

PUBLIC ACCOUNTS COMMITTEE  
( 1994-96 )

SEVENTIETH REPORT  
( Ninth Assembly )



REPORT OF THE PUBLIC ACCOUNTS COMMITTEE  
ON THE REPORT OF THE COMPTROLLER  
AND AUDITOR GENERAL OF INDIA  
FOR THE YEAR 1983-84 (REVENUE  
RECEIPTS) PERTAINING TO  
THE FINANCE DEPARTMENT,  
GOVERNMENT OF ASSAM

15 MAR 1995

Presented to the House on.....

ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT  
DISPUR, GUWAHATI-781006.

COMPOSITION OF THE COMMITTEE ON THE ACCOUNTS

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(i)

**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 Lakshmi 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 Kumar Das, Committee Officer.

(ii)

## PREFATORY REMARKS

1. Shri Giasuddin Ahmed, Chairman of the Public Accounts Committee, having been authorised to present this Report on their behalf, present this Seventieth Report on the audit paragraphs contained in chapters I, II, IV-B and VI-C of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year, 1983-84 relating to Finance Department on Sales Tax, Taxes on Passengers and Goods and Taxes on professions, Trades, Callings, Employments.

2. The Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year, 1983-84 was presented before the House on 18th July, 1985.

3. The Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year, 1983-84 was considered by the former Committee of the Eighth Assembly headed by Shri A. M. Choudhury (Annexure-A) in their sitting held on 11th August, 1987. The former Committee considered the Report, 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 perused all the relevant records and prepared this report.

4. The audit paras under Chapter-III pertaining to Agricultural Income-Tax, chapter V relating to Land Revenue, chapter VI-B on State excise and chapter VII concerning Forest Receipts have already been considered and incorporated in the 65th, 46th, 57th and 56th reports.

5. The records of examination of audit paras under chapter IV-A, VI-D, VI-E and VI-F are not available. Fresh examination of these paras are also not considered necessary as these are very old. These paras may be treated as dropped.

6. The Committee has considered the draft Report and finalised the same in its sitting held on 20th January, 1995.



(ii)

(iii)

7. The Committee places on records their appreciation of the strenuous work done by the out going Committee of Eighth & Ninth Assembly (as at Annexure—A B, C) in obtaining various records, information, clarification etc. and for the valuable guidance and assistance rendered to the Committee by the Accountant General (Audit), Assam and other officers and staff of this Secretariat. The Committee also express their thanks to the Finance Department for their co-operation to the Committee.

**GIASUDDIN AHMED**

Dated Dispur :

Chairman,

The 20th January, 1995

Public Accounts Committee.

## CHAPTER—I

### General

Total receipts during the year 1983-84 of the Government of Assam, as reported by the Audit, are:—

(in crores of rupees)

**I. Revenue raised by the State Government—**

(a) Tax Revenue

135.33

(b) Non-Tax Revenue

87.89

**II. Receipts from Government of India—**

(a) State's share of divisible Union Taxes

137.79

(b) Grants-in-aid

199.69

**III. Total receipts of the State (I & II)**

550.72

An analysis of the Tax revenue as well as Non-Tax Revenue for the year 1983-84 of the Government of Assam and for the preceding two years are given below:—

(in crores of rupees)

**(A) Tax Revenue:—**

1981-82

1982-83

1983-84

(1) Taxes on Agricultural Income

14.64

8.00

11.29

2. Other Taxes on Income and Expenditure	1.02	1.34	1.94
3. Land Revenue	3.94	3.33	4.27
4. Stamps and Registration Fees	3.51	3.39	4.76
5. State Excise	3.16	4.28	5.70
6. Sales Tax	63.69	75.44	93.89
7. Taxes on Vehicles	4.24	4.86	5.47
8. Taxes on Goods and Passengers	2.15	2.48	2.29
9. Taxes and duties on Electricity	0.73	0.87	0.96
10. Other Taxes and Duties on Commodities and Services	4.09	4.35	4.78
<b>Total</b>	<b>101.17</b>	<b>108.34</b>	<b>135.35</b>

**(B) Non-Tax Revenue**

	(in crores of rupees)		
	1981-82	1982-83	1983-84
1. Interest	1.10	3.19	3.11
2. Education	0.71	2.04	0.56
3. Forest	15.31	17.91	22.32
4. Industries	26.80	35.49	32.60
5. Others	14.90	15.00	19.30
<b>Total</b>	<b>58.82</b>	<b>73.63</b>	<b>77.89</b>



Receipts from Central Government by way of State's share of divisible Union Taxes and grants-in-aid during the year 1983-84 constituted 61.28 percents of the total receipts of the State. The State's own mobilisation amounted to 38.72 per cent. Sales Tax and Taxes on Agricultural Income continued to be the principal sources of revenue of the State during the year 1983-84; receipts from constituted 78 percent of the total collections for the year.

### OBSERVATIONS/RECOMMENDATIONS

It appears from the above the State's own mobilization constituted 38.72 percent of the total receipts during the year under review. This is not a healthy trend. While further contribution from the Central Government is always desirable in view of the special situation prevalent in the State, effort should be made to increase the State's own resources without effecting the poorer section of the people.

The actual receipt compared to Budget estimates for the year 1983-84 as reported in Audit are given below :-

	Budget estimates	Actuals	Variation Excess(+) Shortfall(-)	Percentage of Variation
(In crores of rupees)				
A. Tax Revenue	115.72	135.35	(+)19.63	17
B. Non-Tax Revenue	72.55	77.89	(+)5.34	7

Variations between Budget estimates and actuals under the principal heads of revenue for the year 1983-84 are given below :-

Head of Revenue	Budget estimates	Actuals	Variation Excess(+) Shortfall(-)	Percentage of Variation
(In crores of rupees)				
1. Taxes on Agricultural Income	12.00	11.29	(-) 0.71	6

2. Land Revenue	2.97	4.27	(+) 1.30	44
3. Stamps and Registration Fees	4.10	4.76	(+) 0.66	16
4. State Excise	3.90	5.70	(+) 1.80	46
5. Sales Tax	79.04	93.89	(+) 14.85	19
6. Taxes on Vehicles	5.06	5.47	(+) 0.41	8
7. Other Taxes and Duties on Commodities and Services	4.44	4.78	(+) 0.34	8
8. Interest	0.65	3.11	(+) 2.46	378
9. Education	0.75	0.56	(-) 0.17	23
10. Forest	20.05	22.32	(+) 2.27	11

Variation between Budget estimates and actuals for the year 1983-84 under the heads Land Revenue, Stamps and Registration Fees, State Excise, Sales Tax, Interest, Education and Forest ranged between 10 per cent and 378 per cent.

(i) The increase of Rs. 14.85 crores under Sales Tax was stated to be primarily due to vigorous efforts made by the Department for collection of Taxes.

(ii) As intimated by the Excise Department, the increase of Rs. 1.80 crores under State Excise was mainly due to Special drives Organised by the Excise Staff and easy availability of spirit.

(iii) According to Forest Department, the increase of Rs. 2.27 crores under Forest was due to large-scale departmental timber operations introduced in the State.

### OBSERVATIONS/RECOMMENDATIONS

Variation between Budget Estimates and actual for the year 1983-84 under the heads, Land Revenue, Stamps and Registration Fees, State Excise, Sales Tax, Interest, Education and Forest range between 10% and 378% at



stated above. While 10% variation may be considered within the reasonable limit. 378% variation is definitely an abnormal phenomena. The Government is advised to prepare Budget Estimates very carefully so that each variation with actual may be kept within the very reasonable limit. This is required for an accurate reflection in the Budget of the economy condition of the State as far as practicable.

The Audit has further reported arrears in assessment. The number of cases of Sales Tax and Agricultural Income Tax due for assessment and actually assessed during the year, 1981-82 to 1983-84 and the number of cases pending at the end each year, as reported by the department, are indicated below:—

	Year	Total Number of cases due for assessment	Number of cases assessed	Number of cases pending at the end of the year
Sales Tax	1981-82	1,25,108	59,400	65,708
	1982-83	1,37,406	68,308	69,098
	1983-84	3,37,242	1,22,107	2,15,135
Agricultural Income Tax	1981-82	2,301	1,775	526
	1982-83	2,104	1,648	456
	1983-84	2,445	802	1,643

As reported by the department in October, 1984, 1,653 appeal and 217 revision cases were pending as on 31st March 1984.

#### OBSERVATIONS/RECOMMENDATIONS

The huge arrears in the assessment of Sales Tax and Agricultural Income Tax for the years 1981-82, 1982-83 & 1983-84 as stated above, imply a dismal performance of the Departments concerned. The Committee recommends that a proper enquiry be made to find-out the reasons for such huge arrears in assessment and appropriate action be taken to avoid such arrears in future.

The total revenue collected and arrears of revenue pending collection, as at the end of each of the years 1981-82 to 1983-84, as reported by Government/Department, are as given below :—

Year	Total Revenue	Revenue Collected	Arrears pending collection as at the end of March
			( In crores of rupees )
1981-82	189.40	160.01	29.39 excluding arrears of land
1982-83	213.63	181.97	31.66 revenue and non-tax revenue
1983-84	245.52	213.24	32.28

Details of arrears as on 31st March 1983 and 31st March 1984 are given below :—

Amount pending collection as on

31st March, 1983

31st March, 1984

( In crores of rupees )

1. Sales Tax, Purchase Tax and Tax on Petroleum, etc.	17.98	(excluding arrears on Sales Tax of Petroleum)	19.77
2. Taxes on Passengers and Goods	1.15		1.37
3. Forest receipts	2.85		2.65
4. Agricultural Income Tax	3.63		2.50
5. Taxes on Vehicles	5.40		4.52
6. Electricity Duty	0.40		1.10
7. Taxes on Professions etc.	0.25		0.87
<b>Total</b>	<b>31.66</b>		<b>32.28</b>

**OBSERVATIONS/ RECOMMENDATIONS**

On what has been stated above, it appears that the percentage of arrears pending collection is 15.52% in 1981—82, 14.52% in 1982—83 and 13.15% in 1983—84, although the percentage of arrears is not abnormally high. The Committee recommends that the collection machinery be further streamlined and further reduce the gap between the Revenue assessed and Revenue collected.

**CHAPTER—II****SALES TAX**

Audit para 2. 2/CAG/1983—84(R/R)

Re:—Irregular grant of concessioin.

**THE AUDIT OBJECTION**

Under the Central Sales Tax Act, 1956 on inter-State sales of goods made to registered dealers or to Government departments, tax is leviable at the concessional rate of 4 per cent, provided the sales are supported by valid declarations in prescribed forms 'C' or 'D' issued by the purchasing dealers of Government departments respectively. On inter-State sales not supported by such declarations, tax is leviable at 10 per cent or at the rate applicable to sale or purchase of such goods within the State, whichever is higher. Deviation of this provision by the department has been brought out by Audit as under :—

(i) In Naharkatia, two timber dealers claimed and were allowed concessional rate of tax on inter-State sale of sleepers (amounting to Rs. 6, 44,743) to a Forest Division in Arunachal Pradesh during the periods ending 31st March 1982 and 30th September 1982, although the sales were not supported by the prescribed declarations in from 'D'. The irregular grant of concessions resulted in short levy of tax amounting to Rs. 37,430.

(ii) In Jorhat, on inter-State sales of goods amounting to Rs. 38,278, Rs. 90,997 and Rs. 79,618 which were made by a dealer during the return periods ending 31st March 1982, 30th September 1982 and 31st March 1983 respectively and were not supported by prescribed declarations, tax was leviable at 10 per cent, but was erroneously levied at the concessional rate of 4 per cent. The mistake resulted in tax being levied short by Rs. 45,571.

(iii) In Guwahati, on inter-State sales amounting to Rs. 76,06,654 made by a dealer of milk products, baby food etc. during the assesment period ending 31st March 1981, tax was levied at the concessional rate of 4 per

cent, although sales amounting to Rs. 68,37,313 only were supported by prescribed declarations. The assessment of tax at the concessional rate on the remaining sales of Rs. 7,69,341 (not supported by the prescribed declarations) was, therefore, irregular and resulted in short levy of tax amounting to Rs. 39,167.

(iv) In Naharkatia, a dealer, whose inter-State sales for the half year ending 31st March 1983 amounting to Rs. 3,61,548 had for claiming concessional rate of tax, submitted single declarations in Form 'C' covering various transactions each falling between Rs. 46,302 and Rs. 86,421. The assessing officer accepted the defective declarations and assessed the turnover to tax at the concessional rate of 4 per cent, which was not correct. The same dealer sold goods valuing Rs. 7,56,080 during the year 1982-83 to the Forest Department of the Government of Nagaland in the course of inter-State trade and claimed concessional rate of tax at 4 per cent, which was allowed. The concessional rate of tax was admissible, as the sales were not supported by the prescribed declarations in Form 'D'. The mistake resulted in tax being levied short by Rs. 58,664.

(v) In Guwahati, the inter-State sales turnover of a dealer for the assessment periods ending 31st March 1980 and 30th September 1980 was determined at Rs. 48,32,595 and Rs. 68,87,017 respectively. But the prescribed declarations furnished by the dealer, in support of his claim for the concessional rate of tax were for Rs. 54,30,833 and Rs. 79,07,619 respectively. The sales turnover had therefore been determined short by Rs. 5,98,238 and Rs. 10,20,602 respectively, resulting in under-assessment of tax amounting to Rs. 62,262.

#### THE REPLY OF THE DEPARTMENT

The Department in their office memorandum stated as under:—

(i) The turnover involved in these cases was as follows:—

First case—Rs. 4,78,551

Second, —Rs. 1,66,192

Total Rs. 6,44,743.



In the first case the assessments were modified by the assessing officer following audit. But the assessee appealed against the modified assessments. In appeal the appellate authority set aside the assessment and allowed the assessee to produce 'C' Forms before the assessing authority. In pursuance of the appellate order the assessing officer made revised assessments as follows:--

Period Ending	Turnover taxed		Tax assessed		Tax Paid		Interest levied.
	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	Rs.
	@ 4%	@ 10%	Before assessee- ment.	After assessee- ment.			
31-3-82	1,46,827	Nil	5,648	Tax paid before assessment			Nil
30-9-82	4,01,106	7,479	16,107	16,344	Nil	1,465	
<b>Total</b>	<b>5,47,933</b>	<b>7,479</b>	<b>21,755</b>	<b>16,344</b>	<b>Nil</b>	<b>1,465.</b>	

out of interest levied, Rs. 1,227 is outstanding, proceeding for recovery of which are in progress. In the second case, following audit tax was assessed on the entire turnover @ 10%. But the assessee filed appeal against the revised assessment. The appellate authority before when 'C' Forms were produced in respect of the entire turnover allowed the appeal. In pursuance of the appellate order the original assessment was restored.

(ii) Total turnover involved in the instant case are Rs. 38,278, Rs. 90,997 and Rs. 7,39,618 for the return periods ending 31st March 1982, 30th September 1982 and 31st March 1983 respectively. After receipt of Audit report, the assessment records of the dealer were examined and it was found that the dealer made sales amounting to Rs. 38,278 during period ending 31st March 1982 in the course of inter-State trade or commerce to a registered dealer of another State and furnished declaration in Form 'C' obtained from the purchasing dealer. However, the relevant declaration in Form 'C' was not kept with the assessment records and therefore, could not be shown to audit. Since the declaration in Form 'C' has been found assessment of tax for the period at the concessional rate



of 4% is in order. As regards the assessment periods ending 30th September 1982 and 31st March 1983, the dealer made sales amounting to Rs. 90,997 and Rs. 7,39,618 respectively in the course of inter-State trade or commerce to Nagaland Paper & Pulp Mill, Tuli (Nagaland) and furnished declaration in Form 'C' obtained from the purchasing dealer. The Nagaland Paper & Pulp Mill is a joint-sector company and registered as a dealer under the Central Sales Tax Act, 1956. The purchasing dealer is entitled to make use of declaration in Form 'C' under the law. Since the prescribed declarations are available.

(iii) Total turnover and turnover under assessed in this case for the return period ending 31st March 1981 according to audit were Rs. 76,06,654 and Rs. 7,9,341 respectively. After receipt of the Audit Note the assessment for this period was revised as follows:—

Period Ending	Sales to Regtd. dealers with 'C' Forms assessed	Sales to others assessed
	@ 4% (Rs.)	@ 10% (Rs.)
31st March 1981	68,37,313	9,76,242
Tax assessed for the Period	2,62,974	88,749

The dealer, after receipt of demand notice for the extra amount of tax levied as per revised assessment, preferred an appeal before the Assistant Commissioner of Taxes, (Appeals), Guwahati which was admitted. Decision of the appellate authority is awaited.

(iv) The turnover involved and short levy of tax thereon in this case, as per Audit Note, are as follows:—

Period Ending	Inter-State Sales to Regtd. dealers supported by a single declaration in Form 'C'	Inter-State Sales to Govt. Deptt. not supported by certificate in Form 'D'	Short levy of Tax.
	(Rs.)	(Rs.)	
31st March 1983	3,61,548	7,56,080	58,664



It may be added regarding sales to registered dealers that the assessing officers, in pursuance of the original Audit Note, obtained and accepted six declarations in Form 'C' against six sale bills for the period as stated earlier. This step, however, was not necessary as found on further examination, as the said six sale bills covered supplies made at different dates during one financial year viz 1982-83 against a single purchase order. In the circumstances the acceptance of one 'C' Form in support of total sales of Rs. 3,61,548 was in order. As regards the turnover of sales made to Government department amounting to Rs. 7,56,080, the matter is under review.

(v) Total turnover assessed 4% and turnover under assessed in this case for the return periods ending 31st March 1980 and 30th September 1980 according to audit are as follows:—

Period Ending	Total turnover assessed @ 4% (Rs.)	Turnover under assessed (Rs.)
31-3-80	48,32,595	5,98,238
30-9-80	68,87,017	10,20,602

After receipt of the Audit Note, the assessments in respect of the aforesaid periods were revised as follows:—

Period Ending	Total turnover assessed @ 4% (Rs.)	Total tax levied (Rs.)
31-3-80	54,30,633	2,08,870
30-9-80	79,07,620	3,04,139

The dealer, after receipt of demand notices for the extra amounts of tax levied as per revised assessment, preferred appeals before the Assistant Commissioner of Taxes (Appeals), Guwahati, which were admitted. Decision of the appellate authority is awaited.



### Findings of the Committee

The Audit objection referred to in this para relates to short levy of Taxes totalling Rs. 2,43,094/- only as specified in sub-paras: (i), (ii), (iii), (iv) & (v) due to irregular ground of concession under provision of the Central Sales Tax Act, 1956.

The Central Sales Tax Act, 1956 provides inter-alia that the inter-State Sale of goods to registered dealers or to Government Departments, tax is leviable at concessional rate of 4% provided that the sales are supported by the prescribed declarations in form 'C' or 'D' issued by the purchasing dealers or Government Departments.

In otherwords, declaration in form 'C' or 'D' is pre-condition for claiming concessional rate of 4% in the case referred to in the above sub-paras. The sales were not supported by only declaration in prescribed form.

In spite of this vital omission, taxes were levied at concessional rate which is highly irregular.

However, the Department in their memorandum as stated in the 1st, 2nd, 3rd & 4th cases deferred appeal against the revised assessment at 10% which was set-aside by the appellate authority and allowed the assessee to submit the declaration in prescribed form before the assessment authority,

And in the 5th case, the form 'C' was actually submitted but mis-filed and could not be shown to account at relevant time. Subsequently, however, it was traced-out before assessment was in order.

Under the circumstances, stated above, it appears that the matter has been clarified.

### OBSERVATIONS/RECOMMENDATIONS

The matter appears to be clarified.



Para 2.3/CAG/1983-84 (R/R)  
 Re: Irregular grant of exemption from tax.

### THE AUDIT OBJECTION

The Audit has brought out the following cases of irregular grant of exemption from tax:—

(i) Under the Central Sales Tax Act, 1956, inter-State sale of any goods is exempt from levy of tax if under the Sale Tax Law of the appropriate State, the sale or purchase, as the case may be, of such goods is exempt from levy of tax generally. The Act also provides that a sale or 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 and 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 cereals is, therefore, not generally exempt from levy of tax in the State and therefore, Central Sales Tax is leviable on inter-State sales of cereals. At Gauhati, while assessing a dealer to tax on his sales of cereals (wheat), amounting to Rs. 13,14,744 for the return period ending 31st March, 1981, the assessing officer levied tax only on the value of containers amounting to Rs. 32,868 and exempted to value of cereals amounting to Rs. 12,81,876 from levy of tax, which was irregular. This resulted in under-assessment of tax amounting to Rs. 1,02,550.

(ii) As per a notification issued (July 1972) by the State Government under Section 8 (5) of the Central Sales Tax Act, 1956, sales of tea made by one registered dealer to another registered dealer or to the Central or State Government departments in the course of inter-State trade or commerce are exempt from levy of tax, provided such tea was bought by the selling dealer in the auctions held at Gauhati under the auspices of the Committee constituted by Government and also if the sales are supported by prescribed declarations. Similar exemption is also admissible under the Assam Sales Tax Rules, 1947 on sale of tea through the auction market at Gauhati. As per these rules, the dealer claiming such



exemption is required to submit to the assessing authority, a copy of the relevant account of sales rendered by the broker or other authorised person, showing that the goods in question have been sold to the registered dealers in the auction held at Gauhati. In cases where no such documentary proof is furnished, exemption is not admissible.

In two cases, inter-State sales of tea amounting to Rs. 16,17,008 and Rs. 2,15,078, made by two dealers during the periods April 1978 to September 1978 and October 1979 to March 1980 respectively were exempted from levy of tax, although the sales were not supported by copies of the brokers' accounts or other evidence showing that tea had been purchased by the dealers at the public auctions held at Gauhati. The exemptions allowed were, therefore, irregular and resulted in tax amounting to Rs. 73,283 not being realised.

#### THE REPLY OF THE DEPARTMENT

The Department in their written replies against the objections has stated--

(i) Following receipts of the original audit note the assessing officer served on the dealer concerned a notice with a view to reopening the assessment in order to levy tax on the turnover which, according to audit, had escaped assessment. Incidentally the return period involved according to the audit note, was not period ending 31st March 1981 but 31st March 1980. On receipt of the notice the dealer filed a revision petition against the notice which has not been disposed of. It may be mentioned that in the instant case the commodity that, according to audit has escaped assessment was "cereals." Audit has taken the view that since "cereals" are exempted from tax under the Assam Sales Tax Act, 1947 conditionally by virtue of Item No. 1 of Schedule III to the Act, "cereals" 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 "cereals" which had not been done by the assessing autho-



ity. In a similar matter Government had earlier, in consultation with the Judicial Department, decided that "cereals" would not be liable to central sales tax. However, following re-examination of the matter by the Judicial Department the earlier view adopted by Government was revised and it was decided that under the law as it exists "cereals" 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 Government to levy sales tax on "cereals". Government have, therefore, under examination a proposal for granting exemption from central sales tax in respect of cereals, pulses, mustard seeds and salt sold in packets other than sealed containers.

The turnover involved in one case for the return period ending 30th September, 1978 under the Central Sales Tax Act' 56 was Rs. 16,17,008 and tax payable according to audit, was Rs. 64,680. According to re-examination of the assesment records of the dealer for the relevant return period it was found that the two conditions for exemption of central sales tax laid down in Government Notification No. FTX. 102/70/Part- /240, dated 21st July, 1972, viz., tea is purchased in auction held at Guwahati and sales in the course of inter-State trade or commerce are supported by "C" or "D" Forms, have been fulfilled. It may be pointed out that unless a dealer enrolls himself as a buyer with the Tea Auction Committee, Guwahati, he is not entitled to make purchases of tea there. In this case assessing officer was satisfied on the basis of purchase documents produced by the assessee (dealer) that he was a registered buyer with the Tea Auction Committee, Guwahati and that he had purchased the tea there. The assessee also furnished declaration in Form "C" covering the full value of his inter-State Sales.

A broker's certificate mentioned by audit is required to be furnished only in case of a claim for exemption under section 15(1) (c) of the Assam Sales Tax Act, 1947 read with rule 5(2) that is, in case of an inter-State sale and not in support of a claim for exemption under section 8(5) of the Central Sales Tax Act, 1956. The assessment of the dealer allowing exemption on inter-State sales of tea has, therefore, been correctly made, and there was no loss of revenue.



The aggregate of turnover involved in the second case for the return periods ending 30th September, 1979 and 31st March 1980 under the Central Sales Tax Act, 1956 was Rs. 2,15,078 and tax payable, according to audit, was Rs. 8,603. Upon a re-examination of the assessment records of the assessee (dealer) for the relevant return periods it was found that the two conditions for exemption of central sales tax laid down in Government Notification No. FTX. 102/70/Pt-1/243 dated 21st July, 1972 viz., tea is purchased in auction held at Guwahati and sales in the course of inter-State trade or commerce are supported by "C" or "D" Forms, have been fulfilled. It may be mentioned that unless a dealer enrolls himself as a buyer with the tea Auction Committee, Guwahati, he is not entitled to make purchases of tea in auction. In the instant case the assessing officer was satisfied on the basis of purchase documents produced by the assessee that he was a registered buyer with the Tea Auction Committee, Guwahati and that he had purchased all his tea in auction. The assessee also furnished declarations in Form "C" covering the full value of his inter-State sales.

A broker's certificate mentioned by audit is not necessary in support of a claim for exemption under section 8(5) of the Central Sales Tax Act, 1956. Such a certificate is necessary in case of an inter-State sale if the dealer claims deduction of the turnover in respect of such sales under section 15 (1) (c) of the Assam Sales Tax, Act, 1947 read with rule 5(2). The assessment of the dealer allowing exemption on inter-State sales of tea has, therefore, been correctly made and there was no loss of revenue.

#### OBSERVATIONS/RECOMMENDATIONS

In the first case, it is stated that under the Assam Sales Tax Act, 1947, all cereals and pulses, including all forms of rice are exempt from levy of tax only when these are sold otherwise than in sealed containers. On the otherhand, said commodities are not exempted from levy of tax when these are sold in sealed containers. In the instance case, at Guwahati the assessing officer levied taxes only on the value of containers of wheat amounting of Rs. 32,868/- and exempted the value of cereals amount to Rs. 12,81,876/- from levy of tax, which was irregular. This resulted in under assesment of amounting to Rs. 1,02,550/-.



The Department in their written replies stated that a notice was served to the dealer with a view to re-opening the assessment in order to levy tax on the turnover which according to audit had escaped assessment. On receipt of the notice, the dealer filed a revision petition against the notice which has not been disposed of.

In the 2nd case, it was stated that in the audit note with under Section 8(5) of the Central Sales Tax Act, 1956, sales of tea made by one registered dealer to another registered dealer or to the Central or State Government Department in the course of inter-State trade or commerce are exempt from levy of tax, provided such tea was brought by the selling dealer in the auctions held at Guwahati under the auspices of the Committee constituted by Government and also if the sales are supported by prescribed declarations. The documentary proof is required to be furnished in support of fulfilment of the above conditions before exemption is claimed. In 2 cases, inter-State sales, showing that the 2 dealers were exempted from levy of tax, although sales were not supported by requisite documents.

The exemption allowed were therefore, irregular and resulting under assessment to be tune of Rs. 73,283/-.

The Department in their written replies has stated inter-alia that the assessment records were re-examined and it was found that the two conditions for exemption of Central Sales Tax have been fulfilled and he was a registered buyer with the Auction Committee of Guwahati and that he had purchased the tea there. The assessee also furnished declaration in form 'C' covering the full value of his inter-State sales. It further stated that the assessment of the dealer allowing exemption on inter-State sales of tea has, therefore, correctly been made and there was no loss of revenue.

In the 2nd case, in the same para, it was stated by the Department that the assessing officer was satisfied on the basis of purchase documents produced by the assessee that he was a registered buyer with the Tea Auction Committee, Guwahati and that he had purchased all his tea in auction. The assessee also furnished declaration in form 'C' covering the full value of his inter-State sales.



It is stated that the exemption has been correctly made and there was no loss of revenue.

The replies furnished by the Department appears to be conveniencing. However, the result of the revision petition referred to in the 1st case an action taken on it, if any, should be communicated to the Committee at the earliest.

Para 2.4/CAG./1983-84 (R/R)

Re : Non-levy of tax on sale of timber.

### THE AUDIT OBJECTION

The Audit has brought out that consequent upon the switch over to the system of departmental operation in timber with effect from the year 1981-82, the Divisional Forest Officer has become a dealer in timber and is, therefore, liable to assessment of tax under the Assam Finance (Sales Tax) Act, 1956. The Divisional Forest Officer can realise tax (payable to the Taxation Department) from the purchasers on sale of timber.

During the period from April 1981 to June 1982, the Divisional Forest Officer, Goalpara Forest Division, did not realise tax on sales of timber valuing Rs. 1,71,174 extracted under departmental operation and seized and unclaimed timber valuing Rs. 27,56,640. The omission resulted in loss of revenue amounting to Rs. 2,04,946.

### THE REPLY OF THE DEPARTMENT

The Department in their written replies has stated that the turnover involved in the instant case was Rs. 27, 56, 640 and tax payable Rs. 2,04,946. It may be stated that no Audit Note in respect of this para was received by this Department from the Accountant General (Audit). On enquiry, it was learnt that the relevant audit note related to the D.F.O., Goalpara, who received a copy of it. After receipt of the audit note the D.F.O., Goalpara wrote to the Superintendent of Taxes, Goalpara to realise sales tax from the purchasers who had earlier



bought timber from the D.F.O. The Superintendent of Taxes clarified the provisions of the Act in this regard stating that since the D.F.O. had made the sales of timber at first point, he was required to realise the tax from the purchasers and deposit the same to Government Account under appropriate head. The D.F.O. is registered as a dealer under the Assam Finance (Sales Tax) Act, 1956. The D.F.O. has submitted his returns in respect of the relevant return periods on 3rd April 1987. He has also made some payments of tax by means of book transfer and treasury challans. The return has not been found to be completed in all respects. Action is being taken to obtain a complete return and assess the D.F.O. The turnover mentioned by audit will be taken into account at the time of assessment of the Divisional Forest Officer.

### OBSERVATIONS/RECOMMENDATIONS

The Department has admitted non-levy of tax on sales of timber valued at Rs. 27,56,640/= and tax payable was Rs. 2,04,946/-. It is however, stated in the Departmental replies that they did not receive any audit note in respect of this para. But subsequently it was found on enquiry that the relevant audit note was received by the DFO, Goalpara who was very much concerned with the matter. On receipt of the audit note, the DFO, Goalpara requested the Superintendent of Taxes, Goalpara to realise the sales tax from the purchasers. The Superintendent of Taxes however clarified that since the DFO had made the sales of timber at first point he was required to realise the tax from the purchasers and deposit the same to Government Accounts under appropriate head. Accordingly, it is reported that the DFO thereafter has taken some followup action. He has also made some payment of tax. However, the Departmental return submitted by the DFO has not been found to be completed in all respect.

It is assured that action would be taken to obtain a complete return and assess the DFO.

Action taken on the matter as assured in the Department's replies should be intimated to the Committee at the earliest.



Para 2.5/CAG/1983-84(R/R)

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

### THE AUDIT OBJCTIONS

The Audit has brought out the following two cases of loss of revenue.—

(i) As per the Assam Finance (Sales Tax) Act, 1956, no dealer shall carry on business in taxable goods unless he has been registered and possesses a certificate of registration. The Act also empowers the Commissioner of Taxes to register a dealer compulsorily if, in his opinion, that dealer is liable to registration but has failed to apply for registration. In Gauhati, a co-operative society was allotted four timber coupes by the Forest Department for operation during the period from August 1979 to August 1980 on payment of Rs. 1,84,422. Although the Commissioner of Taxes informed the assessing authority about allotment of these coupes, the latter did not take any steps to register the dealer and assess its turnover to tax. The omission resulted in loss of revenue amounting to Rs. 12,910 (at 7 per cent on the cost price of the coupes). Tax effect would be more if expenses of operation and element of profit were also added to the cost price of the coupes.

(ii) Every dealer making inter-State sale of goods is to get himself registered under the Central Sales Tax Act, 1956. In the event of his failure to get himself registered, he shall be punishable with simple imprisonment, which may extend to six months or with fine or with both and when the offence is a continuing offence, with a daily fine, which may extend to fifty rupees for every day during which the offence continues. Under the Assam Purchase Tax Act, 1967, on purchase of raw jute (declared goods) purchase tax is leviable at the point of last purchase in the State. When the declared goods so purchased are sold in the course of inter-State trade or commerce, the sales are liable to tax under the Central Sales Tax Act, 1956, but the Tax already levied



on the purchase under the State Act is refundable to the dealers. In Barpeta, 16 dealers (who were not registered under the Central Act) sold raw jute for Rs. 1,50,94,094 in the course of inter-State trade or commerce during the period from September 1975 to December 1979, after purchasing the same from place within the State. No Central sale tax was paid by them, nor was any action taken by the department to recover the same. The failure resulted in non-realisation of tax amounting to Rs.5,99,741 being the difference between the Central Sales Tax leviable (Rs. 11,90,695) and the purchase tax paid (Rs.5,90,594). Besides, fine for non-registration under the Central Act was recoverable from the dealers.

### THE REPLY OF THE DEPARTMENT

The Department in their written replies has stated:

(i) The turnover involved in this case was Rs. 1,84,422 and tax payable, according to audit, was Rs.12,910 comprising 3 return periods. After receipt of the audit note the matter was enquired into, which revealed that the four timber coupes allotted by the Forest Department between the period from August, 1979 to August 1980 in the name of the Co-operative Society was in fact operated by M/s Choudhury Brothers who was already a dealer registered under both the Assam Finance (Sales Tax) Act 1956 and the Central Sales Tax Act 1956. In assessing M/s Choudhury Brothers the operation of the four timber extracted from those coupes were taken into consideration. The turnover assessed period-wise in respect of M/s Choudhury Brothers under the two Acts are as below:--

Name of Act	Period Ending	Period Ending	Period Ending
	30-9-79	31-3-80	30-9-80
(1) Assam Finance (Sales Tax) Act 1956.	Rs. 10,410	Rs. 1,11,838	Rs. 3,21,061



(2) Central Sales Tax Act, 1956	Rs. 11,199	Rs. 1,02,715	Rs. 46,680
Total—	Rs. 21,609	Rs. 2,14,553	Rs. 3,67,741

In view of the above, there is no loss of revenue arising from non-registration of the co-operative society.

(ii) Loss of revenue in this case, according to audit, amounted to Rs. 5,99,741 (Rs. 5,68,183 as per Audit Note) involved in sixteen cases arising from non-registration of the dealers and consequent non-assessment of tax under the Central Sales Tax Act, 1956. Out of this sixteen dealers, five were registered at Barpeta under the Assam Purchase Tax Act, 1967 and the remaining eleven dealers were registered under the same Act at Barpeta Road. After receipt of the Audit Note the Superintendent of Taxes, Barpeta opened trial cases against the five dealers under him and examined their liability or otherwise under the Central Sales Tax Act, 1956. After verifying the books of accounts and relevant documents produced by each of the five dealers, the Superintendent of Taxes came to the conclusion that the movement of jute owned by them from Assam to places outside the State during the return period ending 30th September 1975 to 30th September 1979 was occasioned by reason of transfer of the goods to their respective Commission Agents and not by reason of sale. It may also be mentioned that jute is an item of declared goods. Consequently, by virtue of section 15 (b) of 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 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 at the same time by the same dealer and claiming re-imbursment 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.



## OBSERVATIONS/RECOMMENDATIONS

Although there has been no loss of revenue for non-registration of the Co-operative Society, as it appeared from the replies of the Department, it is not clear how the M/S Choudhury Brothers could operate the 4 coupes allotted by the Forest Department for favour of the Co-operative Society.

The Department should make an enquiry required to find-out as to how and under what circumstances the coupes allotted for favour of the Co-operative Society could be operated by the private party viz- the M/S Choudhury Brothers and as to whether the such Benummy transaction has any legal basis.

The out come on the enquiry should be intimated to the Committee at the earliest.

Para 2.6/C. A. G./1983-84, (R/R)  
Re : Non-levy of penalty.

## THE AUDIT OBJECTION

Audit has brought-out the following objections for non-levy of penalty:—

(a) Under the Assam Sales Tax Act, 1947 and the Assam Finance (Sales Tax) Act, 1956, if the Commissioner of Taxes, in the course of any proceeding under these Acts, is satisfied that any dealer has, without any reasonable cause, failed to furnish his returns to the assessing authority, he may direct that such dealer shall pay, by way of penalty, in addition to the tax payable by him, a sum not exceeding one and half times the amount of tax.

(i) In Guwahati four dealers did not submit returns consecutively for 4 to 16 return periods between March 1972 and March 1981, despite notices served on them by the department. The assessing officer, made assessments on best judgement basis in these cases, levying tax amounting to Rs. 2,25,212, but no penalty for non-submission of returns was imposed on the dealers. The maximum penalty leviable was Rs. 3,37,817.



(ii) In Guwahati, in the case of a dealer, who had not furnished his returns during the period from September 1972 to March 1978, assessments were completed (30th September 1980) *ex parte*, determining the dealer's tax liability at Rs. 1,61,886. However, no penalty for the dealer's failure to furnish the returns was imposed, although penalty not exceeding Rs. 2,42,829 was leviable in this case.

(b) As per the Central Sales Tax Act, 1956, when registered dealer makes purchases in the course of inter-State trade or commerce, tax leviable at a concessional rate, provided the goods purchased are specified in his certificate of registration. In the event of a mis-declaration made by him, he is liable to penalty, in lieu of prosecution, upto one and half times the amount of tax which would have been leviable on such inter-State sales made to an unregistered dealer.

In Silchar, goods valuing Rs. 6,34,369 purchased by a dealer during the period from April 1978 to March 1981, tax was levied at the concessional rate, but the goods were not specified in his registration certificate. The assessing authority failed to detect the mis-declaration and penalty was not imposed. The maximum penalty leviable was Rs. 58,945.

On the failure being pointed out in Audit (August 1984), the assessing officer admitted that the goods were not covered by the registration certificate of the dealer on the date of purchase. He also stated that the registration certificate of the dealer was subsequently amended, covering the goods in question. Report on action taken to recover the penalty and the differential tax is awaited (February 1985).

### THE REPLY OF THE DEPARTMENT

The Department in their written replies have stated as follows:-

An aggregate amount of Rs. 94,98,855 (not Rs. 3,37,817) calculated at the highest rate was leviable as penalty for non-submission of returns as provided under section 21 and 13 of the Assam Sales Tax Act '47 and Assam Finance (Sales Tax) Act, 1956 respectively, according to audit in three cases only was shown (four cases because one case was shown under both the Acts). It may be mentioned that the difference of Rs. 2,42,829 relates actually



to para 2.6 (a) (ii). The necessity of involving the penalty provisions in the instant cases was considered by the assessing officers who decided against imposition of penalty on grounds of financial hardship of the assessee concerned. The decision in this regard was however, not recorded by the assessing officers in any of cases. As for the future, strict instructions have been issued to all the Superintendents of Taxes to the effect that whenever it is decided, after hearing the assessee, that penalty may not be imposed, the reasons thereof must be recorded and intimated to the Commissioner of Taxes for orders. In the instant case an aggregate amount of Rs. 2,42,829 calculated at the highest rate was leviable as penalty for non-submission of returns for sixteen return periods as provided under section 21 of the Assam Sales Tax Act, 1947, according to Audit. The assessing officer decided against imposition of penalty in this case because the assessee was a State Government Undertaking and the returns in question could not be filed owing to some administrative difficulties.

In the instant case, the dealer holding a registration certificate under the Central Sales Tax Act, 1956 purchased electrical goods worth Rs. 6,34,369 during the half yearly period ending 30th September 1978 to 31st March 1981 in the course of Inter-State trade or commerce at the concessional rate by unutilising declarations in Form "C". Since the registration certificate of the dealer under the Act did not include "Electrical Goods", utilisation of Form "C". In making the purchases according to audit amounted to misuse of the same and he was liable to penalty. The dealer nevertheless accounted for the purchases to the goods and paid due taxes on sales thereof.

THE REPLY OF THE DEPARTMENT

The assessing officer did not consider the mistake pointed out by audit in the registration certificate of the dealer as intentional or motivated and removed the defects subsequently by amending it on application. Imposition of penalty was neither contemplated nor found to be necessary in this case. In the instant case, there was no mala-fide on the part of the dealer concerned as he had accounted for the purchases and sales of the goods in question.



## FINDINGS OF THE COMMITTEE

During oral deposition the Department have stated that they are having back-log and they are very keen to liquidated it. The Department have instructed their officers that in all cases involving large amount they should initiate action to impose penalty and after that they must record the order. The stand previously was that penalty was subject to the assessing officer's discretion. On enquiry the Department further clarified that they have issued instructions to all concerned officers to record the grounds for waiving penalty.

## OBSERVATIONS/RECOMMENDATIONS

The department in their reply have stated that the officers concerned had been instructed to record the grounds of non-levy of penalty while exercising their discretion in this regard. The Committee direct that the discretion be exercised judiciously.

Para 2, 7/C.A.G./1983-84 (R/R)

Re: Short levy of tax due to application of incorrect rate.

## THE AUDIT OBJECTION

The Audit has brought out that as per the Assam Finance (Sales Tax) Act, 1956 on sale of pipes and fittings (which are not declared goods), tax is leviable at 7 per cent at the point of first sale in the State.

In Jorhat, on sales of pipes and fittings amounting to Rs. 10,89,193, made by three dealers during the assessment periods ending 30th September 1973 to 30th September 1982, tax was levied at 4 per cent (which rate is applicable to sale of declared goods), instead of at the correct rate of 7 per cent. The mistake resulted in under-assessment of tax amounting to Rs. 29,373.



## THE REPLY OF THE DEPARTMENT

The department in their written replies have stated that in one case the assessment records of the dealer as well as his books of accounts for the relevant periods were re-examined after receipt of the audit note, whereupon it was found that the dealer actually sold Galvanised Iron Pipes and not Pipes and fittings. Since Galvanised Iron Pipes come within the term "Iron & Steel" they are declared goods under section 14 of the Central Sales Tax Act, 1956 and consequently assessment of tax @ Rs. 4% is in orders. There was thus no loss of Government revenue.

In the second case, the assessment records of the dealer as well as his books of accounts for the relevant period were re-examined after receipt of the audit note. The books of accounts revealed that the dealer actually sold M. S. Angles, M. S. Flats Steel Tubes only and not pipes and fittings.

In view of the fact that the term "Iron and Steel" include M. S. Angles, M. S. Flats Steel Tubes, these are declared goods under section 14 of the Central Sales Tax Act, 1956. It follows, therefore, that assessment of tax in respect of these goods @ 4% is in order and no loss of revenue occurred in this case.

In the third case too, the assessment records and books of accounts of the dealer for the relevant period were re-examined on receipt of the audit note. The books of accounts revealed that the dealer, as a matter of fact, sold Galvanised Iron Pipes and not Pipes & fitting during the period under audit. Since Galvanised Iron Pipes being 'Iron & Steel' are declared goods under section 14 of the Central Sales Tax Act, 1956 assessment of tax in respect thereof @ 4% is in order. There was thus no loss of revenue in the third case either.

## OBSERVATIONS/RECOMMENDATIONS

The reply given by the Department appears to be satisfactory. The para is dropped.



Para 2.8/C.A.G, /1983-84 (R/R)

Re: Under assessment due to non-levy of tax under the appropriate Act.

### THE AUDIT OBJECTION

The Audit has brought out that under the Assam Finance (Sales Tax) Act, 1956, on sale of timber, tax is leviable at the point of first sale within the State. For supply of sleepers to the railways the forest divisions received the requisite number of sleepers from the approved forest contractors on payment at the agreed price. Thereafter the sleepers are supplied to different railways and the price thereof is realised by the Forest Department together with the commission thereon at the prescribed rates. Sales of timber by forest contractors constitute first-point sales and are, therefore taxable under the State Act. On supplies of railway sleepers to Forest Department, valuing Rs. 5,76,626, made by a contractor during the period from March 1981 to September 1981, tax was levied at the concessional rate of 4 per cent under the Central Sales Tax Act, 1956 treating these supplies as inter-State sales, which was not correct. These being first point sales within the State, tax was leviable at the rate of 7 per cent under the Assam Finance (Sales Tax) Act, 1956. The incorrect assessment resulted in short levy of tax by Rs. 17,325.

### THE REPLY OF THE DEPARTMENT

The department in their written replies have stated that the aggregate turnover involved in this case was Rs. 5,76,626 for the return periods ending 31st March 1981 and 30th September 1981 and short levy of tax thereon according to audit was Rs. 17,325. After receipt of the audit note the assessment records on the dealer were re-examined. The records revealed that the sale of railway sleepers by the dealer during the relevant period had occasioned the movement of the goods from Assam to other State. As such these (Sales) were deemed to be sale in the course of inter-State trade or commerce as defined in section 3 of the Central Sales Tax Act, 1956.

It may be mentioned that according to the Accountant General's (Audit) letter No RAW(A)/5-16/83-84/4968 dated 14th March 1986, the objection on which this para is based has been dropped for the purpose of the Audit note.

### OBSERVATIONS/RECOMMENDATIONS

The matter appears to be clarified and hence dropped.



## CHAPTER III

## TAXES ON PASSENGERS AND GOODS

Para 4. 6/CAG/1983-84(R/R)

Re: Provision growth of revenue, arrears etc.

## THE AUDIT REPLY

The Assam Passengers and Goods Taxation Act, 1962 provides for payment of tax at 10 per cent of all fares and freights collected in respect of passengers and goods carried in a taxable vehicle within the State. Every owner of a vehicle carrying goods and passenger has to apply for registration to the prescribed registering authority. He is also required to submit to the assessing authority, within 10 days of the close of each month, a return in the prescribed form, along with the receipt showing the amount of tax deposited into the Treasury. In lieu of tax on the basis of fares and freights, the owner of a vehicle may pay a lump sum at the rate prescribed by Government by notification from time to time. Such lump sum is payable in advance either for the whole year or for each quarter. The overall control and administration of the Act is vested in the Commissioner of Taxes under the Finance (Taxation) Department.

The table below indicates the number of registered vehicles and growth of revenue from tax on passengers and goods, during the years 1980-81 to 1983-84 :—

Year	Number of registered Vehicles	Tax realised (in crores of Rupees)
1980-81	11,376	1.18
1981-82	12,285	2.15
1982-83	13,513	2.48
1983-84	13,896	2.28



Over the period of four years ending March 1984, the number of registered vehicles increased by 22 per cent, while revenue from tax on passengers and goods increased by 93 per cent. About 15,283 cases of passengers and goods tax were pending assessments at the end of March 1984.

Arrears of tax pending collection as on 31st March 1984 amounted to Rs. 1.56 crores, as against Rs. 1.13 crores at the end of March 1981. Year-wise break-up of arrears pending collection is awaited from the department.

The Audit has brought-out the following cases of non-levy of tax payable as per rules :-

(i) At Guwahati, Dibrugarh, Jorhat and Silchar (148 vehicles to which permits had been issued under the Motor Vehicles Act, 1939 by the Regional Transport Authority during the period from 1978 to 1983 for carrying passengers and goods on hire, had not been registered under the Assam Passengers and Goods Taxation Act. The non-registration of the vehicles and consequent non-assessment of the passengers and goods tax resulted in tax amounting to Rs. 5,06,886 (at lump sum rates) not being realised.

(ii) The Act provides that when passengers are carried in a vehicle and no fare has been charged, the tax shall be levied and paid as if such passengers were carried at the normal rate prevalent on the route. In cases where fare is charged or paid in lump sum on account of a season ticket or as subscription or contribution for any privilege, right or facility, which is combined with the right of a passenger being carried in a vehicle without any further payment, or at a reduced charge, the tax shall be levied on the amount as appears to the Superintendent of Taxes to be fair and equitable. In Guwahati, 26 stage carriages plying by industrial/commercial concerns and other individuals (not belonging to any educational institutions) between July 1971 and March 1984 for carrying their staff members and school children had not been registered under the Assam Passengers and Goods Taxation Act. The failure to register these vehicles resulted in tax amounting to Rs. 1.11 lakhs (calculated at the prescribed lump sum rates) not being realised.







the total 46 vehicles, 19 vehicles were registered before audit and 2 vehicles after audit. A total 18 vehicles owners have already been assessed raising a gross demand amounting to Rs. 2,05,269 of which an amount of Rs. 1,90,595 has been realised. The balance amount of Rs. 14,674, one vehicle was found to have been converted to private car and four vehicles were not liable to tax under the Act being Oil tanker. In addition 2 vehicles were found to be registered and assessed one each the Tinsukia and Naharkatia respectively while a Trial case has been opened in respect of the third vehicle at Tinsukia. The cases of the remaining 17 vehicles are under review. The owners of some of these vehicles are not traceable at the address given. Similarly, in Guwahati out of 52 vehicles reported by audit, 28 vehicles were registered under the A.P.G.T Act, 1962 before audit and 3 vehicles were registered after audit. Of these 17 vehicles owner have already been assessed raising a gross demand amounting to Rs. 1,61,349 against which, an amount of Rs. 1,01,122 has since been realised. The balance amount of Rs.60, 227 is outstanding (Rs. 37, 331 is under recovery proceedings). Of the rest, 4 vehicles were found to be not liable to tax under the Act, one being Oil tanker and the others private vehicles. The cases of the remaining 17 vehicles are under review. The owners of some of these vehicles are not traceable at the address given.

(ii) In Guwahati 26 vehicles were not registered under the A. P. G. T. Act, 1962 according to audit, involving loss of revenue amounting to Rs.1,11,142. It was found on examination of the records that 2 vehicles were already registered under the Act and tax amounting to Rs. 6,169 has been assessed and realised in full. Action for registration and assessment has already been taken in respect of 16 vehicles, whereas 2 vehicles were found not liable to registration and pay tax because the same are private carriers. The cases of remaining 6 vehicles are under review.

### THE FINDINGS OF THE COMMITTEE

The Committee, in course of examination of the para wanted to ensure that such thing may not occur in future. The Commissioner of Taxes have stated that he has issued instructions to the Superintendent of Taxes. Besides,



Finance Department have also issued similar instructions. Because of the absence of proper co-ordination between the Transport & Finance Department people are not being pursued. Now, information system that the Department have developed is almost up-to-date.

### OBSERVATIONS/RECOMMENDATIONS

The Committee desires that such anomalies do not occur in future.

The Department should take effective steps to avoid any omission to realise the taxes in future.

Para 4. 6. 5./C.A.G/1983-84(R/R)

Re: Short levy of tax due to application of incorrect rates.

### THE AUDIT OBJECTION

The Audit has brought out:—

(i) By a notification, dated 1st July 1968, Government prescribed separate lump sum rate of tax in respect of (i) goods vehicles plying wholly within the State of Assam but not confined to a single district and (ii) goods vehicles plying only in one plains district (including vehicles plying between a hill district and adjacent plains district also). The rate of tax in respect of vehicles plying in more than one district is more than that applicable to vehicles plying in a single district. At Dibrugarh, tax in respect of six vehicles, which were permitted to ply in more than one district, was erroneously levied at the lower rate prescribed for vehicles confined to a single district. The mistake resulted in short levy of tax of Rs. 9, 490 during the period from 1976 to 1984.

(ii) The Motor Vehicles Act, 1939, defines 'motor cab' as any motor vehicle constructed, adopted or used to carry not more than six passengers excluding the driver, for hire or reward while a 'stage carriage' is a motor vehicle, carrying or adopted to carry more than six persons excluding the driver, for hire or reward at separate fares paid by or for individual passengers either for the whole journey or for stages of the journey. The rate of tax



applicable to a stage carriage is more than that applicable to a motor cab. At Jorhat, on 12 public service vehicles with carrying capacity of more than six passengers, tax was erroneously levied at the lower lump sum rate prescribed for 'motor cabs' resulting in tax being levied short by Rs. 28,490 during the years 1979 to 1983.

### THE REPLY OF THE DEPARTMENT

The department in their written replies have stated as follows.—

(i) Six public service vehicles (Goods Trucks) are mentioned in this para involving an amount of Rs. 9,490 shown by audit as short levy of tax. After receipt of the review note the vehicles concerned were re-examined, following which it was found that the rate of lump sum in lieu of tax applied to four vehicles out of six was in accordance with the rate specified in para 3 (b) (i) of the Government Notification No. FTX. 154/56/68, dated 1st July 1968 i.e. Rs. 2,740 per annum. As such tax under the relevant Act was correctly levied in this four cases and there was no short levy. However, in making the assessments in respect of the remaining two vehicles the rate of lump sum applied was not correct. Action is being taken to revise the assessments in these two cases.

(ii) Twelve public service vehicles carrying more than six passengers are reported in this para involving an amount of Rs. 28,490 shown by audit as short levy of tax. After receipt of the review note the assessment records of the owners of the vehicles concerned were re-examined. It was seen from the records that these vehicles were applied as 'Tourist Taxis' under permits issued as such by the R.T.A., Jorhat and their authorised carrying capacity varied between 7 and 11 persons including Driver. As commonly understood, apart from the definitions given in the Motor Vehicles Act, 1939, these vehicles are neither 'Motor Cabs' nor 'Stage Carriages.' These are, in fact, a new type of vehicles introduced by the manufactures in recent years. Since, separate rate of lump sum (in lieu of Tax) has not been specified in the Government Notification No. FTX.154/66/68, dated 1st July 1968 for these vehicles tax has been levied at a rate equivalent to lump sum specified.



## THE FINDINGS OF THE COMMITTEE

The Committee in course of oral deposition, wanted to know the circumstances under which taxes were realised at a lower rate than the prescribed rate. The Department clarified that taxes differ according to the types of vehicles and the sitting accommodation therein. A lump sum rate was charged and realised for all types of vehicles but this application of lump sum rate was found later to be incorrect. Now the action is being taken to realise the assessment according to the type of vehicles. The Department further clarified that there are three basic classification for goods vehicles on hire. The question here is, what should be the rate applicable, whether Rs. 960/— or Rs. 274/—? There was a genuine plan from the beginning that these vehicles should be taken @2740/— and that is how tax has been levied. Now, there is one confusion as to whether these rate would apply to all the vehicle plying within one district or vehicles plying within more than one district. According to the wording of the notification it is being applied to vehicle plying in more than one district. Because of the confusion, there is a proposal for modification of the rate not only for this but for other reasons also. Government have a feeling that upward revision of the rates is necessary and therefore there is proposal for upward revision of the rates and also for removal of this discrepancy. This is now under examination in consultation with the Transport Department. Anyway, the amount involved here is very small. Since these classification was made in 1968, no provision was made for Metadors and Standard-20 vehicles. There is a proposal for a separate classification of these types of vehicles. In these case the amount involved is very small.

## OBSERVATIONS/RECOMMENDATIONS

There should be clear definition of each type of taxable vehicles along with the rate of tax applicable for each type.



Para 4.6.6/C.A.G./1983-84 (R/R)

Re:—Non-levy of penalty.

### THE AUDIT OBJECTION

The Audit has brought out that in the event of failure of a vehicle owner to pay tax within the prescribed period, the assessing authority may direct that he shall pay, by way of penalty, in addition to the tax, a sum not exceeding one thousand rupees.

At Dibrugarh, Jorhat, Gauhati and Silchar in 32 cases, where the vehicle owners had delayed the submission of returns/payment of tax by 12 to 96 months during the years 1975 to 1983, penalty not exceeding Rs.1.89 lakhs was recoverable, but was not recovered.

### THE REPLY OF THE DEPARTMENT

The department in their written replies have stated that no penalty was levied in 32 cases deserving such imposition under the A.P.G.T., Act, 1962, according to audit, resulting in non-recovery of an amount of Rs. 1,69,000. The break-up of the cases unit-wise is as follows:—

(1)	Supdt. of Taxes,	Dibrugarh	4 cases—Rs.	13,000
(2)	„ „ „	Jorhat	24 cases—Rs.	1,40,000
(3)	„ „ „	Guwahati	3 cases—Rs.	31,000
(4)	„ „ „	Silchar	1 case—Rs.	5,000
			<u>Total</u>	<u>Rs.1,89,000</u>

The assessment records of the vehicle owners in question were examined after receipt of the audit note. It was found that the owners were defaulters in the matter of submission of returns and payment of due taxes and they were assessed summarily. The assessing officers, at the time of making the assessments, appear to have considered the necessity of imposition of penalty in each case but decided against it in view of financial difficulties of the



owners. The fact of consideration of the question of imposition of penalty was, however, not recorded in any of these cases. The Officers are being instructed to apply the provisions of penalty in future in order to ensure prompt compliance of the law by the assesseees.

### THE FINDINGS OF THE COMMITTEE

In course of oral deposition, the Committee wanted from the Department to state specifically whether the instructions to the officers to apply the provision of penalty in order to ensure prompt compliance, are being followed or not. The Department duly asserted it.

### OBSERVATIONS/RECOMMENDATIONS

The Department is directed to ensure that the provisions of Law/Rules are strictly complied with.

Para 4.6.7/C.A.G./1983-84 (R/R)

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

### THE AUDIT OBJECTION

The Audit has brought out that Government issued instruction from time to time that in case of summary assessment for non-production of accounts or where the accounts produced are not accepted, the tax assessed should not normally be less than the lump sum rates except in cases where it is established that the vehicle in question was not used for a certain period.

At Dibrugarh, Jorhat, Guwahati and Silchar in 64 cases, where returns were not submitted and/or accounts were not produced by the assesseees, or the accounts produced by them were not accepted by the assessing authorities, best judgement assessments 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 the vehicle for any period. Non-compliance with the aforesaid instructions resulted in loss of revenue amounting to Rs. 1.12 lakhs during the years 1975 to 1984.



## THE REPLY OF THE DEPARTMENT

The department in their written replies have stated that assessments to the best of judgement were incorrectly made in 64 cases, according to audit, resulting in loss of revenue amounting to Rs. 1,12,000. The break-up of the cases unit-wise is as follows:—

1. Superintendent of Taxes, Dibrugarh—11 cases
  2. Superintendent of Taxes, Jorhat —20 cases
  3. Superintendent of Taxes, Guwahati—31 cases
  4. Superintendent of Taxes, Silchar — 2 cases
- Total —64 cases.

After receipt of the audit notes the assessment records of the owners of the vehicles were examined. It was found that in Dibrugarh 6 vehicle owners were assessed on the basis of books of accounts produced by them and not to the best of judgement. In two other cases the accounts produced by the owners were not accepted but the assessment in respect of them were, however, made below lump sum because the owners produced evidences regarding non-plying of the vehicles for a part of the relevant assessment periods. In two more cases the owners were assessed at rate above lump sum prescribed by Government for State carriage. In the last case the vehicle in question was withdrawn under "H" Form for a very long period and it was actually plied for 20 days only.

In Jorhat 20 vehicle owners were assessed at rates below lump sum because the vehicles in question were off the road intermittently during the relevant assessment periods due to unavoidable repairs and for various other reasons as established with documentary evidence.

Out of 31 vehicles relating to Guwahati unit Offices, assessments in respect of 5 vehicles have since been revised upward raising fresh demand amounting to Rs. 9,800. Action is being taken to revise the assessments in respect of 5 more vehicles which will yield additional



tax amounting to Rs. 10,050. Original assessment in respect of one particular vehicle is found to be in order because the vehicle in question is a tourist taxi and not a Mini Bus.

Further, it was found after the relevant assessment orders were reviewed that there was no under assessment in case of 13 vehicles reported by audit. In the assessment orders themselves the reasons for assessing the tax in these cases below the lump sum rate have been specified. The position with regard to the remaining 7 vehicles is under review. After verification of the assessment record it was found that the two vehicles in Silchar were very old and remained unserviceable most of the time during the periods for which assessments were made. One of the vehicle was of 1960 model and the other was of even earlier model. As such, assessment of tax in the case of these two vehicles at rate below lump sum is considered reasonable. However, necessary instructions have been issued to the assessing officers not to assess tax at rates below lump sum in case of assessments to the best of judgement without giving reasons, therefore and strict supervision in the matter has been ordered.

### FINDINGS OF THE COMMITTEE

In course of oral deposition, the Committee wanted to know as to what action the Government takes to ensure that instructions of the Government are being followed strictly. The Departmental witness admitted that there was misinterpretation and the Superintendent of Taxes misinterpreted the provision of the law. The witness asserted that the assessment should not be less than the prescribed lumpsum rates and if there is any specific case requiring a departure, the Superintendent of Taxes must take prior approval of the Superior officer.

### OBSERVATIONS/RECOMMENDATIONS

If there any specific case requiring a departure, the Superintendent of Taxes must take prior approval of the superior officer.



Para 4.6.3/C.A.G./1983-84. (R/R)

Re: Irregular revision of original assessment.

### THE AUDIT OBJECTION

The Audit has brought out that the Assam State Road Transport Corporation did not pay tax or submit returns for the years 1973-74 and 1974-75, nor did it apply to the assessing authority for payment of tax at the lump sum rate. As a result, the Superintendent of Taxes assessed (between 1975 and 1978) the Corporation on best judgment basis and levied tax amounting to Rs. 49.26 lakhs for the year 1973-74 and 1974-75. However, on a revision petition submitted by the Corporation, the Commissioner of Taxes, Assam set aside the assessments made by the Superintendent of Taxes and ordered fresh assessments without recording any reason for considering the revision petition. On re-assessments, tax amounting to Rs. 16.58 lakhs only was levied at lump sum rates. The revision orders were irregular, as according to Government's notification of July, 1968, the Corporation was required to exercise its opinion to pay tax on lump sum basis beforehand and also pay tax on that basis in advance either for the whole year or for each quarter, which the Corporation had failed to do. Further, as per a reference (May 1980) by the Finance (Taxation) Department to the Transport Department of the Government of Assam, the fares and freight actually collected by the Corporation during the years 1973-74 and 1974-75 amounted to Rs. 7.83 crores, including tax amounting to Rs. 71.18 lakhs. The tax actually recoverable from the Corporation therefore, amounted to Rs. 71.18 lakhs and not Rs. 16.58 lakhs as levied on re-assessment. The Tax levied short amounted to Rs. 54.60 lakhs.

### THE REPLY OF THE DEPARTMENT

The department in their written replies have stated that amount of Rs. 54,60,000 was short levied during the financial years 1973-74 and 1974-75 under the A.P.G.T. Act '62 according to audit in the case of Assam State Road Transport Corporation. After receipt of the review notes the assessment records of the Corporation were examined,



whereupon it was found that the original assessments of the Corporation suffered from certain defects viz. tax collected on fares and freight between Guwahati and Shillong was not apportioned as between Assam and Meghalaya and taxes paid by the Corporation during the years 1973, 1974 and 1975 were not treated as advance tax for the purpose of allowing payment at lump sum rate. With the view to removing the defects, assessments made first were set aside by the revision authority. Subsequently the assessment in respect of the relevant periods were revised and tax levied at lump sum prescribed by Government on the basis of payments made in advance.

#### OBSERVATIONS/RECOMMENDATIONS

It is stated in the Departmental replies that the tax collected on fares and freight between Guwahati and Shillong was not apportioned as between Assam and Meghalaya. But it is not clear whether subsequently such apportionment have been made if so, it should be ascertained what is the amount shared for Assam and whether any short levy was found after such apportionment if there has been any short levy after such apportionment.

Steps should be taken to collect the same. The action taken in this regards should be intimated to the Committee in the earliest.

Para 4.6.9/C.A. G./1983-84. (R/R)

Re: Delay in assessment.

#### THE AUDIT OBJECTION

The Audit has brought out that in the Act no time limit has been prescribed for completion of the assessments. In many cases the assessments are delayed by the assessing authorities, resulting in non-realisation of tax. For instance, in one case, the assessments of public carrier vehicle for the various period ending between 30th September, 1976 and September, 1983 were completed only February, 1984. In another case, assessments in respect of tax for the period 1st April, 1977 to 30th September, 1983 were made in February, 1984. In yet another case, the assessments for the period 30th September, 1975 to 31st March, 1980 were



made in December, 1982. In still another case, the assessments for the period April, 1976 to March, 1979 were made only in March, 1984. The tax assessed in these four cases amounted to Rs. 22,970, Rs. 6,500, Rs. 3,688 and Rs. 7,200 respectively. But none of the vehicle owner paid the tax. In one case, even the demand notice issued was received back undelivered from the postal authorities. The cases were eventually referred to the Recovery Officer in March, 1984 for recovery of Government dues as arrears land revenue. Report on recovery is awaited (February, 1985).

### THE REPLY OF THE DEPARTMENT

The Department in their written replies have stated that there was delay in assessment in 4 cases, according to audit, involving an amount of Rs. 40,358. The break-up of the cases unit-wise is as below.

(1) Superintendent of Taxes, Guwahati—	2 cases=	Rs.—29,470
(2) Superintendent of Taxes— Jorhat—	2 cases=	Rs.—10,888
Total		4 cases=Rs. 40,358

In Guwahati realisation of assessed tax amounting to Rs. 29,470 in respect of two cases involved in recovery proceedings. The delay in assessment in these two cases occurred due to difficulty in contacting the owners and serving notices upon them.

Similarly, assessments in respect of the two vehicles in Jorhat were also delayed owing to the difficulty encountered in contacting the owners and serving notices upon them. Realisation of the assessed tax amounting to Rs. 10,888 in both the cases is under recovery proceedings.

In all these cases delays occurred almost solely because of non-availability of full and correct addresses of the owners.



## OBSERVATIONS/RECOMMENDATIONS

From the reply of the department and also from oral deposition of the departmental witnesses it is observed that correct addresses of owners are not available. But the offices of the D.T.O.'s are supposed to maintain a register of vehicles along with full particulars of the vehicles and owners thereof.

Non-availability of correct addresses of owners might be due to false entry in the registers or no entry in the addresses column thereof. This is undesirable.

The department concerned should make a thorough enquiry into the matter and take appropriate action. Action taken in this regard should be intimated to the Committee at the earliest.

Para 4.6.10/C.A.G./1983-84.(R/R)

Re : Low rate of tax for long distance stage carriages.

## THE AUDIT OBJECTION

The Audit has brought out that separate lump sum rate of tax of Rs. 4,500 per annum per bus was prescribed (July 1977) in respect of city buses plying in Guwahati municipal area in consideration of their frequent trips in a day. A comparison of the fares charged by city buses with those charged by long distance buses of the Assam State Transport Corporation indicates that potential daily gross earnings (fares) of the former are about one half of the potential daily gross earnings of the latter, yet, from December 1977, the lump sum rate in respect of a stage carriage of the Corporation, operating on a permit with route length exceeding 40 kilometres is only Rs. 2,340 per annum which is less than even the lump sum rate applicable to city buses by Rs. 2,160 per annum. The lump sum rate of tax in respect of long distance buses would, therefore, appear to need revision.



## THE REPLY OF THE DEPARTMENT

The department in their written replies have stated that a proposal for upward revision of the rates of lump sum payable in lieu of tax under the A. P. G. T. Act '62 in respect of all types of public service vehicles including long distance stage carriages is under consideration of Government.

The Committee in course of oral deposition wanted to know the position of the case and it has been stated that the objection relates to a policy matter.

### OBSERVATIONS/RECOMMENDATIONS

The Government should review the system of taxation of different types of vehicles and take appropriate action to maintain uniformity in such taxation.

para 4. 7./C. A. G. /1983-84.(R/R)

Re: Short levy of passengers and goods tax.

### THE AUDIT OBJECTION

The Audit has brought out that the Government Notification July 1968 and the executive instructions of the Commissioner of Taxes, Assam, of August, 1973, require interalia that in cases of summary assessments for non-submission of returns in the prescribed manner by the assessee or non-acceptance of the returns by the assessing authority, tax assessed should not be less than the prescribed lump sum rates, except where it is established that the vehicles were not used during a certain period.

In Guwahati, in respect of 12 vehicles, where the owners had either failed to submit their returns or the returns submitted were not accepted by the assessing authorities, summary assessments of passengers and goods tax were made at rates lower than those prescribed for lump sum payments, without recording any reasons therefore. This resulted in under assessment of tax amounting to Rs. 21,660/-.



On this being pointed out in audit (June 1983), the assessing officer stated (July 1983), that the guidelines contained in the executive instructions issued from time to time were not binding upon him.

### THE REPLY OF THE DEPARTMENT

The department in their written replies have stated that according to audit, 12 public service vehicle (Trucks) in Guwahati were assessed below the lump sum rate prescribed for such vehicles under the A. P. G. T. Act '62 resulting in under assessment of tax amounting to Rs. 21,600/-

It was found on perusal of the relevant assessment records that in four cases books of accounts were produced by the owners concerned although the same were not accepted. The books of Accounts, however, revealed that the vehicles on the basis of inter-State permits were plied between places in Assam and places in West Bengal in which case tax under the Act was payable for the Assam Portion only. Besides, the vehicles were plied inside West Bengal for periods varying from 1 month, 2 months. In five other cases the vehicles holding inter-State permits plied between places in Assam and places in West Bengal and in the absence of books of accounts, enquiries were made locally by Inspectors of Taxes which revealed that the vehicles were plied within neighbouring States for different periods in addition to inter-State trips. One of these vehicles carried also coal, on the freight of which no tax was payable. Three other vehicles were plied within Assam. One of them solely within the Guwahati Municipal Corporation area to carry earth only. These three vehicles were of old models and consequently suffered frequent break-downs.

These assessing officers, in making the assessments in the case of these vehicles to the best of their judgement, took into consideration all the circumstances having a bearing upon the earning of these vehicles and total collection of freight determined by them in each case appeared to be reasonable.

### OBSERVATIONS/RECOMMENDATIONS

Even in cases of assessment on the best of judgement the grounds of such assessment should invariably be recorded.



## CHAPTER—V

TAXES ON PROFESSION, TRADES CALLINGS  
AND EMPLOYMENT.

Para 6.7/C. A.G/1983-84 (R/R)

Re:—Non-recovery of professional tax.

## THE AUDIT OBJECTION

The Audit has brought out that the Assam Professions, Trades, Callings and Employments Taxation Act, 1947 provides that every person who carries on a trade or follows a profession or a calling or who is in employment within the State, is liable to pay for each financial year, a tax at the prescribed rates if his or her annual gross income exceeds Rs. 4,000 (Rs.8,000 from 1st April, 1979). The owners of motor vehicles are also liable to pay professional tax in addition to the taxes paid by them under the Assam Passengers and Goods Taxation Act, 1962.

In 90 cases, although income of the owners of motor vehicles for financial years 1974-75 to 1982-83 to exceeded the aforesaid limits it was either not assessed or was short assessed to professional tax, resulting in non-realisation of tax amounting to Rs.30,680.

The irregularities were reported to the department and Government in April, 1985. The department stated in February 1985 that assessments in 12 cases had been completed but taxes amounting to Rs. 4,600 had been realised in 22 cases only. Information about other cases is still awaited.

## THE REPLY OF THE DEPARTMENT

The Department in their written replies have stated that according to Audit 42 persons engaged in trade by plying public service vehicles were not assessed under the Assam Professions etc. Taxes Act' 47, in Jorhat resulting in non-recovery of due taxes from them amounting to Rs. 11,850.



After receipt of the audit note all the persons except one were assessed under the said Act raising a gross demand amounting to Rs. 13,750 out of which an amount of Rs. 9,800 has already been realised. Action is being taken to realise the balance amount of Rs. 3,950 through recovery proceedings. The person not assessed was found to be a co-operative society which is exempted under the Act.

It may be mentioned that the audit objection relating to this para has already been settled vide letter No. RAW.(A)/22-21/83-84/49, dated 17th April 1985 by the Accountant General (Audit) Assam, Meghalaya etc. Shillong-1

42 persons engaged in trade which consisted of plying public service vehicles were not assessed under the Assam Professions etc. Taxes Act, 1947, in Guwahati resulting in, according to audit, non-recovery of due taxes from them amounting to Rs. 18,830.

After receipt of the audit note altogether 40 persons out of 48 were assessed under the Act raising a gross demand of Rs. 14,345, against which an amount of Rs. 398/- has already been realised. The balance amount of Rs. 14,147 is in the process of realisation. One person was found to be not liable under the Act for the assessment year 1982-83 since his vehicle was registered with liability from 3rd April 1982 only. The cases relating to the seven remaining persons are under review.

#### OBSERVATIONS/RECOMMENDATIONS

The para is dropped in view of the A.G.'s letter referred to above.



## SUMMARY OF OBSERVATIONS/ RECOMMENDATIONS

- | Sl. No. | Observations/Recommendations  |
|---------|---|
| 1.      | It appears from the above that the State's own mobilization constituted 38.72 per cent of the total receipts during the year under review. This is not a healthy trend. While further contribution from the Central Government is always desirable in view of the special situation prevalent in the State, effort should be made to increase the State's own resources without effecting the poorer section of the people.   |
| 2.      | Variation between Budget Estimates and actual for the year 1983-84 under the heads Land Revenue, Stamp and Registration Fees, State Excise, Sales Tax, Interest, Education and Forest Range between 10% and 378% as stated above. While 10% variation may be considered within the reasonable limit, 378% variation is definitely an abnormal phenomena. The Government is advised to prepare Budget Estimates very carefully so that each variation with actual may be kept within the very reasonable limit. This is required for an accurate reflection in the Budget of the economy condition of the State as far as practicable. |
| 3.      | The huge arrears in the assessment of Sales Tax and Agricultural Income Tax for the years 1981-82, 1982-83 & 1983-84 as stated above, imply a dismal performance of the Departments concerned. The Committee recommends that a proper enquiry be made to find out the reasons for such huge arrears in assessment and appropriate action be taken to avoid such arrears in future.  |
| 4.      | On what has been stated above, it appears that the percentage of arrears pending collection is 15.52% in 1981-82, 14.52% in 1982-83 and 13.15% in 1983-84, although the percentage of arrears is not abnormally high. The Committee   |



recommends that the collection machinery be further streamline and further reduce the gap between the Revenue assessed and Revenue collected.

5. The matter appears to be clarified.

6. In the first case, it is stated that under the Assam Sales Tax Act, 1947, all cereals and pulses, including all forms of rice are exempt from levy of tax only when these are sold otherwise than in sealed containers. On the otherhand, said commodities are not exempted from levy of tax when these are sold in sealed containers. In the instance case, at Guwahati the assessing officer levied taxes only on the value of containers of wheat amounting of Rs. 32,868/- and exempted the value of cereals amount to Rs. 12,81,876/- from levy of tax which was irregular. This resulted in under assessment of tax amounting to Rs. 1,02,550.

The Department in their written replies stated that a notice was served to the dealer with a view to re-open the assessment in order to levy tax on the turnover which according to audit had escaped assessment. On receipt of the notice, the dealer filed a revision petition against the notice which has not been disposed of.

In the 2nd case, it was stated that in the audit note under Section 8 (5) of the Central Sales Tax Act, 1956, sales of tea made by one registered dealer to another registered dealer or to the Central or State Government Department in the course of inter-State trade or commerce are exempt from levy of tax, provided such tea was brought by the selling dealer in the auctions held at Guwahati under the auspices of the Committee constituted by Government and also if the sales are supported by prescribed declarations. The documentary proof is required to be furnished in support of fulfilment of the above conditions before exemption is



claimed. In two cases, inter-State sales showing that the 2 dealers were exempted from levy of tax, although sales were not supported by requisite documents.

The exemption allowed were therefore, irregular and resulting under assesment to the tune of Rs.73,283/-

The Department in their written replies has stated inter-alia that the assesment records were re-examined and it was found that the two conditions for exemption of Central Sales Tax have been fulfilled and he was a registered buyer with the Auction Committee of Guwahati and that he had purchased the tea there. The assessee also furnished declaration in form 'C' covering the full value of his inter-State sales. It further stated that the assesment of the dealer allowing exemption on inter-State sales of tea has, therefore, correctly been made and there was no loss of revenue.

In the 2nd case, in the same para, it was stated by the Department that the assessing officer was satisfied on the basis of purchase documents produced by the assessee that he was a registered buyer with the Tea Auction Committee, Guwahati and that he had purchased all his tea in auction. The assessee also furnished declaration in form 'C' covering the full value of his inter-State sales.

It is stated that the exemption has been correctly made, and there was no loss of revenue.

The replies furnished by the Department appears to be convincing. However, the result of the revision petition referred to in the 1st case, and action taken on it, if any, should be communicated to the Committee at the earliest.

7. The Department has admitted non-levy of tax on sales of timber valued Rs. 27,56,640, and tax payable was Rs. 2,04,946. It is however, stated



in the Departmental replies that they did not received any audit note in respect of this para. But subsequently it was found on enquiry that the relevant audit note was received by the DFO, Goalpara who was very much concerned with the matter. On receipt of the audit note, the DFO, Goalpara requested the Superintendent of Taxes, Goalpara to realise the sales tax from the purchasers. The Superintendent of taxes however clarified that since the DFO had made the sales of timber at first point he was required to realise the tax from the purchasers and deposit the same to Government Accounts under appropriate head. Accordingly, it is reported that the DFO thereafter has taken some followup action. He has also made some payment of tax. However, the Departmental return submitted by the DFO has not been found to be completed in all respect.

It is assured that action would be taken to obtain complete return and assessee the DFO.

Action taken on the matter as assured in the Department's replies should be intimated to the Committee at the earliest.

8. Although there has been no loss of revenue for non-registration of the Co-operative Society, as it appeared from the replies of the Department, it is not clear how the M/s. Choudhury Brothers could operate the 4 coupes allotted by the Forest Department for favour of the Co-operative Society.

The Department should make an enquiry required to find out as to how and under what circumstances the coupes allotted for favour of the Co-operative Society could be operated by the private party viz. the M/s Choudhury Brothers and as to whether such Benummy transaction has any legal basis.

The out-come on the enquiry should be intimated to the Committee at the earliest.



9. The department in their reply have stated that the officers concerned had been instructed to record the grounds of non-levy of penalty while exercising their discretion in this regard. The Committee directs that the discretion be exercised judiciously.
10. The reply given by the Department appears to be satisfactory. The para is dropped.
11. The matter appears to be clarified and hence dropped.
12. The Committee desires that such anomalies do not occur in future.  
The department should take effective steps to avoid any omission to realise the taxes in future.
13. There should be a clear definition of each type of taxable vehicles along with the rate of tax applicable for each type.
14. The department is directed to ensure that the provisions of Laws/Rules are strictly complied with.
15. If there any specific case requiring a departure, the Superintendent of Taxes must take prior approval of the superior officer.
16. It is stated in the Departmental replies that the tax collected on fares and freight between Guwahati and Shillong was not apportioned in between Assam and Meghalaya. But it is not clear whether subsequently such apportion have been made. If so, it should be ascertained what is the amount shared for Assam and whether any short levy was found after such apportion, if there has been any short levy after such apportionment.

Steps should be taken to collect the same. The action taken in this regards should be intimated to the Committee at the earliest.



17. From the reply of the department and also from oral deposition of the departmental witnesses it is observed that correct addresses of owners are not available. But the offices of the D. T.O's are supposed to maintain a register of vehicles along with full particulars of the vehicles and owners thereof.

Non-availability of correct addresses of owners might be due to false entry in the registers or no entry in the addresses column thereof. This is undesirable.

The department concerned should make a thorough enquiry into the matter and take appropriate action. Action taken in this regard should be intimated to the Committee at the earliest.

18. The Government should review the system of taxation of different types of vehicles and take appropriate action to maintain uniformity in such taxation.

19. Even in cases of assessment on the best of judgement the grounds of such assessment should invariably be recorded.

20. The para is dropped in view of the A. G's letter referred to above.

It is stated in the Departmental replies that the tax collected on fares and freight between Guwahati and Shillong was not apportioned in between Assam and Meghalaya. But it is not clear whether subsequently such apportionment has been made. If so, it should be ascertained what is the amount shared for Assam and whether any short levy was found after such apportionment. If there has been any short levy after such apportionment.

Steps should be taken to collect the same. The action taken in this regard should be intimated to the Committee at the earliest.



## ANNEXURE A

COMPOSITION OF THE COMMITTEE ON PUBLIC  
ACCOUNTS

(1986-88)

CHAIRMAN :

Shri Abdul Muqtadir Choudhury

MEMBERS :

1. Shri Joy Prakash Tewari
2. Shri Sirajul Haque Choudhury
3. Shri Amrit Lal Basumatari
4. Shri Rashidul Haque
5. Shri Binai Kungur Basumatari
6. Shri Durga Das Boro
7. Shri Gunin Hazarika
8. Shri Ganesh Kutum
9. Shri Padma Nath Koiri
10. Shri Abul Hussain Sarkar



## ANNEXURE—B

COMPOSITION OF THE COMMITTEE ON PUBLIC  
ACCOUNTS—(1988—91)

## CHAIRMAN :

1. Shri A. F. Golam Osmani.

## MEMBERS :

2. Shri Kamala Kalita.
3. Shri Pradip Hazarika.
4. Shri Joy Prakash Tewari.
5. Shri Silvious Kandapan.
6. Sheikh Abdul Hamid.
7. Shri Ramendra De.
8. Shri Chandra Mohan Patowari.
9. Shri Abdul Rob Laskar.
10. Shri Ramendra Narayan Kalita.
11. Shri Abhijit Sarma.



## ANNEXURE—C

COMPOSITION OF THE COMMITTEE ON  
PUBLIC ACCOUNTS—(1991-93).

## CHAIRMAN :

1. Shri Sasha Kamal Handique.

## MEMBERS :

2. Shri Upendra Nath Sanatan.
3. Shri Rameswar Dhanowar.
4. Shri Alauddin Sarkar.
5. Shri Joy Chandra Nagbonshi.
6. Shri Zoi Nath Sarma.
7. Shri Debendra Nath Barua.
8. Shri Lakshmi Prasad Borgohain.
9. Shri Kosheswar Barua.
10. Shri Kali Ranjan Deb.
11. Shri Derhegra Muchahary.
12. Shri Hitendra Nath Goswami.
13. Shri Liakat Ali Khan.