

CHAPTER V : REVENUE RECEIPTS

GENERAL

5.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Meghalaya during the year 2002-03, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

Table 5.1

Sl. No.	Particulars	1998-99	1999-2000	2000-01	2001-02	2002-03
		(Rupees in crore)				
I.	Revenue raised by the State Government –					
	(a) Tax Revenue	88.36	102.99	118.62	135.98	144.87
	(b) Non-Tax Revenue	51.46	83.86	86.66	94.09	92.78
	Total : I	139.82	186.85	205.28	230.07	237.65
II.	Receipts from the Government of India -					
	(a) State's share of divisible Union taxes	300.55	341.76	164.20	164.83	176.11
	(b) Grants-in-aid	392.31	415.04	762.68	728.48	875.17
	Total : II	692.86	756.80	926.88	893.31	1051.28
III.	Total receipts of the State Government	832.68	943.65	1132.16	1123.38	1288.93
IV	Percentage of I to III	16.79	19.80	18.13	20.48	18.44

The position of non-plan grants given to the State by the Government of India during the five year period ending March 2003 is as under:

Table 5.2

(Rupees in crore)

Year	Amount of Non-Plan grants
1998-99	28.47
1999-2000	23.19
2000-01	320.31
2001-02	317.17
2002-03	407.74

The share of non-plan grants during 2002-03 was 47 per cent of the total grants-in-aid received from the Government of India. Compared to 1998-99, non-plan grants of the State increased by over 14 times mainly due to grants

received by the State to cover deficit on non-plan revenue account (Rs.377.58 crore).

The details of tax revenue during the year 2002-03 along with the figures for the preceding four years are given below:

Table 5.3

(Rupees in crore)

Sl. No.	Head of Revenue	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of increase (+) or decrease (-) in 2002-03 over 2001-02
1.(a)	Sales Tax	17.34	34.20	32.95	59.78	71.67	(+) 20
(b)	Central Sales Tax	28.58	19.33	31.76	21.11	15.53	(-) 26
2.	State Excise	32.69	39.51	41.09	41.69	44.95	(+) 8
3.	Stamps and Registration Fees	2.28	2.66	3.01	3.49	2.95	(-) 15
4.	Taxes and Duties on Electricity	0.78	0.02	0.46	0.01	0.02	(+) 100
5.	Taxes on Vehicles	2.90	3.79	4.66	4.72	4.62	(-) 2
6.	Taxes on Goods and Passengers	1.39	1.40	1.42	1.61	1.63	(+) 1
7.	Other Taxes on Income and Expenditure – Taxes on Professions, Trades, Callings and Employments	0.73	0.39	0.38	0.90	0.92	(+) 2
8.	Other Taxes and Duties on Commodities and Services	1.35	1.52	1.79	2.00	2.26	(+) 13
9.	Land Revenue	0.32	0.17	1.10	0.67	0.32	(-) 52
		88.36	102.99	118.62	135.98	144.87	

Reasons for variations in receipts during 2002-03 over those of 2001-02 under all the above heads of revenue had not been furnished (September 2003).

The details of the major non-tax revenue raised during the year 2002-03 along with the figures for the preceding four years are given below:

Table 5.4

(Rupees in crore)

Sl. No.	Head of revenue	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of increase (+) or decrease (-) in 2002-03 over 2001-02
1.	Interest Receipts	5.98	8.38	9.26	5.26	4.66	(-) 11
2.	Dairy Development	0.70	0.66	0.71	0.97	1.09	(+) 12
3.	Forestry and Wild life	4.64	6.17	5.44	7.82	8.56	(+) 9
4.	Non-ferrous Mining and Metallurgical Industries	22.39	49.75	50.22	63.36	56.11	(-) 11
5.	Miscellaneous General	2.27	1.10	1.15	0.57	6.18	(+) 984

	Services (including lottery receipts)						
6.	Education, Sports, Arts and Culture	0.35	0.42	0.55	0.62	0.76	(+) 23
7.	Medical and Public Health	0.30	0.33	0.33	0.41	0.55	(+) 34
8.	Co-operation	0.01	0.79	0.02	0.46	1.13	(+) 146
9.	Public Works	2.70	3.57	3.62	4.16	3.63	(-) 13
10.	Police	2.34	1.08	1.89	1.41	1.53	(+) 9
11.	Other Administrative Services	1.19	5.23	1.10	4.11	3.41	(-) 17
12.	Other Agricultural Programme	0.64	0.90	0.42	0.32	0.72	(+) 125
13.	Crop Husbandry	1.72	1.90	2.33	1.71	1.40	(-) 18
14.	Animal Husbandry	0.73	1.29	1.10	1.04	1.09	(+) 5
15.	Others	5.50	2.29	8.52	1.87	1.96	(+) 5
		51.46	83.86	86.66	94.09	92.78	

Reasons for variations in receipts during 2002-03 over those of 2001-02 under all the above heads of revenue had not been furnished (September 2003).

5.2 Initiative for mobilisation of additional resources. Commitments made in budget speech, Memorandum of Understanding with Government of India, Mid term fiscal plan, Finance Commission Projections, white paper on finance, etc.

Commitment made in the budget speech for creation of an Armed Forest Protection Force to curb loss of forest receipts remained unfulfilled.

In order to generate additional resources of Rs.1 crore during 2002-03, it was committed in budget speech that surcharge on all items under the Meghalaya Sales Tax Act, Meghalaya Purchase Tax Act and Meghalaya Finance (Sales Tax) Act, (except motor vehicles) would be enhanced from 10 *per cent*, besides, enhancement of tax on 'Teer' (arrow shooting) and timber under the Meghalaya Amusement & Betting Tax Act and the Meghalaya Purchase Tax Act, from 40 to 50 *per cent* and from 8 to 20 *per cent* respectively. But no action was initiated for fulfilment of the aforesaid commitment (September 2003).

5.3 Variations between Budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2002-03 in respect of the principal heads of tax and non-tax revenue are given below:

Table 5.5

(Rupees in crore)

Sl. No.	Head of Revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales Tax	84.00	87.20	(+) 3.20	(+) 4
2.	State Excise	62.00	44.95	(-) 17.05	(-) 27
3.	Stamps and Registration Fees	3.64	2.95	(-) 0.69	(-) 19
4.	Taxes and Duties on Electricity	0.28	0.02	(-) 0.26	(-) 93
5.	Forestry and Wildlife	7.24	8.56	(+) 1.32	(+) 18
6.	Non-ferrous Mining and Metallurgical Industries	73.44	56.11	(-) 17.33	(-) 24

Reasons for variations between budget estimates and actuals though called for (September 2003) had not been received (October 2003).

5.4 Cost of collection

The gross collection under principal revenue receipt heads, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2000-01 to 2002-03 along with all India average percentage of expenditure on collection to gross collection for 2001-02 were as under:

Table 5.6

(Rupees in crore)

Sl. No.	Head of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2001-02
1.	Sales Tax	2000-01	64.71	2.19	3.38	-
		2001-02	80.89	2.34	2.89	1.26
		2002-03	87.20	2.36	2.71	-
2.	State Excise	2000-01	41.09	2.81	6.84	-
		2001-02	41.69	3.00	7.20	3.21
		2002-03	44.95	2.99	6.65	-
3.	Taxes on Vehicles	2000-01	4.66	1.67	35.84	-
		2001-02	4.72	2.53	53.60	2.99
		2002-03	4.62	2.00	43.29	-

It is evident that the costs of collection under the above mentioned heads of revenue were much higher than the all India average.

5.5 Collection of sales tax per assessee

Table 5.7

(Rupees in crore)

Year	Number of assessees	Sales Tax revenue	Revenue/assessee
1998-1999	4,609	45.92	0.01
1999-2000	5,369	53.52	0.01
2000-01	5,442	64.71	0.01
2001-02	5,875	80.89	0.01
2002-03	5,883	87.20	0.01

It would be observed that the revenue per assessee over the last five years remained constant.

5.6 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2002-03, cases due for assessment during the year and cases pending finalisation at the end of the year 2002-03 as furnished by the department in respect of sales tax, purchase tax, taxes on motor spirits, *etc.* and luxury tax are as under:

Table 5.8

Names of tax	Opening balance of cases for pending assessments	Cases due for assessments during the year	Total assessments due	Cases finalised during the year	Balance cases pending at the end of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax/Central Sales Tax	52,751	18,724	71,475	6,347	65,128	9
Purchase Tax	8,592	7,012	15,604	1,016	14,588	7
Motor Spirits Tax	2,920	2,574	5,494	2,988	2,506	54
Luxury Tax	2,812	112	2,924	88	2,836	3
Total	67,075	28,422	95,497	10,439	85,058	11

It would appear from above that the percentage of final assessments ranged from 3 to 54 *per cent* of the total assessments due up to 2002-03. The Government had not fixed any norm quantifying the number of assessments to be completed by each Assessing Officer during a particular period.

5.7 Results of audit

Test-check of records of sales tax, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2002-03 revealed under-assessment/short/non-levy/loss of revenue amounting to Rs.457.89 crore in 105 cases. During the course of the year the departments accepted under-assessments, short/non-levy/loss of revenue of Rs.96.29 crore in 69 cases pointed out during 2002-03 and in earlier years, and recovered Rs.0.30 crore. Reply had not been received in respect of the remaining cases.

This chapter contains 31 paragraphs including one review involving Rs.153.02 crore. The department/Government have accepted 17 cases involving Rs.83.28 crore of which Rs.0.26 crore had been recovered up to October 2003 and 10 cases involving Rs.37.80 crore had not been accepted. Reply had not been received (October 2003) in other cases.

5.8 Failure of senior officials to enforce accountability and protect interest of Government

Accountant General (Audit) Meghalaya, Arunachal Pradesh and Mizoram, Shillong conducts periodic inspection of various offices of the Government departments to test check the correctness of assessments, levy and collection of tax and non-tax receipts, and verify the maintenance of accounts and records as per Acts, Rules and procedures prescribed by the Government. These inspections are followed by inspection reports (IRs) issued to the heads of offices inspected with copies to the next higher authorities. Serious irregularities noticed in audit are also brought to the notice of the Government/Head of the Department by the Office of the Accountant General (Audit) Meghalaya, Arunachal Pradesh and Mizoram, Shillong. A half yearly report regarding pending inspection reports is sent to the Secretaries of the concerned Government departments to facilitate monitoring and settlement of audit observations raised in these Inspection Reports through intervention of the Government.

Inspection reports issued up to December 2002 pertaining to offices under sales tax, state excise, land revenue, motor vehicles tax, passengers and goods tax, other taxes, forest, geology and mining departments disclosed that 764 objections relating to 192 inspection reports involving money value of Rs.256.03 crore remained outstanding for settlement at the end of June 2003. Of these 62 inspection reports containing 239 observations involving money value of Rs.101.26 crore had not been settled for more than five years. The year-wise position of old outstanding inspection reports and paragraphs is given in Appendix XXVI.

In respect of 157 paragraphs relating to 50 inspection reports involving money value of Rs.53.86 crore issued up to June 2003, even first reply required to be

received from the Department/Government had not been received (October 2003)

Report regarding position of old outstanding IRs/paragraphs was reported to the Government in August and September 2003; their reply had not been received (October 2003).

5.9 Response of the Departments to Draft Paragraphs

The draft paragraphs are forwarded to the Secretaries of the concerned departments through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments is invariably indicated at the end of each such paragraph included in the Audit Report.

Thirty-three draft paragraphs and one review proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 - Government of Meghalaya, were forwarded to the Secretaries of the respective departments during April to August 2003 demi officially.

The Secretaries of the departments did not send replies to 12 draft paragraphs, and the review in compliance to the request of Audit (October 2003). As such these paragraphs have been included in this Report without the response of the Government.

5.10 Follow up on Audit Report – Summarised position

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the various Audit Reports, the Public Accounts Committee (PAC) issued instructions in July 1993 for submission of *suo motu* replies by the concerned Departments from 1986-87 onwards. As regards submission of Action Taken Notes (ATN) on the recommendations of the PAC to the Assembly, the Committee specified the time frame as six weeks up to 32nd Report and six months in the 33rd Report.

Review of outstanding ATNs as of 30 September 2003 on paragraphs included in the Reports of the Comptroller and Auditor General of India disclosed as under:

- (i) The Departments of the State Government had not submitted *suo motu* explanatory notes on 109 paragraphs of Audit Reports for the years from 1992-93 to 2001-02 in respect of revenue receipts.

Table 5.9

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of paragraphs/ reviews included in the Audit Report		Number of paragraphs/reviews for which <i>suo motu</i> replies are awaited	
		Para-graphs	Reviews	Para-graphs	Reviews
1992-93	16 September 1994	6	...	6	...
1993-94	08 September 1995	8	...	8	...
1994-95	29 September 1996	10	...	4	...
1995-96	07 April 1997	14	2	3	2
1996-97	12 June 1998	21	1	18	1
1997-98	09 April 1999	8	1	1	...
1998-99	12 April 2000	8	1	8	1
1999-2000	07 December 2001	23	2	23	2
2000-01	01 April 2002	20	1	20	1
2001-02	20 June 2003	25	...	11	...
Total		143	8	102	7

(ii) The departments failed to submit ATN on 29 paragraphs out of 30 paragraphs pertaining to revenue receipts for the years from 1982-83 to 1997-98 on which recommendations had been made by PAC in their 16th to 33rd Reports presented before the State Legislature between December 1988 and June 2000, as detailed below:

Table 5.10

Year of Audit Report	Number of paragraphs on which recommendations were made by PAC but ATNs are awaited	Number of PAC Report in which recommendations were made
1982-83	2	16 th
1984-85	9	26 th 19 th
1987-88	1	26 th
1988-89	1	20 th
1989-90	1	20 th
1990-91	11	26 th 20 th
1991-92	3	26 th 20 th
1997-98	1	33 rd
Total	29	

Thus, failure by the respective departments to comply with the instructions of the PAC, defeated the objective of ensuring accountability of the executive.

SECTION ‘A’ : REVIEW

TAXATION DEPARTMENT

5.11 Assessment, levy and collection of Amusement and Betting Tax

Highlights

Failure of the Government/department to initiate appropriate action led to non-realisation of amusement tax of Rs.1.26 crore and penalty of Rs.2.53 crore in five cases of registered proprietors of cinema halls.

(Paragraph 5.11.7)

Injudicious reduction of tax in five cases of registered proprietors of cinema halls without any basis led to loss of revenue of Rs.2.93 crore.

(Paragraph 5.11.8)

Failure of the Government to fix lump sum tax in nine cases led to non-levy of tax of Rs.1.99 crore.

(Paragraph 5.11.9)

Non-adoption of uniform rate of tax caused loss of revenue of Rs.42.20 lakh.

(Paragraph 5.11.10)

Penalty of Rs.3.94 crore for delay in payment of tax, though leviable, was not levied.

(Paragraph 5.11.15)

Non-enforcement of revised rate of entertainment tax led to loss of revenue amounting to Rs.2.24 crore.

(Paragraph 5.11.16)

Failure to register 33 operators of cable television entertainment resulted in loss of revenue of Rs.30.20 lakh.

(Paragraph 5.11.17)

Incorrect realisation of advance tax at lower rate led to loss of revenue of Rs.4.18 crore.

(Paragraph 5.11.18)

Failure of the department to renew licences of 5,608 bookmakers led to non-realisation of renewal fee of Rs.1.81 crore.

(Paragraph 5.11.19)

5.11.1 Introduction

The assessment, levy and collection of amusement and betting tax are governed by the Meghalaya Amusement and Betting Tax (MABT) Act and Rules framed thereunder and administrative instructions issued from time to time. The department had not prescribed any manual incorporating the procedure, duties and functions of the assessing officers relating to implementation of the relevant provisions of the Acts and Rules framed under the Statute.

5.11.2 Organisational set up

At the Apex level, overall responsibility of administration of amusement and betting tax lies with the Commissioner of Taxes, Meghalaya who is assisted by one Deputy Commissioner of Taxes and one Assistant Commissioner of Taxes at Headquarters. At field level, the State is divided into 10 Taxation unit offices^(a) and each unit office is headed by a Superintendent of Taxes (SOT). Survey, registration of proprietors of entertainment and bookmakers of arrow shooting (Archery), assessment, levy, raising of demand and collection of taxes under the Act, *ibid* are made by SOTs of 10 unit offices in the State. Inspectors of taxes are primarily responsible for conducting survey and are also required to assist the SOT in matters relating to registration and assessment of proprietors of entertainment and bookmakers of arrow shooting.

5.11.3 Audit objectives

The review was conducted to:

- (i) determine extent of compliance to the rules and provisions of the Act,
- (ii) to assess extent of under-assessment in levy and collection of revenue.

^(a) Six unit offices in Shillong, one unit office each in Jowai, Tura, Byrnihat and Williamnagar

5.11.4 Scope of audit

Assessment, levy and collection of amusement and betting tax was reviewed during January and February 2003, covering the period 1997-98 to 2001-02. In addition to the records of the Commissioner of Taxes, Meghalaya, records of nine out of 10 unit offices were test checked. The audit findings are discussed in the succeeding paragraphs.

5.11.5 Growth of registered proprietors of entertainment/bookmakers of arrow shooting and trend of revenue

The table below indicates the number of registered proprietors of entertainment/bookmakers of arrow shooting during 1997-98 to 2001-02 and the percentage of increase in their numbers from year to year.

Table 5.11

Year	Number of registered proprietors of entertainment and book-maker at the beginning of the year	Number of proprietors of entertainment/bookmakers of arrow shooting registered during the year	Number of proprietors of entertainment/bookmakers of arrow shooting whose registration was cancelled during the year	Number of proprietors of entertainment/bookmakers of arrow shooting at the end of the year	Increase (+) Decrease (-) (in percentage)
1997-98	1,645	44	NIL	1,689	(+) 2.67
1998-99	1,689	51	NIL	1,740	(+) 3.02
1999-2000	1,740	78	NIL	1,818	(+) 4.48
2000-01	1,818	96	7	1,907	(+) 4.90
2001-02	1,907	116	NIL	2,023	(+) 6.08

The number of registered proprietors of entertainment/bookmakers of arrow shooting increased from 2.67 to 6.08 *per cent* between 1997-98 to 2001-02.

5.11.6 Trend of revenue

The budget estimates *vis-a-vis* revenue realised by the State from amusement and betting tax during 1997-98 to 2001-02 are tabulated as under:

Table 5.12

Year	Budget Estimates	Actual Receipt	Excess(+) Shortfall (-)	Percentage of shortfall (-)
1997-98	143.25	63.67	(-) 79.58	(-) 55.55
1998-99	118.56	72.12	(-) 46.44	(-) 39.17
1999-2000	131.68	88.15	(-) 43.53	(-) 33.06
2000-01	178.64	105.38	(-) 73.26	(-) 41.01
2001-02	122.44	102.88	(-) 19.56	(-) 15.98

There was a shortfall in revenue collection against the target set, varying between 15.98 and 55.55 *per cent* during the corresponding years. The reasons for shortfall between the budget estimates and actual receipts though called for (February 2003) have not been received (October 2003).

Assessment, levy and collection of amusement tax

5.11.7 Non-realisation of amusement tax

Under the MABT Act, every registered proprietor of any entertainment in respect of which entertainment tax is payable under this Act shall pay amusement tax to the State Government within such date as may be prescribed. Again Section 4 of the Act provides for the method of levy of entertainment tax and in case of contravention of this provision, the proprietor is liable to pay composition money not exceeding one thousand rupees or double the amount of tax which would have been payable had these provisions been complied with, whichever is greater. Further, Section 10 of the Act, provides that in the event of default by any proprietor of entertainment in making payment of any dues, such dues shall be recovered by the State Government as an arrear of land revenue.

Test check of records of seven^(b) taxation unit offices revealed that five^(c) proprietors of cinema halls paid between April 1991 and March 2001 amusement tax of Rs.1.19 crore against Rs.2.45 crore levied for the same period. The balance amusement tax of Rs.1.26 crore remained unrealised without any recorded reason as tabulated below:

Table 5.13

Period for which amusement tax payable	Number of cases	Amusement tax levied and demand raised during the year	Amusement tax paid during the year	Unpaid balance at the end of the year
		(Rupees in lakh)		
Up to 1997-98	5	155.96	74.64	81.32
1998-99	5	23.66	11.37	12.29
1999-2000	5	33.38	17.79	15.59
2000-01	5	32.14	15.01	17.13
2001-02	5	NIL	NIL	126.33

It was noticed in audit that neither any action was initiated to realise the balance tax nor were these cases forwarded by the Government/department to the Bakijai Officer for recovery of the dues as an arrear of land revenue as envisaged in the Act *ibid*. Besides, penalty not exceeding Rs.2.53 crore was also leviable in these cases but not levied. Thus, inaction on the part of the Government/department resulted in non-realisation of amusement tax of Rs.1.26 crore and penalty of Rs.2.53 crore. Moreover, the amusement tax for the year 2001-02 payable by these proprietors was not even fixed by the State Government (February 2003).

^(b) Five units in Shillong and one unit each in Jowai and Byrnihat.

^(c) Anjalee, Dreamland, Mini Dreamland, Borbon and Ramona cinema halls.

5.11.8 Loss of revenue due to injudicious reduction of tax

Under the MABT Act, the State Government may, on application of a registered proprietor of cinema hall, allow such proprietor to pay compounded fixed sum as entertainment tax inclusive of surcharge or to pay the amount of tax due by consolidated payment of such percentage of the gross sum received by the proprietor on account of admission to cinema hall on account of tax as the State Government may fix. It was judicially held by different Hon'ble High Courts^(d) that a Legislature can only give retrospective effect to a piece of legislation passed by it, but an executive Government exercising subordinate and delegated legislative powers can not make such legislation retrospective in effect.

Test check of records of four taxation unit offices of Shillong disclosed that all registered proprietors of cinema halls opted for payment of lump sum tax payable for each year. Based on this option, the State Government in exercise of the powers delegated under Section 3 (3) (a) of the MABT Act fixed between October 1991 and November 2000 tax and surcharge of Rs.6.46 crore calculated at the rate of 30 to 35 *per cent* of the gross amount which would have accrued from two to four shows daily with full capacity for 365 days a year payable by five^(e) registered proprietors of cinema halls for the period April 1992 to March 2001. Subsequently, the levied tax was reduced by 10 to 20 *per cent* between October 1999 and June 2001 to Rs.3.53 crore. Grant of such reduction with retrospective effect was incorrect resulting in loss of revenue of Rs.2.93 crore.

5.11.9 Non-levy of tax

Under the MABT Act, the power of fixing lump sum tax payable in each year by a registered proprietor of cinema hall rests with the State Government.

In five^(f) taxation unit offices of Shillong, Jowai and Byrnihat, it was noticed in audit that nine^(g) registered proprietors of cinema halls applied for fixation of lump sum tax payable by them for each year. But the State Government did not initiate any action to fix lump sum tax of Rs.1.99 crore payable by these proprietors for different periods between 1 April 1994 and 31 March 2002. Thus, failure of the State Government to fix lump sum tax in time led to non-realisation of entertainment tax of Rs.1.99 crore.

^(d) Modi Food Products Vs CST (1995) 6 STC 287, Allahabad
India Sugar Refineries Ltd Vs State of Mysore AIR 1963 Mysore 326
Aggarwal Wool and thread Co. Vs STC (1966) 18 STC 405 Punjab
Calicut- Wyrod Motor Services Vs State of Kerala AIR 1959 Kerala 347
Gokulchand Kasturchand Vs State of Assam 1973 Tax IR 1771 Guwahati.

^(e) Anjalee, Bijou, Mini Dreamland and Payal.

^(f) Three units in Shillong and one unit in Byrnihat and Jowai

^(g) Anjalee, Bijou, Dreamland, Mini Dreamland, Payal, Marynhian, Jobly, Borbon and Ramona.

5.11.10 Loss of revenue

Under Section 3(3)(a) of the MABT Act the State Government may on the application of the proprietor of cinema hall allow such proprietor to pay a compounded fixed sum as tax payable. The tax so fixed, is calculated at the rate of 35 *per cent* of gross amount which would have accrued, as tax inclusive of surcharge, for two to four shows with full house capacity per day for 365 days a year.

It was noticed in audit (January and February 2003) that the State Government determined in June 1995 and February 2001 gross amount of tax inclusive of surcharge for two to three shows with full house per day at Rs.1.23 crore and Rs.1.50 crore payable for the period April 1992 to March 2000 by two registered proprietors of cinema halls 'A' and 'B' both located in thinly populated towns of Byrnihat and Jowai respectively. Based on this, the actual tax payable by 'A' was accordingly compounded in June 1995 to Rs.42.89 lakh by fixing the rate at 35 *per cent* of the gross amount of Rs.1.23 crore. Whereas in respect of 'B', actual tax payable was fixed in February 2001 at Rs.10.40 lakh instead of Rs.52.60 lakh without assigning any reason thereof.

Thus, non-adoption of the prescribed rate in case of 'B' resulted in loss of revenue of Rs.42.20 lakh.

5.11.11 Short levy of tax

Under the MABT Act and Rules made thereunder, every registered proprietor of cinema hall shall furnish monthly return showing *inter alia*, the tax inclusive of surcharge collected from cinema goers, along with copy of treasury *challans* showing deposit of the collected tax inclusive of surcharge into the Government account.

In three taxation unit offices of Shillong, it was noticed in audit that four registered proprietors of cinema halls collected tax inclusive of surcharge of Rs.1.67 crore from cinema goers as per their monthly returns for different periods falling between April 1992 and March 2001. But the State Government levied between October 1999 and June 2001 lump sum tax of Rs.1.49 crore payable by these proprietors during the corresponding periods. This resulted in short levy of tax of Rs.17.95 lakh.

5.11.12 Loss of revenue due to non-raising of demand for security

Under the MABT Act and Rules made thereunder the SOTs have been empowered to demand reasonable security from the proprietor of an entertainment. It was judicially held^(h) that the power to demand security has been given to the authorities to ensure proper payment of tax.

^(h) Nandlal Raj Kishan Vs Commissioner of Sales Tax, Delhi (1961) 12STC324 SC.

Test check of the records of SOT, Shillong revealed that Rs.26.99 lakh was fixed by the Government as entertainment tax for the period from April 1992 to March 2001 in respect of a cinema hall in Shillong against which Rs.11.26 lakh only was paid by the proprietor. No action was initiated to realise the balance tax of Rs.15.73 lakh. Further scrutiny revealed that no reasonable security was demanded by the SOT and the cinema hall was closed from May 2000. Thus, failure of the assessing officer to demand reasonable security from the proprietor resulted in loss of revenue of Rs.15.73 lakh.

5.11.13 Irregular adjustment of excess tax

Rule 25 of the MABT Rules provides that any person claiming refund of entertainment tax should present an application for such refund to the Commissioner of Taxes or any other officer or officers authorised by him within 15 days from the date of entertainment. An application of refund not presented within such period shall be rejected.

Test check of records of the SOT, Shillong revealed that the proprietor of a cinema hall made excess payment of entertainment tax amounting to Rs.11.85 lakh for the period from April 1997 to March 2000. The proprietor neither claimed refund of excess tax paid nor presented any application for such refund. There is no provision in the Act to justify set off of excess tax paid by a dealer against the tax due from him in respect of another period. But the assessing officer unauthorisedly set off the excess amount against the sum due from him in respect of another period. Such irregular adjustment went against the spirit of the Act/Rule.

5.11.14 Non-payment of entertainment tax

Under Section 3 (b) of the MABT Act, the liability to pay entertainment tax shall be on the proprietor of the entertainment.

Test check of the records of the SOT, Shillong revealed that a Khasi film was allowed to be exhibited in the cinema halls of the State on payment of entertainment tax of 30 *per cent* for a period of three months. The film was exhibited for the period from December 1998 to March 1999 in three cinema halls of Shillong for which the proprietors were liable to pay entertainment tax of Rs.2.11 lakh. But the SOT issued demand notices to the producer of the film instead of the proprietor of cinema halls to pay the tax of Rs.2.11 lakh, which could not be realised till date of audit (February 2003).

5.11.15 Non-levy of penalty

Under the MABT Act and Rules made thereunder, all payments shall be made to the prescribed officer within 10 days of the entertainment and every proprietor of entertainment shall furnish a return along with a treasury *challan* showing the payment of such sum. However, in cases of contravention of the aforesaid provision, the SOT can accept maximum composition money of

Rs.1,000 or double the amount of tax which would have been payable had these provisions been complied with whichever is greater.

Test check of records of four unit offices in Shillong revealed that five⁽ⁱ⁾ proprietors of cinema halls paid amusement tax amounting to Rs.1.97 crore for the period from April 1997 to March 2002 with delay ranging from one month to 12 months. For delayed payment of tax, penalty amounting to Rs.3.94 crore leviable in these cases was not levied.

5.11.16 Non-implementation of the revised rates

The Government of Meghalaya, Taxation Department notified in May 1992 that entertainment tax would be enhanced to 200, 160 and 100 *per cent* from 100, 80 and 50 *per cent* respectively on the amount of payment for admission per head of more than Rs.2, Rs.2 or less and Re.1 or less. In November 1996, the State Government refixed the tax as 150, 120 and 75 *per cent*. Further under Section 3(3)(a) of the MABT Act, the State Government may, on the application of the proprietor of entertainment allow such proprietor to pay the tax for a fixed sum which is calculated at the rate of 35 *per cent* of the gross amount of tax and surcharge that would have accrued from two to four shows daily with full house capacity for 365 days.

Test check of four unit offices in Shillong revealed that five⁽ⁱ⁾ proprietors of cinema halls did not implement the revised rate of tax as per Government notification (May 1992 and November 1996) till 25 December 1997 and continued to collect tax at old rate of 100, 80 and 50 *per cent* due to non-receipt of prior intimation of the proposed enhancement. Based on the old rate of tax, the State Government fixed lump sum tax of Rs.2.08 crore for the period from 1 April 1992 to 25 December 1997 which was subsequently enhanced to Rs.4.08 crore due to revision of rate of tax. Since the proprietors did not implement the revised rate, the State Government in October 1999 ultimately refixed the tax at Rs.1.84 crore which was even less than the amount fixed at pre-revised rate. Such arbitrary fixation of lump sum rate resulted in loss of revenue of Rs.2.24 crore.

5.11.17 Non-registration of cable television operators

Under the MABT Act and Rules framed thereunder, no proprietor of entertainment shall provide entertainment to his customers unless he has been registered and possesses a certificate of registration. Further, the State Government notified on 11 June 1993 and 31 March 2001 that every proprietor of cable television should pay tax of Rs.2,000 each per month or part thereof and Rs.10 per connection per month for providing entertainment to his customers through cable television with effect from June 1993 and April 2001 respectively.

⁽ⁱ⁾ Anjalee, Dreamland, Mini Dreamland, Payal and Bijou

⁽ⁱⁱ⁾ Anjalee, Dreamland, Mini Dreamland, Payal and Bijou

Test check of records of five taxation unit offices of Shillong disclosed that 33 proprietors of cable television were registered between April 2001 and March 2002 under the Act, *ibid* by fixing liability to pay tax at the rate of Rs.10 per connection per month with effect from April 2001. But these proprietors had been factually operating in Shillong for providing entertainment to their customers through cable television since April 1997. As such, they were to be registered under the Act by fixing liability to pay tax at the rate of Rs.2,000 each per month or part thereof and Rs.10 per connection per month with effect from April 1997 to March 2001 and thereafter respectively. Thus, failure to register these proprietors of cable television by fixing liability to pay tax with effect from April 1997 resulted in loss of revenue of Rs.30.20 lakh for the period April 1997 to March 2001.

Assessment, levy and collection of betting tax

5.11.18 Loss of revenue due to short recovery of advance tax

Under the MABT Rules, 1982, every licensed archery bookmaker shall maintain his daily account in duplicate a copy of which along with payment of admitted tax shall be submitted to the assessing authority within seven days from the date of closure of betting. If the assessing officer is satisfied that the accounts are correct and complete, he shall make assessment and inform the bookmaker accordingly. However, if the book maker fails to submit the accounts or statements required to be submitted under these rules or if he fails to pay the due tax, the assessing officer shall determine the tax payable to the best of his judgement. The Rules further provide that the bookmakers shall obtain the ticket books from the Government or any officer duly authorised in this behalf, on payment of such administrative charges as may be fixed from time to time, and on depositing appropriate amount of tax by way of advance tax.

Test-check of records of three^(k) Taxation Unit Offices revealed that advance tax at the rate of Rs.600 per book was realised from bookmakers of Jaintia Hills District whereas no security in the form of advance tax was realised from bookmakers of East Khasi Hills, Ri-Bhoi and West Garo Hills Districts. It was only from October 2000, security at the rate of Rs.160 per book was fixed for bookmakers of these three districts. The reasons for fixing different rates of advance tax for different districts were not on record. It was noticed that 78,304 books were issued to different organisations/licensed bookmakers during April 1997 to March 2002 by realising tax of Rs.52.18 lakh against Rs.4.70 crore as was realisable at the rate of Rs.600 per book adopted by the unit office of Jowai. However, the bookmakers neither furnished any account along with payment of admitted tax nor was any action initiated by the assessing officer to complete the assessment and to recover the tax due for the aforesaid period till date (February 2003). In the meantime, most of the bookmakers closed down their businesses and moved to other occupations leaving behind no address. Thus, failure of the department to realise the tax

^(k) Shillong, Tura and Byrnihat

either by way of completion of assessment in time or by way of realising uniform rate of advance tax at the rate of Rs.600 per book led to loss of revenue to the tune of Rs.4.18 crore as tabulated below:

Table 5.14

Year	Number of books issued/utilised	Minimum tax payable/realisable at the rate of Rs.600 book	Tax paid/realised	Amount of tax short paid/realised
1997-98	13,504	81.02	5.83	75.19
1998-99	20,696	124.18	4.48	119.70
1999-2000	17,271	103.63	6.24	97.39
2000-01	13,256	79.54	12.86	66.68
2001-02	13,577	81.46	22.77	58.69
Total	78,304	469.83	52.18	417.65

5.11.19 Non realisation of renewal fee

Under Rules 39(7) and 45 of the MABT Rules, 1982, application for renewal of the licence of bookmaker of arrow shooting or the game of teer shall be submitted before 30 days of the expiry of the period of validity of licence, to the Commissioner of Taxes. The fee for renewal of licence shall be Rs.3,400 per annum which is payable up to the date of renewal/cancellation of licence.

Test check of records of two taxation unit offices⁽¹⁾ revealed that only 2,479 out of 8,087 licenced bookmakers applied for renewal of licences which were renewed on realisation of the prescribed fee for the period 1997-98 to 2001-02.

Thus, in 5,608 cases, licenced bookmakers neither applied for renewal of their licences on payment of the prescribed fee nor surrendered the licence intimating closure of business. The department instead of initiating any action either to ascertain the facts of discontinuance of business or to realise the renewal fee, issued ticket books to them from time to time. Thus, there was no control of the department over the bookmakers particularly for renewal of licences. Hence, in the absence of proper monitoring, the renewal fee of Rs.1.81 crore realisable for the aforesaid periods was not realised as tabulated below:

⁽¹⁾ Shillong and Byrnihat.

Table 5.15

Year	Number of cases renewable at the beginning of the year	Addition during the year	Number of cases applied for and renewed	Number of cases neither applied for nor renewed	Amount of renewal fee realisable	Amount of renewal fee realised	Non-realisation of renewal fee from book-makers
1997-98	1,516	37	392	1,124	51.54	14.15	37.39
1998-99	1,553	49	406	1,147	52.80	19.44	33.36
1999-2000	1,602	61	494	1,108	54.47	19.53	34.94
2000-01	1,663	90	582	1,081	56.54	19.84	36.70
2001-02	1,753	77	605	1,148	59.60	20.67	38.93
Total	8,087	314	2479	5,608	274.95	93.63	181.32

Leakage of revenue due to lacuna in the Act and Rules

5.11.20 Non-existence of provision in the Act and Rules for levying interest for belated payment/non-payment of tax

Under the MABT Act and Rules framed thereunder, there is no provision for levying interest for belated payment/non-payment of tax due. No amendment was also made in the Act and Rules framed thereunder in this regard. In the absence of any such deterrent provision in the Act and Rules, it is left to the discretion of the proprietors of entertainment and licensed bookmakers of arrow shooting, either to pay the tax and renewal fee of licences belatedly at date(s) convenient to them, or abstain from paying the dues. Some points are discussed in succeeding paragraphs.

In Shillong, Byrnihat and Jowai taxation unit offices, it was noticed in audit that a lump sum tax of Rs.2.45 crore was levied on different dates between October 1991 and November 2000 payable for the period April 1991 and March 2001 on five registered proprietors of cinema halls. But a tax of Rs.1.19 crore out of Rs.2.45 crore was paid by these proprietors on different dates between April 1992 and March 2001 leaving the balance tax of Rs.1.26 crore as unpaid till date (February 2003). It was further noticed in audit that out of the aforesaid balance tax, a tax of Rs.10.17 lakh remained unpaid by a proprietor of cinema hall which was closed in May 2000. Due to the absence of relevant provision in the Act/Rules, no action could be initiated to levy interest on belated payment/non-payment of tax. Thus, the Government was not only incurring loss of revenue by way of interest but also extending scope to the proprietors of entertainment to defer payment of assessed tax.

Similarly, in Shillong and Byrnihat taxation unit offices, it was noticed in audit that 1,081 to 1,148 licenced bookmakers, did not renew their licences on payment of the prescribed renewal fee of Rs.1.81 crore, for different periods falling between April 1997 and March 2002. Despite failure of these licencees to renew their licences for consecutive periods, no penal proceedings could be initiated against them due to lacuna in the Act/Rules in this regard.

5.11.21 Recommendations

In order to prevent loss of revenue, as evident from the observations, Government may consider:

- (i) making provision for advance payment of tax collected before the assessment in a periodical manner;
- (ii) making provision for forfeiture of excess tax collected from the public;
- (iii) introducing mandatory provisions in the Acts and rules for levying interest for belated payment or non-payment of tax due.

SECTION 'B' : PARAGRAPHS

EXCISE DEPARTMENT

5.12 Non-levy of excise duty due to erroneous exemption

Non-levy of excise duty on spirit imported for use in the manufacture of India Made Foreign Liquor resulted in loss of Rs.4.84 crore.

Under the Meghalaya Excise Act and Rules made thereunder, excise duty is realisable at the rate of Rs.500 per case of India Made Rectified Spirit (IMRS) and alcohol imported for use in the manufacture of India Made Foreign Liquor (IMFL) with effect from July 1998. However, Government exempted IMRS from the levy of duty from 14 January 2000.

A test check of records of the Commissioner of Excise, Meghalaya, Shillong revealed that two local manufacturers of IMFL imported 2,667 cases of IMRS during February 1999 and 94,222 cases of Extra Natural Alcohol (ENA) during January 1999 to February 2002 for use in the manufacture of IMFL. As excise duty on imported IMRS other than ENA was exempted only with effect from 14 January 2000, the excise duty on imported IMRS prior to the exemption notification and on ENA for the entire period was leviable and the same should have been levied and collected. The non-levy and collection of excise duty resulted in loss of excise duty amounting to Rs.4.84 crore.

The omission was pointed out to the department and to the Government between September 2002 and July 2003. Action taken in this regard had not been intimated (October 2003).

5.13 Mis-classification of India Made Foreign Liquor

Misclassification of 65,758 cases of IMFL as general brand instead of delux brand resulted in short realisation of excise duty of Rs.75.62 lakh.

According to the Meghalaya Excise Act different rate of excise duty is payable on cost price of different brands of India Made Foreign Liquor (IMFL), but the term “cost price” has not been defined in the Meghalaya Excise Act. However, as per taxation laws of the State, “cost price” means money or money value consideration, paid or payable by a dealer (a bonded warehouse) for import of goods including any sum charged for anything done by the dealer (bonder) with or in respect of the goods at the time of or before

delivery/sale of such goods. Therefore, import pass fee which is required to be paid by a bonder before importing the goods (IMFL) from outside the State, forms an element of the "cost price". The cost price of General Brand and Deluxe Brand IMFL ranged from Rs.536 to Rs.635 and Rs.636 to Rs.1,135 per case respectively. The excise duty on General Brand and Deluxe Brand IMFL is leviable at the rate of Rs.524 and Rs.639 per case respectively.

Test check of records of the Commissioner of Excise, Meghalaya revealed that 65,758 cases of IMFL were removed from three bonded warehouses during the period February 2000 to March 2001 and excise duty was realised on the basis of cost price of Rs.635 per case thus classifying them as General Brand. This cost price did not include the import pass fee of Rs.36 per case that was paid by the bonder before importing IMFL. Had import pass fee also been included in the cost price, as required under the Act, the liquor would have been categorised as Deluxe instead of General and thus invited higher rate of duty.

Thus due to non-inclusion of import pass fee in determining the cost price of liquor, excise duty amounting to Rs.75.62 lakh was short-realised.

On this being pointed out between November 2002 and July 2003 in audit, the Government stated in August 2003 that import pass fee was not included in the cost price, to promote higher consumption among the middle class and earn more revenue. The reply is not tenable as the action of the department is violative of the legal provision for determining the cost price of liquor.

5.14 Non-realisation of licence fee

Five bonded warehouses, one distillery and 10 retailers were allowed to function without getting their licences renewed resulting in non-realisation of licence fee amounting to Rs.38.56 lakh.

Under the Meghalaya Excise Act and Rules made thereunder, every licensee dealing in India Made Foreign Liquor (IMFL), beer, *etc.* is required to renew his licence on payment of licence fee in advance as prescribed by the Government from time to time. Further, no licensee shall be allowed to function unless the licence is renewed on payment of prescribed licence fee in advance.

Test check of records of the Commissioner of Excise, Meghalaya, Superintendent of Excise, East Khasi Hills, Shillong and Deputy Superintendent of Excise, Baghmara revealed that the owners of five bonded warehouses, one distillery and 10 retail shops renewed their licences on payment of prescribed licence fee in advance for the different periods between March 1993 and March 1999. However, on expiry of the validity periods of these licences, the owners did not renew their licences. The department also did not initiate any action for realisation of licence fee and allowed them to

function without getting their licences renewed. Thus, inaction of the department resulted in non-realisation of licence fee amounting to Rs.38.56 lakh.

On this being pointed out in audit, the Government stated in August 2003 that licence fee of Rs.21.29 lakh was recovered from eight licencees; information on recovery of balance licence fee was awaited (October 2003).

5.15 Non-levy of Import Pass fee

There was loss of revenue of Rs.29.97 lakh due to non-levy of Import Pass fee on IMFL/beer imported by Defence Service Organisations.

Under the Meghalaya Excise Rules, import pass fee for importing India Made Foreign Liquor (IMFL) and beer from outside the State shall be leviable at the rate of Rs.36 per case and Rs.23.40 per case respectively. No exemption from payment of Import Pass fee, however, has been granted to defence services organisations, para-military forces including Canteen Store Departments.

Test check of records of the Superintendent of Excise, Shillong and Nongpoh revealed that 77,013 cases IMFL and 9,590 cases beer were imported from outside the State by different defence and para-military organisations between April 2000 and March 2002 on the basis of import permits issued by the concerned Superintendent of Excise. It was observed that no Import Pass fee was realised while issuing these permits which resulted in loss of revenue amounting to Rs.29.97 lakh.

On this being pointed out in audit, the Government stated in August 2003 that transit passes only were issued by the District Officer in these cases and hence no import pass fee was realised. The reply is not tenable as 420 import permits were issued in these cases for which import pass fee was realisable.

5.16 Short levy of excise duty

There was short levy of excise duty amounting to Rs.13.72 lakh due to irregular grant of concessional rate.

The Government of Meghalaya in their notification dated 30th April 2001 granted 10 *per cent* concession in excise duty for the year 2001-02 to a local manufacturer of India Made Foreign Liquor (IMFL) subject to the condition

that the production and sale during 2001-02 should at least be increased by 10 *per cent* over the base year i.e. 1999-2000.

Test check of records of the Commissioner of Excise, Meghalaya, Shillong revealed that the manufacturer produced 84,933 cases and sold 78,767 cases of IMFL during the base year 1999-2000. Thus, the concessional rate of excise duty was admissible to the manufacturer, if his production and sale exceeded 93,426 and 86,643 respectively during 2001-02. It was noticed that the manufacturer produced 43,496 cases and sold 37,894 cases of IMFL only during 2001-02 which was only 46.5 *per cent* and 43.74 *per cent* of the required quantities fixed by the aforesaid notification to enable him to avail concessional rate. However, the department irregularly allowed concessional rate of excise duty to the dealer during 2001-02 which resulted in short-levy of excise duty amounting to Rs.13.72 lakh.

On this being pointed out in audit the Government stated in August 2003 that the concessional rate of excise duty was granted to encourage the local entrepreneur and to counteract illicit sale of liquor. The reply is not tenable as granting of concessional rate in this case was in contravention of the provision contained in the notification dated 30 April 2001.

FOREST AND ENVIRONMENT DEPARTMENT

5.17 Loss of revenue on seized logs

Failure to bring 10,029 seized logs from forest area to safe custody resulted in loss of revenue of Rs.87.67 lakh.

Under the provision of Assam Forest Regulation, 1891 (as adopted by the Government of Meghalaya), whenever any illegal felling of trees is noticed, the materials shall be seized and brought to safe custody after proper marking. The fact of such illegal felling of trees and its subsequent seizure shall be reported immediately to the appropriate court for trial as well as to the higher authority for disposal.

In Garo Hills Forest Division, Tura it was noticed that 10,029 inventorised logs of 'sal' and 'teak' species measuring 2082.693 cum valued at Rs.95.72 lakh were seized on different dates between April 1994 and March 1997 from the reserved forest areas under this Division. But the seized logs could not be brought to safe custody for want of funds to meet the expenditure towards cost of transportation of those logs. The department allotted the seized timber to the Meghalaya Forest Development Corporation (MFDC) in February 1998 but, the Corporation could not sell these logs and returned the logs to the Division. The department again re-allotted these logs to the Corporation in May 1999 but the MFDC lifted only 932 logs measuring 130.754 cum valued at Rs.8.05 lakh. The balance 9,097 logs measuring 1951.939 cum valued at Rs.87.67 lakh were rejected after physical verification as these logs had lost commercial value due to continued exposure to the vagaries of weather.

Thus, failure on the part of the department to bring these seized logs to safer places from the seizure spot led to their deterioration and consecutive loss of revenue amounting to Rs.87.67 lakh to the Government.

On this being pointed out in audit the department stated in July 2003 that these logs were not transported to a safer place due to remoteness, poor quality of logs, road conditions and general law and order problems, and hence the loss was inevitable. The reply is not tenable as the contention of the department is contrary to the provisions in the Acts and Rules which require transportation of seized logs to a safer place from the forest floor.

The case was reported to the Government in November 2002, July and August 2003; their reply had not been received (October 2003).

5.18 Loss of revenue on forest produce

17158.5313 cum stones were exported without payment of royalty and export pass fee of Rs.24.03 lakh due to the absence of forest check gate.

Under the provision of Assam Forest Regulation, 1891 (as adopted by the Government of Meghalaya), forest check gates are erected to check illegal, unauthorised extraction and movement of forest produce from forest area without valid permit. Royalty at the rate of Rs.30 and Rs.80 per cum is leviable respectively on sand and stone moved out of forest area. Besides, export pass fee of Rs.500 per truck, carrying stone outside the State, is also leviable.

It was noticed in audit that no forest check gate was maintained during the month of April and May 2000. Cross verification of records of the land custom check gate at Mahendraganj, revealed that 17158.5313 cum of stone in 3,432 trucks were exported to Bangladesh during the month of April and May 2000 involving forest royalty and export pass fee of Rs.24.03 lakh. Thus, absence of the check gate resulted in loss of revenue amounting to Rs.24.03 lakh.

On this being pointed out in audit, the department stated in July 2003 that action was being initiated to recover the dues in this case. The report on recovery has not been received (October 2003).

The case was reported to the Government in November 2002 and July 2003; their reply had not been received (October 2003).

5.19 Short realisation of royalty due to incorrect application of rate

Incorrect application of rate resulted in short realisation of royalty of Rs.17.59 lakh.

Under the Meghalaya Forest Regulation (Application and Amendment) Act, 1973, the Government of Meghalaya, Forest and Environment Department in their notification of 12 November 1998, revised the rate of royalty on sand and stone from Rs.20 and Rs.40 per cum to Rs.30 and Rs.80 per cum respectively, with effect from 12 November 1998.

Cross check of records of the Divisional Forest Officer (DFO), Tura with those of concerned divisions under Public Works Department (PWD), Baghmara and Tura disclosed that 916 contractors extracted and supplied 16003.301 cum of sand and 65013.0171 cum of stone to three user agencies between June 1999 and March 2002 on realisation of royalty of Rs.39.22 lakh against Rs.56.81 lakh at revised rate. This resulted in short realisation of royalty of Rs.17.59 lakh.

On this being pointed out in audit the department stated in July 2003 that the matter would be taken up with the concerned department for realisation of the dues. The report on recovery has not been received (October 2003).

The case was reported to the Government in November 2002, July and August 2003; their reply had not been received (October 2003).

5.20 Loss of revenue due to absence of proper clause in the agreement

Non-inclusion of clause regarding the quantity of *phul-jharu* to be extracted during operation period of *mahal* in the agreement led to loss of revenue of Rs.2.40 lakh

Under the provision of the Assam Settlement of Forest Coupes and *Mahals* by Tender or Auction System Rules, 1967, (as adopted by the Government of Meghalaya), forest *mahals* are settled through notice inviting tender/agreement, wherein the stipulated quantity of forest produce to be extracted during the operation period of *mahal* shall be included.

In Garo Hills Forest Division, Tura, it was noticed in audit that the *phul-jharu* (broom stick) *mahal* under this division was settled in July 1995 for Rs.2.40 lakh with the Meghalaya State Co-operative Marketing and Consumers Federation Limited, Shillong for the working period from July 1995 to June 1998. The contractor, however, extracted 3,20,204 Kilograms of *phul-jharu*, the royalty value of which was Rs.4.80 lakh. It was noticed that the royalty value of the *phul-jharu* so extracted by the contractor was more than the bid value paid. This became possible due to omission of the department to include the quantity clause in the agreement as required under the Rules. This resulted in loss of revenue of Rs.2.40 lakh.

On this being pointed out in audit the department stated in July 2003 that lump sum valuation was determined on rough estimation of yield of *phul-jharu* and as such it was not a committed loss. The reply is not tenable as the department failed to explain the reason as to why the quantity was not stipulated either in the tender notice or in the agreement as required under the Rules *ibid*.

The case was reported to the Government in November 2002 and July 2003; their reply had not been received (October 2003).

MINING AND GEOLOGY DEPARTMENT

5.21 Non-levy of penalty on carrying excess load of coal

Non-levying of penalty Rs.1.44 crore on excess coal (4.80 lakh tonnes) despatched through mineral check gate.

The Director of Mineral Resources, Meghalaya, Shillong notified in September 1995 that if any coal trader fails to pay full royalty in advance on the quantity of coal transported in his carrier, penalty at the prescribed rates should be collected at the mineral check gate in addition to the royalty on the quantity of coal on which advance royalty was not paid with effect from October 1995.

Test check of records of Mineral Check Gates^(a) under the Director of Mineral Resources, Shillong revealed that 38.62 lakh tonnes of coal were transported through these check gates on payment of advance royalty of Rs.40.59 crore against Rs.46.35 crore payable during different periods between April 1999 to October 2001. The authorities of these check gates collected the balance royalty of Rs.5.76 crore prior to despatch of the excess quantity of coal (4.80 lakh tonnes) without penalty as per the above notification. This resulted in short realisation of penalty of Rs.1.44 crore calculated at the minimum (25 per cent) penalty leviable.

On this being pointed out in audit, the Government stated in September 2003 that another public notice was issued in October 2001 for imposing penalty on the amount of royalty not paid in advance with effect from 1 November 2001. The reply is not tenable as the Government has, in effect, relaxed the provisions of the notification dated 20 September 1995 by bringing down the rate of penalty to fixed rate of 25 per cent of the royalty in this notification. However, the Government was silent as to the reasons for non-realisation of penalty of Rs.1.44 crore and action taken to recover the same.

^(a) Dainadubi, Gasuapara, Dalugri, Masangpani, Mahendraganj, Tikrikilla, Byrnihat, Riango, Borsora, Cherragaon and Dawki

TAXATION DEPARTMENT**5.22 Irregular removal of India Made Foreign Liquor/Beer without payment of Sales Tax**

Sixteen dealers were irregularly allowed to remove 23,88,673 cases of India Made Foreign Liquor/beer from bonded warehouses without advance payment of sales tax of Rs.31.92 crore.

Under Section 16 of the Meghalaya Sales Tax Act and Rules made thereunder, every registered dealer is required to submit a prescribed return along with payment of admitted tax through treasury *challan* as per return, within 30 days of the close of each six monthly period. If the dealer fails to submit such returns along with payment of admitted tax despite notices, the Assessing Officer shall complete the assessment on best judgement basis and direct that such dealer shall pay by way of penalty a sum not exceeding one and half times the tax due.

Besides, as per entry number 86 attached to the Meghalaya Finance (Sales Tax) Act, India Made Foreign Liquor (IMFL)/beer is taxable at the rate of 20 *per cent* (prepaid) at the stage of first sale in Meghalaya with effect from 1 January 2000. Since the element of tax is a prepaid one, it has to be realised in advance from the retailers before removal of IMFL/beer from the bonded warehouses.

Cross check of records in Sales Tax Unit offices at Shillong, Jowai, Byrnihat and Tura with those of the Commissioner of Excise, Shillong revealed that 16 dealers sold 23,88,673 cases of IMFL/beer to retailers at Rs.159.58 crore during April 2000 to March 2002 on which advance tax of Rs.31.92 crore was not paid before lifting of IMFL/beer from the warehouses. Thereafter, the dealers neither filed any return nor paid any tax for the corresponding transactions. The Assessing Officer also did not initiate any action to assess the dealers on best judgement basis for non-submission of returns.

Thus, failure on the part of the Assessing Officers to realise tax in advance before the lifting of liquor from the warehouse, as required under the law, as well as non-initiation of action to assess the tax on best judgement basis, resulted in loss of revenue of Rs.31.92 crore to the Government.

On this being pursued between September and May 2003 in audit, the Commissioner of Excise held in July 2003 that the Taxation Department who administers the sales tax was responsible for non-realisation of the same. However, Government stated in July 2003 that sales tax was not realised in these cases as it was merged with excise duty in April 1989. The views of the department and Government are contradictory. Moreover, the contention of the Government is not tenable, because the sales tax of 20 *per cent* was imposed in the notification dated 31-12-1999 and the rates of excise duty,

which were notified in June 1999 have not undergone any change after re-imposition of sales tax in December 1999 till date.

5.23 Short levy of interest and non-levy of penalty

Short levy of interest of Rs.17.53 lakh and non-levy of penalty of Rs.4.62 crore for default in payment of tax.

Under the taxation laws of Meghalaya, if any registered dealer fails to pay full amount of tax by the due date (i.e., within the period of 30 days following the close of the quarter or the half year as the case may be), he shall be liable to pay interest at the prescribed rates for the period of default on the amount by which tax paid falls short in addition to the penalty for a sum not exceeding the amount of tax due.

Test check of records of the Superintendents of Taxes (Circle - 2, 3, 6 and purchase tax Circle), Shillong disclosed that 12 registered dealers were assessed between February 1995 and October 2002 to tax of Rs.5.42 crore for different periods between April 1994 and March 2002. These dealers paid a total tax of Rs.80.42 lakh on due dates, and a total tax of Rs.4.55 crore was paid belatedly leaving the balance tax of Rs.6.97 lakh as unpaid. Thus, for belated payment/non-payment of tax, interest of Rs.28.17 lakh was leviable against which Rs.10.64 lakh was levied. This resulted in short levy of interest of Rs.17.53 lakh. Besides, maximum penalty of Rs.4.62 crore was leviable for belated payment/non-payment of tax but not levied.

The matter was reported to the department/Government in February, April and July 2003; their reply had not been received (October 2003) despite reminder.

5.24 Concealment of turnover

20 registered dealers concealed turnover of Rs.6.64 crore and evaded tax of Rs.53.06 lakh and penalty of Rs.79.59 lakh.

Under Section 21 (c) of the Meghalaya Sales Tax Act, if any dealer conceals the particulars of his turnover or deliberately furnishes inaccurate particulars in his return, he shall be liable to pay penalty in addition to the tax payable by him, a sum not exceeding one and a half times the tax due. The provision of the State Act applies *mutatis mutandis* in case of assessment/re-assessment under the Central Sales Tax Act, 1956.

Test check of records of Superintendent of Taxes, Williamnagar revealed that 20 registered dealers sold 17,424 truck loads of coal valued at Rs.26.14 crore

in the course of inter-State trade during the period April 1999 to March 2002. But the dealers disclosed net turnover of Rs.19.50 crore only in their returns for the aforesaid period and were assessed accordingly on different dates between October 1999 and July 2002. Thus, the dealers concealed turnover of Rs.6.64 crore and thus, evaded tax amounting to Rs.53.06 lakh calculated at the prescribed rate of 8 *per cent*. Further, penalty not exceeding Rs.79.59 lakh leviable for such willful concealment of turnover was also not levied.

On this being pursued between November 2002 and April 2003 in audit, the Government stated in June 2003 that the value of coal was determined at Rs.10,000 to Rs.12,000 per truck load of 15 tonnes based on the market price. The reply is not tenable as the market value of coal was fixed by the Commissioner at Rs. 15,000 per truck load of 15 tonnes after market survey in 1998.

5.25 Non-levy of penalty for mis-use of ‘C’ forms

Non-levy of tax and penalty of Rs.82.48 lakh on goods purchased at concessional rate from outside the State, by false representation that goods were specified in certificate of registration.

Under the Central Sales Tax Act, 1956, on inter-State sales of goods, tax is leviable at a concessional rate of 4 *per cent*, provided the purchaser furnishes to the seller a declaration in Form ‘C’ certifying that the goods are of the class specified in his certificate of registration. When the goods are not specified in the registration certificate it attracts penalty not exceeding one and a half times the tax due in lieu of prosecution.

A dealer under the jurisdiction of the Superintendent of Taxes, Shillong (Circle – 6) purchased liquified petroleum gas (LPG) valued at Rs.2.06 crore during the period September 1984 to September 2001 from dealers in Assam, by utilizing 50 declarations in Form ‘C’ even though the goods were not covered by his certificate of registration. For misuse of ‘C’ forms, penalty of up to a maximum of Rs.30.93 lakh was leviable but not levied.

Further, sales turnover of LPG so imported in contravention of the provision of the Act was neither disclosed nor assessed to tax. Thus, turnover of at least Rs.2.06 crore was concealed by the dealer which resulted in evasion of tax of Rs.51.55 lakh including penalty.

On this being pointed out in audit, the Government stated in July 2003 that the aforesaid dealer sold the imported LPG on transit by transfer of documents to the title of goods to other local dealers. The reply is not tenable as the dealer neither filed any return along with declarations in form E-1 and form ‘C’ in support of sale on transit nor was any action initiated to assess the dealer as

required under the Central Sales Tax Act, 1956. Further, the dealer dealt in motor spirit, high speed diesel, lubricants and grease only and not in LPG as contended.

5.26 Loss of revenue due to delay in completing assessment

Delay in completion of assessment in respect of a registered dealer led to evasion of tax of Rs.25.92 lakh.

Under Section 16 of the Meghalaya Sales Tax Act and Rules made thereunder, every registered dealer is required to submit a prescribed return along with payment of admitted tax through treasury *challan* as per return within 30 days of the close of each six monthly period. If the dealer fails to submit such returns along with payment of admitted tax despite notices, the Assessing Officer shall complete the assessment on best judgement basis and direct that such dealer shall pay by way of penalty a sum not exceeding one and half times of the tax due. The provisions of the State Act apply *mutatis mutandis* in case of assessment/re-assessment under the Central Sales Tax Act, 1956.

Cross verification of records of Superintendent of Taxes, Byrnihat with those of the Athiabari and Byrnihat Taxation Check Gates revealed that one registered dealer sold 432 truck loads of timber of different classes valued at Rs.43.20 lakh involving tax effect of Rs.25.92 lakh in course of inter-State trade or commerce during 1994-95. The dealer did not file any returns and *challan* of payment of admitted tax, and neither did the Assessing Officer issue any notice as required under the Act nor initiate action to complete the assessment on best judgement basis to realise the tax.

On the matter being pointed out between August 2002 and May 2003 in audit, the Government stated in July 2003 that summary assessment had been completed and efforts were being made to trace out the dealer for recovery of dues. Report on recovery had not been received (October 2003).

5.27 Evasion of tax by owners of taxable vehicles

Failure to register 237 taxable vehicles under the MPGT Act led to evasion of tax of Rs.18.23 lakh.

Meghalaya Passengers and Goods Taxation (MPGT) Rules provide that the owner of any taxable vehicle carrying goods or passengers shall apply to the prescribed authority for registration under the MPGT Act. The owner is also required to file return with the Assessing Officer within 10 days of the close of each month along with the copy of treasury *challan* showing payment of tax into Government account. In Meghalaya, MPG tax is collected by the

Superintendent of Taxes being the Assessing Officer in respect of taxable vehicles registered in his office.

Check of records of the District Transport Officer (DTO), Tura, Williamnagar and Jowai disclosed that 237 owners of taxable vehicles of different categories were registered between December 1999 and February 2002 under the Motor Vehicles (MV) Act, 1988 and MV tax in respect of these vehicles was realised for different periods falling between December 1999 and February 2003. But the owners of these vehicles did not apply to the Superintendent of Taxes, Tura, Williamnagar and Jowai for registration under MPGT Act; no action was initiated by the aforesaid authority to get these vehicles registered under the MPGT Act till date. Thus, failure to register these vehicles resulted in evasion of MPG tax of Rs.18.23 lakh during the aforesaid periods.

On this being pointed out in audit, the Superintendents of Taxes, Tura, Williamnagar and Jowai stated in May 2003 that due to non co-operation of the concerned DTOs these vehicles could not be registered under the MPGT Act; however, action had been initiated to register these vehicles and to collect the tax. The report on the progress of registration and recovery of tax has not been received.

The matter was reported to the Government in October, November 2002 and April and July 2003; their reply had not been received (October 2003) despite reminder.

5.28 Irregular grant of excess deduction on freight charges

Grant of excess deduction of Rs.2.37 crore on freight charges to 25 registered dealers led to under-assessment of tax of Rs.18.93 lakh.

Under Section 2(h) of the Central Sales Tax Act, 1956, “Sale Price” means the amount payable by a dealer as consideration for sale of goods and it will not include “cost of freight” where such cost is separately charged.

Test check of records of Superintendent of Taxes, Williamnagar revealed that 25 registered dealers submitted six monthly returns on sale of coal in course of inter-State trade or commerce for the period ending September 2001 and March 2002 and claimed deduction of Rs.3.31 crore being cost of freight charged separately. But the Assessing Officer, while assessing these dealers between June and July 2002 allowed exemption of Rs.5.68 crore. Such irregular grant of excess deduction of Rs.2.37 crore on freight charges resulted in under-assessment of tax of Rs.18.93 lakh.

On this being pointed out in audit the Assessing Officer stated in October 2002 that the grant of excess deduction was due to incorrect disclosure of freight charges by the dealers. The reply is not tenable as none of the dealers

furnished any revised returns with supporting documents as required under the Act for claiming the additional amount of Rs.2.37 crore.

On this being pursued between September 2002 and April 2003 in audit, the Government stated in June 2003 that notices had been issued to the dealers for production of books of accounts and other relevant documents and the case was under investigation. Further report on assessment had not been received (October 2003).

5.29 Irregular acceptance of invalid declarations

Incorrect assessment at concessional rate against invalid declaration resulted in short levy of tax amounting to Rs.13.96 lakh

Under the Central Sales Tax Act, 1956, on inter-State sale of goods to registered dealers, tax is leviable at a concessional rate of 4 *per cent*, if such sales are supported by valid declarations in Form 'C'. On inter-State sale of declared goods that are not covered by valid declaration in Form 'C', tax is leviable at twice the rate applicable to the sale of such goods inside the appropriate State.

Test-check of assessment records of Superintendent of Taxes, (Circle – 5), Shillong revealed that two dealers sold coal amounting to Rs.3.49 crore in course of inter-State trade or commerce between March 1999 and March 2002 on the strength of six declarations in Form 'C' which had been declared invalid in September 1995 by the Commissioner of Taxes, Assam. However, the Assessing Officer while finalising the assessments accepted these invalid declarations and assessed in May 2001 and May 2002 the turnover at concessional rate of 4 *per cent* instead of 8 *per cent*. This resulted in short levy and collection of tax of Rs.13.96 lakh.

On the matter being pursued between April and May 2003 in audit, the Government stated in July 2003 that show cause notices were served on these dealers for reopening the cases. Further report on reassessments had not been received (October 2003).

5.30 Evasion of tax by fraudulent method

Three dealers fraudulently inserted Rs.2.86 crore in the declarations in Form 'C' and evaded tax of Rs.11.42 lakh.

Under the Central Sales Tax Act, 1956, on inter-State sales of declared goods which are not covered by valid declaration in Form 'C', tax is leviable at twice the rate applicable to the sale or purchase of such goods inside the appropriate

State. Further, under the Meghalaya Sales Tax Act, if any dealer has evaded in any way the liability to pay tax, he shall be liable to pay penalty in addition to the tax payable by him, a sum not exceeding one and half times the amount. This provision of the State Act applies *mutatis mutandis* in case of levy of penalty under the Central Sales Tax Act, 1956.

Test-check of records of the Superintendent of Taxes, (Circle – 5), Shillong revealed that three dealers sold coal amounting to Rs.4.62 crore in the course of inter-State trade or commerce during the half year ending March 2002, the sales being supported by three declarations in Form ‘C’, and the turnover of sales were assessed between November 2001 and May 2002 at a concessional rate of 4 *per cent*. However, on cross verification with the records of the purchasing dealers, it was noticed that these declarations actually covered transactions of Rs.1.76 crore. The balance of Rs.2.86 crore worth coal was sold to unregistered dealers and was fraudulently inserted in the declarations to avail concessional rate of tax. Such irregular acceptance of invalid ‘C’ forms resulted in evasion of tax of Rs.11.42 lakh, besides levy of penalty of Rs.17.13 lakh.

On this being pursued (April and May 2003) in audit, Government stated in July 2003 that notices were issued to these dealers for production of books of accounts for verification and assessments. Further report on assessments had not been received (October 2003).

5.31 Under-assessment of tax due to grant of incorrect exemption

Grant of incorrect exemption of freight charges led to under-assessment of tax of Rs.8.78 lakh.

Under the Central Sales Tax Act, 1956, “sale price” means the amount payable to a dealer for sale of goods and it does not include the cost of freight where such cost is separately charged. Where the sale consideration is shown as a single indivisible amount inclusive of freight charges, it could not be said that the freight had been charged separately and hence, subsequent reduction of the amount on account of freight is not admissible to seek exemption from tax as judicially held^(a) by the Honourable Supreme Court. It was also held by the Apex Court that freight was to be included in the taxable turnover, if the seller had charged the price inclusive of freight and had paid the freight to the carrier himself.

In the office of the Superintendent of Taxes, Tura it was noticed in audit that a registered dealer sold coal valued at Rs.2.35 crore to unregistered dealers in the course of inter-State trade between September 2001 and March 2002

^(a) Tungabhadra Industries Ltd. Vs Commercial Tax Officer (1960) 11 ST 827 (SC).

without exhibiting cost of freight separately. But the Assessing Officer, while making assessment in July 2002 reduced the sales by Rs.1.10 crore on account of freight for the aforesaid period. As the entire sale of Rs.2.35 crore was shown by the dealer as indivisible amount inclusive of freight, the grant of exemption of Rs.1.10 crore being cost of freight was incorrect, resulting in under assessment of tax of Rs.8.78 lakh calculated at the applicable rate of 8 per cent. Besides, the dealer did not claim any exemption on account of freight.

On this being pointed out in audit, the Government stated *inter alia* in July 2003 that the Assessing Officer had been asked to re-assess the dealer and to recover the dues. Report on re-assessment had not been received (October 2003).

5.32 Loss of revenue due to delay in completion of assessment

Delay in completion of assessment in respect of 3 registered dealers led to loss of revenue amounting to Rs.8.52 lakh.

Under Section 16 of the Meghalaya Sales Tax Act and Rules made thereunder, every registered dealer is required to submit prescribed return, along with payment of admitted tax through treasury *challan* as per return, within 30 days of the close of each six monthly period. If the dealer fails to submit such returns along with payment of admitted tax despite notices, the Assessing Officer shall complete the assessment on best judgement basis. The provisions of the State Act apply *mutatis mutandis* in case of assessment/re-assessment under the Central Sales Tax Act 1956.

Cross verification of records of Superintendent of Taxes, Williamnagar with those of the Divisional Forest Officer, Tura revealed that three registered dealers sold 1062.628 cum of veneer valued at Rs.23.80 lakh during the period from March 2000 to March 2001 involving tax effect of Rs.8.52 lakh on inter-State trade. These dealers did not file any return along with payment of admitted tax, and the Assessing Officer also did not initiate action to complete the assessments on best judgement basis. Further scrutiny of records in Audit revealed that the dealers were not even traceable. Thus, laxity of the Assessing Officer in assessment of these dealers in time on best judgement basis resulted in loss of revenue amounting to Rs.8.52 lakh to the Government.

On this being pointed out in audit, the Government stated in June 2003 that the dealers had been traced out and local enquiry was being conducted to assess these dealers. Further report on assessments had not been received (October 2003).

5.33 Under-assessment of tax due to application of incorrect rate

Application of incorrect rate of tax in respect of two dealers led to the under assessment of tax of Rs.5.18 lakh.

As per schedule attached to the Meghalaya Finance (Sales Tax) Act, ‘motor cars’ are taxable at the rate of 12 *per cent*; ‘steel furniture and equipment’ taxable at the rate of 12 *per cent* up to 7 July 2000, are taxable at the rate of 20 *per cent* thereafter at the point of first sale within the State.

During the audit of the office of Superintendent of Taxes, Shillong (Circle – 3) it was noticed that a registered dealer ‘A’ sold ‘motor cars’ amounting to Rs.11.87 lakh during the period ending March 2001. The dealer was assessed to tax in June 2001 at the rate of 2 *per cent* instead of 12 *per cent*. Such incorrect application of rate led to under-assessment of tax of Rs.1.19 lakh.

Similarly, another dealer ‘B’, in the jurisdiction of the unit office (Circle – 4), sold steel furniture and equipment amounting to Rs.64.95 lakh and Rs.11.62 lakh during the period from October 1996 to 7 July 2000 and 8 July 2000 to March 2001 respectively. The dealer was assessed in May 2002 to tax at the rate of 8 *per cent* for the entire period against 12 *per cent* up to 7 July 2000 and 20 *per cent* thereafter. This incorrect application of rate led to short levy of tax of Rs.3.99 lakh.

On this being pointed out in audit, the Government/department while admitting the facts stated in July and August 2003 that both the dealers were re-assessed in June 2003. The dealer ‘A’ paid tax of Rs.1.09 lakh out of Rs.1.19 lakh. Report on recovery of balance tax had not been received (October 2003).

5.34 Evasion of tax due to concealment of turnover

A dealer concealed turnover of Rs.20.57 lakh and evaded tax, interest and penalty of Rs.4.48 lakh.

Under Section 14 of the Meghalaya (Sales of Petroleum *etc.*) Taxation Act, if the Commissioner of Taxes is satisfied that any registered dealer has not paid the amount of tax due from him or a part thereof for any period, he shall, after giving the person reasonable opportunity of being heard, assess to the best of his judgement. He may also direct that in addition to the amount so assessed, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty. Further, if any dealer fails to pay the full amount of tax by the due date, he shall be liable to pay interest at the prescribed rates for the period of default on the amount by which tax paid falls short.

Test-check of records of the Superintendent of Taxes (Circle - 6), Shillong revealed that a dealer sold 6,50,455^(a) litres of diesel, but he disclosed sale of 4,82,455 litres of diesel in his return which was accepted and assessed accordingly. The dealer thus, concealed sale of 1,68,000 litres of diesel valued at Rs.20.57 lakh and evaded tax of Rs.1.65 lakh. Besides penalty of Rs.1.65 lakh and interest of Rs.1.18 lakh were also leviable but not levied.

On the matter being pursued between January 2002 and April 2003 in audit, the Government conveyed that recovery of tax and penalty of Rs.1.78 lakh had been made. The report on recovery of interest of Rs.1.18 lakh had not been received (October 2003).

5.35 Irregular adjustment of tax

There was loss of revenue of Rs.3.65 lakh due to irregular adjustment of collection of excess tax.

Under Section 13B (ii) of the Meghalaya Finance (Sales Tax) Act, if any registered dealer collects any sum by way of tax in excess of tax payable by him, any sum collected by that dealer by way of tax in contravention of the provisions of the Act shall be forfeited to the State Government. Further, Colar Steel Pipes (CS Pipes) are declared goods and taxable at 4 *per cent* at the point of first sale within the State.

Test-check of the assessment records of the Superintendent of Taxes, Shillong (Circle-3) revealed that a dealer sold CS pipes of Rs.1.35 crore (gross) between March 1994 and March 1995 and collected tax of Rs.8.85 lakh at the rate of 7 *per cent* against the actual tax of Rs.5.20 lakh at 4 *per cent*. But the Assessing Officer, instead of forfeiting the excess tax of Rs.3.65 lakh so collected, irregularly adjusted the amount against dues for the period September 1996 to September 1997. Such irregular adjustment resulted in loss of revenue of Rs.3.65 lakh.

On this being pointed out in audit, the Government stated in July 2003 that rectification of the mistake in assessments was under process. Report on reassessments had not been received (October 2003).

5.36 Irregular assessment at concessional rate

There was under assessment of tax of Rs.3.12 lakh due to irregular acceptance of declarations in Form 'D' issued by two autonomous bodies.

(a) Opening stock + Purchase – Closing stock – Shortage = Sale
 32,045 + 6,56,000 – 32,590 – 5,000 = 6,50,455 litres

Under the Sales Tax Act, 1956, every dealer who in the course of inter-State trade or commerce sells to the Government any goods, shall be liable to pay tax at the rate of 4 *per cent* of his turnover, if such sale is supported by declaration in Form 'D'. Otherwise, such sale is taxable at 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher. In Meghalaya, 'cement' is taxable at 12 *per cent*.

Test-check of assessment records of the Superintendent of Taxes, Shillong (Circle – 3) revealed that a registered dealer sold cement valued at Rs.38.96 lakh to the District Rural Development Agencies (DRDA) and Assam Police Housing Corporation Limited in the course of inter-State trade or commerce during the period April 1999 to March 2001. The dealer was assessed in July 2002 to tax at the concessional rate of 4 *per cent* against declarations in Form 'D'. But the acceptance of Form 'D' in support of above transactions was not in order as these declaration forms were furnished by two autonomous bodies which are not Government departments. Thus, irregular acceptance of declaration in Form 'D' resulted in under-assessment of tax amounting to Rs.3.12 lakh.

On this being pointed out between April and May 2003 in audit the Government/department stated in July 2003 that the dealer was re-assessed in June 2003 and tax of Rs.1.60 lakh out of Rs.3.12 lakh was recovered in July 2003. Report on recovery of balance tax of Rs.1.52 lakh had not been received (October 2003).

5.37 Irregular grant of exemption

Taxable goods valued at Rs.17.04 lakh were irregularly exempted resulting in short levy of tax amounting to Rs.1.69 lakh.

As per item 52 of the Schedule III attached to Meghalaya Sales Tax Act, khadi and/ or products of village industries are exempted from payment of sales tax provided such goods are sold by a producer and/or organisation certified for the purpose by the Khadi and Village Industries Commission (KVIC) constituted under the Khadi and Village Industries Commission Act, 1956 or by the State Khadi and Village Industries Board. The aforesaid exemption was, however, withdrawn from January 2000.

Test check of records of the Superintendent of Taxes, Shillong, (Circle - 1) revealed that a dealer sold *papad* valued at Rs.17.04 lakh during the period from 1998-99 to 2000-01. The Assessing Officer treated the turnover as non-taxable as per entry 52 of the Act *ibid* though the dealer was neither a producer and/ or organisation manufacturing these goods nor certified by the KVIC for the purpose. Moreover, this provision was deleted from January

2000. The exemption thus, granted was irregular and resulted in short levy of tax of Rs.1.69 lakh.

On this being pointed out in audit, the Government stated in July 2003 that the dealer was re-assessed and due demand was raised in June 2003 but the case was pending with the Appellate Authority. The decision of the Appellate Authority had not been received (October 2003).

TRANSPORT DEPARTMENT

5.38 Non-levy of fine on trucks carrying excess load

Failure of the Enforcement Wing to detect offence committed by 79,679 commercial load carrying trucks for carrying excess load beyond maximum permissible limit led to non-levy of fine of Rs.81.05 crore.

In Meghalaya all commercial load-carrying trucks are registered by District Transport Officer with maximum permissible pay load of 10 tonnes on which road tax is payable under the Assam Motor Vehicle Taxation Act, 1936 (as adopted in Meghalaya). Further, under the Motor Vehicle Act, 1988 (as amended in 1994) whoever drives a motor vehicle or causes or allows a motor vehicle to be driven carrying load in excess of permissible limit, there shall be levied a minimum fine of Rs.2,000 and an additional amount of Rs.1,000 per tonne of excess load so carried.

Cross check of the records of the District Transport Officer, Jowai with those of the Directorate of Mineral Resources check gate at Mookyndur disclosed in May 2002 that 79,679 commercial load carrying trucks carried 14,47,978 tonnes of coal against the maximum permissible limit of 7,96,790 tonnes for the periods from November 2001 to March 2002. But the excess load of 6,51,188 tonnes carried by these trucks beyond the maximum permissible limit escaped the notice of the Enforcement Wing of the Transport Department, Meghalaya resulting in non-realisation of fine of Rs.81.05 crore leviable in these cases.

On this being pointed out in audit the department while accepting the observation listed out in March 2003 various difficulties like (i) Policy of deployment of enforcement staff with magistrate, which works during lean traffic hours, (ii) absence of weigh bridge of Transport Department at the exit point, *etc.* for the revenue leakage. However, the department was silent regarding action taken to prevent the same.

The case was reported to the Government in October 2002, July and September 2003; their reply had not been received (October 2003).

5.39 Unauthorised use of motor vehicles

358 owners of commercial vehicles were unauthorisedly allowed to use their vehicles without payment of tax of Rs.33.23 lakh.

Under the provision of Assam Motor Vehicles Taxation Act, 1936 (as adopted by the Government of Meghalaya), no motor vehicle shall be used in the State unless the owner thereof has paid the tax in advance on or before 15th day of April each year. The said Act also provides that if any owner of vehicle fails to pay the tax without reasonable cause, such cases may be referred by the District Transport Officer (DTO) to the Deputy Commissioner for recovery of tax as arrears of land revenue. If vehicle is not being used or is out of order, the road tax can be avoided by the owners of vehicles by surrendering their licenses to the concerned authorities.

Test-check of records of the District Transport Officers (DTO), Tura, Baghmara and Jowai revealed that 358 owners of commercial vehicles neither surrendered their licenses nor paid road tax for their vehicles for different periods during December 1995 to March 2002. In the absence of surrender of these licenses, it was imperative for the department to issue demand notices for payment of tax. It was noticed in audit that the department had failed to issue notices and collect the dues on those accounts. Thus, failure to initiate appropriate and timely action led to loss of revenue amounting to Rs.33.23 lakh to the Government.

On this being pointed out in audit, the department stated in March 2003 that demand notices were being served on the defaulters for payment of dues. The report on recovery had not been received (October 2003).

The case was reported to the Government between October 2002 and September 2003; their reply/comments had not been received (October 2003).

5.40 Short realisation of composite tax

Realisation of composite tax of Rs.1.05 lakh against Rs.24 lakh from 50 Tourist/National Permit holders of Assam State led to short realisation of composite fee of Rs.22.95 lakh.

The Government of Meghalaya, Transport Department *vide* their notification of 15 May 2000 fixed annual composite tax (CT) of Rs.48,000 on tourist omni bus (14 to 36 seaters and above) authorised to ply under Tourist Permit. Composite tax is to be realised by the Secretary, State Transport Authority (STA) of the State which issues the national permit and is to be sent to the STA of Meghalaya by bank draft.

Test-check of records of the STA, Meghalaya, Shillong revealed that in 50 cases CT was realised and remitted to STA Meghalaya at the rate of Rs.2,100 instead of Rs.48,000 per annum by Assam State, on vehicles plying under Tourist Permit in the State of Meghalaya, during the period 26 May 2000 to 30 November 2001. The short collection of CT amounting to Rs.22.95 lakh was neither paid by the vehicles owners subsequently nor was the matter taken up

by the STA, Meghalaya with its counter part in Assam State. This resulted in short realisation of CT of Rs.22.95 lakh.

The matter was reported to the department/Government between May 2002 and July 2003, but their replies/comments had not been received (October 2003) despite reminder.

5.41 Short levy of fine on commercial vehicles plying without valid permit

Realisation of fine of Rs.1.39 lakh against Rs.6.04 lakh on plying of 302 commercial vehicles without valid permit/registration led to short realisation of fine amounting to Rs.4.65 lakh

Under Section 192 (A) of the Motor Vehicles Taxation Act 1988 (as amended in 1994), no owner of motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place unless a permit is granted or countersigned by the prescribed authority. Whoever drives or causes or allows a motor vehicle to be used in any public place without a permit, shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees .

Test-check of records of the District Transport Officers (DTO) Jowai, Baghmara and Tura revealed that 302 commercial motor vehicles were used in public places without valid permits on different dates falling between April 1991 and October 2001 for which lump sum fine of Rs.1.39 lakh was levied and collected during the aforesaid period against minimum fine of Rs.6.04 lakh. This resulted in short realisation of fine amounting to Rs.4.65 lakh.

On this being pointed out in audit, the department stated in March 2003 that action had been initiated to realise the penalty. The report on recovery has not been received (October 2003).

The cases were reported to the department/Government between July 2002 and September 2003, their replies/comments had not been received (October 2003).