

**CHAPTER V**  
**OTHER TAX RECEIPTS**

**5.1. Results of Audit**

Test check of the records of the offices of the State Excise and Registration Departments, Agricultural Income Tax Offices and Office of the Chief Electrical Inspector conducted in audit during the year 2003-04 revealed non/short levy of duty/tax, incorrect exemption, etc., amounting to Rs 8.44 crore in 224 cases which may be categorised as under.

(In crore of rupees)

Sl. No.	Category	No. of cases	Amount
<b>A. State Excise</b>			
1.	Non-levy of duty on inadmissible wastage	5	0.08
2.	Short/non-levy of duty due to other lapses	42	1.06
<b>B. Taxes on Agricultural Income</b>			
3.	Short levy due to grant of inadmissible expenses	32	2.15
4.	Exclusion of income from assessment	31	0.85
5.	Incorrect computation of income	7	0.30
6.	Other items	43	0.95
<b>C. Stamps and Registration Fees</b>			
7.	Purchase and Sale of stamps	1	2.22
8.	Undervaluation of documents	25	0.33
9.	Misclassification of documents	2	0.21
10.	Incorrect exemption	18	0.04
11.	Other lapses	17	0.24
<b>D. Taxes and Duties on Electricity</b>			
12.	Short remittance of duty	1	0.01
	<b>Total</b>	<b>224</b>	<b>8.44</b>

During the year 2003-04 the Departments accepted underassessments, etc., of Rs 32.00 lakh involved in 62 cases of which 26 cases involving Rs 19.00 lakh were pointed out during 2003-04 and rest in earlier years. At the instance of Audit, the Departments collected an amount of Rs 2.08 crore in 90 cases of which 20 cases involving Rs 10.86 lakh were pointed out during 2003-04 and the rest in earlier years.

A few illustrative cases involving Rs 2.57 crore are given in the following paragraphs.

## **Stamps and Registration Fees**

### **5.2. Purchase and sale of Stamps**

#### **5.2.1. Introduction**

Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty, is a subject included in the concurrent list of the Seventh Schedule of the Constitution of India. Duties or fees collected by means of judicial stamps are regulated by State Legislation. Parliament has exclusive power to make laws with respect to any of the matters regarding rates of stamp duty in respect of bills of exchange, cheques, promisory notes, bills of lading, letters of credit, policies of Insurance, transfer of shares, debentures, proxies and receipts. In respect of other documents, the legislature of any State has exclusive power to make laws for that State. Under Article 268 of the Constitution, stamp duties on documents mentioned in the Union List are also collected and appropriated by the states within which such duties are leviable.

The Indian Stamp Act, 1899 and the Kerala Stamp Act, 1959 are the basic laws governing stamp duty on non-judicial transactions in Kerala. The levy of stamp duty on judicial transactions in Kerala is governed by Kerala Court Fees and Suits Valuation Act, 1959.

#### **5.2.2. Indenting of stamps**

The Commissioner, Land Revenue is the Ex-officio Superintendent of stamps under the Kerala Manufacture and Sales of Stamps Rules, 1960, (KMSSR). The Superintendent of Stamps, Central Stamp Depot, Thiruvananthapuram (CSD) obtains quarterly indents from the District Stamp Depots and consolidate them and consolidated indents are placed before the India Security Press, Nasik (ISP Nasik) for procurement of stamps of denomination more than Rs 500 and with Security Printing Press, Hyderabad (SSP) for denomination of up to Rs 500. The stamps were delivered by ISP Nasik direct to District Stamp Depots up to September 1998. Thereafter, CSD was nominated as nodal point responsible to collect stamps personally from ISP Nasik for distribution to District Stamp Depots. The stamps from SSP Hyderabad continued to be despatched to District Stamp Depots.

A comparison of the indents placed for different kinds of non judicial stamps by CSD with that supplied by the ISP, Nasik revealed that ISP Nasik supplied stamps short as compared to the indents placed by CSD. The position of indents placed with SSP, Hyderabad was not available with department. The supplies received from ISP Nasik were as under:

(In crore of rupees)

Year	Value of Stamps indented	Value of Stamps received	Actual revenue realised on sale of Non-judicial stamps*
1995-1996	2,430.43	212.55	242.76
1996-1997	2,139.01	725.63	248.73
1997-1998	2,115.65	284.97	227.48
1998-1999	1,254.93	680.86	232.88
1999-2000	6,032.58	1,024.18	270.19
2000-2001	1,303.73	1,283.21	308.76
2001-2002	698.11	161.83	332.96
2002-2003	202.22	125.00	406.25

\* Actual revenue realised on sale of stamps includes stamps received from Hyderabad

It would be seen from the above table that indent made by the Department was far more than the stamps received from ISP Nasik. Consolidated position of indents to and supply from SSP Hyderabad and the revenue realised on sale of stamps from SSP is not available. It would be seen from the above that there is a need for strengthening the indenting procedure on a scientific basis.

### 5.2.3. Supply and receipts of stamps

It was noticed that CSD, Thiruvananthapuram did not have any consolidated information about the receipts and sale of stamps. In absence of this it was not clear how monitoring was done for receipts and sale of stamps.

Details regarding India Special Adhesive Stamps and Non-judicial general stamps collected by audit from 11<sup>#</sup> Depots including CSD, Thiruvananthapuram, revealed the following.

- **India Special Adhesive Stamps**

India Special Adhesive Stamps valued at Rs 91.08 crore were supplied by the ISP, Nasik during the period 1995-96 to 1997-98 and 2002-03. A comparison of these stamps with the actual receipts at CSD, Thiruvananthapuram revealed that in 1995-96 receipts were in excess of supplies by Rs 2.70 crore while in the years 1996-97, 1997-98 and 2002-03 there was a short supply of Rs 72.07 crore as detailed below :

(In crore of rupees)

Year	Supplied	Received	Excess	Shortage
1995-96	3.43	6.13	2.70	-
1996-97	5.52	5.44	-	0.08
1997-98	12.82	9.22	-	3.60
2002-03	69.31	0.92	-	68.39
Total			2.70	72.07

Note : No difference was noticed from 1998-99 to 2001-2002.

# CSD-Thiruvananthapuram, Stamp Depot-Kollam, Kottayam, Alappuzha, Ernakulam, Thrissur, Palakkad, Kozhikode, Mananthavady, Manjeri and Kannur.

- *Non-judicial general stamps*

As regards non-judicial general stamps it was noticed that stamps valued at Rs.140.05 crore were found to have been received in excess during the years 1995-96, 1996-97 and 1998-99 than those supplied by the CSD, Nasik while stamps valued at Rs.0.19 crore were received short in 1997-98 as shown below :

**(In crore rupees)**

<b>Year</b>	<b>Supplied</b>	<b>Received</b>	<b>Excess</b>	<b>Shortage</b>
1995-96	174.13	174.78	0.65	-
1996-97	557.03	691.43	134.40	-
1997-98	264.75	264.56	-	0.19
1998-99	654.00	659.00	5.00	-
<b>Total</b>			<b>140.05</b>	<b>0.19</b>

Note : No difference was noticed after 1998-99.

It would be seen from the above that the Department had no control over the receipts and supply of stamps. There was nothing on record to indicate that the matter regarding the shortage/excess had been taken up with higher authorities or with the ISP, Nasik.

#### **5.2.4. Internal Control**

As Central, Local and Branch Depots did not furnish periodical statements of sales to the Commissioner (Land Revenue), he was not aware of the stock position of various kinds of stamps in depots. Similarly, CSD placed indents for stamps for local depots while excess stock was available in some other depots. Lack of control/co-ordination had resulted in the following discrepancies.

- As per KMSSR, on last working day of September and March each year the Officer-in-charge of local depots will count stamps under his control. He is also required to send the report to the Superintendent of Stamps, CSD Thiruvananthapuram.

During the course of audit it was noticed that the local depots did not prepare monthly plus and minus memorandum showing the position of stocks in hand with the certificate of physical verification required to be sent to the District Treasury Officer. Consequently, the statements were not sent to CSD, Thiruvananthapuram. In absence of this, the information regarding denomination-wise stamps was not available with CSD, Thiruvananthapuram.

- Demand for non-judicial general stamp (NJGS) of higher denominations is less. However, when ISP, Nasik introduced in March 1997, NJGS of the denominations Rs 10,000, Rs 15,000, Rs 20,000 and Rs 25,000 CSD procured stamp papers of the above denominations valued Rs 2,765 crore between 1996-97 and 2001-02. Out of this, CSD distributed stamps to Depots, valued

Rs 1,703.25 crore as on 31 March 2003 and stamps worth Rs 1,061.75 crore remained undistributed as below :

(In crore of rupees)

Year	Opening balance	Receipt	Supply	Closing balance
1996-97		540		540
1997-98	540	0	489.25	50.75
1998-99	50.75	563	361	252.75
1999-2000	252.75	700	292	660.75
2000-01	660.75	942	221.25	1,381.50
2001-02	1,381.50	20	128.00	1,273.50
2002-03	1,273.50	0	211.75	1,061.75
		<b>2,765</b>	<b>1,703.25</b>	

It would be seen that the distribution of stamps during the year 2001-02 and 2002-03 was very meagre in comparison to closing balances during these years.

As a consolidated statement of stock is absent, the balance of stock of each denomination available in Depots as on 31 March 2003 could not be ascertained.

- Test check of records of District Stamp Depot, Mananthavady revealed that following categories of stamps having value of Rs 7.99 crore remained unsold from periods noted against each as shown under.

(In lakh of rupees)

Category of Stamps	Value of Stamps held	Period from which held
Impressed Court Fee Stamps	764.31	1993-94
Share Transfer Stamps	21.99	1995-96
India Insurance Stamps	12.38	1996-97
<b>Total</b>	<b>798.68</b>	

Neither the Officer-in-charge of the Depot nor Superintendent of Stamps, CSD, Thiruvananthapuram made any effort to transfer the stamps to any other depots where these could be sold. Instead the CSD, Thiruvananthapuram continued to procure stamps of these categories from ISP Nasik.

#### **5.2.5. Loss of revenue due to irregular sale of insurance stamps**

As per Indian Stamp Act, 1899, on policy of insurance the stamp duty at the prescribed rate is leviable on the amount insured. Under the KMSSR, stamps purchased in Kerala State alone shall be used for the instruments executed within the State.

As per the information received from Life Insurance Corporation (LIC) Divisions, Thiruvananthapuram and Kozhikode it was noticed that they had used insurance policy stamps purchased from a firm in Tamil Nadu (M/s Shara

Enterprises, Chennai) which was not licensed for vending stamps even in the State of Tamil Nadu. Purchase of stamps from outside the State for execution of policies of insurance in Kerala during 2001-2002 resulted in a loss of Rs 31.90 lakh to the Government of Kerala.

- Under KMSSR, sale of stamp is required to be made either by the Treasuries as ex-officio stamp vendors or by licensed stamp vendors.

LIC Division, Thiruvananthapuram purchased during 2001-2002 insurance policy stamps valued at Rs 35.42 lakh from a firm in the State (M/s Sneha Services, Kurichi, Kottayam) which was not a licensed vendor to sell stamps. Licence produced by the firm was that of another vendor authorised to draw stamps from Sub Treasury, Chengannur. It was further observed that no insurance policy stamps were sold to any vendor so far (March 2003) as no stocks were held by the Sub Treasury. This resulted in a loss of revenue of Rs 35.42 lakh. Besides, use of fake stamps could not be ruled out.

- Five licensed stamp vendors sold insurance stamps to LIC Divisions in excess of their purchases from their designated Stamp Depot/Treasury during the period from 1999 to 2003 as shown below:

**(In lakh of rupees)**

Name of Vendor (designated stamp depot/Treasury)	Period	Name of LIC Division	Excess sale of stamps	Remarks
K.V.John, (Additional Sub Treasury, Kozhikode)	2001 to 2003	Kozhikode	86.61	The licensed vendor purchased stamps valued Rs 22.05 lakh and sold stamps worth Rs.108.66 lakh to the LIC Division.
M.U.Abdul Azeez and M.A.Kunju Beevi (District Stamp Depot, Ernakulam)	1999 to 2002	Ernakulam	29.85	The licensed vendor purchased stamps valued Rs 17.97 lakh and sold stamps amounting to Rs. 47.82 lakh during this period.
M.C.Suresh, (Sub Treasury, Ettumanoor.)	1999 to 2000	Kottayam	15.27	The licensed vendor sold stamps valued Rs 21.75 lakh against purchase of Rs.6.48 lakh.
T.C.John, (District Treasury, Kottayam)	April 2002 to January 2003	Thiruvananthapuram	18.55	The vendor sold stamps amounting to Rs 29.07lakh against purchase of Rs 10.52 lakh.
	<b>Total</b>		<b>150.28</b>	

The above cases suggest that the internal control mechanism in the Land Revenue Department (which has the authority for issuing licenses) as well as Finance Department was not adequate and it failed to detect loss of revenue/irregular sale of stamps amounting to Rs 2.18 crore. There was also no reasonable assurance against the possibility of circulation of fake insurance policy stamps.

#### **5.2.6. Irregularity in sale of stamp by vendors**

Under the KMSSR, every vendor licensed to sell stamps shall record in his own handwriting on the back of every stamp paper, other than adhesive

stamps, sold by him, serial number (beginning with the first sale of each financial year), date of sale, name and residence of the purchaser, value of stamp in full in words and his ordinary signature. If the stamp is for use of any person other than the purchaser, the name and address of the other person should also be recorded. Corresponding entries are to be made in a register in Form III maintained by the vendor and also in the filing sheets of documents registered in the Sub Registry.

Cross verification of records for the period 2000-01 to 2002-03, maintained by six vendors\* with the records maintained in the Treasuries/Sub Treasuries to which they were attached and details of stamps entered in the filing sheets of documents registered in the Sub Registries revealed the following irregularities in 503 cases.

Sl No.	Year	Name of Treasury/ Sub Treasury	No. of Vendors	No. of cases	Amount (in lakh of rupees)	Nature of Irregularity
1.	2000-01 and 2001-02	Parassala	1	233	1.28	As per entry in the filing sheets in Sub Registry, stamp papers were sold by the vendors. But as per those vendor's account, stamps of serial numbers used in the registered documents were not sold by them. Besides serial numbers of most of the stamps shown as sold by Parassala vendor did not find place in the Vendor's Register.
		Varkala and Malappuram	2	11	0.14	
2.	2000-01 and 2001-02	Parassala, Attingal, Varkala, Neyyattinkara, Malappuram	5	211	2.21	Denominations of stamps used in registered documents vary from that shown in vendors' account.
3.	2000-01 and 2001-02	Attingal, Parassala, Neyyattinkara	3	26	0.20	The serial numbers of the stamp papers used in registered documents were same as those that were surrendered before the RDO for refund.
4.	2001-02 and 2002-03	Parassala, Thiruvananthapuram	2	22	0.37	There was no record in the treasuries about the issue of these stamp papers.
				<b>503</b>	<b>4.20</b>	

However, the concerned authorities failed to detect irregular sale of stamp papers of Rs 4.20 lakh.

A comparison of sale of non-judicial stamp papers with stamp duty levied by the Registration Department could not be done in audit as details of stamp papers sold through Depots/Treasuries were not made available by the Land Revenue Department in spite of repeated request.

\* P. Azeez (Thiruvananthapuram), S.Gopalakrishnan Nair (Neyyattinkara), V.Kanthaswami Pillai (Parassala), N.Krishnankutty Nair (Attingal), V.Sasidharan (Varkala), K.P.Balakrishnan Nair, Malappuram.

The matter was pointed out to the Department between June and October 2004 and reported to Government in September and October 2004; their replies are awaited (December 2004).

### **5.3. Short levy of stamp duty and registration fee**

The Kerala Stamp Act, 1959, provides that while registering any instrument of transfer of property, if the registering officer has reason to believe that the value of the property or the consideration has not been fully and truly set forth in it, he may, after registering such document refer the same to the Collector for determination of the value or consideration and the duty payable thereon. The Collector may, *suo motu*, within two years from the date of registration of any instrument not already referred to him, call for and examine the instrument and determine its value or consideration and the duty payable thereon.

It was noticed in Sub Registry, Kuzhalmannom that an individual acquired 53 cents of land for a total consideration of Rs 5.30 lakh through four sale deeds registered on 1 August 2001 and sold the same to a company through a sale deed registered on 4 August 2001 for Rs 18.02 lakh. Though there was undervaluation of properties amounting to Rs 12.72 lakh in the four sale deeds of 1 August 2001, the Sub Registrar did not refer them to the Collector for determination of value or consideration and duty payable thereon. This resulted in short levy of stamp duty and registration fee of Rs 1.53 lakh.

After this was pointed out to the Department by Audit in March 2003, the Department stated in November 2003 that the Sub Registrar had since referred the document to the District Registrar. Further report has not been received (December 2004).

Government reply to the reference made in November 2003 has not been received (December 2004).

## **State Excise**

### **5.4. Low production of spirit from molasses**

As per the Kerala Excise Manual, Volume II, a yield of 475 proof litres of spirit per tonne of molasses may be taken as a fair average out-turn whereas the norm fixed by the Central Board of Molasses was 373.5 proof litres. The Kerala Distillery and Warehouse Rules, 1968, envisage that whenever the out-turn of spirit is consistently low, the officer should arrange for examination of samples of the spent wash as it leaves the still. Mention was made in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1997 and 31 March 1999 on low yield of spirit in the years 1994-95, 1996-97 and 1997-98. Government, in the action taken report on the recommendations of the Committee on Public Accounts (1998-2000) in their 59<sup>th</sup> Report, stated (April 2003) that action had been taken to amend the Manual and Rules to ensure correct yield of spirit and to make

mandatory the sample testing of fermented wash before distillation and spent wash after distillation.

The records of a distillery at Cherthala for the year 2002-03 revealed that 24.49 lakh proof litres of spirit was produced from 6916.64 metric tonnes of molasses. Based on the norms fixed by Central Board of Molasses the yield was short by 1.34 lakh proof litres involving excise duty of Rs 20.80 lakh.

After this was pointed out to the Department in August 2003, the Department stated that the objection is against the existing rule whereby duty for low production can be levied only if the degree of attenuation exceeds five. The Rules have not so far been amended to ensure levy of duty for the actual yield of spirit by making sample testing of fermented wash as well as spent wash mandatory, as suggested by the Committee on Public Accounts.

The matter was reported to Government in February 2004; their reply had not been received (December 2004).

### **5.5. Short levy of gallonage fee**

Under the Foreign Liquor Rules, gallonage fee at the rate prescribed by Government is payable on the quantity of Indian made foreign liquor (IMFL) sold by FL 9 licensees. Gallonage fee for 2001-02 was Rs 2 per bulk litre (BL) of beer and Re 0.80 per BL of IMFL and that for 2002-03 was Re 0.75 per BL and Re 0.25 per BL respectively.

Kerala State Beverages Corporation Bonded Warehouse, Nedumangad as an FL 9 licensee sold 18.53 lakh BL of beer and 55.92 lakh BL of IMFL during 2001-02 and 21.24 lakh BL beer and 62.54 lakh BL of IMFL during 2002-03. Against gallonage fee of Rs 1.13 crore due for 2001-02 and 2002-03, the amount remitted was Rs 1.05 crore. This resulted in short levy of Rs 8.06 lakh.

This was pointed out to the Department in August 2003 and reported to the Government in February 2004. The department stated in August 2004 that the amount was demanded from the Corporation. Further reply had not been received (December 2004).

### **5.6. Short collection of cost of establishment**

As per the proceedings (June 1999) of the Excise Commissioner, rates of average cost of pay and allowances and contributions towards leave salary, pension and DCRG, etc., recoverable on account of deputing Excise supervisory staff for supervision of Distilleries, Bonded Ware Houses of Kerala State Beverages Corporation, etc., were revised with effect from 1 March 1997. The Commissioner of Excise later clarified in August 2000 that the recovery is to be effected on the basis of scale of pay of the incumbents working in the institution.

In two institutions<sup>♦</sup>, the recovery of cost of pay, pension and leave salary contribution, dearness allowance, bonus, etc., was either not in compliance with the revised order or the cost was recovered on the basis of the scale of pay of the sanctioned post instead of the scale of pay of the incumbents

<sup>♦</sup> K.S. Distillery; Varam, Kerala State Beverages Corporation Bonded Ware House at Nedumangad.

working in the institutions. These resulted in short collection of cost of establishment amounting to Rs 1.54 lakh relating to the period from April 1999 to March 2003.

After this was pointed out to the Department by Audit between February 2003 and August 2003, the Department stated in November 2003 that it collected Rs 1.10 lakh towards balance establishment cost from one institution. Further report has not been received (December 2004).

This was reported to Government in April 2004; their reply had not been received (December 2004).

## **Taxes on Agricultural Income**

### **5.7. Incorrect set off of loss**

As per the Kerala Agricultural Income Tax Act, 1991, where any person sustains a loss as a result of computation of agricultural income any year, the loss shall be carried forward to the following year and set off against the agricultural income of that year and if it cannot be wholly set off, the amount of loss not so set off, shall be carried forward to the following year and so on, but no loss shall be carried forward for more than eight years.

In the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Kozhikode, an assessee company had unabsorbed loss of Rs 5.15 lakh for assessment year 1991-92. A portion of this loss amounting to Rs 4.62 lakh was merged with the loss of Rs 4.65 lakh for the assessment year 1992-93 and the unabsorbed loss for assessment year 1992-93 was computed as Rs 9.27 lakh. However, while finalising in September 2002 the assessments for the assessment years 1994-95 and 1995-96, the Assessing Officer had set off carried forward losses of Rs 5.15 lakh of assessment year 1991-92 and Rs 9.27 lakh against actual loss of Rs 4.65 lakh of assessment year 1992-93. This resulted in excess adjustment of Rs 4.62 lakh with a tax effect of Rs 3 lakh.

Audit pointed out this in April 2003; the Assessing Officer revised the assessment in April 2003. Further report has not been received (December 2004).

The case was reported to Government in December 2003. Government accepted, in June 2004, the fact that there was double carry forward of loss and that the assessment was modified on 22 April 2003 but there was no short levy of tax. This is not correct since by deletion of "excess loss carried forward" of Rs 4.62 lakh, Government stands to gain tax of Rs 3 lakh on it. Further remarks have not been received (December 2004).