

PUBLIC ACCOUNTS COMMITTEE

(1994-96)

SEVENTY-FIRST REPORT

(NINTH ASSEMBLY)



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REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON
THE REPORT OF THE COMPTROLLER AND
AUDITOR GENERAL OF INDIA FOR THE
YEAR 1984-85 (REVENUE RECEIPTS)
PERTAINING TO THE FINANCE
AND TRANSPORT DEPART-
MENTS, GOVERNMENT
OF ASSAM.

PRESENTED TO THE HOUSE ON

18 MAR 1996

ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT, DISPUR
GUWAHATI-781006,

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COMPOSITION OF THE PUBLIC ACCOUNTS
COMMITTEE (1994-96)

CHAIRMAN :

1. Shri Giasuddin Ahmed,

MEMBERS :

2. Shri Sasha Kamal Handique,
3. Shri Joy Chandra Nagbanshi,
4. Dr. Zoi Nath Sarma,
5. Shri Hitendra Nath Goswami,
6. Shri Samarendra Nath Sen,
7. Shri Parameswar Brahma,
8. Shri Lakshi Prasad Borgohain,
9. Shri Mohibul Haque,
10. Shri Kosheswar Barua,
11. Dr. Abdul Matin Mazumdar,
12. Shri Barnabash Tantee,
13. Shri Chitta Ranjan Patowary,

SECRETARIAT :

1. Shri D. Talukdar, Secretary,
2. Shri A. R. Chetia, Deputy Secretary,
3. Shri Subimal Kr. Das, Committee Officer.

Prefatory Remarks

1. Shri Giasuddin Ahmed, Chairman of Public Accounts Committee, Assam Legislative Assembly having been authorised to present this Report on their behalf present this Seventyfirst Report on the audit paragraphs contained in Chapters I (General), 2 (Sales Tax), 4 (Taxes on vehicles), 5 (Taxes on professions etc., electricity duties, Amusement and Betting Tax) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1984-85.

2. The Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1984-85 was presented before the House on 10th December, 1986,

3. The Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1984-85 was considered by the former Committees of the Eighth Assembly (Annexure-A) in their sitting held on 25th August, 1988, 14th September, 1988, 5th October, 1988, 3rd January, 1989, and 4th January, 1989.

The former Committees scrutinised the para-wise written memorandum of the Department and examined the Departmental witnesses, but could not submit the report to the House owing to expiry of their terms of office. The present Committee has entrusted the Sub-Committee-1 to prepare this Report and accordingly the Sub-Committee has perused all the relevant records, considered the valuable materials and prepared this Report on behalf of the whole Committee.

4. The Audit paras under Chapter 3 pertaining to Agricultural Income Tax, Chapter-5 relating to Land Revenue, Chapter-6 concerning Forest Receipts and Chapter-7 A-Mines & Minerals B-Fishery Department of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1984-85 have already been considered and incorporated in 65th, 63rd and 47th Reports of the Committee. The records of the examination of audit para 7.7 under Chapter 7-C relating to Agriculture Department are not available. Fresh examination of this para

is also not considered necessary as this is very old. Hence the Committee after going through the said paragraphs feels that this para may be treated as dropped.

5. The Committee has considered the draft Report and finalised the same in its sitting held on 8th January, 1996.

6. The Committee places on records their appreciation of the strainous the work done by the out-going Public Accounts Committee of the Eighth Assembly (at Annexure-A) in obtaining various records, information, clarification as well as their observation. The Committee also places on records their appreciation that the Sub-Committee-I under the convenership of Shri Hintenra Nath Goswami for preparing this Report. Further the Committee appreciates the valuable guidance and assistance rendered to the Committee by the Accountant General (Audit), Assam and other Officers and Staff of the Assam Legislative Assembly Secretariat. The Committee also expressed their thank to the Finance Department for their Co-operation to the Committee.

GIASUDDIN AHMED

Chairman,

Public Accounts Committee.

Dated :

The 8th January, 1996,

CHAPTER—I

GENERAL

1. Total receipts during the year 1984-85 of the Government of Assam, as reported by the Audit, are:—

(in crores of rupees)

1. Revenue raised by the State Government.

(a) Tax Revenue	Rs. 189.31
(b) Non Tax Revenue... ..	Rs, 82.78

II Receipt from Government of India

(a) State's share of divisible.. .. Union Taxes	Rs.151.60
(b) Grants-in-aid.. ..	Rs.273.56

Grant Total. Rs.697.25

An analysis of the Tax revenue as well as Non-Tax Revenue for the year 1984-85 of the Government of Assam and for the preceding two years are given below:—

(A) Tax Revenue	1982-83	1983-84	1984-85
	(in crores of rupees)		
1. Taxes on Agricultural Income	8.00	11.29	36.28
2. Other Taxes on Income and Expenditure.	1.34	1.94	2.58
3. Land Revenue	3.33	4.27	4.23
4. Stamps and Registration Fees	3.39	4.76	5.70
5. State Excise	4.28	5.70	6.06
6. Sales Tax	75.44	93.89	117.93
7. Taxes on vehicles	4.86	5.47	6.53
8. Taxes on Goods and Passengers	2.48	.29	2.75
9. Taxes and Duties on Electricity	0.87	0.96	0.72
10. Other Taxes and Duties on Commodities and Services	4.35	4.78	6.53
Total..	108.34	135.35	189.31

B. Non-Tax-Revenue	1982-83	1983-84	1984-85
	(in crores of rupees)		
1. Industries	35.49	32.60	33.15
2. Forest	17.91	22.32	24.96
3. Miscellaneous General Services	0.76	6.48	7.45
4. Public Works	1.14	1.84	1.45
5. Agriculture	0.68	0.63	1.29
6. Education	2.04	0.56	1.05
Total—	58.02	64.43	69.35

Receipts from Central Government by way of State share of divisible union taxes and grants-in-aid during the year 1984-85 constituted 61 percent of the total receipts of the State. The State's own resource mobilisation from these sectors amounted to 39 percent.

Sales tax and taxes on Agricultural Income continued to be the principal sources of revenue of the State during the year 1984-85, receipts there from constituted 81.45 per cent of the total tax collections for the year and receipts from non-tax revenue constituted 30.42 percent.

2. Variation between Budget estimates and actual under the principal heads of revenue for the year 1984-85, as reported in Audit are given below :—

Head of revenue	Budget estimates	Actuals	Variation Excess (+) Shortfall (—)	Percentage of variation
(in crores of rupees)				
1. Taxes on Agricultural Income	14.00	36.28(+)	22.28	159
2. Land Revenue	3.50	4.23(+)	0.73	21

3. Stamps And Registration Fees.	4.43	5.70(+)	1.27	29
4. State Excise	4.72	6.06(+)	1.34	28
5. Sales Tax	91.88	117.93(+)	26.05	28
6. Taxes on Vehicles.	5.66	6.53(+)	0.87	15
7. Other Taxes and Duties on Commodities and Services.	4.69	6.53(+)	1.84	39
8. Interest	3.15	1.02(-)	2.13	68
9. Education	0.76	1.05(+)	0.29	38
10. Forest	21.65	24.96(+)	3.31	15
11. Industries	30.50	33.15(+)	2.65	9
12. Miscellaneous General Services	10.44	7.45(-)	2.99	29
13. Agriculture	0.66	1.29(+)	0.63	95
14. Mines and Minerals	0.71	0.50(-)	0.12	17

Variation between Budget estimates and actuals under all the heads except "Industries" ranged between 15 per cent and 159 per cent.

OBSERVATIONS/RECOMMENDATIONS

The Committee fails to understand the reasons for such wide range of variation between the Budget estimates and the actual collections. The Committee finds it difficult to work-out the actuals growth rate in the respective field of revenue collection in relation to overall agrarian pattern of State. The Committee therefore suggests that the reasons should be indicated for such inaccurate estimation in the budget which has resulted such huge variations. Besides, proper care should be taken, in future, while projecting accurate picture in the budget proposal for each Department in future.

3. The Audit has further reported arrears in assessment. The number of cases of sales Tax (and Taxes on Professions, Traders, callings and Employments and Passengers and Goods Tax) and Agricultural Income Tax due for assessment and actually assessed during the years 1983-84 and 1984-85 and the number of the cases pending at the end of each year, as reported by the department, are indicated below :—

(a) Number of assessments due for completion during the year Sales Tax and Taxes on Professions, Trades, Callings and Employments and Passengers and Goods Tax.	Year	Number of cases
	1983-84	3,37,242
	1984-85	3,85,160
Agricultural Income Tax	1983-84	2,445
	1984-85	2,563
(b) Number of assessments completed during the year Sales Tax and Taxes on Professions, Trades, Callings and Employments and Passenger and Goods Tax	1983-84	1,22,107
	1984-85	2,22,465
Agricultural Income Tax	1983-84	802
	1984-85	895
(c) Number of assessments pending finalisation as at the end of the year Sales Tax and Taxes on Professions, Trades, Callings and Employments and Passengers and Goods Tax	1983-84	2,15,135
	1984-85	1,62,695
Agricultural Income Tax	1983-84	1,643
	1984-85	1,568

OBSERVATIONS/RECOMMENDATIONS

The huge arrears in the assessment tell heavily upon the unsatisfactory performance of the Department. The Committee, therefore, recommends that all necessary steps should be taken so that arrears in assessment could not accrue and the tax revenue is collected without further delay.

4. The Audit has also reported arrears of revenue collection. The total revenue collected and arrears of revenue pending collection, as at the end of each of the years 1982-83 to 1984-85, 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)

1982-83	213.63	181.97	31.66 (a)
1983-84	245.52	213.24	32.28 (a)
1984-85	313.50	270.71	41.41 (a)

Details of arrears as on 31st March 1984 and 31st March 1985 are given below :—

	Amount pending collection as on 31st March 1984	31st March 1985
--	---	-----------------

(In crores of rupees)

1. Sales Tax	25.11	22.43
2. Forest Receipts	2.65	2.50
3. Taxes on Vehicles	4.52	4.97
4. Land Revenue	...	11.51
Total	32.28	41.41

OBSERVATIONS/RECOMMENDATIONS

The Committee recommends that in order to minimise the arrears of collection revenue collecting machinery should initiate appropriate timely action to reduce the gap between the revenue assessed and revenue collected.

CHAPTER— II

SALES TAX

para 2.2/CAG/1984-85 (R/R).

Re : Loss of Revenue due to non-registration dealers.

2.1.1. The Accountant General has pointed out the following 3 cases of departure from the provisions of Central Sales Tax Act, 1956 :—

(i) In Margaldoi, six dealers who were not registered under the Central Act sold raw jute valuing Rs. 2,73,40,250 in the course of inter-State trade or commerce during the period from April 1982 to March 1984, after purchasing the jute from places within the State. No Central sales tax was paid by them, nor was any action taken by the department to recover the tax. The failure resulted in non-realisation of tax amounting to Rs. 10,93,610 being the difference between the Central sales tax leviable (Rs. 21,87,220) and the purchase tax assessed by the assessing authority (Rs. 10,93,610). Besides, fine for non-registration under the Central Act was recoverable from the dealers.

(ii) In Dhubri, 5 dealers, who were not registered under the Central Acts, sold hides and skins for Rs. 4,98,158 in the course of inter-State trade or commerce during the period from June 1975 to March 1984 after purchasing the same from certain places within the State. No tax under the Central Sales Tax Act was paid by them, nor was any action taken by the department to levy tax on those sales. The failure resulted in non-realisation of tax amounting to Rs. 13,043 (being the difference between the Central sales tax leviable and purchase tax paid). Besides, fine for non-registration under the Central Sales Tax Act was recoverable from the dealers.

(iii) In Gauhati, a dealer got himself registered under the Central Sales Tax Act, 1956 in July 1983. It was, however, noticed in audit that he had made inter-State sales

of goods on several occasions during the half-yearly return period ending September 1979 and March 1983, which rendered him liable to get himself registered right from the period ending September 1979. No penal proceedings were initiated by the department against the dealer for his failure to get himself registered from September 1979. Fine upto Rs. 68,600 could be imposed upon him for this offence (at the rate of Rs. 50 per day from the 1st October 1979 to 3rd July 1983).

2.1.2 The Department in their written Memorandum stated as under :—

(i) After receipt of audit note, the records relating to these six dealers were checked. It was found that despatch of jute by these dealers from Assam to places outside the State was occasioned otherwise than by reason of sale. The transactions were in the nature of inter-State stock transfer. The assessing officer, after verifying documentary evidence produced by the dealers, was satisfied that there was no sale of jute in the course of inter-State trade or commerce and hence no liability under the Act. There was, thus no loss of revenue in these cases. It may also be mentioned that jute is an item of declared goods. Consequently, by virtue of section 15 (b) of the Central Sales Tax Act, 1956 where any central sales tax is paid in respect of jute the purchase tax paid earlier in respect of such jute must be re-imbursed to the person making the inter-State sale. In the instant cases, assuming that central sales tax was payable, the purchase tax paid in respect of the goods must be re-imbursed to 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 outside 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 dealer and claiming re-imbusement of the purchase tax would entail no small measure of hardship, a proposal for exemption from central sales tax in respect of jute (where purchase tax has been paid) is under examination of Government.

- (ii) The books of accounts of all the five dealers were re-examination along with other evidence produced by them where upon it was found that the assessee, after purchasing hides and skins in Assam carried the goods themselves to places outside the State and sold the same there. It is learnt that the assessee concerned are hide merchants and they carry on their trade independently and not through any principal or agent residing outside the State. Since the goods referred to above were sold outside the State and not in the course of inter State trade or commerce, the assessee were not liable under the Central Sales Tax Act 1956.
- (iii) On verification of the assessment records, and miscellaneous order sheets together with other collaborating documents available in the case records, it was found that the dealer had originally applied for registration under the Central Sales Tax Act 1956, on 22nd June 1972 and he was accordingly registered under section 7(2) of the Central Sales Tax Act 1956. The date of validity was with effect from 22nd June 1972. It may be mentioned that in the original application the dealer had sought for registration under section 7(1) and 7(2). The dealer later on 4th July 1983 applied for insertion of section 7(1) as well in the registration certificate and accordingly section 7(1) was also inserted in the certificate vide Superintendent of Taxe's order dated 27th July 1983. The amendment was made effective from 4th July 1983. But subsequently, by means of a petition dated 1st April 1985 the dealer prayed for insertion of section 7(1) in the certificate from the beginning as applied for by in his original application for registration. Therefore, the registration certificate was further amended accordingly vide Superintendent of Taxe's order dated 1st April 1985 giving validity with effect from 1st April 1975.

In the circumstances, no penal action was called for in the instant case. It may be observed that, in any case, there is no dispute that the dealer had paid the tax due from in due course.

OBSERVATIONS/RECOMMENDATIONS

2.3.1 In the first case the six dealers despatched jute from Assam to places outside the State after purchasing the same in the State. The dealers were not registered under the Central Sales Tax Act 1956 resulting in non-realisation of tax due under the Act amounting to Rs. 10,93,610/- (Central Sale Tax leviable Rs. 21,87,220.00 purchase Tax Rs. 10,93,610.00) In the second case the aggregate of turn over amount to Rs. 4,98,158.00 covering the return periods ending 30th September 1975 to 31st March 1984, in respect of five dealers of Dhubri Trading in hides and skins were not assessed under the Central Sales Tax Act, 1956 resulting in loss of revenue amounting to Rs. 13,043.00. Similarly in the third case a dealer due to be registered right from the period ending September 1979 continued to deal with under the Central Sales Tax Act and penalty of Rs. Rs. 68,600/- was not imposed upon him by the Department for his failure to be registered.

2.3.2. Irrespective of their written reply against the Audit objection it appears that the cases were reported to the Department well ahead. However the objection were not settled and as a result these have found place in the Report of the Comptroller and Auditor General of India.

The Committee, therefore feels that the Department should take note of this type of lapses which have taken so much of exercise by the Committee and take corrective steps to avoid such lapses in future.

Para 2.3/CAG/1984-85 (R/R)

Re :- Irregular grant of exemption from Tax.

2.2.1. The Audit has brought out the following three cases of irregular grant of exemption from tax payable by dealers :-

- (i) In Gauhati., sales of tea amounting to Rs. 40,85,801 made by dealer during the half-yearly periods falling between 31st March, 1977 and 31st March, 1981 were exempted from levy of tax, treating them as

having been made to Government of India for consumption by the Defence personal. The exemption allowed was not correct, as the sales were not supported by the prescribed declaration from any authorised officer of the Central Government or by copies of broker's accounts or other evidence showing that tea had been bought by the dealer at the public auctions held at Gauhati. The irregular grant of exemption resulted in tax amounting to Rs. 2,45,148 not being realised.

- (ii) In North Lakhimpur (Assam), a dealer despatched tea valuing Rs. 3,04,643 to a tea centre in Visakhapatnam (Andhra Pradesh) during the year ending 31st March, 1980. He claimed exemption from payment of tax in respect of those goods on the ground that the movement of goods from North Lakhimpur to Visakhapatnam was of the nature of a branch transfer and not by way of sale and, in support of this claim, he submitted, to the assessing authority, Form 'F' signed by the recipient of the goods. Accepting the claim, the assessing authority exempted the dealer from payment of tax. However, a scrutiny in Audit of Forms 'F' showed that these were not valid as the recipient of goods in Visakhapatnam was not a registered dealer on the date (January, 1980) on which the movement of goods took place (He was registered later on 28th April 1980). The dealer had also not furnished to the assessing authority any other evidence showing that transfer was of the nature of branch transfer and not by way of sale. The exemption granted to the assessee was, therefore, incorrect and resulted in tax amounting to Rs. 30,464 not being realised.

- (iii) Despite withdrawal of the exemption from 1st January 1981, sales amounting to Rs. 7,16,651 made by two registered dealers of Gauhati to certain registered dealers of Arunachal Pradesh and Mizoram from 1st January 1981 onwards during the assessment periods ending March 1981 and September 1981, were exempted from levy of Central Sales tax by the assessing officer. The irregular grant of exemption resulted in tax amounting to Rs. 26,186 not being realised.

2.2.2 The Department in their written memorandum have stated:—

- (i) After receipt of the audit note, the assessment records of the dealer were re-examined where-upon it was found that although the declaration prescribed under Rules 45 (a) of the Assam Sales Tax Rules 47 was not furnished by the dealer at the time of assessment for the relevant periods, the assessing officer was satisfied on basis of other documentary evidence produced that (i) the tea in question was purchased in Guwahati Tea Auction and (ii) sales of tea were made to Government of India for consumption of the Armed Forces. Initially, the assessing officer did not demand production of the declaration required from the dealer; but later he demanded it and the dealer furnished the same. As such the exemption allowed in respect of the aforesaid turnover under section 15 (1) (c) of the Assam Sales Tax Act, 47 has not led to any loss of revenue in the instant case. Further strict instructions have been issued to the assessing officers to demand production of declarations prescribed in Rule 5 (2) of the Assam Sales Tax Rules, 47 by all dealers before allowing exemption under section 15 (1) (c) of the Assam Sales Tax Act, 47 on sales of tea (purchased in Guwahati Tea Auction) to Government of India.
- (ii) In pursuance of the audit note, the original assessment of the dealer for the period was revised raising additional demand amounting to Rs. 59,100. But the dealer challenged the revised assessment by filing an appeal before the Appellate Assistant Commissioner of Taxes, Jorhat. The Appellate Authority after verifying the records including the declarations in Form 'F' produced by the dealer allowed the appeal and passed orders directing the assessing officer to treat the transaction in question as inter-State stock transfer.
- (iii) In pursuance of the audit note, original assessment in respect of both the periods were reopened and the books of accounts of the dealer were re-verified. It was found that the gross turn-over for

the period ending 31st March 1981 was actually Rs. 5,51,005 and not Rs. 5,37,225 as recorded in the original assessment order. The books of account also revealed that although in the original assessment order it was stated that the entire turnover of Rs. 1,85,899 represented inter-State sales to exempted areas of which Rs. 1,40,007 was not admissible according to audit as stated earlier, the turnover admissible for exemption and not liable to tax was actually Rs. 1,85,788 which comprised different types of sales as detailed below:—

Period ending 31—3—1981

	Rs.
(a) Second inter-State sale to registered dealer supported by declaration in Form "C" and "E"—I.	1,32,260
(b) Sales to registered dealers of Mizoram prior to 1st January 1981 (Exempted area)	29,803
(c) Sales to Bhutan (Export)	23,725
Total sales admissible for exemption and not liable to tax.	1,85,788

The assessment for the period was rectified accordingly raising a small demand of rupee one only.

Similarly, the books of accounts of the dealer for the period ending 30th September 1981 revealed that the gross turnover for the period was actually Rs. 15,15,293 and not Rs. 14,84,303 as recorded in the original assessment order. The books of accounts also revealed that although in the original assessment order it was stated that the entire turnover of Rs. 5,87,528 represented inter-state sales to

exempted areas, which, according to audit was not admissible for exemption the turnover actually admissible for exemption was Rs. 5,82,720 only being second sales in the course of inter-State trade or commerce to registered dealers supported by declarations in form "C" and "E-I". The assessment for the period was rectified accordingly raising a small demand of rupees two only.

In the second case turnover amounting to Rs. 1,29,114 out of the turnover of Rs. 3,68,243 being sales to exempted areas (Arunachal Pradesh and Mizoram) during the assessment period ending 31st March 1981 under the Central Sales Tax Act, 1956 was exempted from tax irregularly, according to audit, because exemption was withdrawn by Government with effect from 1st January 1981 and as a result thereof tax amounting to Rs. 4,966 was not realised.

In pursuance of the audit note, the original assessment of the dealer for the period was reopened and notice was served upon the dealer disclosing the intention to rectify the assessment for the period. The dealer did not object. The mistake apparent from the records was thus established and the assessing officer rectified the original assessment for the period reducing the turnover exempted from tax by Rs. 1,29,114 and raising additional demand amounting to Rs. 4,966. This amount has already been paid vide treasury challan No. 128 dated 9th July 1985.

Before concluding it may be observed that :

- (i) Second sales in the course of inter-State trade to registered dealer and supported by "C" and "E-1" form are not liable to central sales tax by virtue of section 6 (2) of the Central Sales Tax Act, 1956 :
- (ii) in the original assessment order in the first case reasons advanced for not taxing the sales were wrong though the omission to levy tax was correct for reasons stated above :
- (iii) the figure of Rs. 7,16,651 mentioned in this paragraph seems to be wrong, the correct figure seems to be Rs. 8,56,649.

OBSERVATIONS / RECOMMENDATIONS

2.2.3. The objections in brief are :

- (i) An aggregate turnover from tea amounting Rs.40,85,801.00 covering the half yearly period ending 31st March 1977 to 31st March 1981 of a dealer was exempted from tax irregularly resulting in non-realisation of tax amounting to Rs.2,45,148 00
- (ii) Exemption of tea worths Rs. 3,04,643.00 despatched by a Tea Estate from North Lakhimpur to Visakhapatnam in Andhra Pradesh during the period ending 31st March 1980 as inter-state stock transfer of the goods on the basis of declaration in Form 'F' furnished by the dealer was irregular because the relevant 'F' forms were not valid on the date of transfer and this has resulted in tax amounting to Rs- 30,40,464.00 not been realised.
- (iii) Turnover amounting to Rs. 1,40,007.00 and Rs. 5,87,528.00 were exempted from tax irregularly and as a result tax amounting to Rs. 26,072.00 was not realised.

2.2.4. In view of the fact that there is no loss with which the Committee is concerned with and as now the Department is stated to have issued necessary instruction, Committee recommends that in future such demand shall be made instantly and no exemption/relief shall be given after the Audit objection.

Para 2.4. / CAG/1984-85 (R/R)

Re : Non-levy or short levy of interest.

2.3.1. The Audit has brought out the following cases of Non-levy or short levy of interest :

- (a) In Gauhati, a dealer was assessed (July 1983) to tax amounting to Rs. 1,68,560 under the Central Sales Tax Act, 1956 for the return periods ending 31st March 1980, 30th September 1980 and 31st March 1981. The dealer had paid tax amounting to Rs. 1,31,524 only by the due date. Although a demand for the balance amount rate of 4 per

cent, provided the sales are supported by prescribed declarations in Form 'C' in the case of sales to registered dealers and in Form 'D' in the case of sales to Government departments.

- (b) In another case at Gauhati, a dealer was assessed (April 1981) to tax amounting to Rs. 46,736 under the Assam Finance (Sales Tax) Act, 1956 for the return period ending 30th September 1973. The dealer had paid tax amounting to Rs.23,147 within the prescribed period. Although demand for the balance amount (Rs.235.89) was raised in August 1983, interest on the related payment was not demanded. Interest chargeable was Rs.38,721 (upto April 1981).
- (c) In Tezpur, a dealer was assessed (August 1980) to tax amounting to Rs. 72,585 for various return period ending between September 1976 and March 1979. Although tax was paid by the dealer late between 31st March 1982 and 30th, October 1982 interest on related payment was levied only upto 30th June 1979. Interest levied short amounted to Rs.55,297.

2.3.2 The Department in their written memorandum stated :

(a) After receipt of the audit note the assessment records of the dealer for the relevant periods were examined. It was found that the dealer filed a revision petition against the original assessment for the periods in question on the ground that certain declarations in Form—"C" were not taken into consideration at the time of assessment. In disposing of the revision petition, the Revisional Authority directed the assessing officer to make fresh assessment in respect of the said periods after taking into account the "C" Forms in question furnished by the dealer. The assessments of the dealer were accordingly revised on 13/12/84. Since 90% of the tax due as per revised assessments had been paid within due dates, no interest is leviable in this case.

(b) In pursuance of the audit note, interest amounting to s. 63,160 was levied in respect of demanded tax amounting Rs. 23,489 raising a gross demand of Rs. 86,749 in- ding tax. But the dealer referred appeal before the Assisant

Commissioner of taxes, (Appeals), Guwahati challenging the demand on account of interest. The dealer in his appeal petition contended that tax amounting to Rs. 26,420.67 paid by him for the assessment period in question had not been taken into account at the time of completing the assessment and demands raised amounting to Rs. 23,589 on account of tax and Rs. 63,160 on account of interest were not actually due from him. The Appellate Authority allowed the appeal, set aside the order levying interest and directed the Superintendent of Taxes to make fresh computation of interest after giving credit for the correct amount of tax paid by the dealer. Action is being taken in accordance with the order of the Appellate Authority.

(c) Interest due in this case for the assessment periods in question amounting to Rs. 55,297 has been levied. The amount is in process of recovery.

OBSERVATIONS/RECOMMENDATIONS

2.3.3. The Committee observes that due to lapses on the part of the assessing officer, very often the original assessment had to be revised on appeal or otherwise. The Committee therefore recommends that every care shall be taken by the assessing officer to assess the taxes correctly by putting their mind judiciously. In case the assessing officer, while making original assessment, if deliberately assess the same without proper application of mind, he shall be held responsible for such erroneous assessment and the Department should take disciplinary action against such erring officers.

Para 2.5/CAG/1984-85(R/R)

Re :—Short levy of Tax

2.4.1. The Audit has pointed out the following cases of short levy of Tax :—

(a) In Gauhati, on inter-State sales of motor vehicles and motor cycles amounting to Rs. 2,63,365, made by a dealer to the Government departments of Meghalaya and Mizoram for the return period ending 31st March 1983, tax was levied at the concessional rate of 4 per cent, although sales amounting to Rs. 1,69,599 were not supported by the prescribed declarations in Form 'D'. These sales (Rs-

1,69,599) were taxable at the rate of 12 per cent. The irregular allowance of the concessional rate resulted in tax being levied short by Rs. 13,829.

(b) In another case, although a dealer of Gauhati had made inter State sales amounting to Rs. 3,41,621 (Supported by declarations in Form 'C') in the return period ending 31st March, 1983, sales amounting to Rs. 2,31,846 only were taken into account while making the assessment. The mistake resulted in scapement of turnover amounting to Rs. 1,09,775 with consequent short levy of tax by Rs. 4,222.

2.4.2 The Department in their written Memorandum state as follows :—

(a) It may be mentioned that the original assessment in the instant case had been made in July, 1983. Following the receipt of the audit note, the assessing officer re-opened the matter and noticed an apparent mistake in the original assessment and rectified the same determining the aggregate turnover at Rs. 2,88,575 in place of Rs. 2,63,396 (not—Rs. 2,63,365 as reported by audit). The entire turnover represented sales to Government Department supported by "D" Forms. It may be mentioned that the "D" Form in respect of the turnover of Rs. 1,69,599 being sales to Government Departments in Mizoram had been misplaced earlier and, therefore, could not be shown to audit. The same have been restored to the assessment records. As per rectified assessment order a small demand of Rs. 563 raised (after adjusting Rs. 384 shown earlier as excess payment) which has since been paid.

(b) After receipt of the audit note assessments of the dealer for the relevant period was revised raising additional demand as below:

Additional tax levied	= Rs. 4,846/—
Interest levied	— Rs. 1,175/—
Total additional demand	= Rs. 6,021/—

The dealer, after receipt of the demand notice preferred an appeal against the revised assessment and in pursuance of an order of the Assistant Commissioner of

Taxes (Appeals). Guwahati deposited Rs. 1,500 out of the amount in despatch. The decision of the Appellate Authority is awaited.

OBSERVATIONS/RECOMMENDATIONS

2.4.3. In both the cases Audit pointed out short levy of tax to the extent of Rs. 13,829/— in the first case and Rs. 4,222/— in the second case and after receipt of the Audit note both the cases were re-opened and additional demand raised to rectify their mistakes.

2.4.4. The Committee recommends that the Department should streamline the working of the Internal Audit cell who could detect such mistakes immediately.

Para 2.6/CAG/1984-85(R/R)

Re:—Irregular refund of tax.

2.5.1. The Audit has brought out that in Dhubri, a dealer having a plywood factory had claimed and been allowed refund of tax amounting to Rs. 88,004 paid by him during the periods ending 31st March 1980 to 30th September 1982 on purchase of plywood logs as raw materials. The refund was irregular as the unit's claim was not supported by the requisite certificate from the Director of Industries.

2.5.2. The Department in their written Memorandum have stated that in pursuance of the Audit note the original assessments of the dealer for the relevant periods were revised disallowing refund of tax on raw materials. Additional demands amounting to Rs. 88,095 on account of tax and Rs. 1,18,034 on account of interest were raised which is in the process of realisation.

OBSERVATIONS/RECOMMENDATIONS.

2.5.3. The Committee observes that every assessing officer should be particular before he takes a decision so that no under-assessment or irregular assessment could occur. He should be more serious about the refund of the tax collected. The Committee therefore recommends that in appropriate cases the Department should inflict punishment to the erring officers so that it should not be a pattern of committing mistakes causing loss of the State's resource and subsequent rectification if and when pointed out by others.

Para 2.7/CA G/1984-85 (R/R)

Re : Loss due to turnover escaping assesment.

2.6.1. The Audit has brought out that in Barpeta Road, on a dealer's failure to submit returns for the quarters ending 30th September 1983 and 31st December 1983 the assessing authority made (March 1984) the assessment for the aforesaid periods on the basis of best judgement, based on a report of the Inspector of Taxes, determining his turnover at Rs. 4,88,000 in respect of purchase of 2,29,639 kilograms of raw jute. The dealer paid the tax (Rs.19,520) in April 1984. In May 1984 on a request from the dealer, his registration certificate was cancelled with effect from 1st April, 1984.

On scrutiny on the declarations in Form XII, submitted by the dealer to check-post at Damra revealed that he had actually despatched 5,30,550 kilograms of raw jute valuing Rs.12,48,000 outside the State in the course of inter-State trade and commerce after purchasing the same from places within the State. Thus, in the summary assessment, purchase turnover was determined short at least by Rs.6,37,931 (representing value of 3,00,911 kilograms of jute), resulting in tax being levied short by Rs.25,517. Besides, no penalty for non-submission of returns was imposed on the dealer.

2.6.2. The Department in their written Memorandum have stated that after receipt of the Audit Note, the assessing officer checked the original assessment orders for both the periods and found that all the declaration in "Form-XII" relevant to the assessment period ending 30.9.83 furnished by the dealer at the Sreerampur check post were taken into consideration while assessing the dealer for that period and no turnover relating to that period escaped assessment.

As regards the other assessment period viz., period ending 31st December, 1983 the original assessment order revealed that some declaration in "Form-XXI" furnished by the dealer at the check post were not taken into consideration at the time of making the assessment for that period. This resulted in turnover amounting to Rs.6,65,927 (not Rs.6,25,155 as reported by audit) escaped assessment. The assessing officer, therefore, re-opened the original assessment and revised the same raising additional demand amounting to Rs.26,637 (against Rs.25,517 as estimated by

audit) on account of tax and Rs.9,195 on account of interest. Total additional demand amounting Rs.35,832 has already been realised in full.

OBSERVATIONS /RECOMMENDATIONS

2.6.3. The Committee observes that though the loss has been recouped, there is serious lapses on the computation of due taxes. The assessing officer should have taken into account all relevant records including information from the check-gate in making his assessment and that was not done as pointed out by Audit. The Committee therefore recommends that the assessing officers will take every care for correct assessment at a time with co-ordination with check-gate staff.

Para 2.8/CAG/1984-85 (R/R)

Re : Mistakes in assessments.

2.7.1. The Audit has pointed out the following cases of mistakes in assessments.

- (a) In Gauhati in assessing a dealer for the return period ending 30th September 1980, the assessing authority divided the dealer's sales turnover into three categories : (i) Sales which were partly tax-free and partly taxable at the rate of 4 percent (Rs 9, 98, 285) ; (ii) Sales taxable at the rate of 10 per cent (Rs.3,82, 843) and (iii) Sales taxable at the rate of 20 Per cent (Rs.3,098). The tax -free sales (included in the first category), which were of the nature of inter-State sales to registered dealers in Arunchal Pradesh and Mizoram (exempted areas) amounted to Rs. 1,36,176. In calculating the tax liability of the dealer, however, the assessing authority, by mistake, deducted the tax-free sales of Rs. 1,36,176 from Rs. 3,82,843 (second category) instead of Rs.9,98,285 (first category) in which these tax-free sales actually stood included. The mistake resulted in decrease of turnover taxable at the higher rate of 10 per cent and corresponding increase in the turnover taxable at the lower rate of 4 per cent, with consequent reduction in the tax liability of the dealer to the extent of Rs. 8,739.

- (b) Similarly, for the return period ending 31st March 1980, the assessing officer wrongly deducted Rs. 1,74,848, representing sales to registered dealers of Arunachal Pradesh and Mizoram, from the sales turnover taxable at 10 per cent, instead of from sales turnover which were partly tax-free and partly taxable at 4 per cent. This resulted in under-assessment of tax amounting to Rs. 9,482.

2.7.2. The Department in their written Memorandum have stated as follows :—(a) As a matter of fact, the dealer had filed revision petition against the original assessment order before conducting audit, on the ground that the turnover of goods taxable at the rate of 10% included turnover actually taxable at the rate of 4%. The Revisional Authority allowed the revision petition and directed the assessing officer to make a fresh assessment as follows :—

- (i) T.O. Taxable @ 20% — Rs. 3,098.00
- (ii) T.O. Taxable @ 10% — Rs. 72,641.00
- (iii) T.O. Taxable @ 4% — Rs. 13,07,692.00

Less Rs. 1,36,176/- on account of sales to exempted areas.

The revised assessment has been made accordingly. The total tax assess in the original assessment order was Rs. 58,498.00 while the total tax assessed in the revised assessment order was Rs. 40,413.22 p. which has been paid in full.

Thus there has been no loss of revenue in this case.

- (b) As a matter of fact, the dealer filed a revision petition against the original assessment order, before audit on the ground that turnover of goods taxable @ 10% included turnover actually taxable @ 4%. The Revisional Authority allowed the revision petition and directed to assessing officer to make a fresh assessment as follows :—

- (i) T.O. Taxable at the rate of 20% - Rs. 6933.00
- (ii) T.O. Taxable at the rate of 10% - Rs. 1,04,918.00
- (iii) T.O. Taxable at the rate of 4% -Rs. 10,95,709.00

Less Rs. 1,74,848/- on account of sales to exempted areas.

The revised assessment has been made accordingly. The total tax assessed in the original assessment order was Rs. 55,567/- while the total tax was assessed in the revised assessment order was Rs. 45,569/- which has been paid in full.

OBSERVATIONS/RECOMMENDATIONS

2.7.3. The Audit points out mistakes in assessment causing loss to the extent of Rs. 8,793/- in the first case and under assessment of tax amounting to Rs. 9,482/- in second case. The mistakes as pointed out in Audit, were excepted by the assessing officer. Subsequently, instead of rectifying the mistakes, the Revisional Authority further reduced the tax liability of the assessee. The Committee could not comprehend as to why the revision was allowed and tax liability reduced further in spite of the Audit objection. The Department shall explain in detail within a period of 60 days from the date of placing of the report before the House.

Para 2.9./CAG/1984-85 (R/R)

Re :- Irregular acceptances of tax dues.

2.8.1. The Audit has brought out that every registered dealer is required to deposit the amount of tax payable by him directly to the Government treasury and furnish, to the assessing authority, a copy of the receipted Treasury Challan along with his tax return. However contrary to these instructions, the Superintendent of Taxes, Guwahati, had been collecting tax from dealers in the form of cheques and crediting the same into Government account long after their receipt. In one case, he collected, from a dealer, cheques amounting to Rs. 6,39,580 and Rs. 10,30,000 during 30th December 1983 to 10th May 1984 and credited them into Government account (between 8th March and 27th July 1984) 67 days to 116 days after the dates of their receipt. In another case, he received cheques amounting to Rs. 3,08,894 during July 1982 to March 1984 and deposited the same into Government account 82 to 133 days thereafter. The delay in remittance, besides affecting the ways and means position of Government, resulted in accrual of fortuitous benefit to the dealers by way of interest.

2.8.2. The Department in their written memorandum have stated that though it is a fact that there was some delay between the dates of receipt of the cheques and the dates their deposits, the delay was not very great. In order to minimise delay in this matter, strict instructions (Sales Tax circular No. 118) have been issued to the officers to ensure that cheques received from the assesses are promptly deposited into the Treasury. Besides, the assessing officers have been directed to levy interest for the period from the date of cheques to the date of presentation of this cheque in the concerned office.

OBSERVATIONS/RECOMMENDATIONS

2.8.3. The Committee would like to know in respect of every cases:-(a) The dates on which the taxes from dealers were due,

- (b) When the taxes were paid by cheque and total days of delay and amount of interest payable. The Department will furnish the reply within a period of 60 days from the date of presentation of this Report before the House.

Para 2.10./CAG/1984-85 (R/R)

Re :- Non-levy of Penalty.

2.9.1. The Audit has brought out the following cases of Non-levy of panalty :-

- (a) In Dhubri, four dealers were assessed summarily to tax amounting to Rs. 64,670 under the Assam Sales Tax Act, 1947 for non-furnishing of returns for the period from March 1979 to March 1984 ; but no penalty was imposed on them. Maximum penalty leviable in these cases amounted to Rs.97,005.
- (b) In another case of Dhubri, a dealer was assessed summarily to tax amounting to Rs. 9.813 for non

filings of returns for the period March 1979 to March 1981 under the Assam Finance (Sales Tax) Act, 1956, but no penalty was imposed, although penalty exceeding Rs. 14,720 was leviable.

- (c) In Bongaigaon, a dealer who had failed to submit proper returns for the periods ending between September 1980 and March 1983 was assessed ex-parte on his sales (amounting to Rs. 8,67,291) during those periods and tax amounting to Rs. 60,710 was levied by the assessing authority. However, no penalty for the dealer's failure to furnish the returns was imposed, although penalty not exceeding Rs. 91,065 was leviable.
- (d) In Dibrugarh, on a dealer's failure to submit returns for six consecutive half-yearly return periods ending between March 1979 and September 1981, the assessing officer assessed the dealer on best judgement basis and levied tax amounting to Rs. 2,68,719, but no penalty for the dealer's failure to submit returns was imposed. The maximum penalty leviable in this case amounted to Rs. 4,03,078.

2.9.2. The Department in their written memorandum have stated as follows:-

- (a) Penalty was not imposed by the assessing authority on the ground that the dealers concerned had been assessed very heavily and they had to pay substantial amounts of interest for delay in payment of tax. The decision in this regard was however not recorded by this assessing officer in any of the above cases.
- (b) Penalty was not imposed by the assessing authority on the ground that the dealers concerned had been assessed very heavily and they had to pay substantial amounts of interest for delay in payment of taxes for delay in payment of taxes. The decision in this regard was however not recorded by the assessing officer in any of the above cases.

- (c) Penalty was not imposed by the assessing authority on the ground that the dealer concerned had been assessed very heavily and they had to pay substantial amounts of interest for delay in payment of tax. The decision in this regard was however not recorded by this assessing officer in any of these cases.
- (d) The necessity of imposing penalty was not considered by the assessing authority on grounds that the dealer who had been defaulting in submission of returns for the above mentioned periods has become regular in submitting returns producing accounts etc from period ending 31st March, 1982 onwards and therefore no penalty proceeding for the default in the above six periods were initiated against the dealer. The decision in this regard was however not recorded by the assessing officer in the above cases.

In respect of all the cases as above the Department have stated that as for future strict instruction have been issued to all Superintendent of Taxes to this effect that wherever, it is decided after hearing the assessee that penalty may not be imposed, the reason therefore must be recorded and intimated to the Commissioner of Taxes for orders.

OBSERVATIONS/RECOMMENDATIONS

2.9.3. The Committee observes that the penalty should have been imposed upon the dealers for their default to furnish the return etc. in time as prescribed under the laws in force. Similarly, a big amount of taxes which become payable on his turn-over of a dealer cannot negate his default in compliance of others in violation of the Statutory Provisions. Under the circumstances, the Committee feels that the assessing officer showed undue favour to the defaulting dealers by not imposing penalty as prescribed under the law. This is a serious laps. After consideration of the reply furnished by the Department, the Committee observes that such lapses should not occur in future.

CHAPTER—III

TAXES ON VEHICLES

Para 4.2/CAG/1984-85 (R/R)

Re :— Loss due to non-registration of vehicles under the Assam Passengers and Goods Taxation Act.

3.1.1. The Audit has brought out that in Nowgong, Hojai, Dibrugarh and Gauhati, 104 vehicles although registered under the Motor Vehicles Act, 1939, had not been registered under the Assam Passengers and Goods Taxation Act. The omission which had remained undetected due to non-co-ordination between the Regional Transport Authority and the Superintendent of Taxes had resulted in non-levy of passengers and goods tax amounting to Rs. 2,89,685 for various spells failing between November 1977 and March 1984 (calculated at the lump sum rates prescribed by Government.)

3.1.2 The Department in their written Memorandum stated as follows :—

- (a) In respect of Nowgong unit office it is found that out of 29 vehicles 20 are registered with the Nowgong unit office. The remaining 9 (nine) vehicles falls under the Jurisdictions of other Supdt. of Taxes, action taken by whom is under review. Out of 20 vehicles, 18 have been assessed to Tax amounting Rs. 80,027/- out of which an amount Rs. 29,754/- has been paid, steps for the recovery of the balance are in progress.
- (b) In respect of Hojai unit office it is found that out of 17 vehicles, 9 are registered and assessed by the Hojai unit office 2 vehicles were registered and assessed at Guwahati and another one at Nowgaon unit office. There was no permit for one vehicle and hence case is closed. The remaining four vehicles fall under the jurisdiction of other Superintendent of Taxes, action taken by whom is under review. The amount of tax assessed for above 12 vehicles was Rs. 55,779.00 out of which Rs. 53,179.00 has been realised. Steps for recovery of the balance are in progress.

- (c) In respect of Dibrugarh unit office it is found that out of 15 vehicles, ten are registered with the Dibrugarh unit office. Out of 10 vehicles 8 were registered before audit. One vehicle is a private carrier. Another vehicle No. ASU-5211 is a petrol Tanker. One vehicle is an Ambulance. The remaining two vehicles fall under jurisdiction of other Superintendent of Taxes, action taken by whom is under review. The amount of tax assessed for above 10 vehicles was Rs. 92,002.00 out of which Rs. 43,547.00 has been realised. Steps for recovery of the balance are in progress.
- (d) In respect of Guwahati unit office it is found that out of 47 vehicles, 6 are registered at Guwahati, one at Dhubri and another at Barpeta Road. The position of the remaining vehicles is under review.

OBSERVATIONS/RECOMMENDATIONS

3.1-3. Audit pointed out non-levy of Passengers and Goods Tax amounting to Rs. 2,89,685.00 only due to non registration of 104 vehicles under the Assam Passengers and Goods Taxation Act. The Department in their written memorandum accounted for 47 vehicles realising an amount of Rs. 1,26,480.00 only. The Committee therefore recommends that a report indicating up-to-date position of realisation of due taxes shall be furnished within a period of 60 days from the date of presentation of the Report. before the House.

Para 4.3/CAG/1984-85(R/R)

Re : Short levy due to incorrect assessment on best judgement basis.

3.2.1. The Audit has brought out that at Nowgong, Magaldoi and Dhekiajuli, in 30 cases, where returns were either not submitted by the assesseees or were not accepted by the assessing authorities, assessment on best judgement basis were made at rates lower than the prescribed lump sum rates, even though the vehicle owners had not furnished, to the assessing authority any proof of non-use of vehicles for any period. Non-compliance with the aforesaid instructions resulted in loss of revenue amounting to Rs. 73,632 during the years 1977 to 1984.

3.2.2. The Department in their written Memorandum stated that on examination of the records of the Mangaldoi office it was found that out of 9 vehicles one had been assessed at a rate above the lump sum fixed for that kind of vehicles. In case of 4 vehicles the assessments were made on the basis of the accounts on examination of which it had been found that the vehicles were off the road for long periods. In the case of these 4 vehicles, therefore, assessment at lump sum rate does not seem to be justified. In case of another vehicle it was found that the vehicle was a minibus in respect of which no lump sum rate has been laid down. In the circumstances the assessment of tax at a rate below the lump sum rate fixed for larger buses seems to be justified in the instant case. In respect of two other vehicles, the assessments have been revised following audit and the vehicles have been re-assessed at the lump sum rate fixed in respect of such vehicles. In respect of the remaining vehicle (ASD-957) the matter is under review as the vehicle does not seem to relate to the Mangaldoi office. In respect of the 12 vehicles relating to the Dhekiajuli unit the original assessments were revised in all the cases following audit. Revised assessments in respect of the vehicles have been made at the rate applicable to that kind of vehicles. In case of Nagaon all ten (10) vehicles had been assessed on the basis of account. There was no justification for re-opening the assessments in those cases.

OBSERVATIONS/RECOMMENDATIONS

3.2.3. The Committee observes that the assessing authorities made assessment at a rate lower than the lump-sum rate extending gain to the defaulting vehicle owners in contravention of specific instruction in this regard causing loss of revenue amounting to Rs. 73,632.00. The Department however, after receipt of the Audit objection revised their earlier assessment. The Committee could not understand as to why the finding of the retgision could not be intimated to Audit. The Committee therefore recommends that the Department shall tone-up their activities particularly in given priority to all Audit objections.

Para 4.4/CAG/1984—85/ (R/R)

Re:— Loss due to delay in assessment.

3.3.1. The Audit has brought out that in Karimganj, in three cases where returns relating to the period September 1973 to September 1977 were either not submitted by the assesseees or were not accepted by the assessing authority, assessments were made on best judgement basis in May and June 1980, but no penalties were imposed on the vehicles owners for non-payment of tax. Even demand notices for the dues assessed were not served on the owners.

3.3.2. The Department in their written Memorandum stated that on examination of records it has been observed that three owners are non-residents in Assam. That seems to be the main reason for delay in assessment. In none of the three cases the tax assessed has been recovered yet by the Collector, Agartala to whom requisition for recovery had been made. The matter is being pursued for speedy recovery of the arrears.

OBSERVATIONS/RECOMMENDATIONS

3.3.3. The Committee observes that the due tax could not be realised for the period from September 1973 to September 1977 as the defaulters hail from other State. This is, indeed, a very sorry state of affairs. Now the Committee would like to hear that taxes are realised by now.

Para 4.5/CAG/1984—85/(R/R)

Re:— Loss due to lack of prompt action for recovery of Government dues.

3.4.1. The Audit has pointed out that in Dibrugarh, owners of 22 vehicles defaulted in payment of tax amounting to Rs. 1,09,172, relating to the period from January 1963 to March 1978. No action was, however, taken by the department to suspend the certificates of registration of these vehicles, as prescribed. Realisation of the tax could not be affected even through bakijai proceedings, as the defaulters were no longer traceable at their given addresses. The inordinate delay on the part of the department in taking appropriate action for recovery of taxes resulted in loss of revenue amounting to Rs. 1,09,172 to Government.

3.4.2. The Department in their written Memorandum stated that the District Transport Officer, Dibrugarh confirmed that a sum of Rs. 387/- and Rs. 1,500/- have since been realised from two vehicles as regards the remaining vehicles the registration certificate have been suspended under section 9 (a) of the M. V. Act and Bakijai cases started under section 16 of the said Act.

OBSERVATIONS/RECOMMENDATIONS

The Committee recommends that the Department should arrange their tax collecting system in such a way that unscrupulous businessmen, may not be able to carry on their business for their own profit without paying due share of taxes to the State, while obtaining temporary permit for single Journey transaction.

Para 4.6/CAG/1984—85/(R/R)

Re :—Realisation of current taxes without realising arrears.

3.5.1. The Audit has pointed out that the following cases:-

(a) In Silchar in respect of 16 vehicles, taxes for the different period falling between July 1976 and July 1984 were realised by the District Transport Officer without realising arrear taxes relating to various periods falling between October 1975 and June 1984. This resulted in non-realisation of tax amounting to Rs. 11,863.

(b) In respect of 12 vehicles in Guwahati, current taxes for different period falling between October 1977 and April 1983 were realised without realising arrear taxes amounting to Rs. 9,839 for various earlier period falling between April 1975 and March 1983.

3.5.2 The Department has stated in their written Memorandum that (a) the total vehicles as involved in this Audit para should have been eleven (11) instead of sixteen (16) and the amount involved is Rs. 8,094/- instead of Rs. 11,863/- only. A sum of Rs. 5238.00 against 9 vehicles has since been realised. Tax in respect of one vehicle has been paid at Agartala. For the remaining vehicles demand notice for Rs. 1236/- has been issued.

(b) In respect of 12 vehicles in Guwahati, an amount of Rs. 5359/- has been realised. One vehicle has been removed to Rajasthan. The Registration Certificate of the remaining 6 vehicles has been suspended and Bakijai cases started.

OBSERVATIONS/RECOMMENDATIONS

3.5.3 The Committee recommends that in future, current liability without realising the arrears from the defaulters shall not be accepted under any circumstances.

Para. 4.7/CAG/1984—85 / (R/R)

Re:- Non-realisation of inspection fees

3.5.1 The Audit has brought out that at Guwahati and Dibrugarh in 148 cases either the vehicles had not been inspected at any stage or, after inspection, certificates of inspection for various spells had been issued without charging any fees during April 1966 to March 1984. Failure on the part of the motor vehicles inspectors to do inspections and to ensure timely renewal of certificates of fitness thereafter and the part of the transport authorities to insist on such renewals at the time of payment of motor vehicles tax resulted in inspection and renewal fees amounting to Rs. 22,521 not being realised.

3.5.2 The Department in their written Memorandum stated that as per the provision of the Assam Motor Vehicles Rules, 1940 the owner of the transport vehicles is at liberty to pay the inspection fees anywhere in Assam and get his vehicle inspected by any Motor Vehicle Inspector for renewal of fitness certificate. Out of 148 cases mentioned in the above para, 125 cases related to District Transport Officer, Guwahati and 23 related to District Transport officer, Dibrugarh. Out of 125 cases of District Transport Officer, Guwahati office and amount of Rs. 6,600/- from 53 vehicles has been realised as inspection fee. Notices have been issued to the remaining vehicles.

Out of 23 cases of District Transport Officer, Dibrugarh office Rs. 294/- have been realised against 3 vehicles, 2 (two) vehicles being non-transport vehicle inspection fees is not leviable. Notices have been issued to the remaining vehicles.

OBSERVATIONS/RECOMMENDATIONS

3.6.3 The Committee apprehends that the provision of inspection of vehicles twice a year relating to construction, equipments and mintenances was not strictly followed and fees not collected. Such a serious lapse could have been detected by the Enforcement Wing of the Department had it functioned smoothly. The Committee therefore, recommends that the statutory provision relating to inspection should be complied with strictly and no laxity on the part of inspectors shall be tolerated, so that vehicle unfit for human riding cannot ply on the road.

para 4.8/-CAG/1984-85(R/R)

Re :—Loss of revenue.

3.6.1. The Audit has brought out that prior to June 1981, certain vehicles (Matador and Standard-20 vehicles) were registered as having a seating capacity of seven, although their actual seating capacity was eleven (including the driver's seat). The motor vehicles tax was charged at the rate of Rs. 298 per quarter (as applicable to a tourist taxi). In June 1981, the Commissioner of Transport, Assam instructed the District Transport Officers to raise the seating capacity of each such vehicle from seven to eleven (including the driver's seat) and to levy tax in respect of these vehicles at the rate of Rs. 550 per quarter from 1st June 1981. He also instructed that where the vehicles had already been registered with seating capacity of seven, difference of tax between Rs. 298 and Rs. 550 per quarter should be recovered from the vehicle owners with effect from 1st June 1981. In respect of 20 (Standard 20) vehicles, registered between July 1979 and May 1981 at Guwahati, the authorised seating capacity was raised to eleven on 1st June 1981 and tax at the rate of Rs.550 per quarter was levied from that date. But, the initial incorrect registration showing the vehicles as having a seating capacity of seven each (as against the actual seating of eleven each) had resulted in loss of revenue amounting to Rs. 16,468 during the period from May 1979 to May 1981.

3.6.2. The Department in their written Memorandum stated that the Government in their orders dated 15.12.68 and 9.5.79 fixed the seating capacity of Matador and standeard 20 as 7 seater including driver. Subsequently on the Report of the State Transport Authority, Government fixed the

seating capacity as 11 (eleven) since 1st June 1981. The reported loss of arrear revenue from May 1979 to May 1981 does not arise.

OBSERVATIONS/RECOMMENDATIONS

3.6.3. From the reply it is clear that the seating capacity of Matador and Standard 20 was fixed at 11 (eleven) since 1st June, 1981 by the Government the size of the two types of vehicles remaining the same, the Committee do not understand why the seating capacity was fixed at 7 by Government in their orders 15th December, 1968 and 9th May 1979. The Committee therefore, observed that the earlier orders of the Government fixing the seating capacity at 7 was not well considered for which the reported loss of revenue to the State is to be admitted.

CHAPTER—IV

TAXES ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS

Para 5.4/CAG/ 1984—85 (R/R)

Re :—Non-realisation of tax.

4.1.1. The Audit has pointed out that in Nowgong, eleven Principal Officers did not submit returns for the years 1977—78 to 1983—84 to the Superintendent of Taxes, despite notices issued to them by the latter. Gross annual income of 635 persons working in their offices exceeded the taxable limit, but there was nothing on record to show that tax was recovered from the employees at source.

The omission resulted in non-realisation of tax amounting to Rs. 1,53,344, (calculated at the minimum rate of tax of Rs. 24 per year upto the financial year 1978—79 and at Rs.50 per year thereafter).

On this being pointed out (September 1984) in audit, the Superintendent of Taxes, Nowgong stated (November 1985) that tax dues amounting to Rs. 18,740 relating to seven Principal Officers had since been realised and action was being taken to realise the taxes from other Principal officers also.

4.1.2. The Department have in their written Memorandum has stated that the 11 Principal Officers by means of personal contact and it was found that though 10 of them has not submitted returns to the Superintendent of Taxes in respect of the years 1977—78 to 1983—84 despite notices issued by the Superintendent of Taxes, they had deducted from the pay-bills of the employees, the tax due from them and credited the same to Government account. In this manner the 10 Principal Officers had deducted and credited to Government account an aggregate amount of Rs. 97,520.00 on account of tax due from 284 employees serving under the said 10 Principal Officers. In respect of 351 employees serving in the Post and Telegraphs Department the matter is under review.

OBSERVATIONS/RECOMMENDATIONS

4.1.3. The Departmental witness, in course of oral deposition has stated that the Principal Officer is responsible to deduct due tax from his employees and accordingly action

has been initiated. As the tax has been realised and penal action has been taken against the defaulters, the Committee feels that the Audit para need not be discussed further. However, in the matter of realisation of taxes, the Committee recommends that due care shall be taken so that there shall be no scope for showing undue favour to defaulters.

para 5.5/CAG/1984—85 (R/R)

Re:- Under assessment of electricity duty.

4.2.1. The Audit has pointed out that in Dibrugarh on 46,05,788 and 18,31,818 units of energy supplied by a licensee for industrial purposes during the return periods ending 30th September 1975 and 31st March 1976, electricity duty was charged at the rate of 1 paise and 0.05 paise, instead of at the correct rates of 2 paise and 1.5 paise per unit respectively. The mistake resulted in electricity duty being levied short by Rs. 64,376.

4.2.2. The Department in their written Memorandum have state that following audit, the assessments of the assess-ee for assessment periods ending September/75 and March/76 were rectified and additional demand of Rs. 64,376 raised which has since been realised.

OBSERVATIONS/RECOMMENDATIONS

4.2.3. The Public Accounts Committee expresses its happiness for full realisation of the arrear dues.

Para 5.6/CAG/1984—85/ (R/R)

Re:-Non-levy of penalty:

4.3.1. The Audit has pointed out that in Guwahati, for non-submission of daily reports or monthly returns and non-payment of entertainment tax for the period May 1983 to December 1983, the proprietor of a cinema house was served, on 15th June 1984, with a show cause notice, indicating his tax liability as Rs. 25,699, but no follow up action to recover this amount was taken by the department till 13th July 1984

(the date of audi). No penal action for non-filing of the returns or non-payment of tax was also taken. Penalty not exceeding Rs. 51,398 was chargeable in this case, in addition to the tax of Rs. 25,699.

The proprietor of the same cinema house had also failed to file the monthly show tax returns during the period from April 1983 to December 1983 and to pay tax on due dates, as prescribed in the Act. On being served with a notice by the assessing authority in June 1984, the proprietor made part payment of tax amounting to Rs. 2,840 leaving a balance of Rs. 6,283. No effective action was taken by the department to recover this balance from the proprietor. Besides, penalty exceeding Rs. 18,246 was recoverable from him for non-filing of the returns and non-payment of tax in time.

4.3.2. The Department have in their written Memorandum stated that the departmental officer concerned was taking necessary action against the assessee before commencement of audit. The assessee had to pay the entertainment tax due in respect of the certain period in cash owing to non-availability of entertainment tax stamps in the Treasury. The amount of entertainment tax due was Rs. 25,689 (not Rs. 25,699). The departmental officer has not only remained the assessee to pay this tax but also had taken action to prosecute the assessee for his default. The assessee later paid up the entire amount of entertainment tax due and also paid an amount of Rs. 1,000 by way of composition of the offence for which he was sought to be prosecuted. The composition money so paid was accepted by the departmental officer and the offence compounded. As regards so far, the assessee has in the meantime paid up the entire amount due from him. There has thus been an loss of revenue in the instant case. Since the offence has been compounded, the question of levy of penalty was considered in the instant case.

OBSERVATIONS / RECOMMENDATIONS

4.3.3. The Committee observes that due to negligence of the concerned assessing authority at the initial stage such omission could occur. Hence the Committee recommends that particular care shall be taken without showing any favour to the defaulters.

CHAPTER-V
SUMMARY OF RECOMMENDATIONS
AND OBSERVATIONS

SL. No. OBSERVATIONS/RECOMMENDATIONS

1. The Committee fails to understand the reasons for such wide range of variation between the Budget estimates and the actual collections. The Committee finds it difficult to work-out the actuals growth rate in the respective field of revenue collection in relation to overall agrarian pattern of State. The Committee therefore suggests that the reasons should be indicated for such inaccurate estimation in the budget which has resulted such huge variations. Besides, proper care should be taken, in future, while projecting accurate picture in the budget proposals for each Department in future.

2. The huge arrears in the assessment tell heavily upon the unsatisfactory performance of the Department. The Committee, therefore, recommends that all necessary steps should be taken so that arrears in assessment could not accrue and the tax revenue, is collected without further delay.

3. The Committee recommends that in order to minimise the arrears of collection revenue collecting machinery should initiate appropriate timely action to reduce the gap between the revenue assessed and revenue collected.

4. In the first case the six dealers despatched jute from Assam to places outside the State after purchasing the same in the State. The dealers were not registered under the Central Sales Tax Act 1956 resulting in non-realisation of tax due under the Act amounting to Rs. 10,93,610/- (Central Sales Tax leviable Rs. 21,87,220.00 purchase Tax Rs.-10,93,610.00). In the second case the aggregate of turnover amount to Rs. 4,98,158.00 covering the return periods ending 30.9.75 to 31.3.84 in respect of five dealers of Dhubri Trading in hides and skins were

not assessed under the Central Sales Tax Act, 1956 resulting in loss of revenue amounting to Rs. 13,043.00. Similarly in the third case a dealer due to be registered right from the period ending September 1979 continued to deal with under the Central Sales Tax Act and penalty of Rs. 68,600/- was not imposed upon him by the Department for his failure to be registered.

5. Irrespective of their written reply against the Audit objection it appears that the cases were reported to the Department well ahead. However the objections were not settled and as a result these have found place in the Report of the Comptroller and Auditor General of India. The Committee therefore feels that the Department should take note of this type of lapses which have taken so much of exercise by the Committee and take corrective steps to avoid such lapses in future.

6. The objections in brief are:-

(i) An aggregate turnover from tea amounting Rs. 40,85,801.00 covering the half yearly periods ending 31-3-77 to 31-3-81 of a dealer was exempted from tax irregularly resulting in non-realisation of tax amounting to Rs. 2,45,148.00.

(ii) Exemption of tea worths of Rs. 3,04,643.00 despatched by a Tea Estate from North Lakhimpur to Visakhapatnam in Andhra Pradesh during the period ending the 31-3-80 as inter-state stock transfer of the goods on the basis of declaration in Form 'F' furnished by the dealer was irregular because the relevant 'F' forms were not valid on the date of transfer and this has resulted in tax amounting to Rs. 30,40,464.00 not been realised.

(iii) Turnover amounting to Rs. 1,40,007.00 and Rs. 5,87,528.00 were exempted from tax irregularly and as a result tax amounting to Rs. 26,072.00 was not realised.

7.

In view of the fact that there is no loss with which the Committee is concerned with and as now the Department is stated to have issued necessary instruction. the Committee recommends that in future such demand shall be made instantly and no exemption/relief shall be given after the Audit objection.

8.

The Committee observes that due to lapses on the part of the assessing officer, very often the original assessment had to be revised on appeal or otherwise. The Committee therefore recommends that every care shall be taken by the assessing Officer to assess the taxes correctly by putting their mind judiciously. In case the assessing officer, while making original assessment, if deliberately assess the same without proper application of mind, he shall be held responsible for such erroneous assesment and the Department should take disciplinary action against such erring officers.

9.

In both the cases, Audit pointed out short levy of tax to the extent of Rs. 13,829 in the first case and Rs. 4,222/-in the second case and after receipt of the Audit note both the cases were re-opened and additional demand raised to rectify their mistakes.

The Committee recomends that the Department should streamline the working of the Internal Audit cell who detect such mistakes immediately.

10.

The Committee observes that every assessing officer should be particular before he takes a decision so that no under assessment or irregular assessment could occure. He should be more serious about the refund of the tax collected. The Committee therefore, recomends that in appropriate cases the Department should inflict punishment to the erring officers so that it should not be a pattern of committing mistakes causing loss of the State's resource and subsequent rectification if and when pointed out by others.

11. The Committee observes that though the loss has been recouped, there is serious laps on the computation of due taxes. The assessing officer should have taken into account all relevant records including information from the check gate in making his assessment and that was not done as pointed out by Audit. The Committee therefore, recommends that the assessing officers will take every care for correct assessment at a time with co-ordination with check gate staff.
12. The Audit point-out mistakes in assessment causing loss to the extent of Rs. 8,793/- in the first case and under assessment of tax amounting to Rs. 9,482/- in second case. The mistakes as pointed-out in the Audit, were excepted by the assessing officer. Subsequently, instead of rectifying the mistakes, the Revisional Authority further reduced the tax liability of the assessees. The Committee could not comprehend as to why the revision was allowed and tax liability reduced further inspite of the Audit objection. The Department shall explain in detail within a period of 60 days from the date of placing of the Report before the House.
13. The Committee would like to know in respect of every cases :— (a) the dates on which the taxes from dealers were due. (b) when the taxes were paid by cheque and total days of delay and amount of interest payable. The Department will furnish the reply within a period of 60 days from the date of presentation of this Report before the House.
14. The Committee observes that the penalty should have been imposed upon the dealers for their default to furnish the return etc. in time as prescribed under the laws in force. Similarly, a big amount of taxes which became payable on his turnover of a dealer cannot negate his default in compliance of others in violation of the statutory provisions. Under the circum-

tances, the Committee feels that the assessing officer showed undue favour to the defaulting dealers by not imposing penalty as prescribed under the law. This is a serious laps. After consideration of the reply furnished by the Department, the Committee observes that such lapses should not occur in future.

15.

Audit pointed out non-levy of passengers and goods tax amounting to Rs. 2,89,685/- only due to non registration of 1104 vehicles under the Assam Passengers and Goods Taxation Act. The Department in their written memorandum accounted for 47 vehicles realising an amount of Rs. 1,26,480.00 only. The Committee therefore recommends that a report indicating up-to-date position of realisation of due taxes shall be furnished within a period of 60 days from the date of presentation of this Report before the House.

16.

The Committee observes that the assessing authorities made assessment at a rate lower than the lump sum rate extending gain to the defaulting vehicle owners in contravention of specific instruction in this regard causing loss of revenue amounting to Rs. 73,632.00. The Department however, after receipt of the Audit objection revised their earlier assessment. The Committee could not understand as to why the finding of the revision could not be intimated to Audit. The Committee therefore recommends that the Department shall tone-up their activities particularly in given priority to all Audit objections.

17.

The Committee observes that the due tax could not be realised for the period from September 1973 to September 1977 as the defaulters hail from other State. This is, indeed, a very sorry state of affairs. Now the Committee would like to hear that taxes are realised by now.

18.

The Committee recommends that the Department should arrange their tax collecting system in such a way that unscrupulous businessmen may not be able to carry on their business for their own profit without paying due share of taxes to the State., While obtaining temporary permit for single Journey transaction.

19.

The Committee recommends that in future, current liability without realising the arrears from the defaulters shall not be accepted under any circumstances.

20.

The Committee apprehends that the provision of inspection of vehicles twice a year relating to construction, equipments and maintenances was not strictly followed and fees not collected. Such a serious lapse could have been detected by the Enforcement wing of the Department had it functioned smoothly. The Committee therefore, recommends that the statutory provision relating to inspection should be complied with strictly and no laxity on the part of Inspectors shall be tolerated, so that vehicle unfit for human riding cannot ply on the road.

21.

From the reply it is clear that the seating capacity of matador and Standard 20 was fixed at 11 (eleven) since 1.6.81 by the Government the size of the two types of vehicles remaining the same, the Committee do not understand why the seating capacity was fixed at 7 by the Government in their orders dated 15.12.68 and 9.5.79. The Committee therefore observed that the earlier orders of the Government fixing the seating capacity at 7 was not well considered for which the reported loss of revenue to the State is to be admitted.

22.

The Departmental witness, in course of oral deposition has stated that the principal officer is responsible to deduct due tax from his employees and accordingly action has been initiated. As the tax has been realised and penal action has been taken against the defaulters, the Committee feels that the Audit para need not be discussed further. However, in the matter of realisation of taxes, the Committee recommends that due care shall be taken so that there shall be no scope for showing undue favour to defaulters.

23.

The Public Accounts Committee expresses its happiness for full realisation of the arrear dues.

24.

The Committee observes that due to negligence of the concerned assessing authority at the initial stage such omission could occur. Hence, the Committee recommends that particular care shall be taken without showing any favour to the defaulters.

ANNEXURE—A

Composition of the outgoing Committee

(1988—89)

Chairman:-

1. Shri A. F. Golam Osmani,

Members:-

2. Shri Kamala Kalita,

3. Shri Pradip Hazarika,

4. Shri Joy Prakash Tewari,

5. Shri Silvius Condpan,

6. Sheikh Abdul Hamid,

7. Shri Ramendra Dey,

8. Shri Chandra Mohan Patowary,

9. Shri Abdul Rob Lashkar,

10. Shri Abhijit Sarma.