

Chapter-VI

Tax Administration

6.1 Trend of Revenue Receipts

6.1.1 The tax and non tax revenue raised by the Government of Jammu and Kashmir during the year 2005-06, the State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

Table 6.1 (Rupees in crore)

S. No		2001-02	2002-03	2003-04	2004-05	2005-06
I-Revenue raised by the State Government						
(i)	Tax revenue	804.17	1,033.09	1,170.28	1,351.05	1626.84
(ii)	Non tax revenue	462.62	865.21	632.54	641.42	535.81
(iii)	Total	1,266.79	1,898.30	1,802.82	1,992.47	2162.65
II-Receipts from Government of India						
(i)	State's share of divisible Union taxes	575.79	684.52	817.42	934.43	1135.36
(ii)	Grants-in-aid	4,646.63	4,965.35	5,591.43	5,939.58	7017.14
	Total	5,222.42	5,649.87	6,408.85	6,874.01	8152.50
III-Total receipts of the State		6,489.21	7,548.17	8,211.67	8,866.48	10315.15¹
IV-Percentage of I to III		20	25	22	22	21

6.1.2 The details of tax revenue raised during the year 2005-06 along with the figures for the preceding four years are given below:

Table 6.2 (Rupees in crore)

S. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage increase (+)/ decrease (-) in 2005-06 over 2004-05
1.	Sales tax	408.75	535.97	674.38 ^ψ	804.12	1014.49	26
2.	State excise	165.00	222.51	204.83	272.37	218.68	(-) 20
3.	Stamps and registration fee	26.08	25.67	33.58	39.25	46.43	18
4.	Taxes and duties on electricity	20.67	25.66	32.67	49.36	58.02	18
5.	Taxes on vehicles	28.18	33.66	38.43	41.68	49.17	18
6.	Taxes on goods and passengers	143.24	182.84	182.63	132.62	236.27	78
7.	Taxes on immovable property other than agricultural land	1.85	1.03	0.29	0.30	0.09	(-) 70
8.	Land revenue	8.14	2.80	3.18	11.24	3.47	(-) 69
9.	Other taxes and duties on commodities and services	2.26	2.95	0.29	0.11	0.22	100
	Total	804.17	1,033.09	1,170.28	1351.05	1626.84	20

¹ Note: For details, please see Statement No. 11-Detailed Account of Revenue by Minor Heads in the Finance Accounts of the Government of Jammu and Kashmir for the year 2005-06. Share of net proceeds assigned to States booked under the Revenue heads. "0020-Corporation Tax, 0021-Taxes on Income other than Corporation Tax, 0032- Taxes on Wealth, 0037-Customs, 0038-Union Excise Duties", has been excluded from revenue raised by the State and included in State's share of divisible Union taxes in the Table above.

^ψ Includes service tax of Rs. 72.23 lakh

Reasons for variation in receipts during 2005-06 compared to those of 2004-05 though called for have not been received.

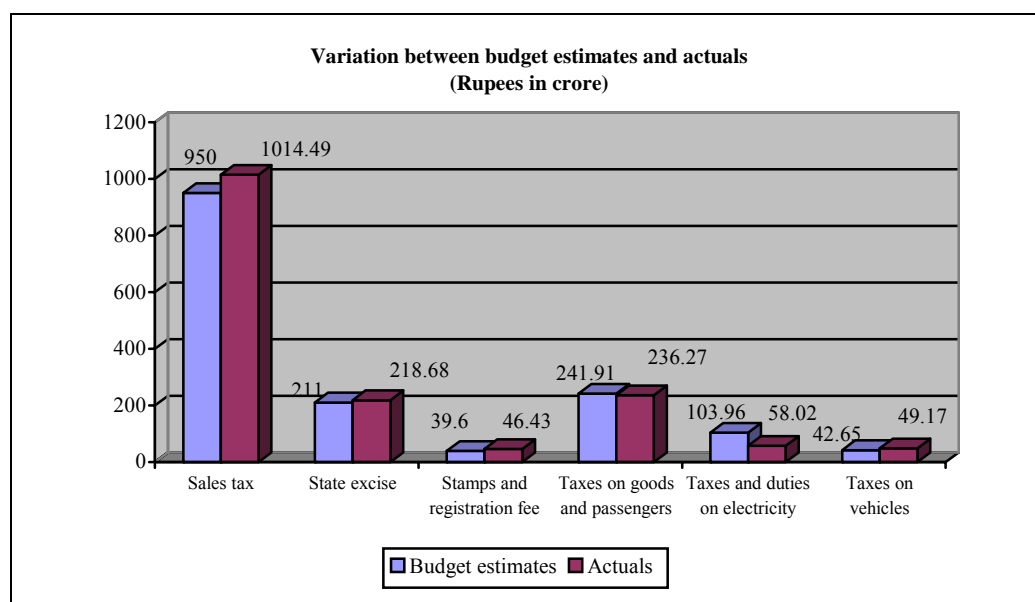
6.1.3 Variation between budget estimates and actuals

Variation between budget estimates and actuals of revenue receipts for the year 2005-06 in respect of principal heads of tax revenue is given below:

Table 6.3

(Rupees in crore)

Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
Tax revenue				
Sales tax	950	1,014.49	64.49	7
State excise	211.00	218.68	7.68	4
Stamps and registration fee	39.60	46.43	6.83	17
Taxes on goods and passengers	241.91	236.27	(-) 5.64	2
Taxes and duties on electricity	103.96	58.02	(-) 45.94	44
Taxes on vehicles	42.65	49.17	6.52	15



The reasons for variation between budget estimates and actual receipts in respect of sales tax was attributed by the department to initial resentment on the part of trader fraternity to adopt the new tax regime viz., value added tax as well as grant of remission to large and medium scale industrial units during 2005-06, which were not earlier exempted under general sales tax regime. The reasons for variations between budget estimates and actual receipts in respect of other heads of revenue though called for had not been received.

6.1.4 Analysis of collection

The break up of total collection at pre assessment stage and after regular assessment of sales tax and motor spirit tax for the year 2005-06 and the corresponding figures for the preceding two years, in respect of which information was furnished by the department, was as follows:

Table 6.4

(Rupees in crore)

Head of revenue	Year	Amount collected at pre assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of Taxes and Duties	Amount refunded	Net collection	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
Sales tax	2003-04	399.45	7.54	0.14	^β	407.13	98
	2004-05	490.60	30.83	14.40		535.83	92
	2005-06	736.74	3.66	-	0.30	740.37	100
Motor spirit tax	2003-04	138.81	0.01	-	-	138.82	100
	2004-05	179.87	0.37	-	-	180.24	100
	2005-06	218.27	0.14	-	-	218.41	100

It can be seen that between 92 and 100 *per cent* of sales tax and motor spirit tax collections were made at pre assessment stage during the period 2003-04 to 2005-06.

6.1.5 Cost of collection

The figures for gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2003-04, 2004-05 and 2005-06 alongwith the relevant All India average percentage of expenditure on collection to gross collection for 2004-05 were as follows:

Table 6.5

(Rupees in crore)

Head of revenue	Year	Collection	Expenditure on collection of Revenue	Percentage of Expenditure on collection	All India average percentage for the year 2004-05
Sales tax	2003-04	674.38	10.60	1.57	0.95
	2004-05	804.12	11.88	1.48	
	2005-06	1014.49	12.94	1.28	
Taxes on vehicles	2003-04	38.43	2.30	5.98	2.74
	2004-05	41.68	2.68	6.43	
	2005-06	49.17	2.98	6.06	
State excise	2003-04	204.83	12.01	5.86	3.34
	2004-05	272.37	8.48	3.11	
	2005-06	218.68	9.98	4.56	
Stamps and registration fee	2003-04	33.58	2.36	7.03	3.44
	2004-05	39.25	4.33	11.03	
	2005-06	46.43	4.83	10.40	

Percentage of cost of collection of sales tax, taxes on vehicles, State excise and stamps and registration fee during 2003-04 to 2005-06 was higher than the all India average cost of collection. Reasons for the same though called for had not been received (November 2006).

6.1.6 Collection of sales tax per assessee

The comparative position of sales tax collection per assessee during the period from 2001-02 to 2005-06 was as under:

^β Negligible

Table 6.6

(Rupees in lakh)

Year	No. of Assesseees	Sales Tax revenue	Revenue per assessee
2001-02	20,842	40,874.84	1.96
2002-03	21,028	53,597.20	2.55
2003-04	20,953	67,365.48	3.21
2004-05	22,232	80,412.47	3.61
2005-06	37,364	1,01,449.39	2.71

The collection of sales tax per assessee varied between Rs. 1.96 lakh and Rs. 3.61 lakh during the period from 2001-02 to 2005-06.

6.1.7 Analysis of arrears of revenue

The arrears of revenue (as on 31 March 2006) in respect of some principal heads of revenue for which information was furnished by the department amounted to Rs. 920.45 crore of which Rs. 556.85 crore were outstanding for more than five years as detailed in the table given below:

Table 6.7

(Rupees in crore)

S. No.	Head of revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than five years as on 31 March 2006	Remarks
1.	Sales tax	877.08	532.27	Out of total arrears of Rs. 877.08 crore, recovery of Rs. 25.60 crore was stayed by courts/appellate authority, Rs. 197.55 crore were lying under amnesty and Rs. 211.23 crore pertain to non existing dealers. The position of recovery of balance amount of Rs. 442.70 crore was not intimated.
2.	State excise	3.65	3.65	Out of total arrears of Rs. 3.65 crore, recovery of Rs. 0.13 crore was stayed by courts, arrears of Rs. 2.38 crore were proposed to be recovered as arrears of land revenue. In respect of balance amount of Rs. 1.14 crore due for recovery, demand notices were stated to have been issued.
3.	Taxes on goods and passengers	39.60	20.81	Out of total arrears of Rs. 39.60 crore, recovery of Rs. 12.07 crore was stayed by courts and arrears of Rs. 2.25 crore were proposed to be recovered as arrears of land revenue. The position of balance amount of recovery of Rs. 25.28 crore was not intimated.
4.	Entertainment tax	0.12	0.12	Demand notices for recovery of Rs. 0.12 crore were stated to have been issued.
Total		920.45	556.85	

Arrears outstanding for more than five years constituted 60 per cent of total arrears.

6.1.8 Arrears in assessment

The details of cases pending assessment at the beginning of the year 2005-06, cases due for assessment during the year, cases disposed off during the year and number of cases pending finalisation at the end of the year 2005-06, as furnished by the Sales Tax Department in respect of sales tax and tax on works contracts were as follows:

Table 6.8

S. No.	Name of tax	Opening balance	New cases due for assessment during 2005-06	Total assessment due	Cases disposed off during the year 2005-06	Balance at the end of the year	Percentage of column 6 to 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Sales Tax	24,268 ^φ	8,939	33,207	15,969	17,238	48
2.	Tax on Works Contracts	1,332 ^φ	1,530	2,862	331	2,531	12
	Total	25,600^φ	10,469	36,069	16,300	19,769	45

There was no substantial reduction in arrears of assessment during the year 2005-06.

6.1.9 Evasion of tax

The details of cases of tax evasion detected by Sales Tax and Excise departments, cases finalised and the demands for additional tax raised as reported by the departments are given below:

Table 6.9

S.No.	Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	No. of cases in which assessment/investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2006
					No. of cases	Amount (Rupees in crore)	
1.	Sales tax	9,172 *	373	9,545	9,364	0.84	181
2.	State excise	1	-	1	-	-	1
3.	Taxes on goods and passengers	-	1,202	1,202	591	0.06	611

The progress of recovery of amount was not intimated (November 2006).

6.1.10 Write off and waiver of revenue

Arrears of Rs. 33.17 crore pertaining to sales tax were waived off and further amount of Rs. 33.57 crore including passenger tax of Rs. 6 lakh was reduced due to rectification, appeal effect and revision during the year 2005-06.

6.1.11 Refund

The number of refund cases pending at the beginning of the year 2005-06, claims received during the year, refunds allowed during the year and cases pending at the close of year 2005-06, as reported by the Sales Tax Department are given below:

Table 6.10

(Rupees in lakh)

S. No.		Sales Tax	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year 2005-06	2 ^φ	0.42 ^φ
2.	Claims received during the year	14	4.01
3.	Refund made during the year	8	3.03
4.	Balance outstanding at the end of the year 2005-06.	8	1.40

^φ Variation with the closing balance in Audit Report 2004-05 is due to revised figures communicated by the Department

* Variation with the closing balance in Audit Report 2004-05 is due to revised figures communicated by the department

Reasons for non settlement of remaining eight cases were not intimated.

6.1.12 Results of audit

Test check of records of sales tax, State excise, motor vehicle tax and stamp and registration fees conducted during the year 2005-06 revealed under assessment/short levy/loss of revenue amounting to Rs. 112.06 crore in 323 cases. During the year, the departments accepted short levy/loss of revenue to the tune of Rs. 27.97 crore in 137 cases.

This Chapter of Audit Report contains eight paragraphs bringing out non/short levy of taxes, duties and interest aggregating Rs. 87 lakh out of which recovery of Rs. 1.25 lakh has been made. The progress of recovery of balance amount was awaited (November 2006).

6.1.13 Response of the departments to draft audit paragraphs

Draft paragraphs are forwarded to the Principal Secretary/Secretary of the concerned administrative department seeking confirmation of facts and figures and his comments thereon within a period of six weeks. Eight draft paragraphs were forwarded to concerned departments/Government in May 2006. Reply to six draft paragraphs was received from the departments/Government (November 2006).

6.1.14 Follow up on Audit Reports-summarised position

Status of reviews/paragraphs of Revenue Receipts Chapter pending discussion by the Public Accounts Committee as on 31 March 2006 was as under:

Table 6.11

Period of Audit Reports	Total number of reviews and paragraphs that appeared in Revenue Receipts Chapter of Audit Report		No. of reviews and paragraphs pending discussion	
	Reviews	Paragraphs	Reviews	Paragraphs
1990-1991	-	5	-	5
1991-1992	-	8	-	8
1992-1993	1	5	1	5
1993-1994	2	5	2	5
1994-1995	1	14	1	14
1995-1996	4	9	4	9
1996-1997	2	4	2	4
1997-1998	-	9	-	4+2 ^β
1998-1999	1	11	1	9+2 ^β
1999-2000	-	7	-	6+1 ^β
2000-2001	1	7	1 ^β	7
2001-2002	1	8	1	8
2002-2003	1	8	1	8
2003-2004	-	4	-	4
2004-2005	1	5	1	5
Total	15	109	15	106

^β Partly discussed

Finance Department

Sales Tax

6.2 Concealment of turnover

The Jammu and Kashmir General Sales Tax Act, 1962 (JKGST Act) and Rules made thereunder, provide that every dealer shall submit a true and correct return of his turnover in a manner as prescribed under the Act. Further, if a dealer who without any cause, failed to furnish the correct return of his turnover, or concealed the particulars of his turnover, the assessing authority shall direct him to pay in addition to tax payable by him, penalty not less than the amount of tax evaded. The dealer is also liable to pay interest at prescribed rates on tax due from the date it was payable to the date of actual payment.

Test check (November 2004) of records of Sales Tax Circle, 'II' Anantnag revealed that a dealer carried forward stock of only Rs. 1.14 crore for 1997-98 against the determined closing stock of Rs. 1.32 crore at the end of 1996-97. The assessing authority while finalising assessment for the years 1997-98 and 1998-99 in September 2001 failed to detect short carrying forward of opening stock of Rs. 18 lakh which resulted in short levy of tax, penalty and interest aggregating Rs. 6.87[≠] lakh.

After this was pointed out, the assessing authority reassessed the dealer in June 2005 and raised additional demand of Rs. 5.33 lakh. The dealer preferred an appeal with the appellate authority who set aside the case and ordered *denovo* assessment. The assessing authority reassessed the dealer in June 2006 and raised a revised demand for Rs. 6.38^φ lakh without imposing penalty of Rs. 1.54 lakh.

The assessing authority further stated in September 2006 that penalty was not imposed as concealment was not deliberate. The reply was not tenable as short carrying forward of determined stock amounted to concealment/furnishing of inaccurate particulars which attracted penalty under section 17(1) f of JKGST Act. Further progress of recovery was awaited (November 2006).

6.3 Non levy of tax

Test check of records of Circle 'K' Jammu in January 2006 revealed that a dealer concealed purchases of Rs. 67.72 lakh during the year 2000-01. The assessing authority while assessing the dealer to tax in March 2005 imposed only penalty and failed to levy tax on the concealed purchases. This resulted in non levy of tax and interest amounting to Rs. 16.01^{*} lakh.

After this was pointed out the assessing authority reassessed the dealer in March 2006 and raised an additional demand of Rs. 23.27 lakh.

The matter was referred to Government/department in May 2006. In reply Government stated in August 2006 that the Deputy Commissioner Recovery

[≠] Tax: Rs. 1,54,583; Penalty: Rs. 1,54,583; Interest: Rs. 3,77,956

^φ Tax: Rs. 1,54,583; Interest: Rs. 4,83,849

^{*} Tax: Rs. 5,68,830; Interest: Rs. 10,32,435

Jammu has been asked to effect the recovery of arrears under the Land Revenue Act. Further progress of recovery was awaited (November 2006).

6.4 Suppression of purchases/stocks

Audit check of records of Sales Tax Circle 'L' Srinagar revealed that a dealer suppressed purchases/stocks amounting to Rs. 15.48 lakh by understating the purchases valued at Rs. 8.05[^] lakh in the trading account for the year 1996-97 and 1998-99, non accounting of inter state purchases valued at Rs. 2.89[^] lakh for the year 1997-98 and 1998-99 and less carrying forward of opening stock Rs. 4.54 lakh for 1997-98. The assessing authority while assessing the dealer to tax in March 2001, March 2002 and February 2003 failed to detect the concealment of purchases and less carrying forward of stocks resulting in short levy of tax, interest and penalty aggregating Rs. 6.18^φ lakh.

After this was pointed out in April 2005, the assessing authority reassessed the dealer in September 2005 and raised additional demands amounting to Rs. 4.36^ζ lakh for the accounting years 1997-98 and 1998-99. Demand for the year 1996-97 was barred by limitation, which resulted in loss of revenue of Rs. 1.82 lakh.

The matter was referred to Government/department in May 2006. In reply Government stated (August 2006) that demands on account of additional interest of Rs. 19,950 for the year 1997-98 and Rs. 12,838 for the year 1998-99 have been raised against the dealer and Deputy Commissioner Commercial Taxes Recovery, has been asked to effect the recovery of arrears under the Land Revenue Act. Further, disciplinary action would be taken against the officer/official found responsible for the loss of Rs. 1.82 lakh. Further, progress of recovery/action taken was awaited (November 2006).

6.5 Incorrect computation of interest

JKGST Act provides that if a dealer has not filed his return before the date prescribed or specified in this behalf the assessing authority shall proceed to assess to the best of his judgment the amount of tax if any due from the dealer. Interest at prescribed rates is chargeable on unpaid tax.

Test check of records of Commercial Tax Circle-II, Anantnag revealed that a dealer had not filed his return for the accounting years 1998-99 and 1999-2000. Accordingly he was assessed in August 2001 on best judgment basis. The assessing authority computed the interest incorrectly resulting in short levy of interest aggregating Rs. 4.66[↑] lakh.

[^] 1996-97: Rs. 4,35,362; 1998-99: Rs. 3,70,185

[^] 1997-98: Two bills Rs. 2,18,029; 1998-99: One bill Rs. 70,980

^φ 1996-97: Tax: Rs. 36,936; Interest: Rs. 1,08,592; Penalty: Rs. 36,936;
1997-98: Tax: Rs. 59,244; Interest: Rs. 1,52,850; Penalty: Rs. 59,244
1998-99: Tax: Rs. 38,911; Interest: Rs. 86,382; Penalty: Rs. 38,911

^ζ 1997-98: Tax: Rs. 59,244; Interest: Rs. 1,52,850; Penalty: Rs. 59,244
1998-99: Tax: Rs. 38,911; Interest: Rs. 86,382; Penalty: Rs. 38,911

[↑] 1998-99: Rs. 1.52 lakh; 1999-2000: Rs. 3.14 lakh

After this was pointed out in December 2004, the assessing authority reassessed the dealer in May 2005 and raised additional demand of Rs. 4.67 lakh in May 2005.

The matter was referred to Government/department in May 2006. In reply Government stated in August 2006 that an amount of Rs. 1.25 lakh has been recovered and for balance amount the Deputy Commissioner Recovery has been asked to effect recovery of arrears under the provisions of Land Revenue Act.

6.6 Misclassification of turnover

Waste paper (*Raddi*) being unspecified item was chargeable to tax at eight *per cent* plus surcharge with effect from 28 April 2000.

Test check of records of Sales Tax Circle, Sopore revealed in July 2005 that four dealers reflected turnover of waste paper in their trading account for 2001-02 to 2003-04 taxable at four *per cent* against eight *per cent*. The assessing authority while assessing the dealers to tax between July 2002 and November 2004 failed to detect the mistake which resulted in short levy of tax, interest and penalty aggregating Rs. 37.99 lakh.

After this was pointed out in July 2005, the assessing authority raised additional demand for Rs. 38.44 lakh in January 2006 and Rs. 1.05 lakh in July 2006.

The matter was referred to Government/department in May 2006. In reply Government stated in August 2006 that the matter regarding recovery of Rs. 38.44 lakh has been referred to the Deputy Commissioner Recovery, Kashmir to recover arrears under the provisions of Land Revenue Act. Action taken to recover balance amount was awaited (November 2006).

6.7 Withdrawal of exemption

Government (August 1998) exempted small scale industrial units registered with the Industries Department from payment of sale tax on goods manufactured by them. However, such dealers (industrial units) were required to maintain correct and regular accounts of purchase of goods including raw materials as also to file returns of sales. The notification also provided that in case a dealer was guilty of an offence like concealment of turnover, etc. during the accounting year in which exemption was available, he would not be entitled to any exemption for that year or for subsequent years.

Test check of records of Sales Tax Circle 'E' Srinagar in August 2005 revealed that the assessing authority did not take any action against a dealer although a material fact about concealment of purchases of Rs. 4.35 lakh in 2001-02 came to his notice in October 2004 after regular assessment in July 2003. Inaction resulted in non levy of tax, interest and penalty of Rs 5.47 lakh as exemption allowed should have been withdrawn by the department.

After this was pointed out in August 2005, the assessing authority reassessed the dealer and raised a demand of Rs. 3.96 lakh. Reasons for non imposition of penalty against the dealer were not assigned. It was further stated that recovery of

arrears would be effected under the provisions of Land Revenue Act in case of default by the dealer. Further progress of recovery was awaited (November 2006).

Law Department

6.8 Short levy of stamp duty

Under the provisions of Jammu and Kashmir Stamp Act, *Samvat* 1977 (1920 AD) stamp duty on every instrument of conveyance of immovable property situated within the municipal limits is chargeable at three times the prescribed rate.

Test check (May 2005) of records of the Sub Registrar-V, 3rd Additional Munsiff, Ist Class, Jammu revealed that stamp duty was levied at lesser rates in 45 cases of conveyance of immovable property situated within the limits of Jammu municipality having consideration value of Rs. 44.47 lakh and registered between September 2003 and February 2004, resulting in short levy of Rs. 6.40 lakh.

After this was pointed out, the registering officer stated in June 2005 that notices were being issued to the concerned parties to effect recovery. Further progress of recovery was awaited (November 2006).

The matter was referred to Government/department in May 2006; reply had not been received (November 2006).

6.9 Short levy of stamp duty and registration fee

In exercise of powers conferred under Jammu and Kashmir Stamp Act and Registration Act, *Samvat* 1977, Government issued orders from time to time for levy of stamp duty/registration fee at concessional rates in respect of instruments executed by any person in favour of any commercial bank functioning in the State of Jammu and Kashmir.

Test check of records of Sub Registrar-V, 3rd Additional Munsiff Ist class, Jammu revealed that a mortgage deed registered in November 2003 was executed by a person with State Bank of India, Ludhiana (Punjab) for securing credit facility aggregating Rs. 87.50 lakh. Since the deed was executed with a bank functioning outside the State, application of concessional rates for stamp duty/registration fee by the registering officer resulted in short levy of stamp duty and registration fee aggregating Rs. 3.79^φ lakh.

After this was pointed out, the registering officer stated in June 2005 that notice was being issued for recovery. Further action in the matter was awaited (November 2006).

The matter was reported to Government/department in May 2006; reply had not been received (November 2006).

^φ Stamp duty: Rs. 3.06 lakh; Registration fee: Rs. 0.73 lakh