of the miscreants was killed while our staff has to open fire in self-defence. Following this incidence the forest staff were attacked by the surrounding villagers and they had to fire from the spots to save their lives. To add insult to the injury the forest staff has been arrested by the police. The entire forest staff became demoralised as a result and the smugglers taking advantage of the situation attacked the forests with renewed vigour. The cases of illicit felling reported in the para occured during these period. In Haltugaon Division also similar happening were taken place with the added menace of organised encrochment of land alongwith the illegal felling. The Govt. shares the same anxiety as that of expressed by Audit and have been trying to take maximum possible steps for such precaution within the resources available. It cannot be denied that the protection squad engaged in the various Divisions are far too inadequate and in-capable of infronting the huge problem of illicit removal of forest produce. The loss on account of this problem is ever increasing.

OBSERVATIONS RECOMMENDATIONS

2.3.3. The Department appears to have initiated Departmental action against only in one case of smuggling of timbers. In respect of other cases nothing is stated to the Committee. Committee feels that such smuggling of timber could be possible with the connivance of the protection forest Officials.

2.3.4. Under the circumstances Committee recommends that the protection forces of Forest Department should be geared up and the defaulting Officials should be dealt with severally.

Revenue Forgone owing to Non-fixation of Prices of Plywood logs.

Audit para 6.5/CAG 1985-86 (R/R)

2.4.1. The Audit has pointed out that the Government in November 1983, decided to revise the price of plywood logs to be supplied to plywood mills during the supply year 1st November 1983 to 31st October 1984. Pending revision of the price, Government, however, instructed the department to continue the supply of plywood logs to the allottee mills on same rates and modality as prescribed for the year 1982-83 after obtaining an undertaking from the mill owners to the affect that the difference in price would be paid by them as and when new rates were fixed. The rates were revised by the Government in December 1984 from Rs. 1,330 to Rs. 1,483 and from Rs. 875 to Rs. 1,060 for commercial and tea chest plywood respectively and made effective from 1st November 1984 instead of from 1st November 1983, without recording any reason. In Digboi Forest Division, 7,688.105 cubic metres of commercial plywood and 3,341.788 cubic metres of tea chest plywood was supplied to 26 mills during 1st November 1983 to 31st October 1984 at the pre-revised rates of Rs. 1,330 and Rs. 875 per cubic metres respectively instead of the revised rates as earlier envisaged and for which necessary undertaking had been obtained from the mills also. This resulted in the loss of revenue amounting to Rs. 8.97 lakhs being forgone.

2.4.2. The Department in their written memorandum ~~have~~ has stated that the supply of plywood logs to the mills during the supply year 1983-84 were made at the rates fixed for the year 1982-83 with written undertaking that the mill would pay for the timber at enhanced rate in case the rate is revised. But there was no revision of the rates for the year 1983-84. The rates were however revised for the next supply year i. e. 1984-85. As the rates were not revised for the year 1983-84 there cannot be any question of realising the rates at enhance rate and consequent loss thereof. The price for plywood logs supplied to the plywood mills is the economic rate worked by the Government, from time to time to help the industry to sustain and continue its production. In general this rate was fixed at a lower price than the market to help the industry as a matter of policy to stabilies this only major forest based

industry producing 60 p.c. of penal product as a matter of industrial policy and therefore, the delay in enhancing the rate by revision in 11/83 is only hypothetical. The increase in rate made effective from 11/84 shows only a marginal increase which has been taken with all consideration of industry availing the economic price fixed earlier and the market price and price of production at the time of revision.

OBSERVATIONS/RECOMMENDATIONS

2.4.3. The Committee observes that the Government enhanced the rate during 1984 only instead of 1983 and the increase was also very marginal. The Committee would like to know the reasons why the rate was not revised in 1983.

Loss due to sale of Plywood logs at concessional rates.

Audit para 6.6/CAG, 1985-86 (R/R)

2.5.1 The Audit has pointed out that 3,400 cublic metres of Plywood logs were allotted between July 1983 and July 1984 from the stocks of Digboi Forest Division to six unemployed youths at rates ranging between Rs. 875 and Rs. 1,207.77 per cubic meter which were much below the rate of Rs. 1,330 per cubic meter for commercial plywood fixed by Government in December 1982 effective during 1st November 1982 to 31st October 1984. None of the allotees was in timber businees nor did they own plywood mills. The allotees removed 2,151.673 cubic meters of plywood logs (against the allotment of 3,400 cubic metres) upto 31st May 1985. No reasons were available on record for sale of timber at concessional rates. The sale of 2,151.673 cubic metres of plywood logs to non-eligible persons at concessional rates resulted in loss of revenue of Rs. 7,57,611.00

2.5.2. The Department have stated that the allotment of timber of plywood species to the unemployed youth at concessional rate was made under the provision of Rule 3(3) of the Assam Sale of Forest Produce Coupes and Mahal Rules, 1977. This help to the unemployed youths was offered on socio-economic consideration and to provide a foothold to these youths for self employment.

OBSERVATIONS/RECOMMENDATIONS

2.5.3. The Committee observed that the reply of the Department is not convencing at all. The Department could not explain the basis of selecting only 6 unemployed youths for extending the benefit at a low rate causing loss of revenue for Rs.7,57,611.00. The Committee express its serious concern on such irregularities sustaining a huge loss of Government money in awarding allotment of timber to these selected unemployed youths. The Committee therefore recommends that the Department should in future desist from showing extraneous consideration to any person to avoid pacuniary loss. The Committee further recommends that deterent action should be initiated on the officers who are found to resort such practice.

Loss of Revenue due to non-settlement of Sand mahal.

Audit para 6.7/CAG. 1985-86 (R/R)

2.6.1 Audit has brought out the following three cases of delay in settlement of sand mahal and thereby incurred loss of revenue :—

(a) Daloo river bed sand mahal under Cachar Forest Division for 1981-83 term (1st November 1981 to 31st October 1983), was advertised (September 1981) for sale of 1,000 cubic meter of sand. The highest tender of Rs. 1,36,000 was recommended (December 1981) by the Divisional Forest Officer for acceptance. As the tenderer could not produce any document evidencing his financial soundness, the Conservator of Forests, asked (May 1982) the Divisional Forest Officer to invite fresh tenders. In response to fresh tenders (September 1982), the highest offer of Rs. 1,37,000 was received and was accepted (December 1982) by the Conservator of Forests, Hills. The provisional settlement order was, however, issued (January 1984) after lapse of one year and four months from the receipt of tender. The tenderer, declined (4th February 1984) to accept the settlement order as he had in the meantime diverted his business. Thereupon, the mahal was put to re-sale (June 1984) and was provisionally settled only at Rs. 97,005 for the fresh working period from 1st July 1984 to 30th June, 1986. Even in this occasion, the final settlement order was issued on 18th April, 1985, after the appeal petition filed (August 1984) by another tender had been disposed of for the working period from 1st April, 1985 to 31st March, 1987. Owing to the long time taken in the settlement process the mahal remained un-operated during the period from 1st November, 1981 to 31st March 1985, resulting in loss of revenue of Rs. 2,34,042 (calculated with reference to accepted rate of Rs. 1,37,000).

(b) Sand mahal No. 23 under Dibrugarh Forest Division was advertised in April 1982 for sale of 5,000 cubic metres of sand for the working period from 15th July 1982 to 14th July 1984. The tenders were received by 23rd August 1982 but the final settlement order in favour of the highest tenderer, for an amount of Rs. 2,26,254 was

issued only on 20th January 1983. The settlement was subject to the tenderer furnishing security (inaddition to normal security of Rs. 5,606) in the form of bank guarantee for the full tendered amount although no such condition is stipulated in the Assam sale of Forest Produce Coupes and Mahals Rules, 1977 nor was it mentioned in the notice inviting tenders.

On a request made (February 1983) by the Mahaldar he was allowed (June 1983) by the Chief Conservator of Forests to pay 20 per cent additional security in place of bank guarantee for the full tendered amout. Subsequently, the Chief Conservator of Forests unilaterally modified (23rd August 1983) his earlier orders and exempted the mahaldar from the payment of additional security of 20 per cent. The mahaldaer did not, however, implement the settlement order by paying the normal security deposit (Rs. 5,606) and the first kist (Rs. 28,287) of tendered amount; rather, he came up (7th November, 1983) with a fresh demand for granting him the full working period of two years from 28th October 1983 to 27th October 1985 instead of two years from 15th July 1982. The demand was not accepted and on the instructions of the Conservator of Forests, the Mahal was put to re-sale on 3rd March 1984. However, on an appeal (9th March 1984) by the original mahaldar Government ordered (14th March 1984) for withdrawal of the mahal from re-sale and asked for report from the department. The report was submitted by the Divisional Forest Officer on 8th May 1984 but the final decision had not been taken on the appeal of the mahaldar for grant of full working period of two years to him till the date of audit (March 1985). Thus, the sand mahal remained unoperated for more than two and half years from 15th July 1982 to 31st March 1985 and had resulted in loss of revenue amounting to Rs. 3,06,386 (based on the accepted offer of Rs. 2,26,254).

(c) For removal of 1600 cubic metres of sand during the working period from 1st June, 1982 to 31st October 1984, Barak sand Mahal No. 3 (under Cachar Forest Division) was advertised (April 1982) for sale. The tender papers were forwarded by the Divisional Forest Officer to the Conservator of Forest on 26th July 1982 and by the Conservator to the Chief Corservator of Forest who communicated (4th October, 1983) the acceptance of highest tender for Rs. 1,22,251. The mahal was finally settled on

21st November 1983 with the tenderer fixing the working period from 1st June 1983 to 31st August 1985. On a representation submitted (11th September 1985) by the mahaldar, the Divisional Forest Officer refixed (January 1986) the worknig period from 24th November, 1983 to 10th March 1986 to compensate the period lost in issuing the work order. Thus due to delay of about 10 months in issuing the final work order working period from 1st June 1982 to 23rd November 1983, was lost resulting in loss of revenue of Rs. 74,800 (based on proportionate value of the settled price).

2.6.2. The Department in their written Memorandum has stated as follow :—

(a) The Daloo sand Mahal for the year 1981-83 could not be settled in the first sale for want of F. S. Certificate from the highest tenderer and it was ordered for fresh sale on 5/82 refixing the period from 10/82 to 10/84. In the second sale during 9/82 the highest tender received at Rs.1,37,000/- and it was forwarded to C.F., Hills by the D.F.O. for settlement subject to production of F.S.C. which was not submitted alongwith the tender papers. Accordingly the C.F. Hills asked D.F.O., to furnish the required documents if received from the tenderer. As the same was not received in time the C.F. on 2.4.83 forwarded the tender papers to the C.C.F. with an intimation that the tenderer was a regular contractor and he has furnished the required documents alongwith his earlier tender available in office of the C.F. But the C.C.F.(G) called for the required documents from C.F.(H) and finally settled the Mahal on 24.12.83 on receipt of the same. The provisional settlement order was communicated on 10-1-84 but the settlee declined to take settlement as a result of which the Mahal was again put to a resale on 6/84 refixing the period from 7/84 to 6/86. Finally Mahal was settled with the highest tenderer at Rs.97.005 on 4/85 to avoid further loss of revenue. The delay was caused because of procedural requirement to establish financial position of the tenderer which was beyond the control of the department.

(b) The Sand Mahal No. 23 under Dibrugarh Forest Division was settled with the highest tenderer at Rs. 2,26,254 on 20th January 1983 subject to furnishing an extra security in addition to the normal security of 2½ p.c. (Tenderer being S.T.P.) in the form of Bank Guarantee as the tenderer was a new contractor and the landed property shown

in the F. S. Certificate was much below the tender value. The tenderer prayed for allowing to pay 20% security in place of the extra bank guarantee and while it was granted he prayed further quoting the provision of Para 7 of New 20 point programme for exemption of the additional security which was also granted on 23rd August 1983 as the tenderer belonged to the S. T. Community. But even then the settlement holder failed to implement the order and the Mahal was put to resale on 22nd March 1984, wherein a single tender with bid value of Rs. 51,999 was received. Meanwhile the earlier settlee submitted appeal petition for refixing the Mahal period of 2 years from the 28th October 1983 instead, of original period from the 15th July 1982 and the Mahal was withdrawn from sale. Finally the appeal was rejected as the loss of period was due to his fault (23rd May 1984) and the Mahal was settled on negotiation by the Government on 28th May 1984) at Rs. 1,25,000 a proportionate value received from the nearest sand Mahal of Dehing River to the single tenderer of these second sale. Thus it is obvious from the above that the delay as pointed out by audit was due to procedural requirement to safeguard the best interest of an individual belonging to the S.T. which is also a constitutional obligation under the present law and rule of the State.

(c) The Barak Sand Mahal No. 3 for 6/82 to 10/84 could not be settled to the highest tenderer in time for want of A. F. Tax clearance and Financial Soundness Certificate from the tenderer which was called for immediately on receipt of the same on 29th September, 1983 settlement order was issued on 4th October, 1983. Under the above situation which was beyond the control of the deparment the period was to be refixed from November, 1983 to March, 1986 to compensate the period lost.

OBSERVATIONS/RECOMMENDATIONS

2.6.3. Sand and stone in a river bed will be carried away by the river current unless collected at proper time. It is therefore essential to initiate appropriate action well in advance for settelment without any loss of time. In all

the three casses the Department could not explain satisfactorily the reasons for not taking advance action and delay in disposal of appeals and reference cases. In these cases the delay ranges from eighteen months to fortyone months. Such unusual delay may be contributary to laxity on the part of the responsible officials.

2.6·4. The Committee therefore recommends that to to prevent loss of revenue in future the Department will strive to take advance action in time for settlement of all Mahals under their control. Any laxity on the part of responsible officials should be dealt with appropriately.

Loss in settlement of Bamboo mahal.
Audit para 6.8/C.A.G. 1985-86 (R/R)

2.7.1. Audit has pointed out that in February 1982, the Rukni Cutting Series Bomboo Mahal under the Cachar Forest Division, was provisionally settled with a tenderer at Rs. 86,676 for the working period 1st December, 1981 to 31st October, 1982. An appeal, submitted (10 th February 1982) by another tenderer against the settatement order, was rejected by Government. Thereupon, the final settlement order was issued by the Divisional Forest Officer (after 4 months) in September, 1982 even though the succeessful tenderer has in the meantime declined (June 1982) to accept the final settlement on the ground that during the intervening period (February to May 1982) most of the bamboos had been burnt by the local people for 'jhum' cultivation and that the vital period of working of the mahal had expired. No action was taken by the department till May 1933 when the manal was put to re-sale and was settled (July 1983) with another tenderer at an amount of Rs. 22,676. In September 1983, however, the second tenderer also backed out on the ground that bamboo mahal had been further damdged by the local people, leaving bamboos valuing about Rs, 6,'00 only. In October, '1983, it was decided to put the mahal again to re-sale at the risk and cost of second tenderer but the re-sale was stayed by the Conservator of Forests (October 1985), on an appeal by the second tenderer. The stay order had not been vacated till the date of audit (February 1985). The inordinate delay, at different stages, in the sttlement of the mahal and failure to prevent destruction of forest produce by local people, thus resulted loss of revenue amounting to Rs.86,676.

2.7.2. The Department in their written reply have stated the Rukni Bamboo Mahal of 1981-82 was provisionally settled with the highest tenderer at Rs.86,676/-in the fiirst sale during 1/82 against which one lower tenderer preferred an appeal on 10.2.82 on the ground that he belonged to S. C. Community. The appeal was rejeeted by the Government on 18th May, 1982 and accordingly the final settlement was made with the provisional settlement holder on 2nd September 1982. But the settlee declined to accept the final settlement on the ground that most of the bamboo were completely damaged by the local people

for 'Jhum' cultivation under the above situation the mahal was resold and settled at Rs. 22·671/-with the highest tenderer for a fresh working period from 7/83 who also declined to accept the settlement on the same ground· Again it was put to resale during 10/83 at the risk of the second settlee for which the settlee submitted an appeal before C.F who stayed the sale of the mahal on 25th October 1983 and called for report. The reports were submitted by the D.F.O and as the mahal period had already expired, the mahal was put to fresh sale for working period 8/84 to 7/85. But by this time the mahal was leased out to the M/S Hindusthan Paper Mill by an agreement for 30 years. The appeal and consequent refusal to accept the settlement in respect of mahal by several tenderer on same grounds are intentional and the Department was not in a position to prevent such tectical moves of the tenderers. Thus the loss on this account was beyond the control of the department.

OBSERVATIONS/RECOMMENDATIONS

2.7.3. The Committee feels that the Department loss their physical Control over the area for which the local people can enter into the Reserve forest to take way the forest proudce causing damage to the Govt. property. The Committee therefore recommends that the Department may strengthen their protective activities by taking help of police force whenever necessary.

Loss of Agency Commission

Audit para 6.9/C. A. G. 1985-86 (R / R)

2.8.1. The Audit has brought out that under the existing system the Forest Utilisation Officer, on behalf of the Government of Assam, receives orders from Railway Department for supply of wooden sleepers of different classes at rates previously settled with Railway Board for each supply year commencing from 1st day of November and ending on 31st October next year. The Forest Utilisation Officer, after assessing the availability of sleepers within the area of each territorial division, places orders with them for procurement of allotted quota from contractors of timber lots of the Division against payments at rates fixed by the department for each year. On the basis of applications received from the intending contractors against the demand circulated by the division, the Divisional Forest officer asks the contractors to make the supply. As the Forest Utilisation Officer acts as an agent of Railway Department for collection and supply of sleepers the Forest Department earns an 'agency commission' of 15 per cent of the rates paid to the supplier of the sleepers.

Supplies of sleepers made by the Divisional Forest Officer, Aie valley Division during the supply year from 1st November 1983 to 31st October 1984 fell short of the quantity allotted (April 1984 and August 1984) to him by Forest Utilisation Officer as shown below :—

	Numbers allotted	Numbers supplied	Numbers short supplied
B.G (Sal)	10,000	3,812	6,188
M.G (Sal)	10,000	4,060	5,940
N.G (Sal)	250	——	250
B.G (Evergreen)	3,500	1,417	2,083
M.G (Evergreen)	8,000	5,592	2,408

Failure to supply the full quantity of sleepers within the supply year deprived the Government of agency commission to the extent of Rs. 4,50,733. Divisional records

showed that the demand for sleepers stipulating rates, mode of payment etc., was not widely circulated by issuing notices in the local news papers and by displaying them at different places with a view to attracting more contractors, instead, the orders were placed on 14 selected contractors. The Divisional Forest Officer also did not intimate the Forest Utilisation Officer, well before the close of supply year his inability to organise the supply of full quota enabling the latter to divert the allotment of balance quantity of sleepers to other divisions.

2.8.2. The Department in their written replies have stated that on receipt of the order of allotment for supply of different categories of sleepers the Divisional Forest Officer through his Depot Officer procures the same from timber contractors of the Divisions, The procedure had been in practice for ages and is known to each an every timber traders. The allegations that due publicity regarding procurment of sleeper was not made by the Divisional Forest Officer by advertising in local newspaper etc. does not hold good. The D. F. O. cannot be held responsible for not being able to obtain the required quantity of sleepers from private contractors. The loss of agency commission this account cannot be atributed to any inaction or negligence on the part of the Department.

OBSERVATIONS/RECOMMENDATIONS

2.8.3. The Committee observes that the failure to supply the full quantity of sleepers is mainly due to lack of reaslistic assessment on the part of the D. F. O. Hence, the Committee recommends that in future for such lapses the official concerned should be appropiately dealt with.

Unintended benefit to lessees

Audit para 6.10/C.A.G 1985-86 (R/R)

2.9.1 The Audit has pointed out that according to Assam Sale of Forest Produce, Coupes and Mahals Rules, 1977, no extension to the period of lease of a coupe or mahal shall ordinarily be admissible. In exceptional cases, however, Government may grant extension of working period upto three years, on merits of each case provided the coupe or mahal dues shall not have fallen into arrear due to lapses on the part of the mahaldar. The rules also provide that in case there is delay in communicating final orders of acceptance of tender, the Divisional Forest Officer within whose jurisdiction the coupe or mahal is situated, shall, if necessary, recoupe the lost working period by giving extension to mahaldar for a maximum period of two months beyond the date on which the mahal period is to end. Further, the extension in respect of mahals shall be on payment of proportionate value or extension fee as determined by the competent authority to grant extension. In the event of failure of a mahaldar to implement the settlement order by paying the security money and first kist on due date, if a mahal is re-sold for the unexpried mahal period at the risk and expense of the defaulting mahalder, the rules do not provide for grant of original working period to the new mahalder on resettlement.

(a) Probha Game Reserve Fishery Mahal No. 3 (under North Lakhimpur Division) was settled with a tenderer at Rs. 96,901 (payble in eight isntalments) for the working period from 16th August, 1981 to 15th May, 1983. The mahal was advertised (January 1983) for fresh sale for the next working season from 16th August, 1983 to 15th May, 1985 and the highest offer received (January 1983) was for Rs. 1,51,000. Instead of finalising the settlement on the basis of the offers received, the existing mahaldar was allowed by Government in September, 1983 to operate the mahal for a further period upto 15th May, 1984 on payment of 5 per cent extension fee (Rs. 4,845) only. A perusal of Government file indicated that the request of the mahaldar for extension of working period was considered by Government just to enable him to clear his arrear dues of Rs. 12,112

(last kist) which the mahaldar had failed to deposit on the due date (28th December, 1982). Further, the Divisional Forest Officer, in his report dated 19th July, 1983 submitted to Conservator of Forests in connection with appeal petition, had also not recommended any extension of working period to the mahaldar. Thus the extension of working period was granted to the existing mahaldar, in violation of the specific condition stipulated in the rules *viz*, dues should not fall in arrear on account of any lapse on the part of mahalder. This resulted in loss of revenue amounting to Rs. 70,655 (compared to the fresh offer of Rs. 1,51,000 received in January 1983).

(b) Dibru Reserve fishery mahal No. 3 under Dibrugarh Forest Division was advertised (June 1979) for sale for a working period of 21 months from 16th August, 1979 to 15th May, 1981. The tenders were received by 26th July, 1979 but the mahal was finally settled in April 1980 with the highest bidder at Rs. 3,51,777, the working period was revised (March 1982) from 21st April 1980 to 20th April 1982 (24 months) instead of restricting it to 21 months upto 20th January 1982 in terms of tender notice, No reasons were recorded for upward revision of the working period. On 28th November 1981, the mahal was put to sale for the subsequent working period from 15th March, 1982 to 15th May, 1984 and the highest offer reeeived was for Rs. 5,05,555. As per instructions of the Conservator of Forests (to whom the tender papers were forwarded for acceptence) the Divisional Forest Officer issued a notice on 15th June, 1982 to the effect that all the tenders had been rejected due to grant (April 1982) of extension upto 31st October, 1982 by Government to the existing lessee on receipt of an appeal from him. As a result of three more extensions granted by Government, between October 1982 and April 1984, the lease period finally stood extended upto 16th August 1985. subject to payment of extension fee and proportionate value of Rs- 42,709 and Rs.5,40,090 respectively. Reasons for these extensions were not available on the records of Divisional Office.

The non acceptance of the offer of Rs. 5,05,555 for the working period from 15th March 1982 to 15th May 1984 resulted in loss of revenue amounting to Rs. 2,14,422

to Government (Rs 5,05,555 plus Rs.2,91,666) being the proportionate value for the period 16th May 1984 to 16th August 1985 minus Rs.42,709 and Rs. 5,50,090 actually realised. Moreover, owing to delay in settlement of the mahal for the initial working period, Government substained a further loss of Rs. 1,34,000 (approximately) in respect of the period from 16th August 1979 to 20th April 1980 which was the best fishing period.

2.9.2. The Department in their written memorandum explained as follow. :—

(a) The Govt. granted extension for one year in respect of Prabha Game Researve Fishery Mahal No. 3 of 1981-83 in exercise of its power under Rule 21 of the Assam Sale of Forest Produce, Coupes and Mahal Rule 1977. There is as such no scope to allege any loss of revenue resulting from a lawful action of the the Govt.

(b) The Dibru Reserve Fishery Mahal No, 3. of 1979-81 was originally settled with the highest bider at Rs. 3,51,777/- for period from 4/80 to 4/82 (revised) and extension of the mahal for 4 times and upto the limit of 3 years was granted in exercise of power under Rule 21 of Assam Sale of Forest produce Coupe and Mahal Rules 1977 on payment of extension fee and proportionate value. The delay in settlement of the mahal in the intial working period by 8 months was due to procedural obligation at different stages for settlement of the mahal.

In addition Forest fisheries, period from 16th May to 15th August in every year remain closed being the breeding period of fiish. The upward revision of working period from 4/80 to 4/82 for 24 month against the original period from 8/79 to 5/81 for 21 months in settling the Dibru Reserve Fishery Mahal No. 3 during 4/80 was due to inclusion of 3 months breeding period within the revised period.

OBSERVATIONS/RECOMMENDATIONS

2.9.3 The Department in course of oral deposition stated that the lessee were Min-Sambai Samities and hence the benefit of extension was considered. The Committee feels that the orders of extension were illegal. As per fishery

rules a co-operative society can be treated in preference to private tenderers and that must be within $7\frac{1}{2}\%$ of the highest bidder.

2.9.4 The Committee therefore recommends that the matter be persued and result thereof be intimated within a period of 60 days from the date of presentation of the report beforee the House.

Non-disposal of Departmentally operated timber lots.

Audit para 6. 11/CAG 1985-86 (R/R)

2·10·1. The Audit has pointed out that in Golaghat Forest Division, 8 out of 14 lots of timber (B and C class) Departmentally operated in 1982-83 were sold after inviting (August 1982) tenders for all the lots. Another five lots (out of the remaining six), the value of which had been estimated at Rs. 1,69,397 (based on royality only) were put to resale by inviting fresh tenders, on 1 to 4 occasions, between September 1983 and December 1983 and the offers received therefor were accepted (between December 1983 and March 1984) for an aggregate amount of Rs. 1,61,118. But none of the tenders came forward to execute the agreement and to remove the timber within the prescribed period of 15 days. As per condition of sale notice, a sum of Rs. 2,000 could only be realised from the tenderers by forfeiting their earnest money. The remaining one lot (valued at Rs. 19,474) was put to resale only in September 1983 but the bid of Rs. 21,600 received was not accepted for which no reasons were available. The department did not take any further action for the disposal of these six lots of timber nor has it ascertained (March 1987) the condition of timber lying unsold since August 1982. By this time (after about four and a half year) the timber lots having been exposed to continual sun and rain in the open space, might have lots their commercial value, which as per department's own estimate amounted to Rs. 1,67,397 (Rs. 1,69,397 minus Rs. 2,000).

2.10.2. The Department in their written replies have stated that the tendered offer against 6 out of the 14 lots could not be acceptod in the 1st sale (August/82) due to low offer 5 of these lots were put to resale in four occasions at an aggregate amount of Rs. 1,61,118/-. But none of the tenderers honoured the settlement orders. The remaining one lot was also put to resale without any success. The matter was enquired into by the A·C.F who has reported the reasons for non-sale of the lots is due to deterioration. It would be evident from the records that there had been no delay in putting up the lots to sale. The deterioration of the timber and its non-disposal is not due to any lapse on the part of this Deptt·

OBSERVATIONS/RECOMMENDATIONS

2.10.3. The Committee feels that the reasons for non-sale departmentally operated timbers are due to defective policy of disposal, for which timbers lost its commercial value due to depreciation. The Committee, therefore recommends to formulate an effective policy in the matter of disposal of departmentally operated timbers.

Loss of revenue due to inordinate delay in disposal of appeal

Audit para 6.12/CAG 1985-86 (R/R).

2.11.1. The Audit has pointed out that in July 1984 Government settled a phuljharu mahal (Goalpara Forest Division) for a period of three years from November 1984, with a private contractor at Rs. 1,89,000 (the working period for collection of Phuljharu normally lasts for three months from January to March each year, after which the crop perishes). In July 1984, the contractor deposited the security money of Rs. 9,550, first kist of Rs. 63,000 against the settled amount and sales tax of Rs. 4,410. In August 1984, however, Government stayed the operation of the Mahal, pending disposal of a petition dated 22nd October 1983 filed by an unemployed educated youth praying for settlement of the said Mahal in his favour at Rs. 75,000. The petition had not been disposed of by Government till the date of subsequent audit (November 1986). Meanwhile, the working period for collection of Phuljharu (January to March 1985.) in the first year of the settled period had already expired, resulting in proportionate revenue loss of Rs. 67.410.

2.11.2. The Deptt. in their written replies have stated that an appeal is still pending for disposal due to legal complicacies.

OBSERVATIONS/RECOMMENDATIONS

2.11.3. The Deptt. in course of their oral deposition has confirmed that the pending appeal case has been disposed off and the settlement has also been made. The Committee expresses their satisfaction for disposal of the case though belated.

Recovery of cost of forest produce at correct rates.

Audit para 6.13/CAG 1985-86 (R/R)

2.12.1. The Audit has pointed out that in June 1984, the depertment agreed to supply 500 cubic metres of sal and 500 cubic metres of non-sal logs to a private saw mill from stocks of the Nagaon Forest Division, subject to payment of price at the rates to be fixed by the department on the basis of highest bids for sale of such logs for the year 1984-85. The price of sal and non-sal logs was fixed by the department in January 1985 at Rs.1,745 and Rs.473 per cubic metre plus sales tax respectively. However, recoveries from the mill were made at the lower rates of Rs. 1,597 and 465 per cubic metre plus sales tax, in respect of 302.073 cubic metres of sal logs and 309.231 cubic metres of non-sal logs actually lifted by the mill during January and March 1985. Reasons for making recovery at lower rate were not kept on record. This resulted in short recovery of revenue amounting to Rs.50,483.

2.12.2 The Department in their written replies have stated that while fixing the price of sal and non-sals on the basis of average price calculated from the accepted highest bid offered for deptt. operated timber of 1984-85 it was found that some exorbitant highest bids were offerd by some tenderers with a motive to block the lot from disposal and to get the lots at lower price in the resale. The price of Rs. 1745/ per-cum for sal and Rs.473/per-cum-for non-sal were calculated on the basis of highest offer was received from the tenderers but the highest offer was not on accepted/ realised bids. Later on the average highest price calculated at Rs. 1597/- per-cum-for sal & Rs.465/ per-cum-for non sal on the basis of bid receive and accepted by the Deptt.

OBSERVATIONS/RECOMMENDATIONS

2.12.3. The Committee observes that had the reply been furnished for Audit at proper time, this para would not have appeared in the Report. The Committee, therefore recommends that the Deptt. will take particular care in furnishing information/reply promptly to Audit.

Irregular Settlement of bamboo mahal -

Audit para 6.14/CAG 1985-86 (R/R)

2.13·1. The Audit has pointed out that in response to a tender notice for settlement of Nunai Cutting Series 2nd year lease, bamboo mahal for the working period from 1st November 1981 to 31st October 1982 (Under Cachar Forest Division), the first three highest bids received were for Rs. 53,600, Rs· 41,501 and Rs· 41,101 respectively. Although the highest tenderer could not furnish the certificate of financial soundness his offer (Rs. 53,600 was accepted February 1982) by the Conservator of Forests subject to production of the certificate of financial soundness within 15 days from the date of acceptatce instead of accepting the valid offer (Rs. 41,501) of the second highest tenderer. After acceptance of the tender, the highest tenderer failed to produce the certificate of financial soundness within the stipulated period. Thereupon, the mahal was put to resale (July 1982) and was settled (September 1982) with another tenderer at Rs.14,000 for the working period from 28th August 1982 to 31st July 1983. Thus owing to non settlement of the mahal in favour of the qualified second highest tenderer the department suffered an avoidable loss of revenue amounting to Rs.27,501.

2.13.2 The Department in their written replies stated that Nunai Cutting Series Bamboo Mahal for 1981-82 was provisionally settled with the highest tenderer at Rs.59,651/- for 12/81 to 10/82 subject to production of financial Soundness Certificate as all the 1st, 2nd and 3rd highest tenderer did not furnish the F. S. Certificate. But the settlee did not implement the provisional settlement order by furnishing F. S. Certificate and the mahal was resold refixing the working period. In this sale single tender was received and it was settled at Rs. 14,000 with the single tenderer which was mor than double of the last sale value of Rs 65,000./-

OBSERVATIONS RECOMMENDATIONS

2.13·3. The Committee could not comprehend as to why the deptt. did not put the mahal at risk sale on default of the original lessee. The Committee expresses dissatisfaction and would like to have the information within 60 days from the date of presentation of this report before the House·

Loss due to non-acceptance of favourable bids

Audit para 6.15/CAG 1985-86 (R/R)

2·14.1. The Audit has pointed out that in response to a notice inviting tenders issued in August 1982 for allotment of the Borail Reserve Forest Bamboo mahal (1982-83) in Cachar Forest Division, for the working period from 1st November 1982 to 31st October, 1983, the first three offers received were for Rs. 1,41,000, Rs.1,33,102 and Rs. 1,21,501 (as against the sale price of Rs. 81,125 for the earlier working period from 1st July 1979 to 16th September 1980). In February 1983, the Divisional Forest Officer recommended the third offer of Rs. 1,21,501 for acceptance, the other two offers being held by him as invalid on account of non-submission of income tax clearance certificate/certificate of financial soundness by the tenderers. The Chief Conservator of Forests, however, rejected (March 1983) the offer of Rs. 1,21,501 on the ground that the offer was below the expected amount (no such amount had been fixed before inviting the tender) and ordered re-sale of the mahal. On re-sale, the mahal was settled (August 1983) with the same bidder at a reduced amount of Rs. 1,05,000. The non-acceptance of earlier offer of Rs. 1,21,501 thus resulted in loss of revenue amounting to Rs. 17,656 (including sales tax).

2.14.2 The Department in their written replies has stated the 3rd highest offer of Rs. 1,21,501 was considered low in comparision to the highest offer of Rs. 1,41,000 (even though this tender was irregular). The mahal was therefore not settled with the 3rd highest tenderer and was ordered to be re-sold expecting to get competitive higher offer. But in the re-sale contrary to the expectation single tender was received with an offer of Rs.1,05,000 only hence to avoid loss of time there was no alternative than to settle the mahal with the single tenderer.

OBSERVATIONS/RECOMMENDATIONS

2.14.3. The Committee apprehends that on re-sale there was no wide publicity for which the single tender was received from a person who earlier offered a better price. Since the re-sale was made on compelling circumstances, the Committee decided not to persue the matter.

CHAPTER– III

TAXES ON VEHCLES

Arrears of Motor Vehicles Tax and Fees

Audit para 3.2.2/CAG 1985-86 (R/R)

3.1.1. The Audit has pointed out that as per records of the office of the Commissioner of Transport there was no improvement in the realisation of accumulated arrears despite of creation of a recovery Cell. The taxes in arrear which stood at Rs. 3.48 crores at the end of March 1982 increased to Rs. 4.97 crores as on 31st March 1985 for the State as a whole, of which Guwahati (in the district of Kamrup) alone accounted for Rs.3.94 crores (including Rs. 2.71 crores gainst the Assam State Transport Corporation). The extent of arrears in the two other unit offices at Dibrugarh and Jorhat, including in the total arrears of Rs, 4.97 crores, was Rs· 0.66 crore and Rs. 0·07 crore respectively· As per records of the District Transport Officers, Guwahati, Dibrugarh and Jorhat, rocovery certificates for Rs. 3.73 crores were issued. Reasons for not issuing the recovery certificates for the blance amount of Rs. 0.96 crore in arrears could not be furnished (Jnne 1986) by the District Transport Officers of these districts·

3·1.2, The Department in their written memorandum have stated that out of 0.66 crores relating to D. T. O office Dibrugarh, a sum of Rs· 20,247 has been realised through Bakijai cases and Rs. 6,36,605/– has been realised through process other than Bakijai cases· On 18 numbers of appeal cases a sum of Rs. 60,694/- is involved. Rs· 48,82,298/- is invloved in the demand notice, issued in different dates but not referred to Bakijai. At District Transport Officer's Office, Guwahati, an arrear of Rs. 16,75, 495/- has been realised. A sum of Rs. 44,48,627/- is involvod in Demand Notice issued. In Districs Transport Office, Jorhat 8 numbers of vehicles for which Bakijai cases has sisce been instituted. In respect of 1120 numbers of vehicles, Demand Notice have been issued. Also, a sum of Rs. 18,070/-has been realised. Recovery Certificates in respect of some arrears could not be issued in time mainly due to shortage of staff· Shortage of staff is due

to distribution ot the existing staff amongst old and newly created Districts and transfer of records. All the D.T·Os have been instructed to improve the realisation of arrears. Concerned D.T.Os have also been instructed to take prompt action for instituting Bakijai case for realisation of arrears in case of vehicle defaulted payment of taxes.

OBSERVATIONS/RECOMENDATIONS

3.1.3· The Committee observes that the Recovery Cell was created in 1982 and Bakijai power was given to the D. T. O. Now the Committee would be interested to know as to what has been done by the Recovery Cell since 1982 about the Bakijai cases and realisations of arrear taxes. The Committee therefore recommends that the Department will study the working of the Recovery Cell since its inception till date and the report thereof will be furnished to the Committee within 60 days from the date of presentation of this Report thefore the House.

Delay in taking promot action.

Audit para 3.2.3/CAG 1985—86 (R/R).

3.2.1 : The Audit after test check of records of the three District Transport Officers at Guwahati, Jorhat and Dibrugarh pointed out the following :

(a) In 117 cases of the District Transport Office at Guwahati and Dibrugarh, there was abnormal delay (ranging from 2 to 15 years) in referring the cases to the Bakijai Officers besides delay (ranging from 3 to 10 years) in issuing demand notices by the Bakijai Officers for recovery of arrears of tax (Rs. 14.07 lakhs) for various periods falling between April 1958 to March 1982 as arrears of Land Revenue.

(b) In 186 cases, demand notices were issued by the District Transport Officers (92 cases in Guwahati, 62 cases in Dibrugarh and 32 cases in Jorhat) but the registration certificates were not suspended for non-payment of tax by the vehicle owners nor were the cases referred to Bakijai Officers for recovery of tax amounting to Rs. 32·26 lakhs for various periods falling between July 1958 and March 1986.

(c) In 56 cases (34 cases in Dibrugarh and 22 cases in Jorhat), neither the registration certificates were suspended nor were demand notices issued· These cases were also not referred to Bakijai Officers for recovery of arrear tax amounting to Rs· 7.67 lakhs for varying periods falling between July 1955 and March 1986·

(d) In 5 cases, Bakijai proceedings were initiated but further steps for realisation of tax of Rs. 72,288 (Rs. 37,146 in two cases of Guwahati and Rs. 35,142 in three eases of Dibrugarh) had not been taken by the Bakijai Officer (June 1986).

(e) In 3 cases, Bakijai pocesses issued to defaulters were returnend by the· process servers after a lapces of about two years stating that these could not be served as the tax payers were not traceable. Reasons for delay in returing the unsreved processes had not been enquired by the department.

3.2.2. The Department in their written replies has stated that D.T.O. Office of Dibrugarh, Jorhat and Guwahati are running with inadequate staff and in Bakisjai section there is no Nazir for which the progress of Bakijai cases could not be improved as expected. However concerend D.T.O.'s are directed to take prompt action as per rule and submit datails which are wanting.

OBSERVATIONS/RECOMMENDATIONS

3.2.3. The Committee reiterates their recommendations as in foregoing para (3.1.3) in the instant case too.

Defectfve maintenance of records.

Audit paras 3.2.4 and 3.6.4/ CAG. 1985-86 (R/R)

3.3.1. The Audit has pointed out the following facts of Defective/Improper maintenance of records :--

(a) With a view to ensuring that the owners of motor vehicles were paying road tax regularly the Registoring/ Licensing authority of the department is required to maintain a number of tax ledgers. These ledgers were, however, fouud to be incomlete in many aspects ; important particulars such as names and addresses of vehicle owners, types of vehicles, plying routes, rate of tax (yearly/quarterly) date (s) of demand notices, period of demand etc. had not been noted in many cases. As a result, no effective check on the amounts of tax realisable against the vehicles on road, tax actually realised and arrears of tax to be recovered, could be exercised. In most of the cases where registration certificates of vehicles had been suspended under the Assam Motor Vehicles Taxation Act, 1936, reference to suspension order had not been noted in the relevant Combine Registration and Licence Resister. No note was also kept n these registers after the issue of recovery certificates.

(b) Department has not prescribed the maintainance of any records to watch the receipt and disposal of bank drafts on account of composite fee payable to the State Government in respect of permits issued under the National Permit Scheme/Zone Permit Scheme by other State Bank drafts returned to other States for revalidation or for any other reason were also not entered in any registers to keep watch on getting them back after revalidation.

3.3.2 (i) The Department have stated in their written memorandum that all D.T.O's are directed to maintain combine register after recording details particular such as name and address of vehicle owner, rates of tax, type of vehicles, suspension/ Bakijai proceedings and issue of demand notices.

(ii) In respect of para at (b) above the department has stated that the maintenance of proper records in respect of receipt and disposal of Bank Drafts on account of composite fee payable to the State Government in respect of permits issued under the National permit scheme/Zonal

permit scheme by other States have been duly maintained in the office of the Commissioner of Taxes, Assam. Now Bank Drafts returned to other States for revalidation or for any other reason are entered into register for keeping watch on getting them back after revalidation or any other matter. And also records of receipt and disposal of Bank drafts are regularly maintained.

OBSERVATIONS/RECOMMENDATIONS

3.3.3 The Committee expresses their serious concern at the dismal picture of performance even in respect of maintenance of records. The Committee would like to know specifically if the records of all the D.T.O. offices have been made upto-date by now and continuing satisfying the measure pointed out in Audit. The information may be furnished to the Committee within 60 days from the date of presentation of this before the House.

Non-realibation of inspection fees.

Audit para 3,3/CAG. 85-86 (R/R)

3·4.1. The Audit has pointed-out that in Guwahati and Dhubri, in 133 cases, either the vehicle had not been inspected at any stage or after inspection, certificates of inspection had been issued, without charging any fee, for various spells falling between March 1965 and September 1985· Failure on the part of the motor Vehicles Inspector to conduct inspection of vehicles or to recover inspection fee before issuing the certificates of fitness and failure on the part of the District Transport Officers to insist on renewal of certificates of fitness at the time of Recovery of Motor vehicles tax resulted in non-realisation of inspection and renewal fees amounting to Rs· 53,340·

3·4.2. The Department, in their written replies have stated that the owner af a Transport Vehicle is at liberty to pay the inspection fees anywhere in Assam, as per the provision of A. M· V. Rules, 1940. to get the Vehicle iuspected by any M.V.I. for renewal of fitness certificate. District Transport Officer, Dhubri realised Rs. 3830 out of 29 vehicles. For 14 vehicles demand notices have issued & the rest vehicles were removed to other district.

OBSERVATIONS/RECOMMENDATIONS

3.4.3. The Committee recommends that the statutory provisions relating to inspection and collection of fees thereof should be complied with strictly so that vehicles unfit for human riding cannot ply on road.

Irregular grant of exemption from payment of tax

Audit para 3.4/CAG./1985-86 (R/R)

3.5.1. The Audit has pointed out that at Silchar two vehicles owned by the Regional Engineering College and used during the period from 1st November, 1977 to 30th June 1985 for carrying College students on payment, were exempted by the Transport Authority from payment of tax. The exemption allowed was irregular as the Regional Engineering College was only a semi-Government institution (financed mainly by grants-in-aid from Government) and the vehicles were used for carrying students on payment. Irregular grant of exemption resulted in motor vehicles tax amounting to Rs.33.378 not being realised. On the mistake being pointed out in audit (September 1985) the District Transport Officer, Silchar stated (April 1986) that the tax had since been realised from the College.

3.5.2. The Department in their written memorandum have stated that the whole amount of Rs. 33,378·00 upto 30th June 1985 with further amount of Rs. 3964 from 1st July 1985 to 31st March 1986. (Total Rs. 37,342) have been realised vide receipt No. 80/264/31, dated 27th March 1986 from the Bus No. ASC.5670. and ASC 6198. The matter was already intimated to audit.

OBSERVATIONS/RECOMMENDATIONS

2.5.3. The Committee expresses their happiness in realization of arrear taxes and hopes that, in future, such irregularity will not occur.

Realisation of current taxes without realising arrears.

Audit para. 3.5/CAG. 1985-86 (R/R)

3.6.1. The Audit has pointed out that in Dibrugarh, in respect of 6 vehicles, payment of motor vehicle tax for the different quarterly periods falling between June, 1984 and March 1985 was accepted by the District Transport Officer without realising the arrear tax for various quarterly periods falling between September 1984. This resulted in non-realisation of arrears tax amounting to Rs. 14,215. On this being pointed out in audit (July 1985), the District Transport Officer stated (October 1985) that demand notices had since been issued to the owners of the vehicles. Report on recovery is awaited (March 1987).

3.6.2 The Department in their written reply have furnished the details of realisation of arrear taxes in respect of 6 vehicles held under objection by Audit for 1984-85 as follows :-

1. ASQ-70 (Fire Service) Tax paid for Quarter ending 3/83 Rs. 1400/- vide receipt No. 25/2164, dt. 31.3.82.

2. ASQ. 126 (Bus) Tax paid for Quarter ending 30/6/83 vide Receipt No. 86/5935, dt. 6.4.83.

3. ASQ. 191 (Pvt. Carrier) Tax found for Quarter ending 30.9.81, 30.9.82, 30.9.83, 31.12.84, 31.3.84, vide Receipt No. 25/9147, dt. 8.7.81, 83/2252, dt. 1.7.82, 92/6222, dt. 30.6.83, 77/6274, dt. 1.10.83, 8/7893, dt. 2.1.84.

4. ASQ-584-(Public Carrier) Tax paid for Quarter ending 31.3.84, vide Receipt No. 49/7900, dt. 10.1.84 Quarter ending 30.6.84 vide Receipt No. 30/8768 dt. 11.4.84.

5. ASQ. 687 (Public Carrier) Tax paid Quarter ending 31.12.83 vide Receipt No. 15/7579, dt. 25.10.83, Quarter ending 31.3.84 vide Receipt No. 7/7899 dt. 9.1.84, Quarter ending 30.6.84 vide Receipt No. 29/8766 dt. 10.4.84.

6. ASQ-702 (Public Carrier) Tax paid Quarter ending 31.3.84, vide Receipt No. 31/7893, dt. 3.1.84 & Quarter ending 30.6.84.

OBSERVATIONS/RECOMMENDATIONS

3.6.3. The Committee observes that if this reply would have been furnished to Audit at the initial stage, the para might not have come-up in the CAG Report and hence recommends that the Department should take particular care in attending to audit objections promptly.

"Revenue remaining-out of Government account
Para 3.6.2/CAG 1985-86, R/R

3.7.1 The Audit has brought out 5 (five) cases of undue delay for credit of Revenue to Government accounts as under –

(i) Out of 2,325 bank drafts for Rs. 15,17,765 received during 1983-84 to 1985-86 from other States, 1821 Bank drafts for Rs. 11.74 lakhs, through received within the validity period, become time barred due to delay in sending them to Government treasury for collection. All the time barred drafts were returned to respective States during 1983-84 to 1985-86 for revalidation. No action was taken (May 1986) to get back the revalidated drafts. As a result Government revenue amounting to Rs. 11.74 lakhs remained unrealised.

(ii) Out of 194 bank drafts for Rs. 1,39,700 received from State Transport Authority, Calcutta in July 1985, 139 bank drafts for Rs. 95,700 (drawn in March 1985 and received within four months of their drawal) had not been accounted for and remained untraced (May 1986).

(iii) 255 bank drafts for Rs. 1,86,050 received from other States between June 1983 and February 1986, were returned on different dates to those States on the ground that the validity periods of relative permits for which the drafts were received were not mentioned therein. Of the bank drafts returned, 146 drafts for Rs. 1,30,500 (115 bank drafts for Rs. 1,15,000 drawn in January 1986 and 31 for Rs. 15,500 drawn on 11th June 1984) the validity period of which had not expired, could have been remitted into treasury for credit to Government account and required particulars called for separately.

(iv) Bank drafts were generally drawn by the permit holders in favour of State Transport Authority, Assam but

sent to the Commissioner of Taxes, Assam who got these bank drafts re-endorsed locally in his favour from the State Transport Authority, Assam. 116 such drafts for Rs. 77,960 received from other State were, however, returned by the Commissioner of Taxes to the respective States for re-endorsement in his favour instead of getting them re-endorsed locally by the State Transport Authority. These bank drafts had not been received back from the other States (May 1986). Had the bank drafts been got re-endorsed locally, revenue amounting to Rs. 77,960 could have been realised and credited to Government account.

(v) 29 bank drafts for Rs.17,500 drawn between September 1982 and May 1984 and received during January 1983 to August 1984 from other States and Union Territoritories had to be returned twice/thrice for revalidation prior to their becoming time-barred due to delay in deposit of the bank drafts into treasury for credit to Govenment account. No action had been taken (May 1986) to get them back after revalidation.

3.7.2. The Departmental in course for oral deposition has stated that all the bank drafts were revalidated and the amount deposited in the Government accounts.

OBSERVATIONS/RECOMMENDATIONS

3.7.3. The Committee expresses its satisfactoin that the amounts long due for deposit into Government accounts have been made though delayed.

Non-realisation of late fee

(Para 3.6.3/CAG. 1985-86. R/R)

3.8.1. The Audit has brought out that in respect of 75 vehicles registered in other States but plying in the State of Assam under the Zonal Permit Scheme and National Permit Scheme, the owners paid lump sum fees for the periods falling between April 1983 and March 1986, late by 1 to 7 months, attaching levy of fine of Rs.32,100 at the rate of Rs. 100 per month or part thereof as the case may be. However, the fine was not demanded.

3.8.2. The Department in their written replies stated that the Commissioner of taxes has written to the Commissioner of Transport, Assam, Guwahati requesting the Transport Commissinoer to take necessary action as per the CAG Report and to inform the Committee about the result of the action taken. The Department in course of oral deposition have also stated that in course of shifting of office some importart files/papers had been misplaced.

OBSERVATIONS/RECOMMENDATIONS

3.8.3. The Committee has considered the difficulties as expressed in course of deliberation. The Committee is therefore pleased to drop the para.

Short levy of tax due to incorrect assesment on best judgement basis
(Para 3.7/CAG 1985-86 R/R)

3.9.1. The audit has pointed out that the Assam passengers and Goods Taxtion Act, 1962 provides for payment of tax at 10 per cent of fares and freights collected in respect of passengers and goods carried in a taxable vehicle within the State. In lieu of such tax based on fares and freights, the owner of vehicle has the option to pay tax at the prescribed lump sum rates. Instruction issued from time to time by the Government/Department require inter alia that in cases where summary assessments are made bacause of non-production of accounts in pursuance of notice issued under rule 16(1) of Assam Passangers and Goods Taxation Rules 1962 or where the accounts produced are not accepted, the tax assessed should not normally be less than the lump sum rates, except where it is estaiblished that the vehicle was not used during a certain period, In Sibsagar, 19 cases of summary assessments finalised between March 1981, and September 1984, tax was levied short by Rs.21,572 as the assassing authority had determined the tax at rates lowers than the lnmp sum rates. On this being pointed out in audit (July 1985), the department stated (August 1985) that the cases had been reassessed on the basis of lump sum rates and demand notices issued. Report on recovery is awaited (March 1987).

3.9.2: The Department in their written replies have stated that out of the 19 cases under the Assam passengers Goods Tax Act 1962, the assessments in respect of 18 cases were revived raising the demands upto the lump-sum rate of the 18 cases 5 owners have already paid the demanded tax and 13 owners have not yet paid the additional demand for which arrear certificates have been issued and as such the amounts are in the process of realisation. In respect of one owner the original assessments were found in order i. e. the assessments were completed on lump-sum rate.

OBSERVATIONS/RECOMMENDATIONS

3.9.3. The Committee recommends that the Department will realise the additional demand from the 13 defaulters against whom arrear cettificates have been issued.

CHAPTER—IV

Stamp duty and Registration Fees

Irregular grant of exemption from payment of stamp duty and registration fee.

Audit Para 5.5/CAG 1985-86 (R/R)

4.1.1. The Audit has pointed out that as or notification (7th February 1951) issued under the Assam Co-operative Societies Act, 1949, registered Co-operative Societies are exempt from payment of stamp duty and registration fee in respect of various documents, subject to the condition that the documents are registered by or on behalf of the registered societies and that these relate to the business of the societies. No exemption on any instrument executed by a member of a Co-operative society in his individual capacity is admissible.

(a) At Tezpur, an instrument of mortgage was executed (December 1979) by an individual (a member of a Co-operative society) in his personal capacity in favour of the Assam Co-operative Apex Bank for securing cash cradit accommodation of Rs. 2.5 lakhs from the Bank. The instrument was registered (December 1979) without levying any stamp duty and registration fee. The executant being not entitled to the aforesaid exemption, full stamp duty and registration fee which amounted to Rs. 14,750 should have been levied and realised.

On the irregularity being pointed out in Audit (January 1981), Government accepted (February 1986) the audit objection and instructed the registration authority to take immediate steps for realisation of stamp duty and registration fee. Report on recovery is awaited (March 1987).

(b) At Nagoan, with a view to securing a loan amounting to Rs. 17 lakhs for construction of a cinema hall at Jagiroad, three mortgage deeds were executed in favour of the Assam Co-operative Apex Bank by a member (Businessman by profession) of the said Bank. As the loan, thus secured, was intended to be utilised in the private business of the executant, the deeds qualify for exemption from stamp duty and registration fee. The deeds were however, registered (June 1982, May 1984 and February

1985) without levying stamp duty and registration fee. Stamp duty and registration fee not levied amounted to Rs. 37,291.

4.1.2. The Department in their written reply have stated as follow :—

(a) The District Registrar, Sonitpur has since been asked to realise the deficit amount of Rs 14,733.00 only from the party concerned. The process has already been initiated as informed.

(b) The District Registrar, Nagaon has since been asked to realise the deficit amount of Rs. 37,291.00 only from the party concerned. The process has since been initiated as reported.

OBSERVATIONS/RECOMMENDATIONS

4.1.3. The Committee would like to know if the outstanding dues have been realised by now. The Committee would also desires that, in future, the concerned officials should be booked for such omissions. This should be intimated to the Committee within 60 days from the date of presentation of this report before the House.

CHAPTER—V
SALES TAX

Working of Assam Finance (Sales Tax) Act, 1956 (Para 2.2.2/CAG.1985-86.R/R)

5.1.1.1 The Audit has pointed out that the Department could Register only 263 dealers out of 1851 numbers of applications submited voluntarily by the dealers as seen in Audit as a result of survey conducted in 16 unit offices during the last three years ending 31st March, 1986.

5.1.1.2 The Department in their written replies has stated that Small in pursuance of provisions of the Section (Sales Tax) 1956, any dealears desiring to carry on business on taxable goods under the Act, must invariably apply for registration voluntarily and get himself registered and obtain a certificate of registration. However, a general tendency in respect of some dealers dealing in some specific goods is discernable that they usually try to avoid registratiou under the Act with a view to avoid payment of tax. Only such persons do not apply for registration voluntarily and only in such cases,they are to be identified through intensive survey and registered. As a result, the number of dealers registered on the basis of survey is relatively low. In view of the above, the number of dealers registered on the basis of intensive survey in 16 Unit Offices stoods at 263 as against 1,851 dealers registered on voluntary application under the Act. It is a fact that the number of registration resultant to survey by our officers has decreseo compared to the past years and the numbr of regstering voluntarily has gone up considerably. In this connection it may be pertinent to mention that we have taken striangent measures to issue voluntary registration by-all potential tax payers. The decrease in No. of registration was not due to lack of efforts but it is due to measure taken from voluntary registration.

OBSERVATIONS/RECOMMENDATIONS

5.1.1.3 The Committee is not satisfied with the departmental reply as it coulo not explain their inability to register the entrie applications submitted voluntarily by the dealers. The Committee therefore recommends that the Department will strive to register all dealers who are liable to pay Sales Tax under the Assam Finance (Sales Tax) Act, 1956.

254. The Audit has pointed out three cases of non-registration of dealars as under:-

(a) In a sales tax unit office at Gawahati, on receipt of an appliication dated 1st March 1977 from dealer for registration under the Act, the Inspector of Taxes of the area was asked to collect particulars about the dealer. But neither any report was received from the Inspector nor was the dealer registered. (b) In the same unit office, in another case on receipt of a report from an Inspector of Taxes that a dealer had been dealing in timber since September 1981, with an average daily sale of Rs.200, notices were issued to the dealer asking him to submit application for registration. The dealer's turnover for the three years from September 1981 was estimated by the Inspector at Rs 2.16 lakhs, Although the dealer did not comply with the notices no action was taker to register him compulsory as permissible under Section 6 of the Act. Non-registration of the dealer and non-completion of his assessment ex-parte resulted in loss of revenue of Rs 14.181 (at 7 per cent on the estimated turnover of Rs. 2.16 lakas), since the dealer had closed down his business and left the place.

(c) Three forest coupe holders (within the jurisdiction of the same unit office) who had obtained forest coupes between November 1978 and April 1981, for a total bid of Rs. 2,51,714 were asked by the department to get themselves registered as dealers. The coupe holders to failed comply with the notices issued to them, but no action was taken to register them compulsorily as dealers. Non-registration of the coupe holders as dealer resulted in non-realisation of tax of Rs. 32,934 on a turnover of Rs.5,03,428 (twice the amount of bid value as per norm prescribed by the Commissioner of Taxes).

5.1.2. The departmental reply reads as follow :— (a) The dealer applied for registration under the A. F. (S. T.) Act with the intention of manufacturing and dealering in wooden electrical compontent, parts and other wooden products. But on enquiry the dealer was not found liable for registration under the A. F. (S. T.) Act since the dealer neither manufactured nor dealt in any goods taxable under the said Act.

(b) As per records it appears that the dealer had started his business in September. 1981. On his failure to register voluntarily under the relevant Sales Tax Act notice was served on the dealer on 21st December, 1982 directing the dealer to apply for registration. The dealer did not comply with the notice for registration. After further enquiry the Inspector of Taxes had submitted another report which revealed that instead of complying with the notices the dealer closed down his business in March 1983 and left ihe place without leaving any movable or immovable property.

(c) On the basis of the partitulars obtained from the Forest Department the Inspector of Taxes made enquiries with a view to trace out the coupe hlders for the purpose of registration. The enquiry report reveals as follows :—

(i) Out of the three coupe holders two are not traceable in their given address. However, steps for tracing out the coupe holders are still continuing.

(ii) The third coup holder since expired and no further action could be taken.

OBSERVATIONS/RECOMMENDATIONS

5.1.3.4 : The Committee observes that the Department failed to take up the cases at appropriate time. The Action taken after audit were in-effective. The Committee therefore recommends that the Departmeut without waiting for Audit check, will carry out their duties in future assigined under relevant Act.

5.1.3.1. Audit pointed out that during the three years ending 1985-86, 12,555 returns were received late and 10,587 returns were not received at all in five unit Officer at Guwahati, Dibrugarh and Jorhat. Out of these cases, penalty was not levied even in a single case and on reason for non-impositiou of penalty was also kept on record.

1.3.2. The Department in their written reply clarified that in the cases as obiected by Audit, penalty was not imposed in majority of the cases during the assessment years 1983-34 to 1985-86 by the assessing Officers on the following plasc :—

(i) Penal interests have been levied in lieu of penalty.

(ii) Imposition of penalty is within the discreation of the assessing authority.

(iii) Penalty is not revenue.

The assessing Officers were impossed upon that the provision of the Act regarding imposition of penalty and levy of interest are not mutually exclusitive. Penalty can be imposed in all cases in which interest is leviable. Secondly, even if the powers to impose penalty is discretionary, the discreation should be specifically exercised by means of a formal order besides, it is not fair, mater pre judicial to the insterest of the revenue to exercise the discreation always in favour of the dealer. It is found that penalties had not been imposed for the years 1983-84 and 1985-86 for non-submission/delayed submission of returns by the dealers in Guwahati Units. But due assessments were made and upto date panel interest were levied in these cases. Though, penalties have not been imposed during the year 1983-84 to 1985-86 situation has improved considerably by how after issue of a circular.

OBSERVATIONS/RECOMMENDATIONS

51.3.3. In view of the fact that the Department has already initiated steps by issuing a circular. The Sub-Patta is dropted.

5.1.4.1 : The audit has brought out that—

Prompt assessment of dealers is of vital importance to collection of taxes. The Assam Finance (Sale Tax) Act, 1956 does not specify any time limit for completion of assessment. As a result, additional amount of tax (over the amount of tax paid on the basis of self-assessment) that may become due, on completion of assessments is not demanded and also not realised for a considerable period in a large number of cases, on account of delay in completing the assessments. The average number of cases disposed of per month per officer during the three years 1983-14 to 1985-36 ranged between 24 and 27 which is apparently

low. The low out-turn had resulted in accumulation of large arrears in assessments, as indicated below :—

	1983-84	1984-85	1985-86
1. Number of cases pending assessment at the begining of the year plus cases added during the year.	52,801	48,585	48,149
2. Number of cases disposed of during the year.	28,245	31,255	31,754
3. Number of cases pending at the end of the year.	24,556	17,330	16,395

A few cases of loss of revenue due to delay in assessment, are indicated below :—

(i) On the failure of a dealer of Guwahati 'B' Unit to submit returns and to produce books of accounts inspite of issue of notices, for the different half yearly periods failing between October 1973 and March 1979, assessments were completed on ex-parte basis, only on 18th August 1983 with a total demand of Rs. 1,53,055. But the demand notices could not be served as the dealer was not found available at his given address.

(ii) Assessment of a dealer of Guwahatt 'A' Unit for the period from September 1973 to March 1976 was completed ex-parte in March 1979 with a total demand of Rs. 8,891. But the demand notice could not be served as the dealer was not available at his given address.

(iii) In another cases in the same office, a dealer submitted return for the period ending March 1975. But no action was taken to complete the assessment. In Octobeo 1982, the Inspector of Taxes reported that the dealer had closed down his business and left the place, thereafter, the case was left unattended to. This resulted in non-levy of tax of Rs. 19,834 on the basis of the dealer's return.

5.1.4.2. The Department in their written reply stated :—

(i) From the records it isseen that demand notices for Rs. 1,83,054.76 being demanded tax for the relevant periods were in fact issued to the dealer on 27-3-84. But the dealer did not pay the tax instead he closed down his business. Since the dealer was not available in his Guwahati address further enquiries were made about his whereabouts. From the enquiries it was found that the dealer has started new business at Bongaigaon under the name and style of M/S. Saraogi Hardware Agency, Bongaigaon Meanwhile arrear certificate against the amount defaulted by the dealar was issued to the Recovery officer, Guwahati. The Recovery officer, Guwahati has been pursuing the matter and the amount is under process of recovery.

ii) Enquiry revealed that the dealer closed down the business on 2.2.76 and left the place. Since the dealer could not be traced out in his given address, the demand Notices could not be served on the dealer. However arrear certificate for realisation of entire total demanded dues of Rs. 8891.00 was issued to Superintendent of Taxes, (Recovery) Guwahati on 28-1-85. Further enquiry has revealed that the surviving partner of the firm Sri Promod Ranjan Sarmah Choudhury is at present residing at Siliguri in West Bengal. Efforts are now being made to collect the full address of the surviving parther and to realise the arrear dues.

(iii) The dealer submitted the return for the period ending on 31st March 1975. The assessment for the period was completed on 8th June 87. and demand of Rs.57,478/ including interest of Rs. 38,811,44 was raised. Since the dealer closed down the business with effect from 1st April 1978 and left the place the Demand notice could not be served on the dealer. However Arrear Certificate for realisation of demanded dues was issued to Superintendent of of Taxes (Recovery), Guwahati on 10th August 1988 and he was also informed about the Home Address and other particulars of the defaulting partners.

OBSERVATIONS/RECOMMENDATIONS

5.1.4.3 The Committee wanted to know if any amount could be recovered from the dealers in case of Sub-para (i) & (ii) in course of oral deposition. The Department

affirmed that the dealers could not be traced out and the amount remain unrealised. The Committee therefore recommends that the Department will furnish a report as to how to prevent such loss of revenue when a dealer by giving false address manage to escape from payment of due taxes. The Committee also recommends in respect of Sub-para (iii) that the Department will furnish the latest Position about the recovery of Taxes.

5 1,5.1 Audit has pointed out that the trend of disposal of appeal cases under appeal during the year 1983-84 to 1985-86 in respects of offices at Guwahati, Jorhat and Tinsukia was as under :—

	1983-84	1984-85	1985-86
1. Number of appeal cases pending at the commencement of the year plus cases added during the year.	331	754	635
2. Number of cases finalised during the year.	122	380	382
3. Number of cases pending at the end of the year.	209	374	253
4. Tax effect involved in pending cases (in lakhs of rupees)	15.67	60.69	26.68

Disposal ppeal cases aranged from 37 per-cent to 60 per-cent of the cases appealed during three years 1933-84 to 1985-86. Slow disposal of appeal cases resul ed in blocking of revenue amounting to Rs.26.68 lakhs in 253 pending cases.

5-1.5.2 The Department in their revised reply stated that against the 128 cases pending with Deputy Commissioner of Taxes (Appeal) Guwahati all but 41 casess have already been disposed of These 41 cases involving amount of Rs.15584/- under the AF (ST) Act could not be disposd of as the special leave petition No. 15195-87/90, before the Hon'ble Supreme eourt is yet to be disposed of.

OBSERVATIONS/RECOMMENDATIONS

5.1.5.3. The Committee recommends that all the pending cases shall be disposed of within a period of 3 (three) months time and a report will be furnished to the Committee.

5.1·6·1. The audit has also pointed out two other topies of interest as under :—

(a) A firm of Guwahati, having six pertners was registered as a dealer under the Assam Finance (Sales Tax) Act, 1956 from 1st April, 1974. It did not submit any return since inception nor did it deposit tax (except Rs. 1,334 and Rs. 5,345 for the half yearly periods ending 30th September, 1974 and 31st March, 1975 respectively). The firm was dissolved (30th April 1977) and its assets were taken over by one of the six partners who established a new firm with two new partners and obtained a fresh registration certificate under the Assam Finance (sales tax) Act, 1956. Assossment in respect of the old firm from 1st April, 1974 till its dissolution were completed (April 1980) summarily and tax of Rs. 1,23,117 (after adjustment of Rs. 1,334 and Rs. 5,345) was due from it for which a demand notice was issued to the firm. The new firm returned the notice, refusing to accept the tax liability of the old firm. Thereafter, a certificate to recover the amount from the old firm was issued (July 1980) to the Superintendent of Taxes (Recovery), Guwahati who also did not take any action for recovery of the amount (July 1986), Non-initiation of timely action for recovery of tax dues jointly and severally, from the partners of the old firm this resulted in loss of revenue amounting to Rs. 1,23,117.

(b) A dealer of Guwahati, who started his business from 11th January, 1984 collected tax from his customars upto 26th January, 1986. Thereafter, collection of tax was discontinued by him on the strength of a certificate issued by the Government (September 1983) granting him exemption from payment of tax for five years with retrospective effect from 11th January, 1984. The dealer deposited the tax collected by him upto March 1985 but did not pay (October 1986) the tax amounting to Rs. 65.03 lakhs collected during April 1985 to January 1986. The taxation Department asked the Finance Department in March 1986 to recover the amount of tax realised by the dealer but not deposited into Government treasury. Further development in this regard is awaited (March 1987).

5.1.6.2. The Department in their written reply stated in respect of Sub-para (a) that the firm started under a separate name and style was registered under section 5 of

the relevent Act which, if registered under section 16 (as transferee) of the Act, the defaulted amount of Rs. 1,33,117·00 could have been realised from the new firm. However, recovery certificate had been issued against the defaulting dealer and the Recovary Officer has been taking all possible steps towards realisation of the amount from the partners of the old firm who are legally liable to pay the tax. Incidentally, all the partners are available in their given addresses.

The Department subsiquently submitted a revised reply stating that the Superintendent of Taxes (Recovery) Guwahati has taken vigorous steps for realisation. But it was found that one of the partners M/S Sita Devi Bawri is already dead. No attactable moveable or immoveable properties were found in respect of other two partners Sri Satyanarayan Bawri and Srimati Nirmala Devi Bawri. The fourth partner Sri D. C. Bharatdwaj who is a practicing lawyer in Guwahati High Court liver in a rented House. The Superintendent of Taxes (Recovery Guwahati has already request the collector of Kamrup District to initiate actpions under the Bengal Public Demand Recovery Act for realisation of the arrear dues from said partner. In respect of sub para (b) the Department has stated that the delear has not yet deposited the amount of Tax. However the matter is under consideration of Government.

OBSERVATIONS/RECOMMENDATIONS

5.1.6.3. The Committee observes that the Department in respect of sub-para (a) have described whereabout of four partners leaving two for whom nothing is made known. The Committee therefore, recommends that the Department should check if any firm has been registered by the serviving partners to explore the possibility of realising the dues. The Committee also recommends, in respect of sub-para (b), starn action against the defaulting dealer and result thereof should be intimated to the Committee within three months from the date of submission of this report before the House.

Registration of dealers under the Assam Sales Tax Act, 1947.

(Para 2.3/CAG 1985-86 R/R)

5.2.1.1. The audit has pointed out non--registration of delears under the Sales Tax Act of 1947 as under :—

(i) From the records of Superintendents of Taxes, Guwahati (B-Uuni) and Dibrugarh, it was noticed that 52 dealers, whose turnovers had exceeded the prescribed limits in different periods falling between April 1976 and March 1986 had not got themselves registered till June 1986. Although the Inspector of Taxes had submitted (between June 1982 and December 1983) reports in respect of 6 dealers indidicating their tax liabitity, the assessments had not been completed (June 1986). In other remaining cases, action was to be initiated to complete the assessments and determine the liability of dealers to pay tax.

(ii) On the basis of survey reports, the Superintendent of Taxes, Guwahati (B-Unit) had initiated action in respect of 296 dealers during the period 1981-82 to 1985-86 to register them under the Act but registration had been granted only in 181 cases upto March 1986 and in the remaining cases registration was yet to be granted (March 1987).

(iii) Cross checking of the records of two Forest divisions in Guwahati (Kamrup East and West Forest Divisions) with those of Superintendent of Taxes, Guwahati revealed that seven contractors took settlemeut of Forest mahals during the periods falling between 1979 and 1983, but action to register them as dealers under the Act had been initiated (june 1983) by the department only in respect of three contractors; the registraction had, however not, been granted so far (June 1986). In the remanining four cases, no action had been initiated (March 1987).

(iv) Similarly, records of the Superintendents of Taxes, Guwahati (B-Unit) and Dibrugarh disclosed that four contractors took settlement of Forest Mohals during the periods falling between November 1977 and April 1986. Although action had been initiated (between March 1978 and November,

1985) on the basis of the reports of Inspectors of Taxes, to register them as dealers under the Act, the registration had not been granted (June 1986) and their tax liability determined. Thus, turnover of Rs.6,92,058 (calculated on the basis of the Inspector's report) having a tax effect of Rs.41,523 (at the rate of 6 per cent) had escaped assessment.

5.2.1.2. The Department reply reads as follows :—

(i) Out of the 15 cases falling under Guwahati Unit-B, 6 cases were registered and taxes were dully assessed. In respect of 7 cases the parties had not started business and hence did not attract any liability for registration. In one case the person could not be traced out and in another case the party closed down their business before registration could be affented. Out of the 37 cases falling under the jurisdiction of Dibrugarh Unit 27 persons were dully registered. Upto date actions have been taken to complete assessment proceedings in respect of those dealers. In respect of 9 persons the trial cases had to be dropped as on enquiry they were found not liable for registration. One of the involed persons died before business could be started by him and hence his registration proceedings had been dropped.

(ii) It appears from the records that out of the remaining 115 trial cases 76 cases have since been registered under Assam Sales Tax Act, and dully assessed and taxes realised. As regards the remaining 39 trial cases the dealers after due processing and further enquiry were found not liable for registration.

(iii) Registration of all the seven dealers in question have since been completed. From the records of the individual dealer it was found that all the dealers were assessed to sales taxes subsequenty.

(iv) Proceedings for registration of the two contractors of Forest Mahals falling under the jurisdiction of the Guwahati Unit-B, had been started. But for further action in this regard the above contractors could not be traced out at their given addresses. However, efforts are continuing to trace out the above forest mahaldars. In the case of the other two Forest mahaldars falling under the jurisdiction of Dibrugarh Unit the dealers were duly registered and assessments were made on the basis of the auction bid value.

OBSERVATIONS/RECOMMENDATIONS

5.2.1.3. The Committee expresses its satisfaction on the action taken by the Department.

5.2.2.1. The audit has pointed out registration of seven bogus dealers in Guwahati and Jorhat between Feburary 1977 and July 1983. They had neither submitted any returns nor could be assessed till March 1986. Of these, three dealers were found unaceeptable on departmental enquiry (between May 1982 and February 1985) while no enquiry was made in respect of the remaining four dealers (June 1986). No further action was also taken to trace out the dealers.

5.2.2.2. The Departmant in their reply detailed as follows :—

Dealer 1 : His registration was cancelled and arrear cirtificate for Rs. 795/- for the period ending 30th Sept. 1975 to 31st March 1977 issued.

Dealer 2 : After registration he in fact carried no business and registraation was cancelled.

Dealer 3 : He was subsequantly traced out but found that the incurred heavy loss. Hence Form 'D' Form 'F' were called back.

Dealer 4 - He was found not liable to pay Sales Tax on enquiry. His registration certificate was cancelled.

Dealer 5 : He was traced out subsequently and asked for payment of Tax. The matter in under review.

Dealer 6 : The firm was closed down within 3 months of registration. There was no loss of revenue.

Dealer 7 : On an enquiry the dealer was found liable for payment of tax of Rs. 19,471,14. On his failour demand notice was issued and the same is under process of realisation.

OBSERVATIONS/RECOMMENDATIONS

5.2.2.3. The Committee expresses its satisfaction on the action taken by the Department and the para is dropped.

5.2.3.1. ; Audit has pointed out two cases of non-cancellation/delay in cancellation of registration certificates. In the first case, four dealers continued their business neither of submitting returns nor paying Taxes and cancellation of registration. In the second case three other registered dealers registered between July 1975 and January 1980, registration certificates were cancelled between August 1983 and February 1985 respectively, from the date of registration, on default in payment of tax dues. There was nothing on record to show the dealers had surrendered accounts of the declaration forms issued to them and surrendered the utilised form.

5.2.3.2. ; The Department in their written reply stated in respect of three dealers only :- viz.

(a) The registered dealer soon after closed down his business and left the place.

(b) On receipt of his address at Rajasthan, after closer of business he was directed to surrender his registration certificate and all the declaration form issued to him.

(c) The dealer closed down his business before any assessment proceedings could be started. The security money of Rs. 500/-was forfeited.

OBSERVATIONS/RECOMMENDATIONS

5.2.3.3 ; The Committee recommends that the Department will furnish specifically whether the arrear dues have been realised by now or not.

Non-levy of central sales tax on jute sold outside the state.

(Audit para 2.4/CAG 1985-86 (R/R)

5.3.1. The audit has pointed out that—

(i) At Dhubri, Mangaldoi, Nowgong and Guwahati, thirty two dealers (Who were not registered under the Central Act) sold raw jute for Rs. 1779 lakhs in the course of inter State trade and commerce during the period from January 1981 to March 1985, after purchasing it from place within the State. No Central sales tax was paid by the dealers, nor was any action taken by the department to recover the same. The failure resulted in non-realisation of tax amounting to Rs. 68.68 lakhs, being the difference between the Central sales tax leviable (Rs. 137.36 lakhs) and the purchase tax assessed (Rs. 68.68 lakhs) by the assessing authority. The tax effect would be more if the profit element involved in the sale price is taken into account. Besides, fine for non-registration under the Central Act was recoverable from the dealers. On the omission being pointed out in audit (June 1985) the assessing officer (Dhubri) stated (June 1985), that steps had been taken to register the dealers under the Central Act. Report on registration of dealers and realisation of tax is still awaited (May 1986). Reply in respect of cases, relating to Mangaldoi, Nowgong and Guwahati is awaited (March 1987).

(ii) At Kokrajhar, three dealers registered under the Assam Purchases Tax Act, 1967 and the Central Sales Tax Act, 1956 sold raw jute valuing Rs. 24,71,447 in the course of inter-state trade or commerce between 31st December, 1981 and 31st March, 1985 after purchasing it from places within the state. Although purchase tax at 4 percent was levied under the State Act Central sales tax leviable at 8 percent (inter-state sales not being supported by prescribed declaration in Form 'C') was not levied. The omission to levy Central sales tax resulted in tax being levied short by Rs. 1,01,021 (after adjusting the local tax paid on purchase of jute.

cases, assuming that central sales tax was payable, the purchase tax paid in respect of the goods must be reimbursed o the dealers if the dealers pay the central sales tax. It so happens that the liability to pay both purchase tax and central sales tax, arises at the same point of time in respect of jute procured in Assam and despatched out side Assam by way of inter-state sale. Besides both taxes are payable by the same dealer.

As the payment of both the taxes as at the same time by the same dealer and claiming re-imbursement of the purchase tax would entail no small measure of hardship, a proposal for exemptation from Central sales tax in respect of jute (Where purchase tax has been paid) is under examination of Government. However, in the light of the audit observation the assessing officer, Dhubri served notices on the dealers dealing in jute for registration. Under the Central Sales Tax Act on receipt of the notices 19 dealers dealing in jute falling under the jurisdiction of Supdt. of Taxes, Dhubri moved and obtained injunction from Munsiff Court, Dhubri against the registration proceedings and the matter is still sub-judice in the said Court. Further, actions in this regard will be started in respect of the jute dealers on the basis of the verdict of the Court.

(ii) The three dealers in question were already registered under the C. S. T. Act, 1956, and necessary measures are being taken to realise the dues from the dealers. In this connection, it may be stated that the three dealers were not registered under the C. S. T. Act 1956 at the time of audit.

OBSERVATIONS/RECOMMENDATIONS

5.3.3. The Committee observes in respect of sub-para (i) that the taxes were originally realised under Assam Purchase Tax Act as per norms and dealers were asked to register under Assm Sales Tax Act. The dealers immediately went to the Court and the matter is subjudiced. The Committee therefore, recommends that the para may be dropped as due taxes had been realised under the purchase Tax Act without any loss to the Government. The Committee further recommends in respect of Sub-para (ii) that the latest position of realisation of due taxes should be intimated to the Committee.

Registration of bogus dealers

(Audit para 2.5 of CAG 1985-86 R/R)

5.4.1. The Audit has brought out the following two cases of registration of bogus dealers :—

(a) At Dhubri, a person engaged in raw jute business, was registered as a dealer by the Superintendent of Taxes, in July 1984 without verification of his antecedents and financial position. The dealer deposited Rs. 700 as security but did not file any return for the quarterly periods ending 30th September 1984, 31st December 1984 and 31st March 1985. A show cause notice was issued to him in December 1984 by the Superintendent of Taxes but this (as per information in the assessment records) could not be served as the dealer was not traceable at his given address. Thereupon, the Superintendent of Taxes advised (January 1985) the check posts not to allow any despatches of Jute by the dealer. However, no efforts were made to trace out the dealer. A scrutiny in audit of the way-bill register maintained in the office of the Superintendent of Taxes, Dhubri showed that during the period from July 1984 to September 1984 along, the dealer had despatched, outside the State otherwise than as inter-State sale, raw jute valuing Rs. 23,73,000, attracting levy of purchase tax amounting to Rs. 94,920 which was neither paid by him nor could be recovered.

(b) In another case at Dhubri, the sole proprietor of a raw jute firm was registered as a dealer in April 1984. The antecedents of the proprietor were not verified before granting registration. The application for registration had not been signed by the proprietor himself but was signed by the manager of the firm. The dealer filed two returns, one for the period ending 30th June 1984 and the other from 1st July 1984 to 22nd October 1984, showing a total turnover of Rs. 1,57,465 and paid tax amounting to Rs. 6,298. The dealer returned the registration certificate in November 1984 to the registering authority, stating that he had closed down his business with effect from 22nd October 1984, he did not submit any return for the subsequent period. In April 1985, a show cause notice was

issued on the dealer requiring him to produce his books of accounts. But the notice was received back undelivered due to non-availability of the dealer at the given address. No further action was taken to trace the dealer. The way bills kept in the assessment records showed that the dealer had despatched outside the State, during the periods ending 30th June 1984 and 30th September 1984, raw jute valuing Rs. 17,92,000 which attracted tax amounting to Rs. 71,680. As the dealer had shown in his returns a turnover of Rs. 1,57,465 only, he had evidently surpressed the remaining sales of Rs. 16,34,535 and thereby aveded tax amounting to Rs 65,382.

Registration of bogus delers.

(Audit para 2.5 of CAG 1985-86 R/R)

5.4.2. The Department in their written reply stated that—

(a) In the light of the Audit observations, the Superintendent of Taxes, Dhubri after consulting the records for the Q. E 30.9.84 ditermined the turnover at Rs. 27, 81,000.00. Accordingly the Superintendent of Taxes completed the assessment summarily and determined the tax at Rs. 1,35,328.00 including interest. Since the dealer failed to pay the demanded tax the arear certificate was issued. The demanded amount is under the process of realisation by the Superintendent of Taxes (Recovery), Dhubri.

(b) It is admitted that the registration of the dealer was irregularly done. Since the application for registration was signed not by the proprietor of the business but by the Manager. The mistake was committed inadvartantly by the assessing officer. However, the assessee had submitted return with payment of tax for the periods from 1.7.84 to 22.10.84 to i. e. upto the date of the closure of the business. Though the assessee was assessed for the P. E. 30.6.84 on the basis of the return sumitted by him subsequently the case was reopened and reassessments were made up to P. E. 30.9.84 on the basis of particulars obtained from the way bills and tax and interest amounting to Rs. 33,264.84 and Rs. 68,364.60 respectively were assessed. On the dealer's failure to pay the tax amount Arrear Certificate was issued against the defeaulted amount of Rs. 95,530.80. The amount is under process of realisation through Bakijai proceedings.

OBSERVATIONS/RECOMMENDATIONS.

5.4.3 The Committee recommends that the Department will fix responsibility against the officers at fault and action will be taken against the defaulting officers.

Non- Doposit of tax by Public Sector undertakings

(Audit Para 2.6/ CAG 1985-86 R/R)

5.5.1. The audit has pointed out that :—

(i) Four public sector undertakings (three in Guwahati and one in Duliajan) collected from the dealers from whom they purchased goods tax amounting to Rs. 8,62,332 during different periods falling between April 1981 and March 1986 but the amount was not deposited into the treasury till the date of audit (July 1986).

(ii) In Guwahati tax amounting to Rs. 27,77,690 deducted during the poried from March 1981 to September 1984 by the Assam State Road Transport Corpoation (as State Goveanment undertaking) from bills of six dealers who has supplied components of vehicles to the Corporation, had not deposited into treasury till the date of audit (July 1985) Non-remittance of the amount, besides effecting the ways and means position of the Goverment resulted in accrual of fortuitous benefit to the Corporation.

5.5.2. The Department in their written reply stated that in respect of one supplier out of the deducted tax of Rs.-50,406.73 an amount of Rs.21,048.37 was deposited and balance of Rs' 29,358.36 was yet to be deposited. On verification of records it appears that Rs. 43,831.92 was actually deducted by the purchasing Department from the said suppliers bill and out of this Rs. 24,312.38 was actually deposited vide challan No. 186, dated· 27th April 1986 and challan No. 322 dated 19th April 1988 leaving balance of Rs· 19,519,54. Actions are being taken to ensure deposit of the balance amount by the defauling undertaking· In the case of another supplier it was pointed out by the Audit that the said undertaking deducted an amount of Rs. 94, 908. 00 from the suppliers bill for period ending from 31st March 1980 to 31st March 1984 and the entire amount was yet to be deposited by the concerned organisation. On verification of records it appears that the organisation deducted an amount of Rs. 49,821.66 only from the suppliers bill for the period ending under reference.

The supplier was repeatedly requested to obtain the Treasury Challan and submit the same to the concerned assessing outhrity. On his failure to produce the challan of deposit arrear certificate was issued against the entire amount. Meanwhile Superintendent of Taxes (Recovery) recovered Rs.8000/ vide challan No.21, dated 2-3-87 from the dealer under reference. The balance amount is under process of recovery by the Superintendent of Taxes (Recovery). Audit has pointed out that the same organisation deducted on amount of 2,256·00 from the bill of another supplier and the amunt was yet to be deposited by the purchasing organisation.

On verification of records it has come to light that the supplying dealer was repeatedly urged to obtain the Treasury Challan from the purchasing organisation. It was observed by Audit that another purchasing undertaking (i.e. General Manager A.S.T.C.) deducted an amount of Rs. 2,94,094,24 during the period from 30:9.84 to 30.9.85 and the deducted amount was not deposited by the purchasing undertaking till July, 1986. On verification of records it was confirmed that an amount of Rs. 2,91,247/- was already deposited by the deducting undertaking vide challans dt. 31.3.86. The recovery of the balance amount is in progress. In the case of the third Government Undertaking out of the total amount of tax of Rs. 1,01,362.11 deducted from the suppliers bill for period ending from 13.9.84 to 31.8.85 an amount of Rs. 89.1628,8 had already been deposited under different challans by the purchasing organisation. Efforts are continuing to ensure deposit of the balance amount. In the case of the fourth purchasing organisation taxes were deducted from two suppliers bills. In respect of one supplier as it appears from the record the organisation deducted Rs. 1,09,798.00. Out of the above an amount of Rs. 36,815.97 had already been deposited by the purchasing organisation. Realisation of the balance amount is under process. As regards the other supplier the matter is under review.

(ii) The entire amount of deducted tax of Rs. 27,77,690 in the instant case had been deposited by the deducting organisation.

The Department further submitted a revised reply on the para stating that :—

The Superintendent of Taxes, has personally visited the ASEB to ascertain the Challan No. & dates of deposit of the deducted amount of tax. Though the exact Challan Nos. could not be found out, it was ascertained that all taxes deducted at source by the ASEB during the period from April 1981 to March 1986 had been deposited into the treasury under Tax Head of Accounts. As the deduction of tax in the case under consideration was made before March 1986, it can be inferred that the amount deducted from the above dealer was deposited into the Government Treasury.

OBSERVATIONS/RECOMMENDATIONS

5.5.3. The Committee expresses its satisfaction on the action taken by the Department and the para is dropped.

Turneover escaping assessment

(Audit para 2.7/CAG 1985-86 R/R)

5.6.1. The Audit has pointed out the following:—

(1) In Guwahati, purchases of jute by a dealer for the assessment period April 1981 to June 1984 were determined at Rs. 12,54,69,308 and taxed accordingly. A scrutiny, in audit, of the dealer's quarterly returns and statements submitted therewith showing opening balance, purchases, despatches outside the State and closing balance of goods at the end of each quarter, however, indicated that the dealer had suppressed purchases amounting to Rs. 5,75,47,535 by striking wrong totals or short balances in the aforementioned statements. The assessing authority had failed to detect the inaccuracies in the totals, resulting in tax being levied short by Rs. 23,01,904. The dealers was also liable to pay interest amounting to Rs. 13,99,798 (upto 7th December 1984) on the tax short remitted by him. On this being point out in audit (June 1985), the assessing officer stated (July 1985) that the matter was being examined. Further report is awaited (March 1987).

(ii) At Dhubri as per assessment records of a dealer of raw jute purchase value of opening stock of his goods as on 1st October 1983 was Rs. 76,171. During the period from 1st October 1983 to 30th June 1984, his purchases despatches outside the State and local sales of raw just amounted to Rs. 9,76,675, Rs. 5,00,602 and Rs. 1,64,446, respectively. Thus, the value of closing stock of goods at on 30th June 1984 should have been Rs. 3,87,798. But the dealer in his return for the period ending 30th September 1984, showed the value of opening stock on 1st July 1984 as Rs. 5,724 only, thereby suppressing turnover amounting to Rs. 3,82, 074. The assessing authority had failed to detect the suppression resulting in tax being levied short by Rs. 15,283.

(iii) Any person, who seeks to import any goods by road into the State from a place outside the State or export and goods by roads from the State to any place outside the State is required to furnish, to the check post, a declaration (way-bill) in triplicate, containing certain prescribed particulars. One copy of the declaration is required to be

sent by the officer-in-charge of the check post to the Superintendent of taxes of the area where the consignor or consignee has his place of business in the State for checking up, at the time of assessment, the particulars furnished in the way bill with reference to the account records of the consignor/consignee.

(a) At Dhubri, as per way bills evidencing despatch of goods outside the State, the turnover of two dealers for the periods ending 30th September 1983 and 30th June 1984 amounted to Rs. 10,91,500. But while assessing the dealers the turnover was determined at Rs. 1,78,361 on the basis of their returns the omission to take into consideration the dealers way bills resulted in the turnover amounting to Rs. 9,13,189 escaping assessment and consequent short levy of tax by Rs. 36,525.

(b) In respect of another raw jute dealer of Dhubri, the assessment orders showed taxable turnover of Rs. 19, 80, 125, on which tax amounting to Rs. 79,205 was levied at the rate of 4 percent for the periods falling between 30th September 1984 and 31st March 1985. But as per way bills (received from the check post) showing despatch of raw jute outside the State, the assessable turnover, of the dealer during these periods worked out to Rs. 23,93,165, having a tax effect of Rs. 95,727. Thus turnover amounting to Rs. 4,13,040 had escaped assessment. Incorrect determination of the dealer's turnover resulted in tax being levied short by Rs. 16,522.

5.6.2. The Department in their written reply stated that the accounts of the dealer for the periods under reference were reverified.. On reverification it had come to light that the dealer obtained separate registrations under the Assam Purchase Tax Act. 1967 for its Dhubri Branch with effect from 1st July 1981 and for its Nowgong Branch with effect from 1st July 1982. Consequently, stock pertaining to the centres falling under the Dhubri Branch valued at Rs.2,31,35,301.51 was excluded from the opening stock of the Guwahati Branch of the said dealer. Similarly stock valued at Rs. 2,69,89,500.92 was left out to be included in the accounts of the Nowgong office of the said dealer. The Superintendents of Taxes of the concerned units were informed about this account transfer. Reports of actions taken by these Superintendents of Taxes in this regard is still

awaited. However, there still remained some descripancies which are stated to be resulted from wrong accounting by the dealer. This, together with possible involvement of interest is being taken up with the dealer which is a Government of India undertaking.

(ii) The dealer were re-examined an re-assessment was completed for the quarter ending 30th September 1984 and accordingly additional demand was raised as below—

Tax	—	—Rs. 14,314.76
Interest	—	—Rs. 12,820.00
	Total—	Rs. 27,134.76

The aforesaid demanded tax including interest is in the process of realisation.

(iii) The dealers namely M/S Joy Trading C.O., Dhubri, M/S Kamal Traders, Dhubri and M/S Ashok Jute, Dhubri who dealt in jute under the Purchase Tax Act were registered with the Superintendent of Taxes, Dhubri though the dealers were reassesed after the audit, objection levying tax of Rs. 1.35 lacs, Rs. 0.65 lacs and Rs.0.27 lacs respectively on these three dealers, no tax could be realised even by the B O as the dealers closed down their businesses and left the places. Whereabout of these dealers could not be ascertained and there is no scope of realising the taxes. The Superintendent of taxes, Dhubri has submitted proposals to the Deputy Commissioner of Taxes, Dhubri for writing of the above dues.

OBSERVATIONS/RECOMMENDATIONS

5.6.3. The Committee observes in respect of sub-para (i) that the reply now furnished to the Committee could have been adduced to Audit in proper time. However the Committee is pleased to drop the sub-para.

5.6.4. In respect of sub-para (ii) the Committee recommends that the Department will submit a detail report to the Committee for their consideration.

5.6.5. The Committee observes that the amount could not be realised as whereabout of the dealers are not available. The Committee recommends that in such cases the Department should take up the matter with the Govertment at proper level to write of such outstanding dues. The para is however dropped.

Non-levy of Tax

(Audit para 2.8/CAG 1985-86 R/R)

5,7.1. Audit has pointed out the following two cases of non-levy of tax.—

(i) In Guwahati, a dealer dealing in tea had claimed that he had transferred stock of goods valuing Rs. 70,58,150 outside the State during the return periods ending 30th September 1983 and 31st March 1984 but had not furnished to the assessing authority the prescribed declaration in Form 'F' in support of the movement of such goods assessments for the abovementioned return periods were completed (September 1984) without levy of any tax, but with the remarks that on dealer's failure to furnish the declarations in Form 'F' in future, the assessment would be re-opened. However, nearly five months after the completion of assessments, notices were issued (February 1985) indicating 'NIL' tax liability of the dealer, although no declarations in Form 'F' had been furnished by him in pursuance of the assessing authority's orders of September 1984. There was also nothing on record to indicate that the dealer was ever asked to furnish such declarations, nor was any other evidence on record to indicate that the movement of such goods was occasioned otherwise than as a result of sale. Therefore, the assessments of the dealer based on his claim of stock transfers was incorrect. In the absence of proper declarations or other evidence in question, the transactions should have been subjected to tax. Tax not levied amounted to Rs. 7,05,815 (calculated at the rate of 10 per cent.).

(ii) At Kokrajhar, a dealer dealing in Khoir in course of inter-states trade and commerce had been assessed (April 1985) to nil tax for the return period ending 31st March 1985, on his submission to the assessing authority a declaration in Form 'F' in support of transfer of goods valuing Rs. 1,85,545. Assessment records including the dealer's registration certificate indicated that he had no agent or depot outside the State of Assam where goods could be transferred for sale. In the absence of any evidence of stock transfer, the turnover should have been treated as inter-State sale to unregistered dealers and taxed at the rate of

10 per cent. The grant of exemption on the basis of invalid declaration in Form 'F' resulted in tax amounting to Rs. 16,868 being evaded by the dealer.

5.7.2 The Department in their reply stated that —

(i) The books of accounts of the dealer were re-verified. It was found that in the relevant periods the dealer had not effected any transfer of stock of tea. The tea valuing at Rs. 70,58,150/-referred to in the audit observation were,in fact sold by the dealer in course of inter-State trade and commerce to registered dealers in other State. Out of the total sales of Rs. 70,58.150/- sales amounting to Rs. 65,66,427/- were supported by 'C' Forms and the balance of Rs. 4,91,723/- by 'C' Forms both the sales made in the course of export of the goods out of the territory of India. The dealer in his returns for the periods claimed the transactions as exempted sales but the Superintendent of Taxes while making assessment inadvertently treated the same as transfer of stock. It is also seen that the dealer purchased the entire quantity of tea thus sold in course of inter-State trade to registered dealers in auction held in Guwahati tea auction market and sold in course of inter-State trade to registered dealers and supported by 'C' Forms are not liable to tax under the Central Sales Tax Act as per Government of Assam notification No. FTX. 102/70/Pt-I/240, dated 21st July 1972 and as sales made in course of export of goods out of the territory of India are also exempt from tax under the Act the dealer was not liable to pay tax on the transactions referred to above and no loss of revenue was incurred.

(II) The dealer was re-assessed to tax rejecting the 'F' form in question and additional demand was raised as shown below ;—

For P.E. 31.3.85.

Tax assessed	—	Rs.16,868.00
Interest levied	—	Rs.12,168.00
Total—		Rs. 29,036.00

The demand which was issued to the dealer on 25th May 1985. The demanded amount is in the process of realisation.

OBSERVATIONS/RECOMMENDATIONS

5.7.3. The Committee is pleased to drop the para.

Irregular grant of exemption from levy of tax
(Audit para 2.9/CAG 1985-86 R/R)

5.8.1 The audit has pointed out that—(i)(a) In Guwahati a dealer's inter-state sales amounting to Rs.6,11,279 effected during the period ending 31st March, 1980 to 30th September, 1983 were exempted from levy of tax under the Central Sales Tax Act, 1956 treating these sales as having been effected by transfer of documents of title to the goods in the course of the movement of goods from Uttar Pradesh State to Assam, Meghalaya, Manipur, Tripura and Mizoram States. A scrutiny in audit of the assessment records, however, showed that out of the total sales of Rs.3,11,279, sales amounting to Rs.22,26,416 only were supported by declarations in Forms 'C' or 'D' and also certificate 'E'. Sales amounting to Rs.29,98,731 were supported by declarations in Forms 'C' or 'D' only while the remaining sales amounting to Rs.10,86,132 were not supported by any declarations or certificate at all. Therefore, while sales amountitang to Rs.22,26,416 were correctly exempted from levy of tax, on the remaining sales of Rs.29,98,731 and Rs.10,86,132 tax was leviable at the rates of 4 percent and 10 percent respectively. The irregular grant of exemption from levy of tax on sales amounting to Rs. 40,84,863 (Rs·29,98,731 plus Rs .10,86,132) resulted taxamounting to Rs. 2,28,562 not being realised.

(b) Similarly, inter-State saes amounting to Rs.49,06 136 made by three other dealers of Guwahati during the various return periods falling between 30th September, 1980 and 31st March, 1984 were exempted from (levy of tax) by the assessing authority treating the sales as having been made by transfer of documents while the goods were in movement from West-Bengal, Bombay, Rajasthan, Orissa, Punjab, Bihar, Uttar Pradesh, Gujrat, Karnataka and Kerala States and Delhi and Pondicharry Union Territories to Assam, Arunachal Pradesh, Meghalaya, Manipur, Nagaland, Tripura and West Bengal States. A scrutiny in audit of the supporting documents, however, showed that sales amounting to Rs.19,12,509 only were supported by declarations in Forms 'C' or 'D' and also by certificate in form 'E' and as such these sales alone should have been exempted from levy of central sales tax. Sales amounting to Rs. 26,03,240 were supported by declarations in Forms 'C' or 'D' only and were, therefore, taxable at the rate of 4 per-cent. The remaining sales of Rs.3,90,387 were not supported by any declaration/certificate at all and were thus liable to tax at 10/12 per-cent. The

irregular grant of exemption from levy of tax in respect of sales amounting to Rs.29,93,627 (Rs.26,03,240 plus Rs.3,90,387) resulted in tax amounting to Rs.1,45,322 not being realised.

(ii) Under the Central Sales Tax Act, 1956, inter-State sale of any goods is exempt from levy of tax, if under the sales tax law of the appropriate State, sale or purchase, as the case may be of such goods is exempt from levy of tax generally. The Act also provides that sale of purchase of any goods shall not be deemed to be exempt from levy of tax generally if under the State law, the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions. Under the Assam Sales Tax Act, 1947, all cereals or pulses, including all forms of rice, are exempt from levy of tax only when these are sold otherwise than in sealed containers. The sale of pulses is therefore, not generally exempt from levy of tax in the State and as such, central sales tax is leviable on inter-State sale pulses.

In Guwahati, in the assessment of a dealer on his inter-State sales of pulses amounting, to Rs.24,30,845 for the return periods ending 31st March, 1983 and 30th September, 1983, the assessing officer did not levy tax, treating the sales of pulses as sales of exempted goods, which was incorrect. The sales being not supported by deelarations in Forms 'C' or 'D', central sales tax was leviable thereon at 8 per-cent i. e. twice the rate applicable to the sale or purchase of declared goods within the State. This resulted in non-levy of tax amounting to Rs.1,94,468.

(iii) In terms of Government notifications issued from time to time, sales by a registered dealer, having his place of business in the State, in the course of inter-State trade or commerce to any person/dealer of Arunachal Pradesh were axempted from central sales tax upto 20th July, 1972. However, such exemptions were restricted to sales to dealers only of Arunachal Pradesh with effect from 21st July, 1972. Therefore, sales to Government departments (not coming within the meaning of dealers) since 21st July, 1972 were liable to be taxed.

In Guwahati, after seizurs (June 1978) and verification (July 1979) of accounts in respect of a dealer, the Superintendent of Taxes (Enforcement Branch) reported (February 1982) o the assessing authority about non-levy of tax on sales

amounting to Rs. 19,64,449 made by the dealer to Government departments of Arunachal Pradesh (which did not come within the meaning of dealer) during the various return periods falling between 1st October, 1971 and 30th September, 1976. The assessment records indicated that these sales had been exempted from tax. As exemption of tax on sales to Government departments was admissible only upto 20th July, 1972, sales amounting to Rs.17,43,823 for the period from 1st October, 1972 to 30th September, 1976, (details of sales during 21st July 1972 to 30th September 1972 were not available in assessment record) should not come under the purview of exemption. Grant of incorrect exemption resulted in non-levy of tax of Rs. 1,74,383, (at the rate of ten per cent). As the mistake was not apparent from records, the assessing authority had sought (May 1984) the orders from the Commissioner of Taxes for sou moto revision of assessment for the periods in question. The orders are awaited (March 1987). Thus, delay in taking promot action at different stages has resulted in non-realisation of tax amounting to Rs. 1,74,383.

(iv) Under the Assam purchase Tax Act, 1967, on purchase of taxable goods, tax is levied at the point of last purchase inside the State. Paddy is taxable at the rate of 2 per cent under the Act.

At Silchar, Purchases of paddy valuing Rs. 37·19 lakhs made by a dealer during the return periods ending 30th June 1982 to 30th September 1983 were exempted from levy of purchase tax. based on the dealer's claim that he had purchased paddy for sale to the Food Corporation of India (F.C.I) and that as such he was not the last purchaser of paddy inside the state, A cross-examination in audit of the assessment records with those of the F.C.I. Silchar, however, revealed that it was rice valuing Rs. 1·64 lakhs and not paddy which was supplied by the dealer to the F.C.I. during those periods. In so far as paddy was concerned, the dealer was the last purchaser of that commodity inside the State and as such he was liable to pay purchase tax on purchases of paddy valuing Rs. 37·19 lakhs. The irregular grant of exemption by the assessing authority resulted in tax amounting to Rs. 74,380 not being realised.

(v) According to the provision of Assam Sales Tax Act, 1947, sales of goods to Bhutan are exempt from tax on production of ceritificate from the Commissioner, Deputy Commissioner or Sub-divisional Officer, Southern Bhutan at Sorbhog to the effect that the goods are for export to Bhutan

Two dealers of Nowgong sold goods (milk, baby food ghee, butter, chocolate) to Bhutan for Rs. 4,18,347 during the period from 1st October 1981 to 30th September 1982. The sales were neither supported by the required certificate from the prescribed authority nor was there any proof of export. Thus these sales did not qualify for exemption from tax under the State Act. The assessing officer, however allowed exemption from tax under sub-section 5 of Section 8 of the Central Sales Tax Act (which empowered the State Government to either totally exempt the inter State sales or levy tax at concessional rates on such sales). At these sales were not inter-State sales, grant of exemption from tax under said sub-section was irregular and resulted in under assessment of tax of Rs. 41,835.

5.8.2. The departmental reply reads as follow :—

(i) (a) The case records of the dealer were re-examined. Re-examination revealed that the dealer had submitted revised return before the original assessment was completed which escaped the notice of the assessing officers at the time of original assessment. It was found from the revised return that sales occured during movement of goods in the course of inter-State Trade and Commerce was Rs. 5,71,181·00 only as against Rs. 63,11,279·00 as disclosed in the original return. The assessing officer re-assessed the dealer on the basis of the revised return submitted by the dealer. From the records it also emerged that sale amounting to Rs. 5,40,098·00 actually did not materialise. As such, no declaration in respect of this amount was found necessary. All sales shown as made to registered dealers were supported by requisite declarations submitted by the dealer. As such, there is no loss of Government revenue in this instant case.

(i) (b) In respect of all the three dealers the required declaration forms which could not be made available to the Audit had been traced out subsequently. It has also

been found that all the sales made by the three dealers in question have been covered by the declaration forms furnished by the purchasing dealers. Hence, no irregularity was detected in the assessments and no loss of revenue was involved. (ii) In the instant case the commodity that, according to audit has escaped assessment was "Pulses". Audit has taken the view that since "Pulses" are exempted from tax under the Assam Sales Tax Act, 1947 conditionally by virtue of item No. I of Schedule-III to the Act, "Pulses" cannot be regarded as generally exempt from tax within the meaning of Section 8(2A) of the Central Sales Tax Act, 1956. In the circumstances central sales tax ought to have been levied in respect of the inter-State sales of "Pulses" which had not been done by assessing authority. In a similar matter Government had earlier, in consultation with the judicial Department, Jdecided that "cereals and pulses" would not be liable to central sales tax. However, following re-examination of the matter by the Judicial Department the earlier view adopted by the Government was revised and it was decided that under the law as it exists "cereals and pulses" are liable to central sales tax since, as observed by audit, they are not generally exempt from sales tax within the meaning of the Central Sales Tax Act. On the other hand, it is also not the policy of the Government to levy sales tax on "pulses". A proposal for granting exemption from sales tax in respeet of "cereals and pulses"is under active consideration of the Government.

(iii) Inspite of the best efforts by the Superintendent of Taxes (Recovery) Guwahati, the defaulters i. e., partners of M/S: Frutos and Co. Guwahati, could not be traced out. The business was found to be closed down long back and the Superintedent of Taxes (Recovery) Guwahati could not gather any clue as to the whereabout of the dealer.

(iv) In pursuance of the Audit observations the case was re-examined. On re-examination it has came to light that out of the total quantity of paddy valued at Rs. 37.19 lakhs, paddy valued at Rs. 1,40,230/- was actually found taxable under the Assam purchase Tax Act, 1967 during the quarter ending 31st December 1982. This turnover was assessed and due tax realised.

The balance quantity of paddy valued at Rs. 35.79 lakhs was actually bought by the dealer from the Silchar branch of STATFED and not from the Food Corporation of India as pointed out by audit. The records, supported by the required certificate obtained from the Branch Manager of the Silchar Branch of STATFED, confirmed this. The Branch Manager of

(v) According to the provision of Assam Sales Tax Act, 1947, sales of goods to Bhutan are exempt from tax on production of ceritificate from the Commissioner, Deputy Commissioner or Sub-divisional Officer, Southern Bhutan at Sorbhog to the effect that the goods are for export to Bhutan

Two dealers of Nowgong sold goods (milk, baby food ghee, butter, chocolate) to Bhutan for Rs. 4,18,347 during the period from 1st October 1981 to 30th September 1982. The sales were neither supported by the required certificate from the prescribed authority nor was there any proof of export. Thus these sales did not qualify for exemption from tax under the State Act. The assessing officer, however allowed exemption from tax under sub-section 5 of Section 8 of the Central Sales Tax Act (which empowered the State Government to either totally exempt the inter State sales or levy tax at concessional rates on such sales). At these sales were not inter-State sales, grant of exemption from tax under said sub-section was irregular and resulted in under assessment of tax of Rs. 41,835.

5.8.2. The departmental reply reads as follow :—

(i) (a) The case records of the dealer were re-examined. Re-examination revealed that the dealer had submitted revised return before the original assessment was completed which escaped the notice of the assessing officers at the time of original assessment. It was found from the revised return that sales occured during movement of goods in the course of inter-State Trade and Commerce was Rs. 5,71,181·00 only as against Rs. 63,11,279·00 as disclosed in the original return. The assessing officer re-assessed the dealer on the basis of the revised return submitted by the dealer. From the records it also emerged that sale amounting to Rs. 5,40,098·00 actually did not materialise. As such, no declaration in respect of this amount was found necessary. All sales shown as made to registered dealers were supported by requisite declarations submitted by the dealer. As such, there is no loss of Government revenue in this instant case.

(i) (b) In respect of all the three dealers the required declaration forms which could not be made available to the Audit had been traced out subsequently. It has also

been found that all the sales made by the three dealers in question have been covered by the declaration forms furnished by the purchasing dealers. Hence, no irregularity was detected in the assessments and no loss of revenue was involved. (ii) In the instant case the commodity that, according to audit has escaped assessment was "Pulses". Audit has taken the view that since "Pulses" are exempted from tax under the Assam Sales Tax Act, 1947 conditionally by virtue of item No. I of Schedule-III to the Act, "Pulses" cannot be regarded as generally exempt from tax within the meaning of Section 8(2A) of the Central Sales Tax Act, 1956. In the circumstances central sales tax ought to have been levied in respect of the inter-State sales of "Pulses" which had not been done by assessing authority. In a similar matter Government had earlier, in consultation with the judicial Department, Jdecided that "cereals and pulses" would not be liable to central sales tax. However, following re-examination of the matter by the Judicial Department the earlier view adopted by the Government was revised and it was decided that under the law as it exists "cereals and pulses" are liable to central sales tax since, as observed by audit, they are not generally exempt from sales tax within the meaning of the Central Sales Tax Act. On the other hand, it is also not the policy of the Government to levy sales tax on "pulses". A proposal for granting exemption from sales tax in respeet of "cereals and pulses"is under active consideration of the Government.

(iii) Inspite of the best efforts by the Superintendent of Taxes (Recovery) Guwahati, the defaulters i. e., partners of M/S. Frutos and Co. Guwahati, could not be traced out. The business was found to be closed down long back and the Superintedent of Taxes (Recovery) Guwahati could not gather any clue as to the whereabout of the dealer.

(iv) In pursuance of the Audit observations the case was re-examined. On re-examination it has came to light that out of the total quantity of paddy valued at Rs. 37.19 lakhs, paddy valued at Rs. 1,40,230/- was actually found taxable under the Assam purchase Tax Act, 1967 during the quarter ending 31st December 1982. This turnover was assessed and due tax realised.

The balance quantity of paddy valued at Rs. 35.79 lakhs was actually bought by the dealer from the Silchar branch of STATFED and not from the Food Corporation of India as pointed out by audit. The records, supported by the required certificate obtained from the Branch Manager of the Silchar Branch of STATFED, confirmed this. The Branch Manager of

the Silchar Branch of the STATFED in his memo No. SF/SCL/Paddy/84-85/6771, dated 30th May, 1985 also stated that the purchase tax liability relating to the quantity of paddy procured by them under price support scheme and subsequently sold to the Agent of the dealer would be paid by the STATFED. In view of the above, the dealer was found not liable for the amount of tax involved in the above transaction. However, steps are being taken to ensure payment of taxes under the Act by the concerned branches of the STATFED which is a Co-operative organisation.

(v) In the light of the audit observation, the records of the first dealer were re-examined. On re-examination, it has come to light that the entire sales except sales valued at Rs. 40,652.20 had been made to Bhutan and were duly covered by certificates of the competent authority of the Royal Government of Bhutan on the reserve of the sale memos which were available in the case record of the dealer. It is presumed that the certificates in question might have escaped the notice of the audit. However action are being taken to complete assessment in respect of Rs. 40,652.20 which remained unassesed at the time of original assessment. In the case of the second dealer, it has come to light on re-examination of the case records that the total sales to Bhutan during the periods in question was Rs. 2,02,926.00. It has been further observed that the Deputy Commissioner phuntsholing (Bhutan) had certified on the reverse of the sales memos to the effect that the entire goods were sold to Bhutan. There being nothing to the contrary, the assessing officer accepted the above certification from the competent authority and the claim for exemption was allowed. Hence there is no under-assessment of tax in the instant case.

OBSERVATIONS/RECOMENDATIONS

5.8.3. The Committee observes in respect of sub-para (i) (a) & (b) that the assessments were revised and found no loss of Government revenue. In respect of sub-para (ii) the Committee accepted the submission of the Department that the Government will not levy any taxes on cereals and pulses when sold loose and except when sale occured in sealed containers and thereafter the Committee decided to drop the sub-para. The Committee in respect of Sub.para (iii) recommends that the Department will realise the dues within a period of 3 months by taking up the matter vigorously. The Committee also expresses their no objection in respect of action taken on sub-para (iv). The Committee further decided to drop the sub-para (v).

Irregular assessment of tax at concessional rate.

(Audit para 2.10/CAG 1985-86 R/R)

5.9.1 : The audit has pointed out that :—

(a) At Kokrajhar, a dealer submitted to the assessing authority two declarations in Form 'C' for Rs. 12,47,61 and Rs. 3,76,261. The first declaration contained six individual transactions for amounts ranging from Rs 95.91 to Rs. 3,46,115 while the second related to three individual transactions for Rs. 1,12,733, Rs. 2,05,160 and Rs. 58,368. Thus, each declaration covered more than one transaction of sales above the prescribed limit of Rs. 10,000 for the return periods ending 30th September 1982 and 31st March, 1983. The defective declarations were accepted by the assessing authority and the dealer was assessed to tax at the concessional rate, resulting in under-assessment of tax. Even if the dealer is allowed the benefit of concessional rate of tax for the transactions with highest value in each case (Rs. 3,46,115 and Rs. 2,05,160), the irregular concession in respect of the other transactions involved an under assessment of tax of Rs. 61,881.

At Dhubri, on sales amounting to Rs. 2,05,41 made by two dealers during the periods ending 30th September 1983, 31st March 1984 and 30th September 1984 tax was levied at the concessional rate of 4 percent base on the supporting declarations in Form 'C'. The assessment at the concessional rate was incorrect as the supporting declarations covered more than one transaction exceeding the prescribed monetary limits. Tax on these sale was leviable at the rate of 10 percent. The incorrect application of concessional rate resulted in tax being levied short by Rs. 11 8[illegible]0.

(c) In Kokrajhar, a dealer sold timber, door shutter and panel windows to the Uttar Pradesh State Electricity Board for Rs. 2,11,702 during the return period ending 31st March 1981. The sale was taxed at the concessional rate of 4 per-cent on the basis of a declaration in Form 'C' furnished by the selling dealer obtained from the Board. As the goods purchased by the Board were not required by it for resale or for use either in the distribution of power or generation of electricity or any other form

of power, no concession in tax was admissible to the dealer. The irregular allowance of concession resulted in tax being levied short by Rs. 11,893.

On this being pointed out in audit (January 1985), the assessing offieer stated (January 1986), that the dealer had since been re-assessed (30th March 1985). He also stated that the dealer had filed an apeal to the appellate authority against the re-assessment proceedings. Further report is awaited (March 1987).

(ii) Under the Central Sales Tax Act. 1956, inter-state sales to registared dealers, if covered by declarations in Form 'C', are taxable at a concessional rate of 4 percent; otherwise such sales are liable to be taxed at the rate of 10 per cent or at the rate applicable to sale of such goods under State Act, whichever is higher. Under the Assam Finance (Sales Tax) Act, 1956, tax on sales of gramophones and radiograms is leviable at the rate of 12 per pcent. In Guwahati, a dealer in his returns for the half yearly periods ending 31st March 1982, 30th September 1982 and 31st March 1983 indicated that he had collected extra tax amounting to Rs. 33,457 from some dealers at the rate of 6 percent, in addition to tax at 4 per-cent, as the purchasers had not produced declarations in Form 'C'. Based on the amount of extra tax collected, the turnover of the dealer (not covered by declarations in Form 'C') worked out to Rs. 5,57,617 attracting levey of tax amounting to Rs. 60,831 at the state rate (12 per-cent) as applicable to sale of gramophones radiograms, etc. The assessing authority however, levied tax amounting to Rs. 21.447 by incorrectly applying the concessional rate of 4 per-cent. his resulted in tax being levied short by Rs. 39,384.

(iii) Under Section 2 (j) of the Central Sales Tax Act, 1956, turnover, used in relation to any dealer liable to tax under the Act means aggregate of the sale price received and receivable by him in respect of sale of any goods in the course of inter-state trade or commerce, made during any period and determined inaccordance with the provisions of the Act and the rules made thereunder.

At Bongaigoan, a dealer was assessed to tax at concessional rate on the basis of his revised turnover amounting to Rs. 15,09,543 and Rs. 33,73,742 for the periods

ending 31st March 1982 and 31st March 1983. A scrutiny of assessment records, however, revealed that the dealer had submitted declarations in Form 'C' and 'D' in support of sales amounting to Rs. 17,40,990 and Rs. 35,34,195 during the aforesaid periods which showed that the turnover had been understated in the returns submitted by the dealer. Acceptance of revised turnover by the assessing authority without correlating it with the declarations furnished by the dealer resulted in the turnover to the extra of Rs. 2,31,447 and Rs. 1,60,453 escaping assessment and consequently non-levy of tax amounting to Rs. 15,073.

On this being pointed out in audit (March 1985), the department stated (May 1986) that the dealer had been re-assessed and demand raised. Report on recovery is awaited (March 1987).

5.9.2 : The Department in their written reply stated as follows :—

(a) In pursuance of the Audit observation re-assessments for the period ending 30th September, 1982 and 31st March, 1983 were made under the C.S.T. Act rejecting the 'C' forms produced by the dealer and an additional demand for both the periods were raised as detailed below :—

Tax period.	Amount
30.9.82	65.434.00
31.3.83	19,590.00
Interest	
30.9.82	28,688.00
31.3.83	6,240.00

The amount is in process of realisation.

(b) In pursuance of the Audit observations, the assessments for the period ending 30.9.83 and 30.9.84 were revised in the case of one dealer on 10.12.85 under the Central Sales Tax Act, 1956 rejecting the defective 'C' forms in question. Being aggrieved on the revised assessment orders, the dealer preferred an appeal before the Assistant Commissioner of Taxes (Appeals), Guwahati. The learned Assistant Commissioner of Taxes (Appeals), held that the 'C' form number N/5/200105 relating to the P.E. 30.9.83 contained six invoices and all the invoices were found raised

against the goods supplied in pursuance of purchase order No. 1/83 dated 10.4.83. Similarly, in P.E. 30.9.84 the 'C' form No. N/5/446746 contained three invoices which were raised against the goods in pusuance of purchase order No. 3/84 dated 9.8.84. Since each of the 'C' forms contains invoices raised against a single purchase order and the deliveries of the goods were made in the same financial year it must be held that each of the 'C' forms contained one transaction and in that view the 'C' forms were valid, and the appealer is entitled to get the benefits of 'C' forms in accordance with the provisions of the Act.

Accordingly the learned Assistant Commissioner of Taxes, (Appeals) in his order dated 9.11.86 set-aside the assessments made subsequently on dated 10.12.85 for both the periods. Thus the original assessments for P.E. 30.9.83 & P E. 30.9.84 prevailed.

In the other case, the assessing officers reported that the dealer had re-submitted seperate 'C' Forms for individual consignment as below:—

'C' Form No. BB. 204474 for Rs. 13,974.37 for P.E. 30.9.83 and 'C' Forms No. BB. 204475 for Rs. 15,391.99 and No. BB. 204476 for Rs. 23,466.99 P.E. 31.3.84. However, the Assistant Commissioner of Taxes, Dhubri Zone under whose Jurisdiction the dealer is registered has been directed to re-examine the case and take necessary action as per provisions of the Act (c) (i) In the light of the audit observation dealer was re-assessed to tax for the P. E. 31st March, 1981 by rejecting the 'C' Form No $\frac{M}{16}$ 494932, dated 16th March, 1981 and by treating the entire amount of Rs. 2,11,702·07 as sale to un-registered dealer in the course of inter-state trade and commerce and a sum of Rs. 19,253.43 as tax and sum of Rs. 6,380.00 as interest were levied upon the dealer.

Thereupon, the dealer preferred and appeal before the Assistant Commissioner of Taxes (Appeals) and the Appellate authority rejected the appeal. However, the dealer paid Rs. 17,471.43 against the above mentioned dues. The dealer again preferred another appeal before the Assistant Commissioner of Taxes (Appeals) who passed an order staying realisation of the balance amount.

The result of the appeal is awaited.

(c) (ii) In the light of the Audit observation, the records of the dealers are re-verified. It appears that the dealer submitted revised returns for all the relevant three periods before assessments were made. The net turnover returned in the original and revised returns are as below :—

Period ending	Net turnover as per original return	Net turnover as per revised turnover
31.3.82	Rs. 17,43,206.42	Rs. 17,19,349.56
30.9.82	Rs. 9,81,878.56	Rs. 9,76,442.35
31.3.83	Rs. 7,27,874.13	Rs. 7,23,709.87
Total—	Rs. 34,52,959.11	Rs. 34,19,501.78

The difference in turnovers in between the original and revised returns amounted to Rs. 33,457.33 was due to the following reasons :— At the time of submission of the original returns the dealer did not receive certain 'C' Forms against the sales made to registered dealers and consequently collected 6% tax extra from such dealer subsequently received the 'C' forms against the sales on which extra 6% tax was collected and submitted revised returns reducing the turnovers by Rs. 33,457.33 i. e., by the amount of extra 6% tax which the dealer collected for non-receipt of certain 'C' forms at the time of submission of the original returns.

It is also found that the extra amount of 6% tax collected by the dealer was only subsequent receipt of relevant 'C' forms refunded to the purchasing dealers by issuing credit notes. As in the relevant periods the dealer made all the sales to Regd. dealers and Government Departments, and as such sales were supported by requisite 'C' and 'D' forms the dealers was not liable to pay any tax at the rate of 12% and there was no loss of any Government revenue.

(c) (iii) In the light of the Audit observation the dealer was re-assessed to tax and additional demands raised as detailed below :—

P. E.	Additional dues demanded	Dues paid
31.3.82	Rs. 11,157.00	Rs. 11,157.00
31.3.83	Rs. 4,575.00	Rs. 4,575.00

The dealer has already paid the demanded dues.

OBSERVATIONS/RECOMENDATIONS

5. 9. 3 : The Committee recommends that the Department should be more cautions in future while dealing with such matter.

Escapement of Turnover

(Audit para 2.11/CAG 1985-86 R/R)

5.10.1. The audit has pointed out that :—

(i) Under the Assam Finance (Sales Tax) Act, 1956, a registered dealer is required to furnish to the assessing authority, a prescribed return alongwith the treasury receipt in token of payment of tax dues. The Act also provides that if a dealer conceals the particulars of his turnover or deliberately furnishes inaccurate particulars of such turnover, the assessing authority may levy penalty in addition to the tax payable by the dealer, equal to an amount not exceeding one and a half times the amount of tax.

At Mangaldoi, a dealer was assessed to tax (May 1984,) on the basis of his returned turnover (Rs. 11,53,822) for the half yearly periods falling between 31st March 1978 and 31st March 1983. A report (December 1983) from the Inspector of Taxes (Enforcement Branch) indicated that the dealer had in addition to the assessed turnover, sold to the Government department goods valuing Rs. 12,47,177 taxable at 7 percent during those periods. Thus turnover amounting to Rs. 12,47,177 having a tax effect of Rs. 81,591 has escaped assessment. Besides, penalty not exceeding Rs. 1,22,386 was leviable on the dealer for concealment of turnover. On this being pointed out in audit (June 1985), the department stated (December 1986) that the assessment had been revised (September 1986), against which the dealer had preferred an appeal. Further report in this regard is awaited (March 1997).

(ii) Under the Assam Finance (Sales Tax) Act, 1956, sale of timber other than firewood is taxable at the rate of 7 percent at the point of first sale in the State.

In respect of a dealer at Nowgong, the Inspector of Taxes and the Superintandent of Taxes (Enforcement Branch) reported (June 1979 and August 1982) to the assessing officer, on the basis of Forest Department's records, that the value of three coupes operated by the dealer during 1978-79 to 1981-82 was Rs. 3,22,221. The assessment records indicated that another forest coupe valuing Rs. 72,222 was also operated by the dealer during the said period. The Enforcement Branch determined the taxable

turnover (Rs. 9, 56, 607) at 2½ times the value of the four coupes (Rs. 382, 643, after deducting Rs. 11,800 being the cost of timber damaged by fire) taking into account the cost of operation and timber sawing cost etc. The assessing officer however determined (June 1982 and March 1983) the dealers gross turnover for purposes of assessment at Rs. 4,66,958 only on the basis of the books of accounts of the dealer. The resulted in tax being levied short by Rs. 34,275, computed at the rate of 7 percent on the turnover amounting to Rs. 4, 89, 649 which escaped assesment.

5. 10. 2. The departmental reply reads as follows :—

(i) According to audit an amount of sale of Rs. 12, 47,177 taxable at 7% escapes assessment in addition to the assessed turnover during the period starting from Period ending 31.3. 78 to 31.3.83 (excluding P. E. 30.9.80) based on Inspector of Taxes (E. B.) report dated 23rd December 1983 showing sale of Rs. 12, 47, 187 (not Rs. 12, 47, 177) as per bills to different departments during the periods mentioned above excluding sale if any to other individuals. Assessing authority initially assessed at a total sale of Rs. 11, 53, 822 during these ten periods. In absence of other sale made to other than Government Department, the assessing authority made assessment for the second time for six periods 30th September 1978, 31st March 1979, 30th September 1979, 31st March 1980, 30th September 1981, 31st March 1982 and inadvertantly replies to the audit that assessment was revised. The dealer went to appeal on point of levy of interest only in these six periods. According to appellate order, assessment was again made for third time for correct levy of interest. In respect of remaining four periods facts are as follows. Two assessment periods 31st March 1978 and 31st March 1981 are not interfered as original assessment was made at figure higher than one reported by Inspector of Taxes. One period 30th September 1982 escapes notices of the assessing authority through mistaks. The last period ending 31st March 1983, was assessed at higher figure compared to Inspector of Taxe's figure. On further scrutiny, it reveals that Rs. 12,47,187 does not infact, represent as escapment in addition to the assessed turnover as evident from the Inspector of Taxes report, dated 23rd December 1983 on the basis of which audit observation was made. This fact, it is observed, was not pointed out to

the audit by assessing authority at appropriate time. The present position of the case records reveals that Rs. 14, 82,236 has been brought under the assessment order in these ten period's as against Rs. 12,47,187 as pointed out the audit.

Total demand of tax comes to Rs. 95,719 (excluding interest of Rs. 2,624) out of which Rs. 51, 044 is found to have been paid and Rs. 2,624 on account of interest is outstanding. Necessary steps are being taken for recovery of the balance amount. Penal action is not yet taken.

(ii) The Superintendent of Taxes (Recovery) Nagaon has made attachment of the rent receivable by the dealer from his tenant Sri P K. Agarwala, Haibargaon in respect of building under Dag No. 892/1376 and 881/1311 of periodic Patta No. 643, of Haibargaon, Nagaon. Further, the Supdo. of Taxes (Recovery), Nagaon has requested the Collector, Nagaon for attachment of his immoveable property by enclosing Jamabandi copy and other relevant documents.

OBSERVATIONS/RECOMENDATIONS

5. 10. 3. The Committee express its satisfaction on the action taken by the Department and the para is dropped.

Incorrect determination of turnover

(Audit para 2.12/CAG 1985-86 R/R)

5.11.1 (i) Under the Assam Finance (Sales Tax) Act, 1956, on sale of taxable goods, tax at prescribed rates is leviable at the stage of first sale inside the State.

A dealer in Guwahati (dealing in diesel pumps, machinery etc.) made local purchases of machinery parts valued at Rs 17,49,412 during April, 1981 to September, 1983 for fitting into certain machinery which was subsequently sold by him. While assessing the dealer for the period mentioned above, the assessing officer allowed, from his gross turnover, a deduction of an amount equal to the value of the locally purchased parts plus 25 percent thereof, considering this as a case of sale of locally purchased goods. Since the dealer did not sell the machinery parts in the form in which these had been purchased but sold machinery, an item different from the component parts, after fitting therein the locally purchased parts, he was not entitled to get any deduction from his taxable turnover. The irregular allowance of deduction resulted in tax being levied short by Rs. 1,90,015.

(ii) Under the Central Sales Tax Act, 1956 where the aggregate of sale prices indicated by a dealer in his returns includes the tax collected by him. For the purpose of arriving at the taxable turnover, a deduction of tax collected by the dealer is allowed from the aggregate of sale prices in accordance with a formula prescribed in Section 8A (i) (a). According to the formula, the amount of deduction varies directly with the rate of tax leviable. Inter-State sales made to registered dealers are taxable at a concessional rate of 4 percent provided the sales are supported by prescribed declarations in Form 'C' obtained from the purchasing dealer. No tax is leviable on goods transferred by a dealer to his branches outside the State, provided such transfers are supported by prescribed declarations in Form 'F' or the fact of transfers is proved by production of other modes of evidence.

At Nagaon on the basis of report from the Inspector of Taxes, a dealer was summarily assessed by the department for the return periods ending September, 1978 to March 1982. His gross turnover was determined at Rs. 3,16,97,004, comprising inter-State sales to registered dealers amounting to Rs.79,77 004 and transfers to branches outside the State valuing Rs.2,37,20,000. Out of these the inter-State sales for Rs.14,01,441 and the branch transfers for Rs.1,21,86,080 were not supported by the prescribed declarations in Form 'C' and 'F' in the latter case by any other evidence of transfer. However, in determining the taxable turnover, the assessing officer allowed deduction, of Rs. 12,35,230 from the turnover of Rs. 1,35,87,521 (Rs. 14,01,441+Rs.1,21,86,080) by applying the formula which is relevant to a case where tax is collected by the dealer at the rate of 10 per-cent and is included in the sale prices of goods and value of branch transfers show in the dealer's returns. The assessment done was incorrect as (i) tax on inter-State sales (Rs.14,01,441) to registered dealers had been charged by the dealer at the rate of 4 per-cent and not at 10 per-cent. Deduction in respect of this portion of the gross turnover should therefore, have been based on the formula applicable to case where tax is realised at the rate of 4 percent and not 10 percent and (ii) no deduction was admissible in respect of branch transfers amounting Rs.1,21,86,080 as these transfers did not constitute sales and no tax had been collected by the dealer in respect thereof. The total tax leviable at the rate of 10 percent on inter-State sales (after allowing deduction bases on the formula applicable to the tax rate 4 percent) and branch transfers (without allowing any deduction) amounted to Rs.13,53,362 against which tax amounting to Rs.12,34,404 only had been levied. Tax amounting to Rs.1,18,958 was thus levied short.

(iii) In Guwahati, a dealer's gross turnover and taxable turnover as per his returns for the period ending 31st March 1976 submitted under the Assam Finance (Sales Tax) Act, 1956, worked out to Rs.50,08,471 and Rs.26,31,005 respectively. The assessing officer however, determined the taxable turnover at Rs.21,45,569 instead of Rs.26,31,005. Incorrect determination of taxable goods resulting in tax being levied short by Rs.14,563. On this being pointed out in audit (March 1985) the Superintendent of Taxes stated (April 1985) that the assessment had since been rectified

and demand notice issued, report on recovery is awaited (March 1987).

5.11.2 : The department in their written reply stated as follows :—

(i) It appears from records that the C/R of the concerned dealer M/S. Mechfield Industries for period ending 9/81 to 9/83 (the period ending for which audit raised objection for irregular deductions) was brought to the appex office in connection with the revisional proceedings for P.E. 3/71 to 9/71. Through the revisional proceedings was disposed of for the above two periods vide orders dated 23rd May, 1989 passed by the Deputy Commissioner of Taxes, Sri J. Das (Since retired), the case record for P/E. 9/81 to 9/83 were not returned back to Supdt. of Taxes along with the said orders. In the meantime, the office of the Commissioner of Taxes was shifted from Panbazar to its new buildings at Dispur and the case records appear to have been misplaced. The case records have since been traced out and the Deputy Commissioner of Taxes, Zone-C has already started suo-moto revision for re-assessments of under assessed amounts.

(ii) In the instant case, the points to be determined are as below :—

(a) Whether the sales valued at Rs.14,01,441.00 was actually made to the registered dealers in the course of inter-State Trade or commerce duly supported by declaration in form 'C',

(b) Whether goods valued at Rs. 1,21,86,080,00 was actually stock-transfer to agents/branches of the said dealer outside the State. On examination of relevant records by the assessing officer at the time of assessment it was observed that the claim for inter-State sale of goods valued at Rs. 14,01,441.00 was in fact not supported by the requisite declarations in form 'C' and hence, the entire turnover of Rs. 14,01,441.00 was assessed at the rate of 10% in-stead of 4% as claimed by the dealer. Since the entire turnover of Rs. 14,01,441.00 was assessed @ 10% the application of percentum formula U/S. 8A of the Central Sales Tax Act, 1956 read with Section 15(3) of the Assam Sales Tax Act, 1947 was not detrimental to

the interest of the State revenue in the instant case. Similarly since the claim for exemption of tax being stock transfer of goods valued at Rs. 1,21,86,080.00 was found not supported by declaration in form 'F' or any other supporting documentary evidences, the assessing officer rejected the calim and the entire turnover was taxed @ 10%. The application of percentum, formula U/S. 8A of the Central Sales Tax Act, 1956 read with Section 15(3) of the Assam Sales Tax Act, 1947 was not detrimental to the interest of the State revenue.

(iii) In the light of the Audit observations the assessment for period ending 31st March 1976 was rectified on 12th April 1985 and the demand notice for the additional amount of Rs. 14,563.00 was issued to the dealer. The demand tax was not paid by the dealer. As such arrear certificate was issued to the Supdt. of Taxes, (Recovery), Guwahati on 14th February 1986 for realisation of the arrear tax including the interest due. The amount is under process of recovery with the Supdt. of Taxes, (Recovery).

OBSERVATIONS/RECOMMENDATIONS

5.11.3. The Committee expresses its dissatisfaction in respect of sub-para (i) on the action taken by the Deptt. to mitigate the objection raised in audit and accordingly recommends that the Department must submit a positive reply within one months time from the date of presentation of this Report before the House. The Committee in respect of sub-para (ii), observes that since the entire outstanding dues were written off the para is dropped. The Committee in respect of sub-para (iii) would be interested to know if the arrear tax has, by now, been realised. If so, a report should be furnished within one month time from the date of presentation of this Report before the House.

Non-levy/Short levy of Interest

(Audit para 2.13/CAG 1985-86 R/R)

5.12.1. Under the Sales Tax laws of the Assam State, if a delear fails to pay the full amount of tax payable by him, by the due date, he is liable to pay interest at the prescribed rates (varying from 6 to 24 percent per annum) on the amount by which tax paid falls short o the tax payable, for the entire duration of default. The same provisions apply in regard to levy and collecton of interest on tax recoverable under the Central Sales Tax Act, 1956.

(i) Under the Assam Finance (Sales Tax) Act, 1956, a dealer in Guwahati was assessed (June 1984) to tax amounting to Rs. 116,455, Rs. 1,42,516 and Rs. 87,826 for the periods ending 30th September 1981, 31st March 1982 and 30th September 1982 respectively. The dealer, however, did not pay any tax by the due date. Interest chargeable from the dealer amounted to Rs. 97,056, but interest amounting to Rs. 52,829 only was charged, resulting in short recovery of interest amounting to Rs. 44,227.

(ii) In Guwahati, a dealer was assessed (June 1984) to tax amounting to Rs. 36,168 under the Assam Finance (Sales Tax) Act, 1956 for the return periods from 31st March 1971 to 30th September 1982. The dealer paid the tax after the due date. Interest leviable on the belated payments of tax amounted to Rs. 81,918, but interest amounting to Rs. 17,604 only was charged by the department. Interest charged short amounted to Rs. 64,314.

(iii) In another case in Guwahati, a dealer was assesesd (between April 1983 and October 1984) for the various return periods ending between March 1982 and March 1984. Tax dues amounting to Rs. 36,13,129 were, however, paid by the dealer late between October 1982 and June 1984. Interest chargeable on belated payments worked out to Rs. 2,09,628. But interest amounting to Rs. 19,112 only was charged, resulting in interest being recovered short by Rs. 1,90,516.

(iv) In yet another case in Guwahati, on the dealer's failure to submit returns and to pay tax for the periods from April 1977 to March 1982, the Superintendent of

Erroneous demand of tax

(Audit para 2.14/CAG, 1985-86 R/R)

5.13.1. The audit has pointed out that in Guwahati, assessment in respect of a dealer was completed by the assessing officer and the tax liability was determined at Rs. 93,819 for the period ending March 1983. In the return, the dealer had shown that tax amounting to Rs, 83,324 had been deducted as source by the Government Department. Thus, a total demand for Rs. 77,286 (Rs. 93,819,- Rs. 16,533) was to be raised against the dealer but in stead a demand for Rs. 66,286 only was raised by the assessing officer which resulted in short demand of tax by Rs. 11,000.

5.13.2. The Department replied that in pursuance of the Audit observation the assessments under reference are certified and demand for Rs. 77,286 besides interest of Rs. 51 were made. Out of the aforesaid demand Rs. 24,321 was paid by the dealer. The balance amount is in the process of realisation. In course of oral deposition the due amount is stated to have been realised.

OBSERVATIONS/RECOMMENDATIONS

5.13.3. The Committee is pleased to drop the para.

ANNEXURE—I

Sub-Committee No. 1 of the P. A. C. of the 9th Assembly, consitituted vide Notification No. LAPAC 37/92/18130, dated 3rd November, 1994.

1. Shri Hitendra Nath Goswami, M. L. A. & Convenor.
2. Shri Joy Chandra Nagbonshi, M. L. A. & Member.
3. Shri Lakshmi Prasad Borgohain, M. L. A. & Member.
4. Shri Samarendra Nath Sen, M. L. A. & Member.
5. Shri Parameswar Brahma, M. L. A. & Member.
6. Shri Barnabash Tantee, M. L. A. & Member.

ANNEXURE—II

Sub-Committee "B" of the P. A. C. of 10th Assembly constituted vide Notification No. LAPAC 37/92/8579, dated 27th June, 1997.

1. Shri Mohan Das, M. L. A. & Convenor.
2. Shri Gautam Roy, M. L. A. & Member.
3. Shri Derhagra Mochahary, M. L. A. & Member.
4. Shri Hitendra Nath Goswami, M. L. A. & Member.
5. Shri Bhrigu Kumar Phukan, M. L. A. & Member.
6. Shrimati Renupoma Rajkhowa, M. L. A. & Member.

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