

CHAPTER-VI

REVENUE RECEIPTS

General

6.1 Trend of revenue receipts

The tax and non tax revenue raised by Government of Uttaranchal during the year 2004-05, State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and corresponding figures for the preceding years are given below:

(Rs. in crore)

Sl.No.		2002-03	2003-04	2004-05
I.	Revenue raised by the State Government			
(a)	Tax revenue	1,018.87	1,225.96	1,444.36
(b)	Non tax revenue	374.85	370.41	547.70
	Total	1,393.72	1,596.37	1,992.06
II.	Receipts from the Government of India			
(a)	State's share of divisible Union taxes	372.14	435.03	519.97
(b)	Grants-in-aid	1,450.25	1,568.68	1,573.57
	Total	1,822.39	2,003.71	2,093.54
III.	Total receipts of the State (I+II)	3,216.11	3,600.08	4,085.60*
IV.	Percentage of I to III	43.34	44.34	48.76

6.1.1 The details of tax revenue for the year 2004-05 along with the figures for the preceding years are given in the following table:

(Rs. in crore)

Sl. No.	Revenue Head	2002-03	2003-04	2004-05	Increase (+) or decrease (-) in 2004-05 with reference to 2003-04	Percentage of increase or decrease with reference to 2003-04
1.	Trade tax	548.84	661.96	793.51	(+) 131.55	(+) 19.87
2.	State excise	245.86	273.37	292.01	(+) 18.64	(+) 6.82
3.	Stamp duty and registration fees	123.35	168.94	207.80	(+) 38.86	(+) 23.00
4.	Taxes on vehicles, goods and passengers	71.68	86.12	98.91	(+) 12.79	(+) 14.85

* For details see statement No.11 - detailed accounts of revenue by Minor Heads in the Finance Accounts of the Government of Uttaranchal for the year 2004-05. Figures under the Major Heads 0020- Corporation Tax, 0021 Taxes on Income other than Corporation Tax, 0028-other taxes on income and expenditure, 0032-Taxes on Wealth, 0037- Customs, 0038- Union Excise Duties and 0044- Service Tax which entail share of net proceeds assigned to States booked in the Finance Accounts under A- Tax Revenue have been excluded from Revenue raised by the state and included in State's share of divisible Union taxes in this statement.

Audit Report for the year ended 31 March 2005

5.	Taxes and duties on electricity	18.10	16.45	37.49	(+) 21.04	(+) 127.90
6.	Land revenue	2.52	12.64	7.74	(-) 4.90	(-) 38.77
7.	Other taxes and duties on commodities and services	6.70	6.04	4.04	(-) 2.00	(-) 33.11
8.	Other	1.82	0.45	2.86	(+) 2.41	(+) 535.56
	Total	1,018.87	1,225.97	1,444.36	(+) 218.39	(+) 17.81

Reasons for variations though called for from the Department/Government (December 2005) have not been received.

6.1.2 The details of non tax revenue for the year 2004-05 along with the figures for the preceding years are exhibited in the following table:

(Rs. in crore)

Sl. No.	Revenue Head	2002-03	2003-04	2004-05	Increase (+) or decrease (-) in 2004-05 with reference to 2003-04	Percentage of increase/decrease with reference to 2003-04
1	2	3	4	5	6	7
1.	Interest Receipts	3.92	30.22	21.96	(-) 8.26	(-) 27.33
2.	Forestry and Wild Life	177.69	131.88	130.58	(-) 1.30	(-) 0.99
3.	Major and Medium Irrigation	10.38	9.36	5.74	(-) 3.62	(-) 38.68
4.	Education, Sports, Art and Culture	22.67	21.28	22.27	(+) 0.99	(+) 4.65
5.	Other Administrative Services	9.70	20.65	27.04	(+) 6.39	(+) 30.94
6.	Non ferrous Mining and Metallurgical Industries	23.93	31.82	36.61	(+) 4.79	(+) 15.05
7.	Police	3.84	4.01	4.20	(+) 0.19	(+) 4.74
8.	Crop Husbandry	49.31	22.11	6.40	(-) 15.71	(-) 71.05
9.	Social Security and Welfare	0.38	1.95	0.98	(-) 0.97	(-) 49.74
10.	Medical and Public Health	3.37	4.25	2.60	(-) 1.65	(-) 38.82
11.	Minor Irrigation	0.22	0.65	1.01	(+) 0.36	(+) 55.38
12.	Roads and Bridges	1.08	0.93	1.06	(+) 0.13	(+) 13.98
13.	Public Works	2.90	2.19	3.99	(+) 1.80	(+) 82.19
14.	Co-operation	1.15	1.17	2.94	(+) 1.77	(+) 151.28
15.	Others	64.31	87.94	280.32	(+) 192.38	(+) 218.76
	Total	374.85	370.41	547.70	(+) 177.29	(+) 47.86

Reasons for variations though called for from the Government (December 2005) have not been received.

6.2 Variations between budget estimate and actuals

The variations between budget estimates and actuals of tax and non tax revenues during the year 2004-05 are given in the table below:

(Rs. in crore)

Sl. No.	Revenue head	Budget estimates	Actuals	Variation increase (+) decrease (-)	Percentage of variations
1	2	3	4	5	6
1.	Trade Tax	718.27	793.51	(+) 75.24	(+) 10.48
2.	State Excise	298.31	292.01	(-) 6.30	(-) 2.11
3.	Stamp Duty and Registration Fees	153.26	207.80	(+) 54.54	(+) 35.59
4.	Taxes on Vehicles, Goods and Passengers	93.51	98.91	(+) 5.40	(+) 5.77

Chapter-VI : Revenue Receipts

5.	Taxes and Duties on Electricity	21.24	37.49	(+) 16.25	(+) 76.51
6.	Land Revenue	3.06	7.74	(+) 4.68	(+) 152.94
7.	Other Taxes and Duties on Commodities and Services	6.32	4.04	(-) 2.28	(-) 36.08
8.	Other	2.43	2.86	(+) 0.43	(+) 17.70
9.	Interest Receipts	22.31	21.96	(-) 0.35	(-) 1.57
10.	Forestry and Wild Life	137.15	130.58	(-) 6.57	(-) 4.79
11.	Major and Medium Irrigation	8.37	5.74	(-) 2.63	(-) 31.42
12.	Education, Sports, Art and Culture	22.27	22.27		
13.	Other Administrative Services	5.07	27.04	(+) 21.97	(+) 433.33
14.	Non ferrous Mining and Metallurgical Industries	31.24	36.61	(+) 5.37	(+) 17.19
15.	Police	5.15	4.20	(-) 0.95	(-) 18.45
16.	Crop Husbandry	12.14	6.40	(-) 5.74	(-) 47.28
17.	Social Security and Welfare	0.45	0.98	(+) 0.53	(+) 117.78
18.	Medical and Public Health	3.36	2.60	(-) 0.76	(-) 22.62
19.	Minor Irrigation	0.62	1.01	(+) 0.39	(+) 62.90
20.	Roads and Bridges	0.01	1.06	(+) 1.05	(+) 10500.00
21.	Public Works	2.56	3.99	(+) 1.43	(+) 55.86
22.	Co-operation	1.50	2.94	(+) 1.44	(+) 96.00
23.	Others	148.79	280.32	(+) 131.53	(+) 88.40

Reasons for substantial variations between budget estimates and actuals have not been intimated by the Government of Uttaranchal.

6.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred in their collection and percentage of such expenditure to the gross collection during the years 2002-03 to 2004-05 along with the relevant all India average percentage of expenditure on collection to gross collection 2003-04 are given below:

(Rupees in crore)						
Sl. No.	Revenue Head	Year	Gross Collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average for the year 2003-04
1.	Trade Tax	2002-03	548.84	9.50	1.73	1.15
		2003-04	661.96	15.09	2.28	
		2004-05	793.51	21.17	2.67	
2.	Taxes on Vehicles, Goods and Passengers	2002-03	66.28	3.08	4.65	2.57
		2003-04	75.35	3.72	4.94	
		2004-05	85.32	4.27	5.00	
3.	State Excise	2002-03	245.86	2.62	1.07	3.81
		2003-04	273.37	2.86	1.05	
		2004-05	292.05	3.22	1.10	
4.	Stamp duty and Registration Fees	2002-03	123.35	1.31	1.06	3.66
		2003-04	168.94	4.91	2.91	
		2004-05	207.80	4.46	2.15	

The expenditure incurred in collection and percentage of expenditure to the gross collection under the head, Taxes on vehicles is more than the All India average percentage of cost of collection.

The reasons for variation though called for from the Departments has not been received.

6.4 Results of Audit

Test check of records of Trade Tax, State Excise, Taxes on Motor Vehicles and Stamp Duty and Registration Fee Offices, conducted in audit during the year 2004-05 disclosed short realisation or loss of revenue amounting to Rs. 32.36 crore in 220 cases. During the course of the year 2004-05 the concerned departments accepted short realisation or loss of revenue aggregating Rs. 0.17 crore of which Rs. 0.03 crore were pointed out in audit in earlier years. The Department recovered Rs. 7.15 lakh in full in one case.

This report contains four paragraphs and a review on Working of Enforcement Wing in Transport Department involving Rs.5.44 crore out of which Rs.0.72 crore has been accepted by the Department.

SECTION – A (REVIEW)

6.5 Review on Working of Enforcement Wing in Transport Department

Highlights

- *Non checking of vehicles plying without permit by enforcement wing resulted in loss of Rs.0.33 crore.*

[Paragraph 6.5.7]

- *Non imposition of penalty on vehicles from other states resulted in loss of Rs.0.56 crore.*

[Paragraph 6.5.8]

- *Additional tax of Rs.0.28 crore not realised from motor vehicles owned by unrecognised schools.*

[Paragraph 6.5.9]

- *Underassessment of additional tax on Vikram three wheelers resulted in loss of Rs.0.96 crore.*

[Paragraph 6.5.10]

- *Non detention of vehicles not carrying valid certificate of fitness resulted in loss of Rs.0.21 crore.*

[Paragraph 6.5.13]

Introduction

6.5.1 The functions of the enforcement wing of Transport Department of the state of Uttaranchal are regulated under the provisions of the Motor Vehicle Act, 1988, Central Motor Vehicles Rules, 1989, UP Motor Gadi (Yatrikar) Adhiniyam, 1962, U.P. Motor Vehicles Taxation Act, 1997, U.P. Motor Vehicles Taxation Rules, 1998 and Uttaranchal Motor Vehicles Taxation Reforms Act/Rules, 2003.

The regulatory functions of the enforcement wing in the State comprise compliance to various provisions of MV Act and Rules made thereunder and checking of offences, such as plying of unregistered vehicles, plying vehicles without valid permits/driving licenses/fitness certificates etc. or violation of the conditions of Acts and Rules. It checks vehicles which do not comply with norms of pollution, evade taxes, ply without payment of taxes or which require

payment of higher rate of taxes applicable as per Act. It also verifies vehicles during the period when these are declared to be off road. Besides the work of compounding of offences punishable under MV Act, enforcement wing, is also entrusted with the work of disposal of cases.

6.5.2 Organisational setup

The overall responsibility for enforcement of rules and regulations for vehicular traffic and also for issuance of necessary directions in this regard rests with the Transport Commissioner (TC), Uttaranchal, Dehradun. There are 12 enforcement squads in the state attached to the headquarters office and the regional transport officers (RTOs) and assistant regional transport officers (ARTOs) under the control and supervision of Deputy Transport Commissioner (Enforcement) at headquarter.

Each enforcement squad of Transport Department consists of an Assistant Regional Transport Officer (Enforcement), one supervisor and three constables. Generally, checking is carried out by the enforcement squads at any point on roads in the areas falling under their jurisdiction but sometimes inter regional checking is also done by them.

6.5.3 Scope of Audit

The state of Uttaranchal was formed in November 2000. A review of the records in respect of enforcement wing maintained by the TC, three out of four RTOs, and four out of 11 ARTOs for the period from 2000-01 to 2003-04 was conducted between October 2004 and March 2005 with a view to examine the effectiveness of the enforcement wing in implementation of the various provisions of Acts and Rules with regard to regulation and control of traffic.

Audit objectives

6.5.4 The review seeks to ascertain:

- leakage of revenue due to non compliance of various provisions of Motor Vehicles Act and also due to any flaw/lacunae in rules and regulations, and
- effective control of vehicular pollution.

Financial performance

6.5.5 Short achievement of targets by enforcement wing

No separate targets for enforcements wing were fixed by the department. The targets were fixed for collection of revenue for the department as a whole. The position of the targets fixed for collection of revenue in transport wing which includes enforcements vis-a-vis achievements during the last 3 years are as under :

(Rs. in Crore)

Period	Collection of taxes		
	Targets	Collection	Percentage of Collection
2001-02	85.0	66.48	78.21
2002-03	106.00	75.65	71.37
2003-04	120.00	85.83	71.53

The comparison between target and collection as shown above reveals that the target was never achieved. Besides percentage of collection has also decreased since 2001-02 as compared to the target.

6.5.6 Non recovery of arrears by the Enforcement Wing

As per Act, no vehicle with arrears of tax may be allowed to ply on the road. If such vehicle is detected being used, the ARTO (Enforcement) may seize, detain it and realise the arrears of taxes by selling the vehicle by public auction with the approval of TC.

During the course of audit it was noticed that arrears of Rs.1.83 crore due to the Government pertained to the period before the reorganisation of Uttaranchal state. However, the department did not keep any year-wise break up of arrears. The department failed to establish a suitable system to intimate cases of default of tax payment and violations of Motor Vehicles Act promptly to its enforcement wing. Consequently neither any progress was made to realise the same as arrears of land revenue nor were these recovered by enforcement wing.

In addition, the Department did not assess arrears of taxes piled up against Uttaranchal State Road Transport Corporation (UASRTC) after reorganisation of the State till now. In absence of this vital information the correctness of the dues could not be verified by audit. The department intimated that status of arrears and payments made were called from UASRTC.

The facts reveal that internal controls of the department had failed to safeguard Government revenue and needed strengthening.

After this was pointed out by audit, the Department replied that RTOs & ARTOs were directed to realise the arrears however efforts made to strengthen the system have not been intimated.

6.5.7 Non realisation due to plying of State Carriages without permit

In accordance with Section 66 of the MVT Act, 1988, holding a permit is a prerequisite for the operation of a transport vehicle in a public place. Further, CMV Rules provide that the taxation officer shall not accept road tax in respect of any transport vehicle plying for hire, unless a valid permit accompanies it. Under the Act, the enforcement squads are required to check the vehicles plying without permit and to challan the same and realize compounding fee of Rs.2,500 from each defaulting vehicle.

Test check of records of two RTOs¹ revealed that out of 3,154 vehicles registered and plying during 2000-01 to 2003-04 only 1,862 vehicles were covered by permits. The concerned taxation officers collected road tax though a permit accompanied none of these as required under rules. The enforcement branch had failed to detect the lapse and collect compounding fee. This resulted in non realisation of Government revenue of Rs.33 lakh.

6.5.8 Non imposition of penalty on other state vehicles

As per the Act of 1997, no transport vehicle shall ply in the State of Uttaranchal without payment of tax or additional tax payable under this Act. If a vehicle is found plying in the state without payment of due tax or additional tax, a penalty equivalent to 10 times (which was reduced to two times under the Reforms Act 2003), of the due tax or additional tax shall be payable.

Test check of records of three RTOs² and two ARTOs³, revealed that during the period November 2000 to March 2004, 267 vehicles from other states were found plying in Uttaranchal by the enforcement squads without payment of due tax and additional tax of the State. The Department released these vehicles after realisation of due tax and additional tax on these vehicles but penalty of Rs.0.56 crore was not imposed resulting in short realisation of Government revenue to that extent.

After this was pointed out in audit, the department replied (November & December 2004) that in absence of round-the-clock check post in the state, vehicles enter the state, without payment of due tax. Tax/additional tax due to the state on these vehicles are recovered by the enforcement squads while road checking leaving the penalty unrecovered. Department however, assured to comply with the provisions of the Act *ibid* and recover the penalty from the defaulting vehicles.

6.5.9 Non realisation of additional tax from motor vehicles owned by unrecognised schools

Under the UPMVT Act and UAMVT Reforms Act the motor vehicles (stage carriages) owned by recognised educational institutions are exempted from payment of additional tax (passenger).

Test check of records of 3 RTOs⁴ revealed that 21 stage carriages were registered in the names of educational institutions and plying as school buses. These educational institutions were not recognised by any board of education; however additional tax was neither paid by them nor was it demanded by the department. This resulted in non realisation of Government dues of Rs.0.28 crore between November 2000 and March 2004. The enforcement squads also failed to check the unauthorised operation of these vehicles.

¹ Haldwani and Dehradun

² Pauri, Haldwani and Dehradun

³ Udham Singh Nagar and Rishikesh

⁴ Pauri, Haldwani and Dehradun

6.5.10 Under assessment of three wheelers

Three wheelers are taxable as per the seating capacity in accordance with the rates fixed by the Government from time to time. The registering authorities are required to register the same in accordance with the seating capacity. “Vikram 750 D”, a three wheeler has a seating capacity of 7+1 and should be registered accordingly.

Test check of records of two RTOs⁵ and two ARTOs⁶ revealed that 1,020 Vikrams 750 D were registered with seating capacity of 6+1. These vehicles should have been registered with seating capacity of 7+1 and additional tax collected accordingly. Incorrect classification of vehicles resulted in short realisation of revenue of Rs.0.96 crore between November 2000 to March 2004. The enforcement wing failed to bring the irregularity to the notice of concerned RTOs/ARTOs.

After this was pointed in audit in November 2004 to March 2005, the department replied that such vehicles were registered at 6+1 seating capacity on the basis of sale letters produced by the owners. The reply of the department was not tenable as per Commissioner, Central Excise, Lucknow, orders dated 06-11-2001 stating that three wheeler Vikram 750 D manufactured and sold by M/s Scooters India Ltd., Lucknow are having chassis fitted with engine designed to have seating capacity of seven persons excluding driver. It was further clarified that the three wheeler Vikram 750 D has an additional passenger’s seat by the side of the driver in addition to six passenger seats fabricated in the back portion behind the seat of the driver. The R&D department of Scooters India Ltd. had also confirmed seating capacity of seven persons excluding driver. In view of the above facts, the Vikram (three wheeler) should be registered for 7+1 and not for 6+1.

6.5.11 Non achievement of targets for spot verification of surrendered vehicles

Under the provisions of UPMVT Act read with Rules made thereunder, if any owner of a vehicle does not intend to use the vehicle for a period of more than one month, he will surrender the certificate of registration, token and permit etc. of the vehicle to the Department and declare the place of keeping the vehicle during the period of non use. If the vehicle is not found in the place declared, it will be deemed that the vehicle is plying on road and taxes are leviable thereon. The enforcement wing was required to conduct spot verification of 15 per cent of such vehicles up to the year 2000-01 and 100 per cent thereafter up to July 2003. No such targets were fixed after the enactment of UAMVT Reforms Act 2003.

Test check of records of 3 RTOs* and ARTO Udham Singh Nagar revealed that 6,760 vehicles were surrendered during November 2000 to July 2003 out of which spot verification of 5,977 vehicles was required to be conducted

⁵ Haldwani and Dehradun

⁶ Haridwar and Rishikesh

* Pauri, Haldwani and Dehradun

against which only 1,152 vehicles were checked which was merely 17.04 per cent of total vehicles surrendered.

In RTO Haldwani and ARTO Udham Singh Nagar no verification of surrendered vehicles was done by the enforcement wing.

6.5.12 Loss due to non enforcement of requirements by vehicles with national permit

Under CMV Rules, 1989 vehicles covered by national permit shall have a minimum of two drivers as the precondition for grant of national permit. Further, the enforcement squads are required to challan vehicles covered by national permits not having two drivers and to realise compounding fee of Rs. 2,500 from each defaulting vehicle.

Test check of records of enforcement wing of three RTOs[∞] and four ARTOs[•] revealed that enforcement squad have mentioned neither the name nor validity of the driving licence of the second driver, as required under the Rules, indicating that the requirement of two drivers was not enforced and the defaulting vehicles were not challaned. Thus, due to non-enforcement of this requirement, Government was deprived of revenue of Rs. 0.16 crore for the period between November 2000 and March 2004 in respect of 629 vehicles.

After this was pointed out in audit, the department stated between November & December 2004 that as the proforma for challan of vehicles had column meant for only one driver, the entries for the second driver could not be made. The reply of the department cannot be accepted as the Act/Rules provide for having a minimum of two drivers which should have been followed.

6.5.13 Non detention of transport vehicles not carrying valid certificate of fitness

In accordance with MV Act, 1988 holding a valid certificate of fitness is a prerequisite for the registration and grant of permit of a transport vehicle. No transport vehicle can ply in a public place unless it is accompanied by a valid certificate of fitness under sections 192 and 192 A of the Act *ibid*. For the purpose of grant of fitness certificate rates are prescribed depending on types of vehicles i.e. three wheelers, light motor vehicles, medium motor vehicles and heavy motor vehicles as Rs. 100, 200, 300 and 400 respectively. Enforcement squads are required to challan the vehicles which were found to be plying without fitness certificate and to realise compounding fee of Rs. 2,500 from each defaulting vehicle.

Test check of records of two RTOs[∞] and three ARTOs[∞] revealed that 746 vehicles were plying from April 1999 to March 2004 without fitness certificates. This was not detected by the enforcement squads resulting in loss

[∞] Pauri, Haldwani and Dehradun

[•] Udham Singh Nagar, Pithoragarh, Haridwar and Rishikesh

[∞] Haldwani and Dehradun

[∞] Udham Singh Nagar, Haridwar and Rishikesh

of revenue to the tune of Rs. 0.21 crore (fitness fee Rs. 0.03 crore and compounding fee Rs. 0.18 crore).

After this was pointed out in audit, the department stated in its reply that as per rules, action is initiated against such vehicles by the enforcement squads while road checking. The fact, however, remains that no action against these 746 vehicles were taken by the enforcement squads.

Non-implementation of Pollution Prevention measures

6.5.14 Non functioning of smoke meter

As per Rule 115 and 116 of Rules, 1989, every motor vehicle shall be manufactured and maintained in such condition and shall be so driven that smoke, visible vapour, grit, sparks, ash, cinder or oily substance do not emit therefrom. Any officer not below the rank of sub inspector of police or inspector of motor vehicles who has reason to believe that the motor vehicles by virtue of the smoke or other pollutants such as carbon-mono-oxide (CO) emitted from it, is likely to cause danger to the health or safety of any other user of the road or the public may direct the driver or any other in charge of the vehicle to submit the vehicle for under going a test to measure the standard of black smoke or of any other pollutants.

Test check of records of enforcement wing of two RTOs[♥] and two ARTOs^{*} revealed that the enforcement squads were either not provided with smoke meter or even if provided they were out of order. Smoke meters were provided to RTOs Haldwani (October 2003), Pauri (May 2004) and ARTO Pithoragarh (May 2004) but in absence of trained staff and also due to technical defects noticed therein, these smoke meters could not be put to use.

After this was pointed out in November 2004 to March 2005, the department replied that the matter has been brought to the knowledge of the Headquarters office.

6.5.15 Internal Control

The enforcement wing did not prepare any manual which may provide for proper frame work through which enforcement of various provisions of Rules/Acts could be ensured. The duties and powers of enforcement wing and administration wing are not clearly defined anywhere to fix the accountability of officials. This has an adverse impact on the efficiency of working of enforcement wing.

6.5.16 Recommendations

The Government may consider taking following measures in order to improve the efficiency and effectiveness of the enforcement wing:

[♥] Pauri and Haldwani

^{*} Udham Singh Nagar and Pithoragarh

- ensure that relevant provisions of the Acts and Rules made thereunder are correctly followed by the departmental authorities and penalty/compounding fees are levied and collected promptly.
- a manual for the Transport Department may be prepared defining clearly the duties and responsibilities of the enforcement wing.

6.5.17 Conclusion

It is concluded that the department lacked a suitable system to intimate cases of default of tax payment and violations of Motor Vehicles Act promptly to its enforcement wing. Manual was not prepared to define clearly the duties and powers of enforcement wing for enforcement of provisions of Motor Vehicles Act more effectively. Performance of internal audit, being an important instrument of internal control mechanism, was found inadequate.

6.5.18 Acknowledgement

Audit findings as a result of review on the working of enforcement wing in Transport Department were reported to the Government of Uttaranchal in December, 2005 with a specific request (February 2006) for attending the meeting of Audit Review Committee for State Receipt (ARC SR) so that viewpoint of the Government/Department was taken into account before finalising the review. The meeting of ARC(SR) was held on 22 February 2006 with the Government/Department. Representatives of the Department and the State Government attended the meeting. The reply of the Government/Department in writing in the draft review is awaited (February 2006).

SECTION – B (Paragraphs)

State Excise Department

6.6 Loss due to low production of alcohol from molasses

Under the UP Excise Working of Distilleries (Amendment) Rules, 1978, as applicable to the State of Uttaranchal, every quintal of fermentable sugar content present in molasses shall yield 52.5 alcoholic litres (AL) of alcohol. For this purpose, composite samples of molasses are required to be drawn by the officer incharge of the distillery and sent for examination to alcohol technologist. Failure to maintain the minimum yield of alcohol from molasses consumed entails cancellation of licence and forfeiture of security deposit besides other penalties.

During test check of records of Bajpur distillery, Udham Singh Nagar, it was noticed in August 2004 that 10 composite samples of molasses were sent to the alcohol technologist during April 2003 to January 2004 for 0.39 lakh quintal of fermentable sugar. As per the report of the alcohol technologist, 20.36 lakh AL of alcohol should have been extracted from the molasses against which the actual production of alcohol was 19.09 lakh AL resulting in a shortfall of 1.27 AL. The Department, however, failed to either cancel the licence of the distillery or forfeit the security deposit for failure to maintain the minimum yield of alcohol. Failure to maintain the minimum yield of alcohol from molasses resulted in a loss of duty of Rs.65.78 lakh.

The matter was reported to Department and Government in February 2005, reply is awaited (August 2005).

TRADE TAX DEPARTMENT

6.7 Exemption from tax due to irregular notification

Section 8(5) of CST Act empowers the State Government to issue notifications for grant of exemptions or reduction in rate of tax during the course of inter state sale of goods covered under section 8(1) or (2) of the Act. Inter State sale of atta, maida, suji manufactured from wheat, on which tax has been paid under the State Act, is taxable at the rate of 2.5 per cent under section 8(2-A) of the Act as such State Government is not empowered to issue notification under section 8(5) on its sale.

During test check of the records of trade tax circle Udham Singh Nagar, it was noticed (March 2005) that six dealers[^] made inter state sales of atta, maida,

[^] (i) M/s Ram Kumar Roller Mills, (ii) M/s Guru Nanak Flour Mills, (iii) M/s N.D.Roller Flour Mills, (iv) M/s Nainital Roller Flour Mills, (v) M/s I.G.Roller Flour Mills, (vi) M/s Balaji Food Products.

suji manufactured from tax paid wheat worth Rs. 28.22 crore between the period from 1997-98 to 2001-02 assessed between September 2002 to March 2004 on which tax was leviable at the rate of 2.5 *per cent*. The dealers were, however, exempted from tax by the assessing authorities in view of notification dated 31 March 1993 issued by Government. This resulted in non levy of CST amounting to Rs. 70.55 lakh.

After this was pointed out in March 2005 Department stated that the dealers were exempted in view of the government notification of March 1993, issued under Section 8(5) of the Act. The reply was not tenable as the notification was beyond the delegated powers of Government.

The matter was reported to department and to Government in May 2005, reply is awaited (August 2005).

6.8 Non imposition of Penalty

Under the Central Sales Tax (CST) Act, 1956, a registered dealer may purchase goods from a dealer of another State at a concessional rate of tax by furnishing declaration in form 'C' provided such goods have been specified in his certificate of registration. Issue of form 'C' for purchasing goods which are not covered by the registration certificate constitutes an offence for which the dealer is liable to prosecution. The assessing authority may, however, in lieu of prosecution impose penalty not exceeding one and a half times of the amount of tax which would have been levied besides the tax due in case the goods were sold.

During test check of records of trade tax circle, Rudrapur in February 2005, it was noticed that a dealer purchased aluminium sheets, copper tube, plastic body etc. valued at Rs. 63.27 lakh against form 'C' during the year 2001-02 (assessed in February 2004) which were not covered under his certificate of registration. The dealer was, therefore, liable to pay in addition to tax on the sale of the goods, a penalty amounting to Rs. 9.49 lakh which was not imposed.

The matter was reported to Department and Government in June 2005. The Department stated that penalty of Rs. 9.49 lakh had been imposed in September 2005. Further reply was awaited (February 2006).

6.9 Inadmissible exemption from tax

Under the provisions of the CST Act, where the movement of goods or a transfer of documents relating to the title of goods has taken place from one state to another, in the course of inter state trade or commerce, any subsequent sale during such movement effected by transfer of documents of title to such goods shall be exempt from the tax under the Act, provided the dealer effecting the sale furnishes to the prescribed authority a certificate signed by the registered dealer from whom the goods were purchased and a declaration

in form 'C'. It has judicially been held[♦] that for obtaining above exemption form 'C' is mandatory with form 'E1'.

During test check of records in the office of the Deputy Commissioner (Assessment), Trade Tax, Kotdwar, it was noticed in September 2004 that while finalising the assessment of a dealer for the year 2000-01 in March 2003, the assessing authority exempted turnover of Rs.14.11 crore on account of sale of SMPS^{*} power plant, batteries and MDF[§] on account of sale during movement of goods by transfer of documents of title based on E, form only. The dealer did not submit form 'C'. As such inadmissible exemption allowed by assessing authority from tax resulted in non levy of tax amounting Rs. 1.41 crore.

The matter was reported to Department and to the Government in December 2004, reply is awaited (September 2005).

[♦] M/s Swastic Sales Corporation Agra vrs Commissioner of Sales Tax U.P.Lucknow (S.T.I.-1996 Allahabad High Court-281 STR-201 & 202 of 1993 decided 16 January 1996).

^{*} SMPS – Switch Mode Power Supply

[§] MDF – Main Distribution Frame