

**CHAPTER-VI
OTHER TAX AND NON-TAX RECEIPTS**

6.1 Results of audit

Test check of the records of the offices of Uttar Pradesh State Power Corporation, Uttar Pradesh Jal Nigam and development authorities of Moradabad, Faizabad and Ghaziabad, Forest Department and Entertainment Tax Department conducted during the year 2007-08, revealed non-refund of interest, etc. of Rs. 853.59 crore in 150 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
Interest receipts			
1.	Non-refund of interest	3	797.51
2.	Non-recovery of royalty	1	0.02
3.	Other irregularities	4	12.94
	Total	8	810.47
Forest receipts			
1.	Non-recovery of royalty and other dues	39	21.75
2.	Loss of revenue due to non-auction of seized goods/ fallen trees	20	2.14
3.	Incorrect assessment of lease rent	2	1.26
4.	Other irregularities	66	17.73
	Total	127	42.88
Entertainment tax			
1.	Non-charging of interest	5	0.12
2.	Non-realisation of tax	2	0.09
3.	Other irregularities	8	0.03
	Total	15	0.24
	Grand Total	150	853.59

During the year 2007-08, the department recovered Rs. 8.33 lakh in four cases which were pointed out in earlier years.

A few illustrative cases, involving Rs. 26.56 crore are mentioned in the succeeding paragraphs.

INTEREST RECEIPTS

6.2 Non-payment of interest

Interest bearing loans are sanctioned from time to time for implementation of various schemes of the power projects, for promoting the industrial development of the State, for rehabilitation of sick sugar mills and for making the payments of balance amount of dues of sugar canes. As per terms and conditions of the loan, the responsibility of payment of interest and refund of loans rests with the corporation concerned.

Test check of the records of Uttar Pradesh Finance Corporation (UPFC) Kanpur, revealed in December 2007 that an interest bearing loan of Rs. 41.25 crore, termed as quasi equity¹, was sanctioned (July 2000) for various activities of the corporation. Interest of Rs. 21.65 crore, accrued upto July 2007, at the rate of 7.5 *per cent* per annum was payable by the UPFC. The corporation neither paid any interest nor made any provision in the annual accounts.

After the case was pointed out in December 2007, the corporation sent a letter to Government in January 2008 requesting for waiver of interest. Further, report has not been received (November 2008).

FOREST RECEIPTS

6.3 Unauthorised retention of state revenue and its utilisation

According to paragraph 21 of Uttar Pradesh State Financial Hand Book (Volume V) Part I, "all moneys as defined in articles 266, 267 and 284 of the Constitution, received by or tendered to Government servants in their official capacity shall, without undue delay be paid in full into the treasury or into the bank and shall be included in the Government account. Except as provided in para 21A, moneys received as aforesaid shall not be appropriated to meet departmental expenditure, nor otherwise kept apart from the Government account." This paragraph further provides that the direct appropriation of departmental receipts to departmental expenditure is authorised in certain cases notwithstanding the provisions of para 21 and in the case of cash received by the Forest Department and utilised in meeting immediate local expenditure, provided that the authority hereby given for the direct appropriation of the revenues of the State, including departmental receipts, shall not be construed as an authority for keeping the receipts and payments pertaining to such appropriation outside the account of the payments into, and the withdrawals from the Government account.

¹ Interest bearing loan in shape of shares.

Against the above provisions of the financial rules, for assisted natural regeneration (ANR) works in the sal forest areas, the State Government ordered (February 2001) the Forest Department to deposit 1/3rd royalty received from the Forest Corporation on the sale of sal species of sal forest areas in the forest deposit account and remaining 2/3rd royalty into the Government account as revenue receipts. Amount so deposited into forest deposit account would then be utilised for ANR works, the execution of which was not possible adequately in the past due to lack of non-plan funds.

Test check of the records of three divisional forest officers², between December 2006 and March 2008 revealed that in pursuance of the above Government orders, Rs. 3.44 crore was deposited into the forest deposit account during the year 2001-02 to 2007-08, out of the royalty received from the Forest Corporation on account of sale of sal species and Rs. 2.07 crore was utilised out of this deposit money during 2002-08 for ANR works by these divisions. Thus, the decision/order of the State Government to utilise a portion of State revenue instead of remitting it into the treasury/bank in full as State revenue receipt was in contravention of the provisions of Financial Rules. It resulted in unauthorised retention of State revenue of Rs. 3.44 crore and utilisation thereof for Rs. 2.07 crore.

The cases were reported to the Government (March 2008); their reply has not been received (November 2008).

6.4 Non-levy of transit fee

Section 4 (b) (iv) of the Indian Forest Act, 1927 defines peat, surface soil, rock and minerals comprising main minerals and sub-minerals as “forest produce.” As per U.P. Minor Minerals (Concession) Rules, 1963, ordinary earth is also a mineral³. Further, rule 3 and 5 of the Uttar Pradesh Transit of Timber and Other Forest Produce Rules, 1978, read with the Government order dated 14 June 2004, provides that transit fee at the rate of Rs.38 per MT was to be levied for carrying forest produce out of the forest area.

Test check of the records of the Director, Social Forestry Division, (DSFD) Lalitpur in February 2008 revealed that the contractors of National Highway Authority of India (NHAI) carried different kinds of forest produce such as grit, sand, earth out of the forest area during the year 2006-07 to 2007-08 without payment of transit fee. The department did not realise the transit fee of Rs. 1.40 crore as mentioned below:

² DFO Lakhimpur deposited Rs. 2,11,84,109 and utilised Rs.1,57,96,456, DFO Baharaich deposited Rs. 95,65,355 and utilised Rs. 16,00,000 and DFO Shahjahanpur deposited Rs. 36,34,987 and utilised Rs. 33,37,242.

³ Mineral conversion rate from cum to MT
I. Sand – 9 ton per 4.50 m³
II. Earth - 9 ton per 5.29 m³
III. Grit – 9 ton per 5.29 m³

(Rupees in lakh)

Material	Quantity (Cubic Meter)	Total Quantity (in MT)	Rate of transit fee per MT	Transit fee due
Sand	606	1,212	Rs. 38	0.46
Earth	2,15,521	3,66,670	Rs. 38	139.33
Grit	1,040	1,769	Rs. 38	0.67
Total				140.46

After the cases were pointed out, the DSFD stated in February 2008 that major portion of forest produce taken by NHAI was earth and transit fee was not leviable on earth. The reply was not tenable in view of provision under UP Minor Minerals (concession) Rules.

The case was reported to the department and the Government in March 2008; their reply has not been received (November 2008).

ENTERTAINMENT TAX

6.5 Non-charging of interest on belated payment of tax

Under the Uttar Pradesh Entertainment and Betting Tax Act, 1979, entertainment tax is to be deposited within three days from the close of week by the cinema owners and within one week after the closure of month by the cable operators. In case of default, interest at the rate of one and a half *per cent* per month for the first three months and two *per cent* thereafter is recoverable from the cinema owners and in case of cable operators, it is recoverable at the rate of two *per cent* per month.

Test check of the records of three offices of Entertainment tax Department⁴, revealed between September 2007 and December 2007 that entertainment tax of Rs. 23.39 lakh, (June 1999 to October 2006) due from 20 cable operators, was not deposited in time. The delay ranged from 5 to 37 months. Interest of Rs. 6.80 lakh, though leviable, was not charged from the cable operators by the department.

⁴ (i) Asstt. Entertainment Tax Commissioner, Gautambudhnagar,
(ii) Deputy Entertainment Tax Commissioner, Kanpur Nagar and Lucknow.

The matter was reported to the department and the Government between January 2008 and April 2008; their reply has not been received (November 2008).

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